

**GRAECA TERGESTINA**

STORIA E CIVILTÀ **3**

# GRAECA TERGESTINA

## STORIA E CIVILTÀ

Studi di Storia greca coordinati da Michele Faraguna



Opera sottoposta a peer review secondo il  
protocollo UPI – University Press Italiane

impaginazione  
Gabriella Clabot

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ISBN 978-88-8303-687-3 (print)

ISBN 978-88-8303-688-0 (online)

EUT Edizioni Università di Trieste

via Weiss 21, 34128 Trieste

<http://eut.units.it>

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# When West Met East

The Encounter of Greece and Rome  
with the Jews, Egyptians, and Others

Studies Presented to Ranon Katzoff  
in Honor of his 75<sup>th</sup> Birthday

edited by

David M. Schaps

Uri Yiftach

Daniela Dueck



# Ranon Katzoff



# Table of Contents

IX	Notes on Contributors			<i>Gabriel Danzig</i>
XV	Abbreviations	23	Greek Philosophy and the Mishnah: On the History of Love that Does Not Depend on a Thing	
RANON KATZOFF				
	<i>Dorcadès</i>			<i>Susan Weingarten</i>
XIX	Cassovii Laudes	51	The Rabbi and the Emperors: Artichokes and Cucumbers as Symbols of Status in Talmudic Literature	
	<i>David M. Schaps</i>			
XXI	Ranon Katzoff: A View of Rome from Jerusalem	THE JEWS AND THEIR OWN HISTORY		
	<i>Nachum Cohen</i>			<i>Miriam Pucci Ben-Zeev</i>
XXVII	Ranon Katzoff: A Student's View	69	Philo on the Beginning of the Jewish Settlement at Rome	
	<i>Hava B. Korzakova</i>			<i>Michael Meerson</i>
XXIX	<i>Lo Ba-Shamaim Hi</i> (It is not in Heaven): Professor Ranon Katzoff as a Teacher of Law	91	Illegitimate Jesus: Family Matters with "Toledot Yeshe"	
XXXI	Ranon Katzoff—A Bibliography	THE LAND OF ISRAEL		
WHEN WEST MET EAST				
	<i>The Editors</i>			<i>Werner Eck</i>
3	Introduction	117	Die römische Armee und der Ausbau der heißen Bäder von Hammat Gader	
THE JEWS AND GRECO-ROMAN THOUGHT				
	<i>Jonathan J. Price</i>			<i>Nachum Cohen</i>
9	Josephus and the "Law of History": A Note	131	A Preliminary Survey of Letters in the Judaean Desert Documents	
				<i>Joseph Geiger</i>
		155	Lawyers in Late Antique Palestine	

THE JEWS AND GRECO-ROMAN  
LAW AND TERMINOLOGY

- Joseph Mélèze-Modrzejewski*  
169 Jewish Oath in Ptolemaic Egypt  
*Amihai Radzyner*  
179 *Hoda'ot ve-Halva'ot*

THE ROMANS LOOK AT FOREIGNERS

- Daniela Dueck*  
211 Graeco-Roman Popular Perception  
of Africa. The Proverbial Aspect  
*Stéphanie E. Binder, Bezalel Bar-Kochva*  
225 A Problematic Sentence in Justin-  
Pompeius Trogus' *Historiae Philippicae*

THE EGYPTIANS AND THE GRECO-ROMANS

- Andrea Jördens*  
235 Der Menschenraub im kaiserzeitlichen  
Ägypten  
*Hans-Albert Rupprecht*  
255 Τῶν Αἰγυπτίων νόμοι  
*Uri Yiftach*  
269 Quantifying Literacy in the Early Roman  
Arsinoîtês: the Case of the *Grapheion*  
Document

THE MODERN WORLD LOOKS  
AT THE ANCIENT WEST AND EAST

- Albert I. Baumgarten*  
285 The Hellenization of the East and  
the Orientalization of the West:  
The Paradox of Philo of Byblos  
*Lisa Maurice*  
307 Swords, Sandals and Prayer-Shawls:  
Depicting Jews and Romans on the  
Silver Screen  
337 Index locorum  
361 Index nominum et rerum



# Notes on Contributors

ALBERT I. BAUMGARTEN is Professor Emeritus of Jewish History at Bar-Ilan University. This paper unites themes from his first book, *The Phoenician History of Philo of Byblos: A Commentary* (1981) and his most recent book, *Elias Bickerman as a Historian of the Jews: A Twentieth Century Tale* (2010).

BEZALEL BAR-KOCHVA, Ph.D. Cambridge (Classics; 1972), is Emeritus Professor for the History of the Jewish People in the Period of the Second Temple, and Jacob M. Alkow Professor for the History of the Jews in the Ancient World at Tel Aviv University. He is the author of *The Seleucid Army*, Cambridge 1979; *Judas Maccabeus*, Cambridge 1989; *Pseudo-Hecataeus*, On the Jews, Berkeley 1996; *The Image of the Jews in Greek Literature*, Berkeley 2010, as well as numerous articles. Prof. Bar-Kochva recently won the Alexander von Humboldt prize for outstanding life achievements in research.

MIRIAM PUCCI BEN-ZEEV (until 1986: Marina Pucci), born in Italy, MA University of Padova (1972), Ph.D. Hebrew University of Jerusalem (1977), is Professor of Jewish History in the Ben Gurion University of the Negev, where she teaches history of the Second Temple in Judea and in the Diaspora, about which she has published numerous articles and books, including *Jewish*

*Rights in the Roman World: the Greek and Roman Documents Quoted by Josephus Flavius* (Tübingen, 1998) and *Diaspora Judaism in Turmoil, 116/117 CE: Ancient Sources and Modern Insights* (Louvain, 2005).

STÉPHANIE E. BINDER wrote her Ph.D. dissertation, a comparison between the Church Father Tertullian's treatise *On Idolatry* and the *Mishnah Avodah Zarah*, under the supervision of Prof. Ranon Katzoff and Prof. Albert Baumgarten. The revised dissertation, *Tertullian, On Idolatry and Mishnah Avodah Zarah: Questioning the Parting of the Ways between Christians and Jews*, was recently published by Brill in the *Jewish and Christian Perspectives* series. Dr. Binder teaches in the Department of Classical Studies at Bar-Ilan University.

NACHUM COHEN, Ph.D. Bar-Ilan University (1994), is now retired after a long teaching career at Achva Academic College. His publications center on Greek documentary papyri and modern teacher education. He has published *P.Berl. Cohen, Greek Documentary Papyri from Egypt in the Berlin Museum* (ASP vol. 44, 2007), and articles in Hebrew and in English. In preparation is another volume of documentary papyri from the Berlin Museum.

GABRIEL DANZIG is Senior Lecturer in the Departments of Classics and Philosophy at Bar-Ilan University. His research interests include Socratic literature, Greek political and economic thought, Plato, Aristotle and especially Xenophon. He has also published on the influence of Greek philosophical themes on ancient and medieval Jewish literature. He has published a Hebrew translation of Xenophon's Socratic dialogues and an English volume entitled *Apologizing for Socrates: How Plato and Xenophon Created Our Socrates* (Lanham 2010). He is currently editing a volume of essays entitled *Plato and Xenophon: Comparative Studies*.

DANIELA DUECK, B.A., M.A., and Ph.D. Hebrew University of Jerusalem, Associate Professor and Chair of the Department of Classical Studies at Bar-Ilan University, is the author of *Strabo of Amasia: A Greek Man of Letters in Augustan Rome* (London, 2005), *Geography in Classical Antiquity* (Cambridge, 2012) and dozens of articles on classical geography and history, and co-editor of *Strabo's Cultural Geography: The Making of a Kolossourgia* (Cambridge, 2005) and of *Scripta Classica Israelica*.

WERNER ECK was professor of Ancient History in the University of Cologne from 1979 to 2007. His main research areas are Roman imperial history in-

cluding late antiquity, prosopography, social history, administration and epigraphy. He heads the *CIL* and *PIR* in the Berlin-Brandenburgischen Akademie der Wissenschaften at Berlin and is one of the editors of *ZPE*. Together with colleagues at Cologne, Jerusalem and Tel Aviv he is editing the multilingual *Corpus Inscriptionum Iudaeae/Palaestinae*.

JOSEPH GEIGER (DPhil Oxon, Shalom Horowitz Professor of Classics Emeritus, The Hebrew University of Jerusalem) is the author of over one hundred learned articles, ranging from historiography and biography to intellectual history, with forays into Talmudic studies and classical topics in art and literature. His books include *Cornelius Nepos and Ancient Political Biography*, *Masada II: The Latin and Greek Documents* (with H.M. Cotton), and *The First Hall of Fame: A Study of the Statues of the Forum Augustum*. He was Visiting Fellow of Corpus Christi College, Oxford, and Visiting Professor at Heidelberg and Yale.

ANDREA JÖRDENS is Professor of Papyrology at the University of Heidelberg and since 2009 chief editor of *Sammelbuch und Berichtigungsliste der griechischen Papyrusurkunden*. Her main interests are on the social, economic, administrative, legal, and cultural history of Hellenistic, Roman, and Late Antique Egypt. She is the author of a number of books, editions of papyri and articles, including *Statthalterliche Verwaltung in der römischen Kaiserzeit: Studien zum praefectus Aegypti* (2009) and *Ägypten zwischen innerem Zwist und äußerem Druck: Die Zeit Ptolemaios' VI. bis VIII.* (2011, edited with J.F. Quack).

HAVA BRACHA KORZAKOVA (M.A. Leningrad State University, USSR, Ph.D. Bar-Ilan University, Israel). Doctoral thesis "The Edicts of Roman Prefects of Egypt on Papyri" was written under the supervision of Prof. Ranon Katzoff. Teaching Fellow in the Department of Classical Studies at Bar-Ilan University. Worked on Greek epigraphy in Maresha and other archaeological sites. Co-editor with Amos Kloner, Esther Eshel, and Gerald Finkielsztein and contributor, *Maresha Excavations: Final Report III* (Jerusalem 2010). Co-editor with Yoseph Begun, *The Literature of Agada* (in Russian). Author of several articles on papyrology, epigraphy, and ancient Greek poetry. Author of 8 poetry books in Hebrew and Russian. Winner of the Prime Minister's Award for Hebrew writers (1998/99) and other literary awards in Israel and Russia.

LISA MAURICE is Senior Lecturer at Bar-Ilan University in Israel. Her research interests center on the reception of the ancient world in modern popular culture and on Roman comedy, particularly the structure of Plautine plays.

She is the author of *The Teacher in Ancient Rome: the Magister and his World* (Lexington 2013), and is editor of *The Reception of Ancient Greece and Rome in Children's Literature: Heroes and Eagles* (Brill, 2015) and of *Rewriting the Ancient World: Greece and Rome in Modern Popular Fiction*, as well as co-editor, with Eran Almagor, of *Ancient Virtues and Vices in Modern Popular Culture: Beauty, Bravery, Blood and Glory* (both forthcoming, Brill). She has published a range of articles, both on Plautus and on the reception of the ancient world on screen and stage.

MICHAEL MEERSON (M.A. Hebrew University of Jerusalem, Ph.D. Bar-Ilan University) is a Research Associate at Princeton University, where he has worked under the direction of Prof. Peter Schafer on Greek magical texts in Hebrew and Aramaic, on the *Sefer Ḥasidim*, and most recently on a new edition of the *Toledot Yeshu*.

JOSEPH MÉLÈZE-MODRZEJEWSKI, Dr. histor.sc. (Warsaw, 1957); LL.D. (Paris, 1970); Ph.D. (Paris, 1976) is Professor Emeritus of Ancient History at the Sorbonne (Univ. Paris I) and Professor of Papyrology and Ancient Legal History at the École Pratique des Hautes Études (Historical and Philological Sciences), Paris. He has been a visiting professor at the Philipps-Universität of Marburg, the British Museum, Bar-Ilan University, and the Free University of Brussels, and a fellow of the Institutes for Advanced Studies in Princeton, NJ and Jerusalem. He holds an honorary doctorate from the University of Athens, and is a member of the Academies of Heidelberg, Athens, Cracow, and Warsaw, and the European Academy of Sciences, Arts and Letters, Paris, a Knight of Order of Merit of the Republic of Poland, and the author of more than 350 books, articles and essays.

JONATHAN J. PRICE is Professor of Classics and Ancient History at Tel Aviv University, the author of books and articles on Greek and Roman historiography, Jewish epigraphy and Jewish history of the Roman period, and an editor of *CIIP* since its inception.

AMIHAI RADZYNER is Associate Professor of Jewish Law, in the Faculty of Law of Bar-Ilan University; his researches deal with Talmudic Law, history of Jewish law and its research, the history of Israeli law and current Halakhic family law in Israel. He is also the Chief Editor of *HaDin veHadayan (The Law and its Decisor): Rabbinical Court Decisions in Family Matters*, a position he has held since 2003.

HANS-ALBERT RUPPRECHT, Dr. Iur. München (1965), is Professor Emeritus of Papyrology in the Faculty of Law of the Philipps-Universität in Marburg and a corresponding member of the Akademie der Wissenschaften und der Literatur of Mainz. Professor Rupprecht is the author of various monographs and articles on Greek law, in particular on the Greek papyri from Egypt. Among his monographs are *Untersuchungen zum Darlehen im Recht der graeco-aegyptischen Papyri der Ptolemäerzeit* (Munich 1967) and *Recht und Rechtsleben im ptolemäischen und römischen Ägypten: an der Schnittstelle griechischen und ägyptischen Rechts, 332 a.C.-212 p.C.* (Stuttgart 2011) as well as numerous handbooks, encyclopedias, dictionaries and lexica.

DAVID M. SCHAPS is Professor Emeritus of Classical Studies at Bar-Ilan University. His books include *Property Rights of Women in Ancient Greece*, *The Invention of Coinage and the Monetization of Ancient Greece*, and *Handbook for Classical Research*.

SUSAN WEINGARTEN (Ph.D., Tel Aviv University) is an archaeologist and food historian, and worked as a Senior Researcher in the Department of Jewish Studies at Tel Aviv University. She has written over 40 papers on food history, specializing in food in the talmudic literature.

URI YIFTACH, Associate Professor of Classics at Tel Aviv University, is the author of *Marriage and Marital Arrangements: a History of the Greek Marriage Document in Egypt, 4<sup>th</sup> Century BCE-4<sup>th</sup> Century CE* (München, 2003), editor of six other books (including this one), and author of dozens of articles on Hellenistic Greek law and papyrology.



# Abbreviations

Classical and Christian Sources generally follow the abbreviations in LSJ<sup>9</sup>, *OLD*, *OCD*<sup>3</sup> and Lampe and the *Checklist*; Jewish sources generally follow the abbreviations in the *Jewish Encyclopedia*, tractates of the Talmud those of the Soncino Talmud; occasionally we have used a fuller form for clarity.

<i>AFP</i>	<i>Archiv für Papyrusforschung und verwandte Gebiete</i>
<i>AJA</i>	<i>American Journal of Archaeology</i>
<i>AJP</i>	<i>American Journal of Philology</i>
<i>AJSR</i>	<i>AJS Review</i>
<i>AncSoc</i>	<i>Ancient Society</i>
<i>ANRW</i>	H. TEMPORINI & W. HAASE, eds., <i>Aufstieg und Niedergang der römischen Welt: Geschichte und Kultur Roms im Spiegel der neueren Forschung</i> , Berlin-New York 1972-.
<i>Bab.</i>	Babylonian Talmud
<i>BiOr</i>	<i>Bibliotheca Orientalis</i>
<i>Brill's New Pauly</i>	H. CANKI & H. SCHNEIDER, eds., <i>Brill's New Pauly: Encyclopaedia of the Ancient World</i> , Leiden-Boston 2002-.
<i>CdÉ</i>	<i>Chronique d'Égypte</i>
<i>Checklist</i>	J.D. SOSIN, R.S. BAGNALL, J. COWEY, M. DEPAUW, T.G. WILFONG, and K.A. WÖRZ, <i>Checklist of Editions of Greek, Latin, Demotic and Coptic Papyri, Ostraca and Tablets</i> ,

<http://library.duke.edu/rubenstein/scriptorium/papyrus/texts/clist.html>, access date 16 July 2015.

- CIIP* H. COTTON et al., eds., *Corpus Inscriptionum Iudaeae/Palaestinae*, Berlin-New York 2010-.
- CIJ* J.-B. FREY, ed., *Corpus Inscriptionum Iudaicarum*, Vatican 1936-52.
- CIL* *Corpus Inscriptionum Latinarum*, Berlin 1867-.
- CJ* *The Classical Journal*
- CPG* E. L. LEUTSCH, ed., *Corpus Paroemiographorum Graecorum*, Göttingen 1839-51.
- CP* *Classical Philology*
- CQ* *Classical Quarterly*
- CR* *Classical Review*
- DJD* *Discoveries in the Judaean Desert*, Oxford 1955-.
- DK* H. DIELS and W. KRANZ, *Die Fragmente der Vorsokratiker*, sixth edition, Berlin 1951.
- FC* *The Fathers of the Church*, Washington 1947-.
- GLAJJ* M. STERN, ed., *Greek and Latin Authors on Jews and Judaism*, Jerusalem 1974-1984.
- HAR* *Hebrew Annual Review*
- HTR* *The Harvard Theological Review*
- IEJ* *Israel Exploration Journal*
- JANES* *Journal of the Ancient Near Eastern Society*
- JBL* *Journal of Biblical Literature*
- JHS* *Journal of Hellenic Studies*
- JIWE* D. NOY, *Jewish Inscriptions of Western Europe*, vol. 2: *The City of Rome*, Cambridge 1995.
- JJP* *Journal of Juristic Papyrology*
- JJS* *Journal of Jewish Studies*
- JNES* *Journal of Near Eastern Studies*
- JQR* *Jewish Quarterly Review*
- JRA* *Journal of Roman Archaeology*
- JRS* *Journal of Roman Studies*
- JSJ* *Journal for the Study of Judaism in the Persian, Hellenistic and Roman Periods*

<i>JTS</i>	<i>The Journal of Theological Studies</i>
Lampe	G.W.H. LAMPE, <i>A Patristic Greek Lexicon</i> , Oxford 1961-8.
<i>LCL</i>	<i>Loeb Classical Library</i>
L&S	C.T. LEWIS & C. SHORT, <i>A New Latin Dictionary</i> , New York/Oxford 1879.
LSJ <sup>9</sup>	H.G. LIDDELL, R. SCOTT & SIR H.S. JONES, <i>A Greek-English Lexicon</i> , ninth edition, Oxford 1940.
<i>MB</i>	<i>Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte</i>
<i>MChr</i>	L. MITTEIS & U. WILCKEN, <i>Grundzüge und Chrestomathie der Papyruskunde</i> , Leipzig 1912.
<i>MDAI(D)</i>	<i>Damaszener Mitteilungen / Deutsches Archäologisches Institut, Orient-Abteilung</i>
<i>MHR</i>	<i>Mediterranean Historical Review</i>
<i>Mish.</i>	Mishnah
<i>MJSt</i>	<i>Münsteraner judaistische Studien</i>
<i>MT</i>	MAIMONIDES, <i>Mishneh Torah</i>
<i>OCD</i> <sup>3</sup>	S. HORNBLOWER & A. SPAWFORTH, eds., <i>The Oxford Classical Dictionary</i> , third edition, Oxford 1996.
<i>OLD</i>	P.G.W. GLARE et al., eds., <i>Oxford Latin Dictionary</i> , Oxford 1982.
<i>PAAJR</i>	<i>Proceedings of the American Academy for Jewish Research</i>
<i>PD</i>	<i>Piskei Din shel Beit Ha-Mishpat Ha-Elyon Le-Yisrael</i> , Jerusalem 1948- (in Hebrew).
<i>PG</i>	J.-P. MIGNE, ed., <i>Patrologia Graeca</i> , Paris 1857-8.
<i>PIR</i>	<i>Prosopographia Imperii Romani</i> , second edition, Berlin/Leipzig/New York 1933-.
<i>PLRE</i>	A.H.M. JONES, J. R. MARTINDALE & J. MORRIS, <i>The Prosopography of the Later Roman Empire</i> , Cambridge 1971-92.
<i>PSI</i>	<i>Papiri greci e latini (Pubblicazioni della Società Italiana per la ricerca dei papiri greci e latini in Egitto)</i> .
<i>RE</i>	A. PAULY, G. WISSOWA & W. KROLL, eds., <i>Real-Encyclopädie der klassischen Altertumswissenschaft</i> , Stuttgart 1893-1980.
<i>REJ</i>	<i>Revue des études juives</i>

<i>RevQ</i>	<i>Revue de Qumran</i>
<i>RHD</i>	<i>Revue historique de droit français et étranger</i>
<i>RIDA</i>	<i>Revue internationale des droits de l'antiquité</i>
<i>RSA</i>	<i>Rivista Storica dell'Antichità</i>
<i>SCI</i>	<i>Scripta Classica Israelica</i>
<i>SDHI</i>	<i>Studia et Documenta Historiae Iuris</i>
<i>SEG</i>	<i>Supplementum Epigraphicum Graecum</i>
<i>SHHA</i>	<i>Studia Historica: Historia Antigua</i>
<i>ST</i>	<i>Studia Theologica</i>
<i>TLG</i>	<i>Thesaurus Linguae Graecae</i> ( <a href="https://www.tlg.uci.edu">https://www.tlg.uci.edu</a> )
<i>TAPA</i>	<i>Transactions of the American Philological Association</i>
<i>YCS</i>	<i>Yale Classical Studies</i>
<i>Yer.</i>	<i>Jerusalem Talmud</i>
<i>ZNW</i>	<i>Zeitschrift für die Neutestamentliche Wissenschaft und die Kunde der älteren Kirche</i>
<i>ZPE</i>	<i>Zeitschrift für Papyrologie und Epigraphik</i>
<i>ZRG RA</i>	<i>Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung</i>

# Cassovii Laudes

## *a Dorcade dictae*

Humaniores plaudite litterae  
Duci et patrono Barilanensium  
Acri artium nostram cohortem  
Eripere e manibus τυράννων.

Nam qui libellos huius acutulos  
Orationesque amplificissimas  
Audit legitque, hic non rogabit  
Prisca iuvent sibi tempora an non.

Iudaea et Hellas Romaque, dicite,  
Terras remotas si penetrabimus  
Talemque quaeremus sodalem,  
Est ubi is inveniatur? a, non!



# Ranon Katzoff: A View of Rome from Jerusalem

DAVID M. SCHAPS

Ranon's father, Dr. Louis Katzoff, devoted his entire life to Jewish education: immediately upon receiving the title of rabbi he was appointed to fill the newly-created post of campus rabbi at the University of Pennsylvania. His job was to create an appropriate and comfortable environment for Jewish students, but he did not neglect scholarship, writing a doctoral thesis—about Jewish education, of course—while serving as the rabbi of Congregation Bnai Abraham in Easton, Pennsylvania. When he moved to Chicago, he continued his work as an educational leader, first at the College of Jewish Studies, now Spertus Institute for Jewish Learning and Leadership, and then at the North Suburban Synagogue in Highland Park. He wrote copiously on the subject of Jewish education,<sup>1</sup> nor did retirement stop him: he moved to Israel, where he founded and edited *Dor LeDor*, the periodical of the World Jewish Bible Society. When he had only a few days left to live, he spent time studying Talmud with Ranon's son Binyamin, and affirmed that now he was ready to die, having achieved the dream—one might almost say his life's goal—of studying Talmud with his grandson. The wife he chose could not have been more

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<sup>1</sup> A few of his writings are collected in A. KATZOFF, ed., *Louis Katzoff: an American Jewish Educator*, Jerusalem 1989.

appropriate to that goal: born in Jerusalem, Adina Abramowitz had an intellect and an energy that matched her husband's. Her field was psychiatric social work, and like her husband, she preached what she practiced, and taught both in America and in Israel.<sup>2</sup> As I write this she has lived a hundred and one years, and has not wasted any of them.

What else would one expect from a son of Louis and Adina Katzoff? What could their son have been if not an observant Jew and a scholar? True, the generation in which Ranon grew up saw many children of pious and learned Jews become less pious, less learned, and less Jewish than their parents. And true, the Talmud itself<sup>3</sup> observes that it is rare for the children of Torah scholars to be Torah scholars themselves. But the dedication and personal example of Louis and Adina Katzoff had their effect, and their son Ranon inherited both their intellectual energy and their religious dedication.

Like his parents, Bar-Ilan University both contributed to and witnessed the success of his education. It was here, when the two- and three-year-old university was a small, new but enthusiastic institution, that he realized that his true interest was the study of Judaism. Academic study was what he wanted, and Departments of Jewish Studies were not thick on the ground in the 1950's. The closest thing available was Classics, and the closest thing to the Talmud that Classics had to offer was Roman law. Not, perhaps, the most obvious of matches, but a successful one, as he demonstrated at Northwestern (B.A. 1960, M.A. 1962) and Columbia (Ph.D. 1968). And since Roman law still isn't Talmud, he studied at the highly regarded Skokie Yeshiva as well, which ordained him as an orthodox rabbi in 1964. Not one to hide his principles, he eventually stopped attending the departmental luncheons at Columbia when he realized that upon his arrival the discussion inevitably turned from Greco-Roman antiquity to the question of why he wasn't eating the same food as everybody else.

During his time at Columbia, he married Charlotte Pearlberg, now in the Philosophy Department and Gender Studies Program of Bar-Ilan. Her reasons for choosing him she summarizes in a single sentence: "He was tall, dark, and handsome, and the biggest *talmid chacham*<sup>4</sup> of them all."

He taught for a while at the City College of New York, but his heart was in Israel, and also in Israel was David Sohlberg, who was looking for people to turn his courses on antiquity into a proper department. "The only thing

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<sup>2</sup> For more information see her autobiography, *A Child of the Desert*, Israel, 2000.

<sup>3</sup> *Bab. Ned.* 81a.

<sup>4</sup> A *talmid chacham* is a scholar, but one who uses the Hebrew term is speaking not of classical expertise but of Talmudic scholarship.

to look for,” Prof. Sohlberg advised me years later, “is excellence.” “Excellence” has since become an ill-defined academic catchword—“the way the Calvinists use the term ‘grace,’” as Ranon once put it—but Ranon Katzoff never disappointed the department, which he headed for many years, nor the Humanities Faculty, whose dean he was from 1998 to 2002. In both positions he maintained both his scholarly standards and his religious principles politely but unflinchingly. Not one to allow academic *kudos* to take the place of Torah learning, he has taught a weekly Talmud class throughout his career in which he has been the teacher of numerous students who are themselves not lacking in intellectual achievements.

He has held other positions—president of the Israel Society for the Promotion of Classical Studies, editor of their journal *Scripta Classica Israelica*, fellow of the Institute for Advanced Study at Princeton—but what is important to the classical world is not his *cursus honorum*, but his scholarly achievement, and in this area he has done what very few people in his or in any generation have done, seeing the Roman law through the eyes of the Jewish and the Jewish law through the mirror of the Roman. This is not to say that there are no other such scholars; the names of Aaron Kirschenbaum and Alfredo Mordechai Rabello come immediately to mind, and no doubt there are others. But for every Katzoff, Kirschenbaum, or Rabello, there are ten times as many who are willing to express opinions while knowing only one of the two fields intimately. There is nothing illegitimate about this, but the kinds of insights that occur to a person *peritus utriusque legis* can rarely be matched by the person who knows one of the systems from the outside only.

There are many examples that could be chosen, from any stage in his career. Even before immigrating to Israel, he published in the prestigious Hebrew journal *Sinai* a note<sup>5</sup> recognizing a Hebrew-Greek pun where Talmudists would not have recognized it and Hellenists would not have seen it. Years later he took on a well-known oddity, the supposed family relationship between the Spartans and the Jews that seems to have been propagated by the high priest Jonathan.<sup>6</sup> Ranon Katzoff could see, as few people could see, what the parallel was between the position of the Spartans, whose Hellenic (and thus civilized) pedigree was impeccable despite their very idiosyncratic education and culture, and the position to which the Jews aspired. An interesting point in itself, but Ranon Katzoff, typically, went one step further, claiming that the asserted relationship was aimed not so much at the Greeks, with whom the Hasmoneans dealt not by propaganda but by guerilla warfare at first and

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<sup>5</sup> R. KATZOFF, “*Afes Zechariah*”, *Sinai* 67 (1970) 64 (in Hebrew).

<sup>6</sup> R. KATZOFF, “Jonathan and Late Sparta”, *AJP* 106 (1985) 485-9.

later by diplomacy, as at the Hellenized Jews, whose willingness to accept the Hasmonean dynasty and its fierce condemnation of Greek worship required a carefully constructed ideology, strictly Jewish but firmly within the compass of the civilized world. Jonathan—or at least Jonathan as Ranon Katzoff understands him—was up to the challenge, and Sparta was his proof-case.

Or take another case, that of *P. Yadin* 21 and 22.<sup>7</sup> In these odd (and almost identical) documents, Babatha, daughter of Simon, sells a large quantity of dates to Simon, son of Jesus son of Anan(ias?), for which he pays her with ... a large quantity of dates. Not a word in the document indicates why they should enter into such a peculiar transaction, nor is there a word, in these documents written in Greek, of *halacha* or any other form of Jewish law. No online search would reveal to a classicist or papyrologist what Ranon Katzoff could see: first of all, that what is being arranged here is what is called in *halacha* a *hakhira*, whereby a lessee undertakes to work a field (in this case, to pick the dates) on condition of supplying, out of the crop, a prearranged sum to the owner; and secondly, that another provision of the contract (in particular, the stipulation that Babatha will clear Simon's rights to the dates, and pay him twenty denarii if she fails to do so) indicates that her own right to the dates she is selling is uncertain. The dates, in fact, are not hers, but those of her late husband Judah, son of Khthousion, and Babatha is claiming them in payment for the "dowry and debt" owed to her. But why is the lease presented as a sale? Because, as a *talmid chacham* would know, Jewish law limits the rights to distraint on debt to landed property as opposed to movables—that is to say, she can take the dates *while they are still on the tree*, but would not be able to get them once they were picked. So she sells the dates to Simon, who will then pick them, and give most of them back to her in lieu of payment. The matter is more complicated than that—if you take the trouble to read the article, you will find that I have by no means done justice to its subtlety—but even this summary shows what Ranon Katzoff has consistently been able to do: to see the reality behind the form, and to recognize when the way that people are behaving reflects a legal mindset different from the form in which it is expressed.

In fact, he had been doing this throughout his career, and not only in dealing with Jews. In his very first published article, he took a claim of Vincenzo Arangio-Ruiz that new Roman citizens "although they tried to imitate Roman law ... diverged from Roman law either from ignorance or in adaptation to the differing local practice," and demonstrated how the phenomenon worked out

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<sup>7</sup> R. KATZOFF, "P. Yadin 21 and Rabbinic Law on Widows' Rights", *JQR* 97 (2007) 545-75.

in three papyri with which he was dealing.<sup>8</sup> Almost forty years later he could see the Jewish scribe Germanos, son of Judah, maneuvering similarly in writing the agreement between Babatha and Simon.

It is not my intention, in this short piece, to summarize the scholarship and the originality of Ranon Katzoff; nor, if it were, could I do it justice. I would have liked, however, to have given the reader some idea of the intellectual excitement he imparted to his students and his colleagues, and the energy and the good humor with which he did so. That, alas, is also beyond me; only fictional characters can be captured in a few pages of prose. Ranon Katzoff, as original as he is, is by no means fictional; and those of us who have been privileged to work with him are pleased to offer him a small acknowledgement of our indebtedness to him.

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<sup>8</sup> R. Katzoff, "The Provincial Edict in Egypt," *Tijdschrift voor Rechtsgeschiedenis* 37 (1969) 414-37. The words in quotation marks are Katzoff's paraphrase, on p. 419, of Arangio-Ruiz.



# Ranon Katzoff: A Student's View

NACHUM COHEN

I first met Prof. Katzoff as a research (doctorate) student. I was in my forties at the time, but his classes were full of far more students younger than I, so I had the perspective, actually the advantage, of a side observer while experiencing relations with him.

As a class teacher he was very respectful of and caring for his students. His classes never took the form of long boring speeches, because he did not just lecture. He encouraged his students' participation in the lessons, developing fruitful discussions. At times he would stand there watching them, while they were exchanging views. Often he inserted modern examples in order to illustrate and bring into life ancient, centuries-old issues and points. When his classes took place during the afternoon fatigue hours, he would stop his lectures in mid-class, letting the students refresh themselves and even using gymnastic exercises to inject vitality back into them. I asked other students then, and they heartily confirmed my views.

Prof. Katzoff is the best of mentors. He bridged the usual gap between supervisor and student by keeping close contact with me naturally, not placing himself at a higher level. He would often turn to me (at the end of a class) asking whether I was in need of a research consultation on that day, rather than wait for me to approach him. His guidance was dynamic, strict, very

pedagogical and profound. During our hours-long meetings I found him to be highly intelligent and a quick thinker. The talks with him were very inspiring and enriching.

He once told me: “While checking the chapters of your thesis I will pose as your worst adversary. I will be harsh and not sympathetic, pointing out every tiny mistake. All with good will and intentions so that you will be better prepared to confront your referees.”

In time, when my thesis was approved, typically of his benevolent nature he knew how to make the transition from a supervisor into a colleague. Whenever I turned to him for advice and academic assistance, he always extended to me whatever he could.

In the name of his students I would like to wish him and his family the best of everything on his 75<sup>th</sup> birthday, or as we are accustomed to say in Israel:

**איחולים לכול מילי דמיטב.**

# Lo Ba-Shamaim Hi (*It is not in Heaven*): Professor Ranon Katzoff as a Teacher of Law

HAVA B. KORZAKOVA

Ulpian states:

*Iuri operam daturum prius nosse oportet, unde nomen iuris descendat. Est autem a iustitia appellatum: nam, ut eleganter Celsus definit, ius est ars boni et aequi. Cuius merito quis nos sacerdotes appellet: iustitiam namque colimus et boni et aequi notitiam profiteamur, aequum ab iniquo separantes, licitum ab illicito discernentes.*

—Digesta 1.1.1.1 (533 A.D.).

A law student at the beginning of his studies should know whence the term “ius” comes. It is derived from justice. For, in the elegant words of Celsus (ca. 100 C.E.), “ius” is the art of the good and the equitable. Consequently, we jurists are called priests because we cultivate justice, and we seek knowledge of the good and the equitable. We mark the difference between equitable and inequitable and determine what is licit and illicit.<sup>1</sup>

Whether we understand *discernentes* as ‘determine,’ or as ‘distinguish’, as others translate<sup>2</sup>, I think that what Ulpian is actually saying here is not that the word *ius* is “derived from justice (*iustitia*)” (which is obviously nonsense), but that the content of the law, the very meaning of what is right and wrong

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<sup>1</sup> Translation adapted from Ken Pennington.

<sup>2</sup> See D. N. MACCORMICK in A. WATSON, ed., *The Digest of Justinian: Book One*, Philadelphia, 1985.

is to be decided by the law's artists, its priests—the jurists. In other words, *lo ba-shamaim hi*, “it is not in Heaven”, as the Jewish teachers formulate, using the Torah's statement in Deuteronomy 30:12, in the Babylonian Talmud, *Baba Metzia* 59b, during the famous debate on the oven of Akhnai.

But who can determine, or distinguish, what the ancient jurists and sages meant? Obviously, one who has studied not only the law itself, but their way of thinking, their logic, their sense of humor, if you like. These would be the classicists, because here in Classics we learn to enter the Greeks' and the Romans' head. It is not a coincidence that I mentioned previously a saying of the Jewish sages along with that of the Roman: the parallels between the Roman and the Jewish law help to understand both of them better. And who is capable to perform that kind of study better than a classicist who also deals with Judaica?

That would be, for instance, Professor Ranon Katzoff. Having been his student for the long twelve years of my doctorate, I had the pleasure not only to hear his lessons, but to enjoy his notes and observations on various subjects concerning Roman and Jewish law (and life itself, which sometimes could be a slightly more boring topic).

I also had the honor to be his student in the particular area that opens a unique window to everyday Roman law practice—Juristic Papyrology. Professor Ranon Katzoff has published several studies on the subject, starting with “The Provincial Edict in Egypt,” *Tijdschrift voor Rechtsgeschiedenis* 37 (1969), pp. 414-437. In my thesis I included a note disagreeing with one of his statements in this article (which was published in the year when I was born), and his joyful reaction taught me another important thing about studying and teaching.

Being inspired, as he has told me more than once, by A. Arthur Schiller's approach to Roman legal studies, Professor Ranon Katzoff transmits his inspiration through his lessons, easily making such difficult subjects as law and history vivid and enlightening. *Lo ba-shamaim hi* – it is not in Heaven, nor in the “old dusty books”. It is here, in our hands.

# Ranon Katzoff

## *A Bibliography*

### ***Edited Books***

- (1994) *Legal Documents of the Talmud in Light of Greek Papyri and Greek and Roman Law*, by A. GULAK (translation of A. GULAK, *Das Urkundenwesen im Talmud im Lichte der griechisch-ägyptischen Papyri und des griechischen und römischen Rechts*), edited with supplementary notes by RANON KATZOFF (Magnes Press for The Institute for the Study of Jewish Law, Hebrew University of Jerusalem, Jerusalem) (in Hebrew).
- (1996) *Classical Studies in Honor of David Sohlberg*, edited by RANON KATZOFF, with YAAKOV PETROFF and DAVID SCHAPS (Bar-Ilan Press, Ramat Gan).
- (2005) *Law in the Documents of the Judaeen Desert*, edited by RANON KATZOFF and DAVID SCHAPS (Brill, Leiden).

### ***Articles***

- (1969) "The Provincial Edict in Egypt," *Tijdschrift voor Rechtsgeschiedenis* 37, 414-37.

- (1970) "Afes Zecharia," *Sinai* 67, 64 (in Hebrew).
- (1970) "BGU 19 and the Law of Representation in Succession," *Proceedings of the XII International Congress of Papyrology*, Toronto, 239-42.
- (1971) "Judicial Reasoning in PCatt: *Fraus Legi*," *TAPA* 101, 241-52.
- (1971) "The Case of Granius Marcellus: Tacitus *Annales* 1.74," *AJP* 92, 680-4.
- (1972) "Precedents in the Courts of Roman Egypt," *ZRG RA* 89, 256-92.
- (1973) "Where was Agrippina Murdered?" *Historia* 22, 72-8.
- (1978) "The Validity of Prefectural Edicts in Roman Egypt," *Bar-Ilan Studies in History*, Ramat Gan, 45-53.
- (1980) "Sources of Law in Roman Egypt: The Role of the Prefect," *ANRW* II 13, 807-44.
- (1981) "On the Intended Use of *P.Col.* 123," *Proceedings of the XVI International Congress of Papyrology*, Chico, CA, 559-73.
- (1982) "*Responsa Prudentium* in Roman Egypt," *Studi in onore di Arnaldo Biscardi* II, Milan, 523-35.
- (1982) "Prefectural Edicts and Letters," *ZPE* 48, 209-17.
- (1982-83) "Comment on Gulak's Article [Justinian Caesar's Novella No. 97 and its Talmudic Antecedents]," *Annual of the Institute for the Study of Jewish Law of the Hebrew University of Jerusalem* 9/10, 15-28 (in Hebrew).
- (1985) "Jonathan and Late Sparta," *AJP* 106, 48-59.
- (1985) "*Donatio ante nuptias* and Jewish Dowry Additions," in: N. LEWIS (ed.), *Papyrology* (YCS 28), Cambridge, 231-44.
- (1986) "Law as *Katholikos*," in: R.S. BAGNALL and W.V. HARRIS (eds.), *Studies in Roman Law in Memory of A. Arthur Schiller*, Leiden, 119-26.
- (1986) "*Suffragium* in Exodus *Rabbah* 37.2," *CP* 81, 235-40.
- (1986) "Where Did Greeks of the Roman Period Practice Wrestling?" *AJA* 90, 437-40.
- (1987) "Part II: Legal Commentary," in: N. LEWIS, R. KATZOFF, and J. GREENFIELD, "*Papyrus Yadin* 18," *IEJ* 37, 229-50 at 236-47.
- (1989) "Sperber's Dictionary of Greek and Latin Legal Terms in Rabbinic Literature—A Review Essay," *JSJ* 20, 195-206.
- (1990) with NAPHTALI LEWIS, "Understanding P.Ness 18," *ZPE* 84, 211-13.
- (1990) "A Gift after Death from the Judean Desert," *Proceedings of the Tenth World Congress of Jewish Studies. Jerusalem 1989: Division C, Volume I*, Jerusalem, 18 (in Hebrew).
- (1991) "Papyrus Yadin 18 Again: A Rejoinder," *JQR* 82, 171-6.
- (1993) "Roman Edicts and *Ta'anit* 29a," *CP* 88, 141-4.

- (1993) with DANIEL SPERBER, "On the Office of Defensor in Palestine and Egypt During the Third Century C.E.," in: S. FRIEDMAN (ed.), *Saul Lieberman Memorial Volume*, New York and Jerusalem 1993, 1\*-11\*.
- (1994) "An Interpretation of *P.Yadin* 19: A Jewish Gift after Death," in: A. BÜLOW-JACOBSEN (ed.), *Proceedings of the 20th International Congress of Papyrologists, Copenhagen, 23-29 August, 1992*, Museum Tusculanum Press, University of Copenhagen, Copenhagen, 562-5.
- (1995) "Hellenistic Marriage Documents," in: M. GELLER and H. MAEHLER (eds.), *Legal Documents of the Hellenistic World*, London, 37-45.
- (1995) "Polygamy in *P. Yadin*?" *ZPE* 109, 128-32.
- (1996) "Philo and Hillel on Violation of Betrothal in Alexandria," in: I.M. GAFNI, A. OPPENHEIMER, and D.R. SCHWARTZ (eds.), *The Jews in the Hellenistic-Roman World: Studies in Memory of Menachem Stern*, Jerusalem, 39\*-57\*.
- (1996) "Greek and Jewish Marriage Formulas," in: R. KATZOFF with Y. PETROFF and D. SCHAPS (eds.), *Classical Studies in Honor of David Sohlberg*, Ramat Gan, 223-34.
- (1997) "Age at Marriage of Jewish Girls During the Talmudic Period," in M.A. FRIEDMAN (ed.), *Marriage and the Family in Halakha and Jewish Thought = Te'udah* 13, 9-18 (in Hebrew).
- (1997) "On Fasting on the Sabbath," *Sinai* 119, 185-6 (in Hebrew).
- (1998) with BERTRAM M. SCHREIBER, "Week and Sabbath in Judaeen Desert Documents," *SCI* 17, 102-14.
- (2000) "Babatha," *Encyclopedia of the Dead Sea Scrolls*, Oxford University Press, New York.
- (2000) "Contracts," *Encyclopedia of the Dead Sea Scrolls*, Oxford University Press, New York.
- (2001) "Oral Establishment of Dowry in Jewish and Roman Law: *D'varim Haniknim Ba'amira* and *Dotis Dictio*," in: J. CAIRNS and O. ROBINSON (eds.), *Critical Studies in Ancient Law, Comparative Law & Legal History: Essays in Honour of Alan Watson*, Oxford and Portland, 157-71.
- (2003) "Oral Establishment of Dowry in Jewish and Roman Law: *D'varim Haniknim Ba'amira* and *Dotis Dictio*," (revised version of previous item) in: L.H. SCHIFFMAN (ed.), *A Climate of Creativity: Semitic Papyrology in Context*, Brill, Leiden, 145-64.
- (2003) "Children of Intermarriage: Roman and Jewish Conceptions," in: C. HEZSER (ed.), *Rabbinic Law in its Roman and Near Eastern Context (Texts and Studies in Ancient Judaism 97)*, Mohr-Siebeck, Tübingen, 277-86.
- (2005) with D. SCHAPS, "Introduction," in: R. KATZOFF and D. SCHAPS (eds.), *Law in the Documents of the Judaeen Desert*, Leiden, 1-6.

- (2005) "On P.Yadin 37 = P.Hever 65," in: R. KATZOFF and D. SCHAPS (eds.), *Law in the Documents of the Judaean Desert*, Leiden, 133-44.
- (2006) "נוצרים חדשים – חברות ישנה" ("New Christians and Old Fellowships (Havurot) [I Corinthians 7:12-14]") in: Z. UKASHY, S. ROSMARIN and I. ROZENSON (eds.), במשעולי עבר יהודי: מחקרים וזכרונות לכבודו של ד"ר צבי גסטוירט (*Along the Paths of Jewish History: Research and Reminiscences in Honor of Dr. Zvi Gastwirth*), Jerusalem, 143-53 (in Hebrew).
- (2007) "הלכות רבי אליעזר ברומא העתיקה" ("The Laws of Rabbi Eliezer in Ancient Rome"), in: D. GOLINKIN et al. (eds.), תורה לשמה. מחקרים במדעי היהדות, לכבוד פרופסור שמא פרידמן (*Essays in Jewish Studies in Honor of Professor Shamma Friedman*), Jerusalem, 344-57 (in Hebrew).
- (2007) "P.Yadin 21 and Rabbinic Law on Widows' Rights," *JQR* 97.4, 545-75.
- (2012) "ונתנה תוקף", אוניברסיטת בר-אילן דף שבועי 985, פרשת וילך ויום כיפור, 2-4 (English tr.: "U-Netaneh Tokef," Bar-Ilan University Parashat Hashavua Study Center 985, Yom Kippur 5773/September 14, 2012, 1-7) at 2-4.
- (2015) למשפחותם לבית אבותם: ילדי נישואי תערובת – בין המשפט העברי למשפט הרומי ('By their families according to their fathers' houses': The Offspring of Inter-marriage—Between Jewish and Roman Law) Ministry of Justice, Department of Jewish Law, *Parashat Hashavua*, Bamidbar 5775, No. 453.
- (forthcoming) "Porta Capena," in: *The Paths of Daniel: Studies in Judaism and Jewish Culture Presented to Rabbi Professor Daniel Sperber*.

## Reviews

- (1970) Report on American Publications in Roman Law, 1967-68, *Index, International Survey of Roman Law* 1, 75-96.
- (1970) Review of D. DAUBE, *Aspects of Roman Law*, *New York Law Forum* 16, 296-302.
- (1971) Report on American Publications in Roman Law, 1969, *Index* 2, 22-5.
- (1972) Report on American Publications in Roman Law, *Index* 3, 5-14.
- (1974) Review of R. MARTINI, *Ricerche in tema di editto provinciale*, *Tijdschrift voor Rechtsgeschiedenis* 40, 565-70.
- (1976) Review of A. WATSON (ed.), *Daube Noster*, *Israel Law Review* 11, 426-32.
- (1981) Review of A.M. RABELLO, *Effetti personali della patria potestas*, *Israel Law Review* 16, 530-44.
- (1986-88) Review of D. SPERBER, *A Dictionary of Greek and Latin Legal Terms in Rabbinic Literature*, *Dine Israel* 13-14, 327-35 (in Hebrew).

- (1988) Review of A. KIRSCHENBAUM, *Sons, Slaves and Freedmen in Roman Commerce*, *Iyunei Mishpat* 13, 417-21 (in Hebrew).
- (1988) Review of J.R. REA (ed.), *Oxyrhynchus Papyri LV*, *Bulletin of the American Society of Papyrologists* 25, 157-68.
- (2000) Review of H. COTTON and A. YARDENI, *Aramaic, Hebrew and Greek Documents from Nahal Hever (Discoveries in the Judaean Desert XXVII)*, *SCI* 19, 316-27.
- (2013) Review of BENJAMIN ISAAC, YUVAL SHAHAR (eds.), *Judaea-Palaestina, Babylon and Rome: Jews in Antiquity. Texts and Studies in Ancient Judaism*, 147, *Bryn Mawr Classical Review* 2013.09.05.



When West Met East



# Introduction

“Oh, East is East, and West is West, and never the twain shall meet,” wrote Rudyard Kipling, a man who made his career—including the *Ballad of East and West* from which that famous line is taken—by describing the meeting of East and West. There was much to tell. He could tell of mutual suspicion, mutual admiration, mutual and transgressive love; of the land so well-known to the one and so exotic to the other; of the problems of the ruler, which he understood well, and the obstinacy of the ruled, which he observed with interest but with only a partial empathy; of the imaginary world of the East that blended in his mind with the ethics of the West to create a landscape peculiarly his own and stunningly universal. An Englishman and an Indian, he lived at the junction of two worlds that were so clearly distinguished that a person could only be one or the other, and yet so closely bound—by conquest, not by love—that the children of each imbibed the stories of their rulers or their servants along with their own. When the two worlds separated years later, East was still East and West was still West, but the national language of India was English and Urdu was spoken commonly in the streets of London.

However partial Kipling’s vision may have been, the empires of the Hellenistic age and their grander Roman successor have left us no one like him. Strabo tells the Greco-Romans what the lands of the East and the West are

like; Caesar tells us how they fight; Tacitus tells us of the Germans in the sort of pamphlet that is nowadays published to give a broad picture of a foreign society. Perhaps the closest is Petronius, whose Trimalchio is redolent of foreign customs; but whose customs they may be he does not tell us.<sup>1</sup>

Yet there is much to tell, and if none of us can tell it with the immediacy of a Kipling, each of us has grasped a part of the great changes that began with conquering armies and did not end until the Dacians called themselves *Român*, the rulers of the Germans and even of the Hyperborean Russians called themselves Caesar, Indians and even Tibetans studied the questions of King Menander, and the Romans worshiped a Jew.

To begin with the works of the mind that preoccupied both Greek and Jew, Jonathan Price shows Josephus, in his programmatic statement as in his practice, straddling Jewish and Greek ideas of what constitutes a proper basis for the writing of history: we see Josephus, writing in the Greek language and the Greek genre, almost surreptitiously smuggling into his history a form of authority neither recognized nor acknowledged by the Greeks. Gabriel Danzig, looking at the other side, follows an Aristotelian distinction as it wends its way through centuries of rabbinical thought, becoming, if anything, less Aristotelian as the rabbis become more familiar with Aristotle. Susan Weingarten contrasts Roman and Jewish attitudes towards their food, discovering, rather surprisingly, that it was the Romans who took a more moralizing attitude towards it.

The realities of conquest required the Jews to justify themselves to outsiders, so that the Jews' picture of their own past was influenced by their more problematic present. In the early days Philo, as Miriam Ben Zeev shows, had to try to paint a rosier picture of the life of the diaspora Jews than may actually have been the case, and Michael Meerson shows us a Jewish text centuries later undergoing repeated and often contradictory changes in an effort to adapt its polemic message to changing social norms.

The inhabitants of Judaea, whether Jewish or non-Jewish, were affected not only by the intellectual winds blowing from the west but by the presence of Greco-Romans in their midst. A monumental bath complex built originally, as Werner Eck argues, for Roman soldiers became an institution for the local population. The letters found in the Judaeian desert, few and damaged though

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<sup>1</sup> Ranon Katzoff, however, did have a suggestion as to Trimalchio's nationality, first presented in his often quoted lecture "Eccentric Jews in Ancient Rome", delivered at the International Meeting of the Society of Biblical Literature in Edinburgh, 2-6 July, 2006, and later published in Hebrew as "הלכות רבי אליעזר ברומא העתיקה" ("The Laws of Rabbi Eliezer in Ancient Rome"), in D. GOLINKIN et al., eds., מחקרים במדעי היהדות לכבוד פרופסור שמא פרידמן, *Essays in Jewish Studies in Honor of Professor Shamma Friedman*, Jerusalem 2007, 344-57.

they be, allow Nachum Cohen to conduct some preliminary analysis of their structure that can be useful for further comparisons. Joseph Geiger produces for us a prosopography of Palestinian lawyers, rather more numerous than we might have supposed, and testifying to a significant Romanized intellectual elite—although the law school of Caesarea, the only one attested in late antique Palestine, seems to have been below the standards of the best institutions, and not a fitting *alma mater* even for those who practiced in its province.

Law is generally imposed by the sovereign, but the Jews recognized a Law higher than that imposed by the rulers, and the Romans, as was their practice elsewhere, recognized this Law. Nevertheless, a certain amount of inventiveness was required (and indeed, is still required) to ensure that an agreement was both binding by the law of the Torah and enforceable in the courts of the land; and the Jews, as Joseph Méléze-Modrzejewski demonstrates, rose to the challenge. Amihai Radzyner, in the only article in our collection that restricts itself entirely to the Jewish domain, probes the concept behind a legal category that, although it has a parallel in Greek law, develops on its own in the world of the *halacha*.

Alongside the actual contacts between Greco-Romans and easterners there was another world, the world of the virtual foreigner: the foreigner of popular discourse and of travelogue. Daniela Dueck takes the original tack of looking in proverbs to discover popular stereotypes; from a small selection she draws some conclusions and points the way to a new aperture through which we can see the invisible everyman. Stephanie Binder looks into Pompeius Trogus and discovers how a lack of scientific expertise can pave the road to bizarre error.

The encounter between Greco-Romans and Egyptians is in many respects even better documented than that between them and the Jews; and richer sources, when used judiciously, bring richer understanding. Andrea Jördens shines the light of the papyri on kidnapping, a crime as heinous to its victims and as risky and lucrative to its practitioners as it is today. Hans-Albert Rupprecht takes us down a well-traveled but still disputed road, examining all the most relevant documents to see to what extent the “Egyptian laws” still meant, in the Roman period, the native Egyptian laws and not those of the Ptolemies. Uri Yiftach, examining the *hypographe* by which parties to a contract authenticated the transaction, is able to draw conclusions about the extent of Greek literacy that bear on broader questions as well.

Wherever we choose to place the end of the Roman Empire—and only in 1806 did its last bearer renounce the title of Roman Emperor—it did not by any means end the influence of the empire, or of the fateful meeting between West and East. Albert Baumgarten returns to Philo of Byblos, a scholar caught in the middle, speaking with one voice as a philosopher and with another as

a Semite, and sees him refracted through the works of Michael Rostovtzeff and Elias Bickerman, whose own groundbreaking studies of the ancient world were born in the wake of their own close experiences with the upheavals of the modern. And Lisa Maurice, ending on a lighter note, sees the ancient Romans and Jews as the public sees them—again, virtual Romans and virtual Jews, products of their own time no less than the ancients were products of theirs.

Each of these items is a tidbit, a tiny taste of the wide-ranging changes that swept from the Ocean to the Indus, from the Tyne to the Sahara, in the wake of Alexander, Scipio, Pompey and Caesar. Together they offer an idea of how wide a field still remains and of some directions in which we can go; and no tribute could be more appropriate for Ranon Katzoff, whose scholarly career has been dedicated to teasing out the interwoven threads of the Romans, the Egyptians, and the Jews, and whose insights will continue to light a path for those willing to follow and to learn.

This volume could not have been published without the generous assistance of the Office of the Vice President for Research (the late Prof. Benjamin Ehrenberg) and the Department of Classics at Bar-Ilan University, the personal assistance of Michele Faraguna of the University of Trieste, and the generosity of dozens of referees who donated their time, their expertise, and their effort, as is customary in the academic world, for no recompense other than an acknowledgement—and in the case of referees, alas, an acknowledgement that must remain anonymous.

*The Editors*

# The Jews and Greco-Roman Thought



# Josephus and the “Law of History”: A Note

JONATHAN J. PRICE

The “law of history”, a phrase possibly coined by Josephus, is not exactly the kind of *law* which Ranon Katzoff has worked on throughout his life. But it is perhaps a fitting topic for a volume with the title “When West Met East”, since I shall propose that in this expression Josephus, as frequently in his writings, imitated a concept he learned from western (Greek) historiography while at the same time giving it a second, Jewish significance. I offer this small paper in Ranon’s honor.

In his first historical work, Josephus twice mentions the “law of history”:

*BJ* 1.11 (Niese)

εἰ δὴ τις ὅσα πρὸς τοὺς τυράννους ἢ τὸ ληστρικὸν αὐτῶν κατηγορικῶς λέγοιμεν ἢ τοῖς δυστυχήμασι τῆς πατρίδος ἐπιστένοντες συκοφαντοίῃ, διδότην παρὰ τὸν τῆς ἱστορίας νόμον συγγνώμην τῷ πάθει: πόλιν μὲν γὰρ δὴ τῶν ὑπὸ Ῥωμαίοις πασῶν τὴν ἡμετέραν ἐπὶ πλείστον τε εὐδαιμονίας συνέβη προελθεῖν καὶ πρὸς ἔσχατον συμφορῶν αὐθις καταπεσεῖν.

If anyone should cavil at our condemnation of the tyrants and their brigandage, or our bitter laments over the misfortunes which befell our country, let him forgive our emotional outburst, contrary to the law of history: for it is a fact that our city, of all cities under Roman rule, achieved the highest summit of prosperity and fell to the furthest extreme of calamity.<sup>1</sup>

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<sup>1</sup> Both the vocabulary and central idea of this passage recall Herodotus 1.5.3–4, as E.M. Harris (an

## BJ 5.20

ἀλλὰ καθεκτέον γὰρ καὶ τὰ πάθη τῷ νόμῳ τῆς γρᾶφῆς,<sup>2</sup> ὥς οὐκ ὀλοφυρμῶν οἰκείων ὁ καιρὸς, ἀλλ' ἀφηγήσεως πραγμάτων. δίδειμι δὲ τὰ ἐξῆς ἔργα τῆς στάσεως.

But one must restrain one's emotions, according to the law of (history-) writing, which is the occasion not for personal lamentation, but for a narrative of the deeds. I shall now relate the facts of the *stasis* in order.

Josephus seems to mean in both places that a historian is professionally bound to eliminate bias or partisan involvement in his subject, and consequently avoid any emotional outburst in his writing. The first passage appears in the preface to the *BJ*, serving as both a pre-emptive warning and a *captatio benevolentiae*. This preface, the first Josephus wrote in Greek, contains all the usual elements of a standard Greek historiographical introduction – justification of the importance of his topic, affirmation of his credentials as a historian, critique of rival histories about the same subject, avowal of accuracy and impartiality, etc. Yet just as Josephus is castigating other historians for denigrating the Jews or conversely for exaggerating the Jews' qualities in order to amplify Roman power, he veers from the *topos* to acknowledge his own *partis pris* and harsh judgment of certain actors in his history (*BJ* 1.9-10). He knows that not only the open bias, but the acknowledgement itself has no place in a proper Greek history. Thus Josephus reassures his readers that he is aware of the rules, which he terms “the law of history”, a phrase which is supposed to confirm his historian's credentials.<sup>3</sup>

The second passage contains just the show of emotion for which Josephus begs indulgence in the first passage. His invocation of the “law of history” caps a long introductory passage describing the division of Jerusalem among the warring factions within the besieged walls. Josephus loses control and apostrophizes the suffering city (*BJ* 5.19, in Thackeray's poetic rendering [Loeb ed.]): “What misery equal to that, most wretched city, has thou suffered at the hands of the Romans, who entered to purge with fire thy internal pollutions? For thou wert no longer God's place, nor couldst thou survive, after becoming a sepulcher for the bodies of thine own children and converting the sanctuary into a charnel-house of civil war (πολέμου ἐμφυλίου πολυάνδριον). Yet might there be hopes for an amelioration of thy lot, if ever thou wouldst propitiate that God who devastated thee.” After this he abruptly re-imposes the

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anonymous referee of this article who revealed himself in his comments) has pointed out.

<sup>2</sup> MVRC συγγραφῆς

<sup>3</sup> There is, however, an ambiguity in his statement: the syntactical placement of the phrase παρὰ τὸν τῆς ἱστορίας νόμον συγγνώμην can apply to either the historian's emotional outburst or the reader's indulgence.

restraint required by the “law of history” (5.20).<sup>4</sup> In Josephus’ eyes, the *stasis* among the Jews was the worst disaster in the whole calamitous war, evoking strong, uncontrollable emotions.

In their introductions and in methodological digressions and asides, ancient historians routinely declared their intention to avoid bias in their writing and affirmed their ability to do so.<sup>5</sup> As in Tacitus’ most-quoted pledge to write *sine ira et studio* (*Ann.* 1.1), the conscientious elimination of personal animosity or favor was meant to ensure the truth and accuracy of the account; thus the historian’s personal integrity was a reliable assurance of historical truth. Such expressions of principle first appear in Hellenistic historians, including Polybius, one of Josephus’ main historiographical models. Polybius states in his general introduction (1.14) that avoiding bias (αἵρεσις, εὐνοία) ensures truth, and applies the principle self-consciously throughout (e.g., 38.4). These presumptions had hardened into a *topos* long before Josephus took up his pen. A full, perhaps overblown picture of the historian’s requirements is painted by Lucian, who in his essay on history-writing complains about the surfeit of potted historiography in his day:

That, then, is the sort of man the historian should be: fearless, incorruptible, free, a friend of free expression and the truth, intent, as the comic poet says, on calling a fig a fig and a trough a trough, giving nothing to hatred or to friendship, sparing no one, showing neither pity nor shame nor obsequiousness, an impartial judge, well disposed to all men up to the point of not giving one side more than its due, in his books a stranger and a man without a country, independent, subject to no sovereign, not reckoning what this or that man will think, but stating the facts.<sup>6</sup>

Lucian did not write history, and it is true that practicing historians sometimes openly acknowledged bias or personal involvement, including Polybius, who

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<sup>4</sup> There is a small ambiguity in this statement, too, but of a different nature from that in the first: the phrase τῷ νόμῳ τῆς γραφῆς does not necessarily mean *history-writing*, which led the authors of certain good mss. to emend to συγγραφῆς (see n.1), the standard word for historiography since Thucydides (1.1.1). But Josephus’ next statement, that he intends to provide a “narrative of deeds”, removes any doubt as to his purpose and intention.

<sup>5</sup> LUCE 1989; MARINCOLA 1997, 158-174; PITCHER 2009, 17-21.

<sup>6</sup> τοιοῦτος οὖν μοι ὁ συγγραφεὺς ἔστω, ἄφοβος, ἀδέκαστος, ἐλεύθερος, παρρησίας καὶ ἀληθείας φίλος, ὥς ὁ κωμικός φησι, τὰ σῦκα σῦκα, τὴν σκάφην δὲ σκάφην ὀνομάσων, οὐ μίσει οὐδὲ φιλία τι νέμων οὐδὲ φειδόμενος ἢ ἐλεῶν ἢ αἰσχυρόμενος ἢ δυσωπούμενος, ἴσος δικαστῆς, εὖνους ἅπασιν ἄχρὶ τοῦ μὴ θατέρῳ ἀπονεῖμαι πλεῖον τοῦ δέοντος, ξένος ἐν τοῖς βιβλίοις καὶ ἄπολις, αὐτόνομος, ἀβασίλευτος, οὐ τί τῷδε ἢ τῷδε δόξει λογιζόμενος, ἀλλὰ τί πέπρακται λέγων – Lucian, *Hist. Conscr.* 41, trans. K. Kilburn, Loeb Classical Library; cf. AVENARIUS 1956, 40-54. This passage contains interesting problems of interpretation (e.g., can his recommendation for an historian to be ἄπολις be taken at face value?), but they do not affect the main problem addressed in this paper and we shall save them for a different occasion.

permitted the historian a personal interest in his material so long as he did not allow it to distort the truth.<sup>7</sup> Diodorus Siculus openly confesses his inability to restrain tears in his account of the calamities Greece suffered in 146 BCE (32.26.1), although of course Diodorus, like Josephus, would have denied that his emotions affected the accuracy or impartiality of his account. Expressions of patriotism could be praiseworthy, and moreover the pronouncement of moral judgment on the actors in one's history could even be considered a virtue, a sign of the historian's own moral character. As Luce put it, "the historian's own character is as important as the character of the personages appearing in his pages, perhaps more so. As the historian is to judge the moral worth of his subjects, so the reader judges the moral worth of the historian".<sup>8</sup> The purpose of history was not only to record but to instruct.<sup>9</sup> If the facts were correctly reported, uninfluenced by flattery or hatred, then the historian was allowed, even expected, to pronounce moral judgment.<sup>10</sup>

Josephus does not seem to have been aware of these nuances when writing his two statements concerning the "law of history", which reflect his apparent belief that any show of partiality or judgment, especially condemnation of main players in the historical narrative, can impugn both the historian and the perceived accuracy of his account. That is what the *topos* in its simple form dictated, and Josephus was in no way deficient when he referred to it. He merely answers, in his own way, the historian's duty to affirm the truth of his written account by removing all signs of personal bias, whether it be favor-seeking or enmity, or in his case, personal, emotional involvement.<sup>11</sup>

It is a curious fact, however, that the formulation of the historian's intention to avoid bias as obedience to a "law", is absent from extant Greek literature in Josephus' period and before, and he does not return to it in his extensive writing after the Greek *BJ*.<sup>12</sup> Josephus was certainly not quoting a phrase from

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<sup>7</sup> "I would allow that historians must have a partiality for their own country, but they should not write statements about it which contradict the facts" (ἐγὼ δὲ διότι μὲν δεῖ ὅσπας διδόναι ταῖς αὐτῶν πατρίσι τοὺς συγγραφεῖς, συγχωρήσαιμ' ἂν, οὐ μὴν τὰς ἐναντίας τοῖς συμβεβηκόσιν ἀποφάσεις ποιεῖσθαι περὶ αὐτῶν), Plb. 16.14.6.

<sup>8</sup> LUCE 1989, 21.

<sup>9</sup> A conventional statement of this standard can be found e.g. in Diodorus Siculus' long introduction to his *Bibliotheca Historica*, see 1.1.1-1.4.1.

<sup>10</sup> MARINCOLA 1997, 160-162.

<sup>11</sup> While the *topos* of avoiding bias as an assurance of truth developed after the Classical period, it is interesting to note that Dionysius of Halicarnassus, *Pomp.* 3, surmised that Thucydides hated Athens because of his exile and that this influenced his narrative. Thucydides, naturally, would have vigorously objected to this charge; see further, LUCE 1989, 19-21.

<sup>12</sup> This conclusion is based on a search of *TLG*. Much later uses of the expression, or forms of it, especially in Christian authors, do not impinge on the conclusions of this paper.

his two most important historiographical mentors, Thucydides and Polybius (or what survives of latter's work), both of whom celebrated accuracy and the absence of pathos in historical writing. Yet Josephus uses the expression rather unselfconsciously, as if he were quoting a standard idea. He gives no indication that he is coining a phrase. By contrast, when introducing the neologism θεοκρατία, he hedges: ὥς δ' ἂν τις εἴποι βιασάμενος τὸν λόγον (*Ap.* 2.165, and see below). No such hesitation here. There is no reason to suspect that he invented a methodological principle in his debut as a Greek historian. Josephus certainly was not translating an expression directly from Hebrew or Aramaic. It is conceivable that he found a "law of history" *vel sim.* in a lost Hellenistic history or in one of the many lost Hellenistic compositions bearing the title *peri historias*,<sup>13</sup> but more likely Josephus' "law" reflects his own understanding of the historians he read and imitated, as well as his interpretation of the methodologies and presumptions of the historians working in his age.

To be sure, Cicero uses a similar expression twice in his surviving *oeuvre*. In his famous appeal to L. Lucceius to write a historical monograph on his consulship and exile, Cicero urges Lucceius to depart from the "laws of history" in order to embellish his accomplishment (*Fam.* 5.12.3):

itaque te plane etiam atque etiam rogo, ut et ornes ea vehementius etiam quam fortasse sentis, et in eo leges historiae neglegas gratiamque illam, de qua suavissime quodam in proemio scripsisti, a qua te deflecti non magis potuisse demonstras quam Herculem Xenophontium ilium a Voluptate, eam, si me tibi vehementius commendabit, ne aspernere amorique nostro plusculum etiam, quam concedet Veritas, largiare.

Cicero defines those laws in *De Oratore*, 2.62-3:<sup>14</sup>

Nam quis nescit primam esse historiae legem, ne quid falsi dicere audeat? Deinde ne quid veri non audeat? Ne quae suspicio gratiae sit in scribendo? Ne quae simultatis? Haec scilicet fundamenta nota sunt omnibus, ipsa autem exaedificatio posita est in rebus et verbis.

These "laws of history" sound just like Josephus' requirement that the historian restrain personal feeling and partiality and stick to the truth. Cicero's phrase has no parallel in Latin literature of or before his time; although he may have found it (like Josephus) in a Hellenistic historian, he does not refer to any other authority, and it is likely that he coined the phrase.<sup>15</sup> As such, it is not

<sup>13</sup> See note in HOMEYER 1965, 46-47.

<sup>14</sup> And cf. *Leg.* 1.5: Quintus: Intellego te, frater, alias in historia leges observandas putare, alias in poemate. Marcus: Quippe cum in illa ad veritatem, Quinte, <quaeque> referantur, in hoc ad delectationem pleraque; quamquam et apud Herodotum patrem historiae et apud Theopompum sunt innumerabiles fabulae.

<sup>15</sup> On Lucceius' letter, cf. SHACKLETON BAILEY 1977, 320; HALL 1998. On the passage in *De Oratore*,

an unusual coinage; if Cicero was not indeed drawing on a fixed expression or concept in Latin, its meaning would nevertheless have been immediately understood.

Josephus most likely did not pick up the phrase from Cicero. His Latin was weak, to say the least, and it is doubtful that he read Latin literature at all. His direct use of Latin sources is dimly hinted, at best, in certain turns of phrase in his writings reflecting Latin syntax or idiom, and it can be assumed that, if he was not entirely ignorant of Latin (how could he have been?), he was hardly fluent. By his own admission, Josephus steeped himself in *Greek* literature and grammar (*AJ* 20.263) after arriving in Rome. Even the most recent attempt to prove a stronger influence of Latin on Josephus than has heretofore been recognized relies on a list of (possible) Latinisms which are not literary references but idioms and syntactical structures in speech which Josephus (or his assistants) could have absorbed from his surroundings.<sup>16</sup> They show no wide learning, or really any learning, in Latin books. Thus there is no reason to think that Josephus learned about the “law of history” by reading Cicero.

Josephus wrote the *BJ* for multiple audiences. From his first sentence, he addressed, at one and the same time, an educated Greek and Roman audience, to explain the Jewish rebellion against Rome and to present Judaism in a positive light; Hellenized inhabitants of the eastern part of the Roman empire, to justify accommodation with Rome; and Jewish audiences, to help them come to terms with the destruction of Jerusalem and the Temple, and discourage further insurrection.<sup>17</sup> For all of its shortcomings, the *BJ* reveals a certain talent for addressing different audiences on different registers, in polyvalent sentences. The best example of this is a sentence about which I have written about before, namely Josephus’ statement, in his speech to the besieged rebels in Jerusalem, that “*tyche* had passed over to them from every side – God, who brought dominion round to each nation in turn, now was over Italy” (μεταβῆναι γὰρ πρὸς αὐτοὺς πάντοθεν τὴν τύχην, καὶ κατὰ ἔθνος τὸν θεὸν ἐμπεριάγοντα τὴν ἀρχὴν νῦν ἐπὶ τῆς Ἰταλίας εἶναι, *BJ* 5.367), which I have argued would have been understood by a Greek or Roman reader as indicating God’s favoring Italy as the result of *Tyche*, but by a Jewish reader as God bringing *tyche*, good fortune, to rest on Italy: the question is which divine force is dominant.<sup>18</sup> This principle and technique can be found through-

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cf. LEEMAN 1985, 266; WOODMAN 1988, 70-116; NORTHWOOD 2008, 228-244.

<sup>16</sup> WARD 2007, with a survey of previous studies; the pioneer was BRÜNE 1913.

<sup>17</sup> For a more detailed discussion of Josephus’ audiences, see PRICE 2005a; 2011.

<sup>18</sup> The same ambiguity is found the sentences in *BJ* 2.360 and 3.354. For full analysis see PRICE 2005b; 2011.

out Josephus' writings, not just the *BJ*.<sup>19</sup>

The meaning of both nouns in the phrase ὁ τῆς ἱστορίας [or: τῆς συγγραφῆς] νόμος, that is, “law” and “history(-writing)”, are constructed and conditioned by culture. Josephus does compare Moses to other Greek νομοθέται and attempts at least superficially to explain the Jewish Law in Greek terms, but for him, the Torah (ὁ νόμος) and its laws (οἱ νόμοι) were without parallel in all history.<sup>20</sup> As a believing Jew defending and illuminating the Jewish moral universe and way of life, as well explaining and celebrating the Jews' absolute devotion to their laws, Josephus (unsurprisingly) presents the social, legal, ethical and political system laid out in the Torah as divinely written and given, perfect, universal, prior to all others, eternal (even if not eternally obeyed). Moses “set the Law as their boundary and rule (ὄρον ... καὶ κανόνα), so that, living under this as a father and master (ὥσπερ ὑπὸ πατρὶ τούτῳ καὶ δεσπότη ζῶντες),<sup>21</sup> we might commit no sin either willfully or from ignorance”. And again: “For us, who are convinced that the law was originally laid down in accordance with God's will, it would not be pious to fail to maintain it. What part of it would one change? What finer law could one invent?”<sup>22</sup>

This view of the Torah incorporates a theology of reward and punishment promised by the Torah itself (Lev. 26, Deut. 28). In contrast to the purpose and capacity of any Greek constitution, the Torah and its laws are capable of bringing divine blessings, utter happiness and prosperity, through strict obedience, while their violation will bring calamity: “... those who comply with the will of God and do not venture to transgress laws that have been well enacted succeed in all things beyond belief and that happiness lies before them as a reward from God. But to the extent that they dissociate themselves from the scrupulous observance of these laws the practicable things become impracticable, and whatever seemingly good thing they pursue with zeal turns into irremediable misfortunes”.<sup>23</sup> This moral sentiment occurs often in Josephus' writings, most memorably to introduce each of his two expositions of the details of the individual laws, in *AJ* 3.223-86, 4.67-75 and 199-301 (the laws are “superior to human wisdom ... a gift of God”, *AJ* 3.223), and in *Ap.* 2.145-

<sup>19</sup> E.g., *BJ* 1.353, 2.338; *AJ* 1.14. Such polyvalent statements by Josephus would be a good research project for a student alert to nuances in Greek and trained in both Greek and Jewish literary-historical traditions.

<sup>20</sup> On Josephus and the Law, see CASTELLI 2001; VERMES 1982. A good study of Josephus' philosophical view of law is lacking.

<sup>21</sup> Recalling Hdt. 7.104.4, cf. note 1 above.

<sup>22</sup> *Ap.* 2.174, 184, trans. BARCLAY 2007, and see Barclay's comments ad loc.

<sup>23</sup> *AJ* 1.14, trans. FELDMAN 2000, and see Feldman's comments ad loc.

296 (the laws promote piety, internal harmony, philanthropy benefitting all of humanity, justice, endurance of hardship, contempt of death, *Ap.* 2.146). It is true that the exposition of the laws in each work is quite different, but these differences, an old problem in scholarship, do not affect the argument here.<sup>24</sup> What is important is Josephus' notion of the priority, the perfection, the beauty, the universal truth and the uniqueness of the Torah. His last published words (aside from the one-sentence dedication to his patron at the very end of *Contra Apionem*) comprise an extended encomium on the Law (*Ap.* 2.291-5). By contrast, the Greek law-codes were man-made, manufactured, changeable, perishable.<sup>25</sup>

While Josephus instructs his readers about the divine source of the Torah, he places equal stress on its preservation and meticulous transmission by human agency: the chief priests and prophets have maintained the Jewish scriptures with utmost care and precision (μετὰ πολλῆς ἀκριβείας, *Ap.* 1.29). This claim (whether or not it is true) afforded Josephus another opportunity to boast of Jewish cultural superiority over the Greeks, but significantly Josephus' disquisition on the flawless transmission and accuracy of the Torah and subsequent books of the Bible comes in a comparison of the *historical records* of the two civilizations, at the opening of the *Contra Apionem*, whose first announced purpose is to prove the antiquity of Judaism against the slanderous claims that Judaism had in fact a shallow history based on mendacious records. And it is in this brief treatment of historical sources and methodology that we learn of Josephus' remarkable conception of history.<sup>26</sup> The Greek cities, he says, do not have a long tradition of record-keeping; this neglect, combined with Greek historians' passion for stylistic virtuosity and competition at the expense of truth, has led to the many contradictions, inconsistencies and polemics among Greek historical narratives, undermining their trustworthiness as works of research: that is, the agonistic nature of Greek historiography is interpreted as a sign of its disregard for truth and accuracy. The Greeks write the "utter opposite of history", since "the proof of historical veracity is universal agreement in the description, oral or written, of the same events" (*Ap.* 1.15-27).

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<sup>24</sup> See CASTELLI 2001 for a fundamental discussion. It is a great loss that Josephus was not able to finish his announced treatise, "Customs and Causes", which he mentioned frequently in *AJ*, see 1.25, 29, 192, 214; 3.94, 143, 205, 230, 257, 259, 264; 4.198; 20.268.

<sup>25</sup> This is at least how Josephus (and many modern scholars) viewed Greek law, but the reality (as is to be expected) is more complex, as HARRIS 2006 points out. I am grateful to Professor Harris for this observation (which could be developed much further) and reference.

<sup>26</sup> On what follows, see COHEN 1988; WYRICK 2004 chapters 2 and 3; and the commentary by BARCLAY 2007, 11-40.

The original Jewish records, by contrast, containing the Jews' laws and earliest history, by which Josephus means the books of the Bible, contain no inconsistency (διαφωνία) whatsoever, and this, argues Josephus, is the clearest proof of their truth and accuracy. "Our twenty-two books,"<sup>27</sup> which are justly believed and trusted, contain the record of all time" (*Ap.* 1.38). The reason for this is obvious, at least to Josephus: the purveyors of the facts of Jewish history were the *prophets*, who "obtained their knowledge of the most remote and ancient history through the inspiration which they owed to God", and the custodians of the records were the *priests*, men of the highest rank and integrity whose genetic purity has been maintained throughout the generations (*Ap.* 1.30-40). Thus the sources for the Jews' Law and history are the same, and have been impeccably maintained over many generations. The Jews regard them as "decrees of God" (θεοῦ δόγματα) and will endure torture and death before speaking against "the laws and the associated records" (παρὰ τοὺς νόμους καὶ τὰς μετὰ τούτων ἀναγραφάς, *Ap.* 1.42-43) – something which Josephus asserts a Greek would find absurd, even incomprehensible.

Josephus' announced purposes in the small introductory treatise on history and historiography in *Contra Apionem* are to establish the Jews' antiquity and the accuracy of their own recorded history, to impugn malicious Greek detractors and educate ignorant readers, and also – 20 years later! – to justify the accuracy of his *Bellum Judaicum* in answer to the critics of that work. In his own defence as author of the *BJ*, Josephus' strategy is to defend his own personal integrity and the integrity of his sources, in conformity with Greek and Roman historians' assurances of the accuracy of their own accounts based on their own upright character (*Ap.* 1.47-56). In the *CA* Josephus refers briefly to the *topos* of impartiality, the supposed "law of history" in the *BJ*, in somewhat altered form: he neither distorted nor omitted any of the facts "through ignorance or bias" (κατ' ἄγνοιαν ἢ χαριζόμενος, 1.52), he says. More important, he was a participant and eyewitness in the events he narrated: during the war he had kept scrupulous records, the accuracy of which was vouchsafed by none other than Vespasian, Titus and Agrippa II. In describing his own conscientious record-keeping, Josephus uses the same language with which he described the priests' custodianship of the books of the Bible (compare *Ap.* 1.29 with 49, 52). In fact he emphasizes his priestly descent as a prime qualification for writing the *Antiquities* (*Ap.* 1.54), just as he had presented it in the

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<sup>27</sup> This statement has spawned numerous interpretations; see the sensible discussion by MASON 2002; on p. 125 Mason concludes that "Josephus simply wishes to stress the great age, small number, harmony, and prophetic authorship of the Judean records". See also BARCLAY 2007, comm. ad *Ap.* 1.38.

very opening sentence of *BJ* (*BJ* 1.3) and in his autobiography (*Vit.* 1-6) as his most important credential as a Jewish author.

Yet Josephus was more than a priest, in his self-presentation. A reader acquainted with the contents of the *BJ* and Josephus' subsequent self-documented life story would know that he defined himself as a prophet as well. This important role began in the cave at Jotapata as interpreter of dreams and bearer of God's message (*BJ* 3.351-4), and continued through his Jeremiah-like role before the walls of Jerusalem (esp. *BJ* 5.391-3) to his Joseph-like position in the court of a great king.<sup>28</sup> What this amounts to, although Josephus does not say so explicitly – nor would he! – is that he himself possesses the two necessary, eminent qualifications to write history as accurate and true as the Biblical books: he is both priest and prophet.<sup>29</sup> The flow of history, as Josephus understands it, is anti-dialectical, teleological; his ultimate authority as a historian was God's sanction, and his ultimate service in writing history was to fulfill his mission from God. Despite his Thucydidean pretensions, Josephus could not have written or limited himself to Thucydides' famous statement of historical methodology (1.22). Nor, conversely, could a Greek historian, for whom historiography was an inherently competitive enterprise,<sup>30</sup> have understood Josephus' criterion of historical truth, i.e. a single, perfectly consistent, uncontested account. No Greek historian, if he was a priest in a cult, would have taken that status as a qualification to write history, nor would any have presumed to claim prophetic abilities or cite oracles or dreams as the ultimate authority for the truth of his account.<sup>31</sup>

Josephus' second invocation of the "law of history" in the *BJ* (5.20) comes after he has let loose a jeremiad against the militant rebels controlling Jerusalem, and a lament over the pitiable fate of the city. Despite his gesture toward the sobriety expected of a Greek historian obedient to the "law of history", his prophetic voice is clearly heard, in which there is nothing foreign to Jewish

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<sup>28</sup> COHEN 1982. Josephus' identification with the Biblical Joseph was perforce only general; so far as is known, he did not interpret the dreams of his Flavian patrons. On the much-studied topic of Josephus as prophet, see above all GRAY 1993, 35-79. On prophecy in general in Josephus' writings, BLENKINSOPP 1974; FELDMAN 2006; GRABBE 2006.

<sup>29</sup> For expansion of this argument, see PRICE 2011. And note that in *AJ* 10.35, Josephus describes Isaiah in the same way he presents himself: "he was acknowledged to be a man of God and marvelously possessed of truth, and, as he was confident of never having spoken what was false, he wrote down in books all that he had prophesied and left them to be recognized as true from the event by men of future ages" (trans. R. Marcus, Loeb Classical Library).

<sup>30</sup> MARINCOLA 1997, 217-236.

<sup>31</sup> Cassius Dio 72.23, does claim to have been inspired in a dream to write history, but he does not invoke that dream as proof of the accuracy and integrity of his history. See MILLAR 1964, 16 and 29; MARINCOLA 1997, 48-49.

ears: lamentation, rebuke, confident if harsh pronouncements of God's judgment, sin and retribution. Josephus' lament over Jerusalem's sufferings and his fulminations against the militant rebel groups are laden with linguistic and topical allusions to Jeremiah and Lamentations, long ago noticed.<sup>32</sup> That was his intention, for the benefit of those who were equipped to hear and understand.

Thus Josephus' evocation of a "law of history" in both statements in *BJ*, whether or not an original coinage in the annals of Greek historiography, can perhaps be seen as another polyvalent statement, directed at two different audiences with different backgrounds and expectations. It would have been naturally understood by a Greek or Roman reader as the standard assurance by the historian that he is free from bias, his writing motivated by neither hatred nor favor-seeking. But for Jewish readers Josephus created a different set of references. He considered his historical narrative in *BJ* as legitimate and true as the Biblical narrative because of his own capabilities as a prophet and status as a priest, both of which credentials are revealed in the course of the narrative and repeated in his later writings. In his jeremiad against the extreme rebels, Josephus departed from the historical books of the Bible and crossed over into the prophets. It could be argued that the Biblical narrator's impersonal voice in those historical books was different from the prophets' voice in their own, named books of angry admonishment and rebuke. In departing from the "law of history", Josephus was acknowledging to his Jewish reader that he was temporarily switching Biblical genres. A proper historical narrative, even in the Bible, is not "the occasion not for personal lamentation, but for a narrative of the deeds. I shall now relate the facts" (*BJ* 5.20). Prophetic anger would, if anything, confirm the truth of the account.

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<sup>32</sup> LINDNER 1972, 132, for whom Josephus' outburst in *BJ* 5 was a *Klagelied* or *Leichenlied*. See also COHEN 1988.

## BIBLIOGRAPHY

- AVENARIUS 1956  
G. AVENARIUS, *Lukians Schrift zur Geschichtsschreibung*, Meisenheim am Glan 1956.
- BARCLAY 2007  
J.M.G. BARCLAY, *Against Apion: Flavius Josephus, Translation and Commentary*, Leiden 2007.
- BLENKINSOPP 1974  
J. BLENKINSOPP, "Prophecy and Priesthood in Josephus", *JJS* 25, 1974, 239-262.
- BRÜNE 1913  
B. BRÜNE, "Latinismen bei Josephus", in: B. BRÜNE, *Flavius Josephus und seine Schriften in seinem Verhältnis zum Judentume, zur griechisch-römischen Welt und zum Christentume*, Gütersloh 1913, 175-177.
- CASTELLI 2001  
S. CASTELLI, "Antiquitates III-IV and Contra Apionem II, 145-296: Different Approaches to the Law", in: J.U. KALMS (ed.), *Internationales Josephus-Kolloquium Amsterdam 2000*, (MJS 10), Münster 2001, 151-169.
- COHEN 1982  
S.J.D. COHEN, "Josephus, Jeremiah and Polybius", *History and Theory* 21, 1982, 366-381.
- COHEN 1988  
S.J.D. COHEN, "History and Historiography in the Against Apion of Josephus", *History and Theory* 27, 1988, 1-11.
- FELDMAN 2000  
L.H. FELDMAN, *Judean Antiquities 1-4: Flavius Josephus, Translation and Commentary*, Leiden 2000.
- FELDMAN 2006  
L.H. FELDMAN, "Prophets and Prophecy in Josephus", in: M.H. FLOYD and R.D. HAAK (eds.), *Prophets, Prophecy, and Prophetic Texts in Second Temple Judaism*, New York and London 2006, 210-239.
- GRABBE 2006  
L.L. GRABBE, "Thus Spake the Prophet Josephus ...: The Jewish Historian on Prophets and Prophecy", in: M.H. FLOYD and R.D. HAAK (eds.), *Prophets, Prophecy, and Prophetic Texts in Second Temple Judaism*, New York-London 2006, 240-247.
- GRAY 1993  
R. GRAY, *Prophetic Figures in Late Second Temple Jewish Palestine: The Evidence from Josephus*, New York-Oxford 1993.
- HALL 1998  
J. HALL, "Cicero to Lucceius (Fam. 5.12) in its social context: valde bella?", *CP* 93, 1998, 308-321.
- HARRIS 2006  
E.M. HARRIS, "Antigone the Lawyer, or the Ambiguities of Nomos", in: E.M. HARRIS, *Democracy and the Rule of Law in Classical Athens*, Cambridge 2006, 41-80.
- HOMMEYER 1965  
H. HOMMEYER, *Wie man Geschichte schreiben soll / Lukian*, Munich 1965.
- LEEMAN 1985  
A.D. LEEMAN, *M. Tullius Cicero, De oratore libri III: Kommentar*, vol. 2, Heidelberg 1985.
- LINDNER 1972  
H. LINDNER, *Die Geschichtsauffassung des Flavius Josephus im Bellum Judaicum*, Leiden 1972.
- LUCE 1989  
T.J. LUCE, "Ancient Views on the Causes of Bias in Historical Writing", *CP* 84, 1989, 16-31, reprinted in: J. MARINCOLA (ed.), *Oxford Readings in Classical Studies: Greek and Roman Historiography*, Oxford 2011, 291-313.

- MARINCOLA 1997  
J. MARINCOLA, *Authority and Tradition in Ancient Historiography*, Cambridge 1997.
- MASON 2002  
S. MASON, "Josephus and his Twenty-Two Book Canon", in: L.M. McDONALD and J.A. SANDER (eds.), *The Canon Debate*, Peabody 2002, 110-127.
- MILLAR 1964  
F. MILLAR, *A Study of Cassius Dio*, Oxford 1964.
- NORTHWOOD 2008  
S.J. NORTHWOOD, "Cicero de Oratore 2.51-64 and Rhetoric in Historiography", *Mnemosyne* 61, 2008, 228-244.
- PITCHER 2009  
L. PITCHER, *Writing Ancient History*, London 2009.
- PRICE 2005a  
J.J. PRICE, "Josephus' First Sentence and the Preface to *BJ*", in: M. MOR, J. PASTOR, I. RONEN, Y. ASHKENAZI (eds.), *For Uriel: Studies in the history of Israel in Antiquity presented to Professor Uriel Rappaport*, Jerusalem 2005, 131\*-144\*.
- PRICE 2005b  
J.J. PRICE, "The Provincial Historian in Rome", in: J. SIEVERS and G. LEMBI (eds.), *Josephus and Jewish History in Flavian Rome and Beyond*, Leiden 2005, 101-118.
- PRICE 2011  
J.J. PRICE, "Josephus", in: A. FELDHERR and G. HARDY (eds.), *The Oxford History of Historical Writing*, Oxford 2011, 219-243.
- SHACKLETON BAILEY 1977  
D.R. SHACKLETON-BAILEY, *Cicero: Epistulae ad Familiares I (62-47 B.C.)*, Cambridge 1977.
- VERMES 1982  
G. VERMES, "A Summary of the Law by Flavius Josephus", *Novum Testamentum* 24, 1982, 289-303.
- WARD 2007  
J.S. WARD, "Roman Greek: Latinisms in the Greek of Flavius Josephus", *CQ* 57, 2007, 632-649.
- WOODMAN 1988  
A.J. WOODMAN, *Rhetoric in Classical Historiography*, London 1988.
- WYRICK 2004  
J. WYRICK, *The Ascension of Authorship: Attribution and Canon Formation in Jewish, Hellenistic and Christian Traditions*, Cambridge, Massachusetts 2004.



# Greek Philosophy and the Mishnah: On the History of Love that Does Not Depend on a Thing\*

GABRIEL DANZIG

In the fifth chapter of *Avot* we read:

כל אהבה שהיא תלויה בדבר – בטל דבר, בטלה אהבה; ושאינה תלויה בדבר – אינה בטילה לעולם.  
איזו היא אהבה שהיא תלויה בדבר, זו אהבת אמן ותמר; ושאינה תלויה בדבר, זו אהבת דוד ויהונתן

Any love that is dependent on a thing – **when the thing is gone, the love is gone**; but a love that is not dependent on a thing will never dissolve. What is a love that is dependent on a thing? This is the love of Amnon and Tamar. And one that is not dependent on a thing? This is the love of David and Jonathan.<sup>1</sup> (*Mish. Avot* 5.16)

Anyone familiar with Greek philosophical reflections on love and friendship will immediately sense a resemblance. The distinction between love based on sexual pleasure and higher forms of love is found in both Plato and Aristotle. In Plato's *Symposium* we find the following:

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\* The Bar Ilan responsa project enabled me to locate many of the passages referred to in this paper. I thank Steve Harvey, Lawrence Schiffman, Joel Kaminsky and an anonymous reader for comments which substantially improved this paper. I also thank Prof. Schaps for his many invaluable suggestions and improvements as editor. This paper is a small token of my admiration for Ranon, and for his unique ability to combine the intellectual and personal virtues of the world of Torah learning with those of the academic world.

<sup>1</sup> All translations are my own.

πονηρὸς δ' ἐστὶν ἐκεῖνος ὁ ἐραστής ὁ πάνδημος, ὁ τοῦ σώματος μάλλον ἢ τῆς ψυχῆς ἐρῶν· καὶ γὰρ οὐδὲ μόνιμός ἐστιν, ἅτε οὐδὲ μονίμου ἐρῶν πράγματος. ἅμα γὰρ τῷ τοῦ σώματος ἄνθει λήγοντι, οὐπερ ἦρα, οἴχεται ἀποπτάμενος, πολλοὺς λόγους καὶ ὑποσχέσεις καταισχύνας· ὁ δὲ τοῦ ἡθους χρηστοῦ ὄντος ἐραστής διὰ βίου μένει, ἅτε μονίμῳ συντακεῖς.

The common kind of lover is debased, the one who loves the body rather than the soul. And he is not abiding, since he does not love an abiding quality. Once the flower of youth fades, which is what he loved, he flutters off and is gone, dishonoring his many words and promises. The lover of a soul which is worthy, on the other hand, remains throughout a lifetime, since he becomes attached to that which abides.<sup>2</sup> (183d-e)

This idea is expressed with greater clarity and abstraction by Aristotle in his *Nicomachean Ethics*. Believing that everything, including friendship, has a cause, Aristotle divided love or friendship into three kinds based on three inherently lovable qualities: utility, pleasure and goodness or virtue. Aristotle favored friendships based on goodness, of course, and offered a variety of arguments to demonstrate its superiority. Most relevant to the Mishnah is his argument that friendships based on utility and pleasure are transitory. Since these factors are extraneous to the beloved, and therefore do not necessarily remain with him, any friendship based on them is transitory as well:

οἷ τε δὴ διὰ τὸ χρήσιμον φιλοῦντες διὰ τὸ αὐτοῖς ἀγαθὸν στέργουσι, καὶ οἱ δι' ἡδονὴν διὰ τὸ αὐτοῖς ἡδύ, καὶ οὐχ ἢ ὁ φιλούμενός ἐστιν, ἀλλ' ἢ χρησίμος ἢ ἡδύς. κατὰ συμβεβηκός τε δὴ αἱ φιλίαι αὐταὶ εἰσιν· οὐ γὰρ ἢ ἐστὶν ὅσπερ ἐστὶν ὁ φιλούμενος, ταύτη φιλεῖται, ἀλλ' ἢ πορίζουσιν οἱ μὲν ἀγαθόν τι οἱ δ' ἡδονήν. εὐδιάλυτοι δὴ αἱ τοιαῦταί εἰσι, μὴ διαμενόντων αὐτῶν ὁμοίων· ἐὰν γὰρ μηκέτι ἡδεῖς ἢ χρήσιμοι ᾧσι, παύονται φιλοῦντες. τὸ δὲ χρήσιμον οὐ διαμένει, ἀλλ' ἄλλοτε ἄλλο γίνεται. **ἀπολυθέντος οὖν δι' ὃ φίλοι ἦσαν, διαλύεται καὶ ἡ φιλία,** ὡς οὕσης τῆς φιλίας πρὸς ἐκεῖνα.

Those who are friends because of utility love [one another] because of what is good for themselves, and those who are friends because of pleasure love because of what is pleasurable for themselves, and not insofar as the beloved is, but insofar as he is useful or pleasant. These friendships are based on coincidence. For the beloved is loved not insofar as he is who he is, but insofar as they provide something good or pleasure. Such friendships are readily dissolved, as soon as the friends do not remain similar. For if they are no longer pleasant or useful they stop loving. And utility does not endure, but differs at different times. **And when the thing for which they were friends dissolves, the friendship dissolves as well,** since the friendship was for that. (NE 8.3.2-3: 1156a14-24)

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<sup>2</sup> The sentiment is expressed by Pausanias who seeks admiration for his long-term relationship with his beloved, Agathon. A similar idea appears also in Xen. *Mem.* 4.1, *Sym.* 8.21.

Not only is the idea similar, but the Hebrew phrase בטל דבר, בטלה אהבה, is almost a translation of the Greek, ἀπολυθέντος οὖν δι' ὃ φίλοι ἦσαν, διαλύεται καὶ ἡ φιλία.<sup>3</sup>

The similarities between the Mishnah and these Greek sources are palpable. All these sources assume that there are distinct varieties of love, that these varieties differ by the objects they pursue, that by virtue of the differences between the objects of love the kinds of love are better or worse, and that a chief sign of their being better or worse is their lastingness. All view love that is based on pleasure as among the lower and less lasting forms. Of course, these similarities may simply reflect a common human insight into the nature of love.<sup>4</sup> And even if there is some dependence here, it is not clear that the Mishnah agrees with the Greek theories. On the surface at least, the Mishnah seems to affirm the existence of a form of love that is, in direct conflict with both Plato and Aristotle, not dependent on anything whatsoever.

If there is some dependence it is not easy to say which if either of these Greek writers bears greater responsibility. The Mishnah shares with Aristotle an abstract formulation, speaking of love rather than lovers, and speaking of its dependence on a *davar* rather than on the body. On the other hand, it agrees with Plato in offering only one example of an inferior form of love, one based on pleasure, while Aristotle contrasts both pleasure-based and utility-based relationships with the superior form of friendship.<sup>5</sup>

The apparent divergence from Aristotle may be more apparent than real, however. The fact that the *Tanna* speaks of two kinds of love does not necessarily show either a lack of familiarity with or a rejection of the Aristotelian

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<sup>3</sup> Considered as a translation, the Hebrew phrase is superior to a more literal translation since it puts the idea into a succinct and idiomatic Hebrew form.

<sup>4</sup> This possibility would be more likely, however, if we had good evidence that similar concepts of friendship and comparisons between them developed among peoples who had no contact with Hellenism.

<sup>5</sup> This resolution into two categories is reflected also in *Toldot Yitzhak*, the Biblical commentary of Rabbi Isaac KARO (born 1458) on Gen. 25:28 where the love of Isaac for Esau is described as love that is dependent on something:

**וַיֵּאָהֵב יַצְחָק אֶת עֵשָׂו כִּי צִיד בְּפִיו.** היא אהבה תלויה בדבר, אהבת הערב. **וּרְבֵּקָה אוֹהֶבֶת אֶת יַעֲקֹב.** אהבת הטוב.

**And Isaac loved Esau because quarry was in his mouth.** This is love that is dependent on something, love of the pleasant. **But Rebecca loves Jacob.** Love of the good.

Here again we have the distinction between the love of pleasure and the love of virtue without mention of the category of utility. Rabbi Isaiah HOROWITZ adds an interesting observation on this passage in his composition *Shnei Luchot HaBrit* (*Torah Shebikhtav, Parashat Toldot, M'kor HaB'rachot*). He notes that the word love appears in the past tense when describing Jacob's love of Esau, indicating that this kind of love may end, but appears in the present tense when describing Rebecca's love for Jacob, indicating its eternity.

doctrine, since the lower form of love may be meant to include relationships based on utility as well.<sup>6</sup> The fact that the *Tanna* does not use a term for the body or for pleasure in describing the relationship of Amnon and Tamar, but uses instead the term *davar*, suggests an awareness of a broader range of possible objects of desire, as in Aristotle. There are many ways to explain the fact that the *Tanna* offers no example of utility-relationships, even if he had them in mind. He may have preferred a simple contrast between good and bad forms of relationships over a more complex tripartite contrast for didactic or literary reasons. He may not have found as good a Biblical example of a relationship based on utility.<sup>7</sup> The story of Amnon and Tamar places great emphasis on the temporary nature of the relationship, and this may have made it seem ideally suited to the Mishnah's purpose.

Moreover, it is possible to interpret the example of David and Jonathan as containing an implicit reference to utilitarian forms of friendship. This example is valuable because it seems to say something not only about what a good friendship is but also about what it is not. The relationship between David and Jonathan is evidently free from whatever characterizes a bad relationship. It would not be an excellent example of a relationship free from any element of pleasure, however, since David laments that Jonathan was pleasant to him (2 Samuel 1:26). If the *Tanna* wanted a clear example of a lasting relationship not based on pleasure, he might have chosen the relationship between Naomi and Ruth, for example, in which no suggestion of pleasure is found, and in which one of the friends even develops a romantic relationship with someone else. Why then did the *Tanna* choose the example of David and Jonathan and not that of Naomi and Ruth? The obvious answer is that whereas Ruth can be said to have benefited from her relationship with Naomi, by her marriage with Naomi's relative Boaz, Jonathan's love for David is marked by his willingness to sacrifice his personal interest, his claim to the throne, because of his love for David.<sup>8</sup>

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<sup>6</sup> Rabbi Joseph ALASHKAR (expelled from Spain in 1492) in his commentary *Merkevet HaMishneh* on *Avot* clearly took this view. He understood the Mishnah as assuming the Aristotelian tripartite division of friendship:

והנה האהבה היא נחלקת לשלשה חלקים, אהבת הערב, ואהבת המועיל, ואהבת הטוב במה שהוא טוב.  
Love is divided into three parts, love of the pleasant, love of the useful, and love of the good for its being good.

He describes this last form as a love that is not dependent on a *davar*, implying that the former two are in the other category. See also Don Isaac Abarbanel, discussed below.

<sup>7</sup> *Seder Eliyahu Rabbah*, parasha 26, offers the friendship of Balaam and Balak as such an example. (Final redaction of this composition is believed to have been in the tenth century, but an apparent reference to an oral version is found in *Bab. Ket.* 106a). One might also adduce the relationship of Jacob and Laban.

<sup>8</sup> See also the comments of Rabbeinu Yonah GERONDI [2005] in his commentary on *Avot*:

Whatever the circumstances in which the relationship was formed, the example is chosen because it exemplifies a relationship that continues despite the loss of utility or advantage. It is thus an example of a relationship whose excellence is manifest in the fact that it is not based on interest or utility. By choosing this as the example of the good relationship, the *Tanna* has contrived to refer implicitly to the second form of the lower Aristotelian friendship, that based on utility.<sup>9</sup> He has referred to three kinds of friendship by offering examples of two.

It is more difficult, however, at first sight, to reconcile the description of the higher form of friendship in the Mishnah with either Plato's or Aristotle's theory. For both Plato and Aristotle, longer-lasting friendships are possible only for those who are virtuous or good and whose motive for friendship is love of the good. Here is what Aristotle has to say:

τελεία δ' ἐστὶν ἡ τῶν ἀγαθῶν φιλία καὶ κατ' ἀρετὴν ὁμοίων· οὗτοι γὰρ τὰγαθὰ ὁμοίως βούλονται ἀλλήλοις ἢ ἀγαθοί, ἀγαθοὶ δ' εἰσὶ καθ' αὐτούς. οἱ δὲ βουλόμενοι τὰγαθὰ τοῖς φίλοις ἐκείνων ἔνεκα μάλιστα φίλοι· δι' αὐτούς γὰρ οὕτως ἔχουσι, καὶ οὐ κατὰ συμβεβηκός· **διαμένει οὖν ἡ τούτων φιλία ἕως ἂν ἀγαθοὶ ᾖσιν, ἢ δ' ἀρετὴ μόνιμον.**

Perfect (or: chosen for its own sake) is the friendship of the good and those similar in virtue. For these wish the good things for each other in similar ways insofar as they are good; and they are good in themselves. And those who wish the good things for their friends for their

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האהבה שאין לה הפסק הוא אף אל פי שישער האדם שיגיע לו קצת היזק וקלן דוגמת דוד ויהונתן שא"פ שהיה ראוי לעמוד במקום אביו ודוד היה עתיד להסיר אותו מהמלכות עם כל זה היתה אהבתו עמו בקשר אמיתי.

The love that does not end is when it endures even when a person estimates that he will suffer some harm and shame, as in the case of David and Jonathan. Even though he was qualified to be king after his father, and David was destined to remove him from the kingship, nevertheless his love for him was a tight bond.

This view of Jonathan's relation with David is found also in Magen Avot of Rabbi Simeon ben Zemach Duran [2000] ad loc., in Sefer Halkkarim 3.35 of Rabbi Yosef Albo [1930], and in Abarbanel [2004] ad loc.

<sup>9</sup> It is interesting to note that Aristotle himself reduces his tripartite theory to a two-part one at one point in his discussion, arguing that the useful is not a separate category, since everything that is useful contributes either to the good or to the pleasant:

δοκεῖ γὰρ οὐ πᾶν φιλεῖσθαι ἀλλὰ τὸ φιλητόν, τοῦτο δ' εἶναι ἀγαθὸν ἢ ἡδὺ ἢ χρησίμον· δόξειε δ' ἂν χρησίμον εἶναι δι' οὗ γίνεται ἀγαθόν τι ἢ ἡδονή, ὥστε φιλητὰ ἂν εἴη τὰγαθόν τε καὶ τὸ ἡδὺ ὡς τέλος.

It seems that not everything is loved, but only the lovable, and this is either good or pleasurable or useful. And the useful would seem to be that through which something good or pleasure is obtained, so that only the good and the pleasurable are lovable as ends. (NE 8.2: 1155b18-21)

One doubts, however, that this argument, which Aristotle ignores in the rest of his discussion, provides the explanation for our Mishnah. Rabbi Moses Almosnino in his commentary on Avot argued that the *Tanna* reduced the Aristotelian categories to two on the grounds that the category of utility is subsumed by the category of pleasure since the useful is only pursued to the extent that it pleases. This is an original explanation, not found in Aristotle, but based on a good understanding of Aristotelian psychology.

own sakes are especially friends. For they are disposed in this way for their own sakes and not by coincidence. **Their friendship lasts as long as they are good, and virtue is abiding.** (NE 8.3.6: 1156b7-12)

While Aristotle speaks of virtue and goodness as the source of a long-lasting bond, the Mishnah speaks of a relationship that depends on no qualities at all. Taken literally, the Mishnah contradicts the most basic assumption common to Plato and Aristotle: that there must be some motivating factor for any affection.

But while it is possible to interpret the Mishnah in this manner, it is equally possible to interpret it as agreeing with the philosophers. The question is how to interpret the term *davar*. Does it refer to anything at all, even a quality of soul, or does it refer only to some kinds of things, such as those that provide utility or pleasure? The term *davar* in Mishnaic Hebrew means a word or a thing. It can refer to such nebulous things as events or subjects (למה הדבר דומה...). But I have not found a case in which it is used to refer to a quality or a quality of soul.<sup>10</sup> If *davar* does not refer here to spiritual qualities, but only to things, a friendship that is not dependent on a *davar* may still be dependent on the spiritual qualities of the beloved, as is the case for Aristotle's higher form of friendship. Indeed, many commentators have sensed that in speaking of a love that is not dependent on a *davar*, the Mishnah only means to exclude certain kinds of things.<sup>11</sup>

The example of David and Jonathan also sheds some light on this question. Is this an example of a friendship that is based on no good quality whatsoever, or is it an example of a friendship based on love of virtue? The answer to this depends to some extent on whose love is being considered primarily, the love of David for Jonathan or the love of Jonathan for David. The Biblical story of Jonathan and David is full of references to Jonathan's love for David, not the reverse (1 Sam. 18:1; 19:1; 20:17). Even in David's lament for Jonathan the emphasis is on the love that Jonathan felt towards him:

נִפְלְאָתָה אֶהְבֶּתְךָ לִי מֵאֶהֱבַת נָשִׁים

<sup>10</sup> An anonymous reader suggests 1 Kings 14:13 as an example of *davar* being used of a spiritual quality. However, the reference there can be understood as referring to good deeds, as indeed the Talmud does (*Bab. M. K.* 28b).

<sup>11</sup> Maimonides calls it a דבר בטל (see below). Rabbi Mattathias HAYIZHARI in his commentary on *Avot* written about 1400 in Spain, calls it a דבר שבין האהוב לאהוב as opposed to a דבר יותר כולל. Rabbi Isaiah HOROWITZ (*Sha'ar HaOtiyot* s.v. pirayon) suggests that the *davar* is flattery.

(2 Sam. 1:26).<sup>12</sup> If the subject is Jonathan's love for David,<sup>13</sup> who had many good qualities, it seems likely that the Mishnah is bringing it as an example of a love that is based on a good quality of the beloved.<sup>14</sup> This supports the view that the Mishnah does not mean to consider the possibility of a love based on nothing, but rather a love that is aroused by something more elevated than pleasure or utility, possibly some admirable virtue as Aristotle said. This is not necessarily the only way to read the Biblical story, but a *Tanna* familiar with the Greek concept may have chosen this story because he read it in this way.

There is one other seeming divergence of the Mishnah from the Platonic and Aristotelian theories. While Aristotle speaks of the better form of love as *monimos*, long-lasting, the Mishnah uses a term that might suggest that it is ever-lasting (לעולם). However, it would be a mistake to draw such a conclusion. Mishnaic Hebrew is not a philosophically precise language which would contain a term for eternity in the philosophical sense. And I have not found a word in Mishnaic Hebrew that would represent the Greek *monimos* any better than לעולם. Indeed, the term עולם is regularly used in both the Bible and the Mishnah to refer to an extended period of time, not necessarily to “forever” in the precise sense.<sup>15</sup> This meaning is obviously what is intended in our context, where the subject is the friendship of David and Jonathan.

<sup>12</sup> See the comments of the Ralbag (GERSONIDES [2001]) on the Biblical passage:

נפלאה אהבתך לי מאהבת נשים. רוצה לומר, שיותר חזקה ויותר נפלאה היתה אהבת יהונתן לדוד מאהבת הנשים לאהוביהן, שהיא אהבה חזקה מאד, עד שכבר יכה ויקללה, ולא תפיל מפני זה מאהבתה לו דבר.

Your love was more wondrous than the love of women. In other words, the love of Jonathan for David was stronger and more wondrous than the love of women for their lovers, which is a very strong love, so much so that even if he hits her and curses her she will not love him any the less for it.

<sup>13</sup> Some early manuscripts reverse the order of the names as an indication that Jonathan's love for David is the subject. See SHARVIT 2005, 201 and 2006, 117. We find in the commentary of Rabbi Shlomo ADANI the following:

אח"כ מצאתי מוגה ג"כ כך [“בדבר בטל” במקום “בדבר”] במשנתו של הר"ר יהוסף אשכנזי ז"ל וכתב עוד דגרסינן ברוב ספרים זו אהבת יהונתן ודוד וכן נ"ל עיקר כי יהונתן היה עיקר האהבה, וכן הזכיר ג"כ למעלה אמנון ואח"כ תמר וכן למטה גבי מחלוקת שמאי והלל גרסינן ברוב הספרים שמאי ברישה.

Afterwards I found it printed in this way [“an ephemeral thing” rather than “a thing”; see below, p. 34] in the Mishnah of R. Yehosef Ashkenazi of blessed memory. And he also wrote that we find in most of the editions: “This is the love of Jonathan and David.” And that seems to me preferable, since the main love was Jonathan's. And similarly in an earlier passage [the Mishnah] mentioned Amnon [first] and afterwards Tamar. And later, with regard to the dispute between Shamai and Hillel, we find in most editions Shamai first.

<sup>14</sup> As an anonymous reader points out, the Biblical story of the love of Jonathan for David can be explained equally well as depending on nothing: וַיִּהְיֶה יְהוֹנָתָן בֶּן־דָּוִד וַיֵּאָהֲבֵהוּ יְהוֹנָתָן כְּנַפְשׁוֹ (1 Sam. 18:1).

<sup>15</sup> Maimonides is responsible for initiating a trend of interpreting the term as meaning forever. Jacob Anatoli, who was clearly familiar with Aristotle's thought, saw the right way to interpret it. See below, pp. 39–42.

On all these points, the Mishnah offers a reasonably accurate reflection of the Platonic or Aristotelian teaching, suggesting some kind of influence. The suspicion of some influence is heightened by the fact that the saying is presented anonymously: it was not attributable to any particular rabbinic source. It is difficult however to identify a path by which a Platonic or Aristotelian doctrine would appear in the Mishnah.<sup>16</sup> Paradoxically enough, it would have been more likely to have been incorporated into the Mishnah at a time when Greek philosophy was not well-known in rabbinic circles, since it is doubtful that a saying would be included in the Mishnah if it were easily identifiable as foreign. But given widespread ignorance of Greek ethical writings, the saying could have appeared to ancient readers as a traditional Jewish sentiment, just as it appears to many people today.<sup>17</sup> This impression would be reinforced by the Biblical examples that are offered. As S. Lieberman once opined, the Rabbis loved to make use of popular sayings in order to illustrate Biblical themes.<sup>18</sup>

## THE HISTORY OF A LOVE THAT HAS NO CAUSE

In the second part of this paper, I will consider the ways in which later Jewish thinkers and commentators reacted to the Mishnah and its apparent Aristotelian pedigree.<sup>19</sup> The majority of commentators were familiar with Aristotle's ethical writings<sup>20</sup> and sensed a connection with the Mishnah, even if

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<sup>16</sup> The question of the availability and popularity of Aristotelian texts in the Hellenistic period is a subject of continuing debate. See recently NIELSEN 2012 and GILL 2012. Important earlier treatments include KENNY 1978 and SANDBACH 1985. Even if the *NE* was not available prior to the first century BC, it may nevertheless have influenced the Mishnah, which was not composed until around 220 CE and may have been put into writing only much later.

<sup>17</sup> The ability of the Rabbis to adopt this teaching as their own shows the extent to which Greek thinking was indistinguishable from traditional Jewish thinking at this time, at least insofar as concepts of friendship are concerned.

<sup>18</sup> LIEBERMAN 1950, 144 n. 99.

<sup>19</sup> I cannot consider all the innumerable interpretations of this passage that have been offered by Jewish commentators, or even all the more interesting ones. I will however note that some novel interpretations have been offered even recently. For example, in his commentary on *Avot* the late Lubavitcher Rebbe discovered a temporal aspect of the *Mishnah* (SCHNEERSON 1990). The *Noam Elimelech* (WEISBLUM [1978]) took the term *davar* literally to mean a word, and argued that if a friendship can end because of a misspoken word, this shows that it was not a solid relationship (*Parashat Ki Tetzei* s.v. *O Yomar*). This creative interpretation actually has a resonance in Aristotle, who argues that the friendship of the good is proof against calumny (*NE* 8.4.3: 1157a20-25). Clearly not all such resonances reflect actual knowledge of Aristotle.

<sup>20</sup> Aristotle's ethical thought was available in one form or another both to Arabic readers and to Latin readers. The *Summa Alexandrinorum* is a Latin translation of an Arabic paraphrase of the *Ethics* that was made in the late 10<sup>th</sup> century (see MARCHESI 1904; FOWLER 1982). A complete literal

they sometimes took liberties in interpreting both the Mishnah and Aristotle. From an Aristotelian point of view, the central difficulty in the Mishnah is the apparent claim that there can be a love which has no cause at all. While many commentators assumed that the higher form of love is, as in Aristotle, dependent on some superior quality, others took seriously the possibility that the Mishnah is endorsing a love that has no cause at all. Some thought that the subject of the Mishnah was love and friendship among human beings, as indeed is clearly suggested by the examples adduced, while others interpreted it as referring to love for God or Torah, or to God's love for Israel.

## NON-ARISTOTELIAN VIEWS

Before we consider this range of views, we should recall the Biblical background to a non-Aristotelian view of the Mishnah. In general, the Bible holds forth punishment for wrongdoers and rewards for those who fulfill their obligations, thus implying that God's love is dependent on Israel's behavior. However there are places where the Bible uses phrases that suggest the idea of a divine love that is not dependent on any quality, spiritual or otherwise, of the beloved. The comparison of God to a good shepherd, as at Isa. 40:10-11, seems to suggest a positive care-taking that has the interest of the flock at heart regardless of its qualities or behavior. In some places the Bible makes it clear that the good things that God grants to Israel are not based on Israel's merits: "It is not because of your virtues and rectitude that you will be able to occupy their country, but because of the wickedness of those nations the Lord your God is dispossessing them before you, and in order to fulfill the oath that the Lord made to your fathers, Abraham, Isaac, and Jacob." (Deut. 9:5) Similarly, the idea that God's love for Israel is eternal and inextinguishable (see Jer. 31:2) may have suggested that it is not dependent on Israel's virtue and behavior. Given this background, it is understandable that Jewish commentators would interpret the Mishnah as referring to completely undeserved affection, along the lines of the Greek *agape* or the Hebrew *chesed*. Similarly, the concept of groundless hatred, familiar from Talmudic literature (e.g. *Bab. Yoma* 9b), would have suggested to some readers the possibility of interpreting the Mishnah literally as

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translation into Arabic going back to the 9<sup>th</sup> or 10<sup>th</sup> centuries has been edited and published recently (AKASOY & FIDORA 2005), but it is not clear that the Jewish commentators we will consider had access to it. Alfarabi wrote a now-lost commentary or paraphrase of the *Ethics* to which Maimonides and others refer. In the 1240s, Robert Grosseteste made a Latin translation of the *Ethics*. Leonardo Bruni produced another in the early 1400s. Don Meir Alguadez translated Boethius' older Latin version of Aristotle's *Ethics* into Hebrew in the early 1400s.

referring to a love that has no basis at all. This line of interpretation seems to have been particularly attractive as a response to Christian replacement theology, which argued that Israel's God no longer loved Israel.

Despite this, there are actually very few commentators who took this line of interpretation. *Seder Eliyahu Rabbah* (*parsha* 26) offers the love of Abraham for his son, grandson and their descendants as an example of love that is not based on a *davar*. Although there may be family sentiment involved, it seems obvious that love for unknown descendants cannot be based on any particular qualities they possess. The MEIRI takes a similar view:

כל אהבה שהיא תלויה בדבר בטל דבר כו'. כלומר דאחר דאהבתו אינה אלא לסיבה, בסור הסיבה יסור המסובב, אבל כשאינה תלויה בדבר אלא שהיא אהבה מעולה, אינה בטלה לעולם. ופירש בה איזוהי אהבה שהיא תלויה בדבר, זו אהבת אמנון ותמר, שהיה אוהבה להנאת גופו להתעלל בה וכשעברה הנאתו ונסתלקה תשוקתו נתחדשה לו שנאה עליה כמו דמפורש בקרא. ושאינה תלויה בדבר כגון אהבת דוד ויהונתן **שלא היתה בה שום סיבה** אלא אהבה מעולה לגמרי.

'Every love that is dependent on a *davar*, when the *davar* is gone etc....' In other words, since the love exists only because of a cause, when the cause is gone so is that which is caused. But when it is not dependent on a *davar*, but is rather superior (or virtuous) love, it is never dissolved. And he explained which is a love that is dependent on a *davar*, the love of Amnon and Tamar, since he loved her for his body's pleasure, to take advantage of her, and when he no longer took pleasure in her and his passion had gone he developed hatred for her, as is clear in the Bible. And a love that is not dependent on a *davar* is like the love of David and Jonathan, which had no cause, but was only superior (or virtuous) love. (Commentary on Avot ad loc.)

Here the Meiri states clearly that the love of Jonathan and David has no cause whatsoever, but he does not explain what he means by calling it superior (or virtuous) love.

This approach appears in theological contexts where it concerns the mystery of God's love for Israel. The MAHARAL adopted this approach to the question of Israel's election in chapter 11 of *Netzach Yisrael*. Contrasting Noah and Abraham, he argues that the fact that no virtues are attributed to Abraham prior to God's speaking to him shows that God did not choose Abraham for his traits as an individual. Rather he chose him for the sake of the nation of Israel as a whole. Such a choice, he argues, cannot be dependent on a particular action or merit, since actions and merits are attributes of individuals, while a nation is a collective. Thus God chose Israel for its essence, and not for any qualities it possesses. The choice of Israel therefore reflects a love that is not dependent on any merit whatsoever, and for this very reason it is everlasting. Here we see the use of the concept of unmotivated love in a theological-political context: it not only concerns divine favor, it also responds to Christian replacement theology which sees the choice of Israel as retractable.

Similar arguments were offered to explain Israel's love for the land of Israel and for the Torah. In the *Vavei HaAmudim*, Rabbi Shabbetai Horowitz points out that in the times of the Temple there were many reasons for the Jewish people to love the land of Israel, and therefore it was a love that is dependent on a *davar*.<sup>21</sup> The author seems to imply that today, after the destruction of the Temple, Israel's love for the land is a higher form of love, since it has less of a cause. The *Sefat Emet*<sup>22</sup> argues that while love for the commandments can be extinguished when one commits a transgression, love of the Torah is not dependent on anything and therefore cannot ever be extinguished. Similarly, he explains the passage וָאֵהָבֵהוּ אֶת יַעֲקֹב וְאֵסָו שָׂנְאֵהוּ (I loved Jacob, but Esau I hated: Mal. 1:2-3) as expressing God's inextinguishable and unconditional love for Israel.

The idea that love should not be dependent on any traits whatsoever was applied to marriage by Rabbi Menashe Klein (1923-2011) in a responsum. He argued that it is a mistake to marry a woman on the basis of any discernible attribute, aside possibly from piety, since this would contradict the proper intention in marrying, which is the service of God. He therefore recommended that the bride and groom not see each other prior to the wedding. Basing himself on rabbinic interpretations of the danger of marrying a beautiful woman captured from among the non-Jewish nations in war (Deut. 21:10-14), he argues that one should also avoid marrying a Jewish woman on the grounds of beauty or other similar qualities:

החומד דבר משום יפיו או למעלה אחרת שמצא בהדבר, בטל דבר בטלה אהבה, ולכן סופו לשנאתה וסופו להוליד ממנה בן סורר ומורה דכבר אמרו "וברותי מכם המורדים והפושעים אלו בני שנואה." על כל פנים, הנושא אשה ומסתכל בה שיהי' לו חשק וחמדה ללקחה לשום יופי וכיוצא בו, סופו בא לידי גירושין... אבל הנושא אשה לשם שמים הרי הוא אהבה שאינה תלויה בדבר...<sup>23</sup>

He who desires something because of its beauty or other good quality that he found in it, when the thing is gone, so is the love, and therefore he will come in the end to hate her and to beget from her a rebellious son as [the Sages] have said, "and I will cleanse from you the rebellious and the transgressors (Ez. 20:38), these are the children of the hated wife." (*Bab. Ned.* 20b) In any case, he who marries a woman and looks at her so that he will have a desire to take her for her beauty and so forth, in the end will divorce her.... But he who marries a woman for the sake of heaven, this is love that is not dependent on a *davar*. (KLEIN vol. 7 chap. 235).

<sup>21</sup> S. HOROWITZ, *Amud Hashalom*, chapter 25.

<sup>22</sup> ALTER [2001], *Parashat Shekalim*.

<sup>23</sup> See also *Bab. Ta'an.*, 26b in which unattractive women are said to urge this attitude. One may compare Rabbi Klein's view with Socrates' advice to visit ugly women in order to avoid any excessive infatuation (see e.g. Xen. *Mem.* 1.3.14). Both seem opposed to erotic infatuation, but whereas Socrates gave this advice in order to reduce men's distracting attachment to women, the *Mishne Halochos* ostensibly aims at producing long-lasting dispassionate relationships with them.

## ARISTOTELIAN VIEWS

Most commentators, however, followed Maimonides in interpreting the Mishnah within the context of Aristotelian thought. This generally meant assuming that the higher form of love is dependent on some trait in the beloved despite the simple meaning of the words of the Mishnah. Maimonides made this clear by qualifying the kind of *davar* that the lower form of love depends on:

כל אהבה שהיא תלויה בדבר בטל, בטל דבר בטלה אהבה. ושאינה תלויה בדבר בטל, אינה בטלה לעולם.

Any love that is dependent on something ephemeral, when the thing is gone, the love is gone. But a love that is not dependent on something ephemeral, never passes away. (*Commentary on Avot 5.15*)

By adding the word בטל (“ephemeral”) to the word דבר Maimonides made it clear that every form of love is based on something. The lower form of love is transitory because it is based on something בטל, something that is not eternal. The higher form of love is not based on something בטל but it is still based on something. Maimonides explains what that something is:

ואתה יודע שכל אלו הגורמים הגופניים כולם בטלים ועוברים, ויתחייב בטול המתהווה בבטול גורמיו, ולפיכך אם היה גורם האהבה דבר אלהי והוא המדע האמת, הרי אותה האהבה לא יתכן בטולה לעולם, כיון שהגורם לה תמידי המציאות.

And you know that all these material causes are ephemeral and passing, and with the elimination of the causes is necessitated the elimination of the thing caused, and therefore if the cause of the love was a divine thing, that is true knowledge, then that love cannot be eliminated ever, since its cause is of eternal existence. (*ibid.*)

Although Aristotelian in its basic assumptions, this theory represents a serious departure from Aristotle’s theory. Aristotle spoke of the higher form of friendship as a human relationship based on the love of virtue. A virtuous friend is a good thing for a lover of virtue, among other reasons because he or she provides an example of virtue that can be easily contemplated (*NE* 9.9.5: 1169b28-1170a6). Since virtue is relatively long-lasting, such a friendship is long-lasting (*monimos*), but of course it is not eternal, both because virtue may decline and because people are mortal. By transforming the higher form of friendship into an eternal friendship, Maimonides also implicitly alters the object of the love. It can no longer be, as in Aristotle, love of a person who is perishable, but rather of something eternal, something divine. It must be love of the unchanging truth or divine knowledge.<sup>24</sup>

<sup>24</sup> This extreme approach did not convince all later Jewish commentators. Rabbi Obadiah of

This development not only represents a divergence from Aristotle, it also represents a divergence from the Mishnah on this same point. By adducing Jonathan's love for David as an example of the higher love, the Mishnah clearly shows it has a human relationship in mind, not the love of wisdom or knowledge. Thus the Mishnah is more closely in accord with Aristotle on this point than is Maimonides, the famous student of Aristotelian philosophy.

Maimonides was of course familiar with Aristotle's theory of friendship. Although he probably did not see Aristotle's *Ethics* prior to composing the *Commentary on the Mishnah*, he may have seen a summary or paraphrase, such as the *Summa Alexandrinorum* or Alfarabi's commentary on the *Ethics*.<sup>25</sup> In his comments on another passage in *Avot* (1.6: קנה לך חבר) he discusses in some detail the three categories of friendship that appear in Aristotle's work:

והחברים שלושה סוגים, חבר לתועלת, וחבר הנאה, וחבר לדבר נעלה. החבר לתועלת הוא כגון חברות שני השותפים וכחברות המלך וצבאו. אבל חבר הנאה הוא שני סוגים: חבר תענוג וחבר בטחון. חבר תענוג הוא כחברות הזכרים לנקבות בנישואים וכיוצא בזה. וחבר בטחון, הוא שיהיה לאדם חבר שדעתו סומכת עליו שאינו נשמר ממנו לא במעשה ולא בדיבור, ומגלה לו כל עניניו הטוב מהם והרע בלי שיחוש ממנו שיבואהו בכך בזיון לא אצלו ולא אצל זולתו. הרי כאשר יהיה לנפש בטחון באיזה אדם עד כדי כך יהיה לה נחת רב מאד בשיחתו וידידותו. וחבר לדבר נעלה, הוא שתהיה כמיהת שניהם ומטרתם לענין אחד והוא עשית הטוב, וירצה כל אחד מהם להעזר בחברו כדי להשיג אותו הטוב לשניהם יחד, וזהו החבר שצוה בקנייתו, והוא כגון חברות הרב לתלמיד והתלמיד לרב.

There are three kinds of friend, a friend for utility, a friend for pleasure and a friend for something superior. A friend for utility is like the friendship of two partners and like the friendship of a king and his army. A friend for pleasure is of two kinds: a friend for physical enjoyment and a trusted friend. A friend for physical enjoyment is like the friendship of men for women in marriage and such things. A trusted friend is when someone has a friend that his mind relies on and he does not hide anything from him in deed or in word, but reveals all the good and bad things to him without fearing that he will be humiliated by him or by others. When someone trusts another person to this extent he will have great enjoyment from his conversation and companionship. And a friend for a superior matter is when their desire and goal is for the same thing, namely doing good, and each one wishes to be helped by the other in order to achieve that good for both of them. And this is the friend that the author commanded to acquire, and it is like the friendship of a teacher for his student and a student for his teacher.

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BERTINORO, basing himself in part on MAIMONIDES' commentary, also speaks of the lower form of friendship as based on a בטל. However, he contrasts this not with love of divine knowledge but with love of the righteous and the wise, thus drawing closer to Aristotle's theory in which the higher friendship is between virtuous people.

<sup>25</sup> Although Maimonides quotes a short passage from the *Ethics*, this does not show that he read the *Ethics*, since this quotation was available from other sources. On the knowledge of Aristotle's *Ethics* in Jewish and Arabic philosophical circles, see HARVEY 1998 and 2007; DUNLOP 2005. Although Dunlop considers numerous fragmentary references to Arabic translations, he does not consider the passages I discuss in this paper.

The relationship between these comments and Aristotle's discussion of friendship is obvious, and here Maimonides acknowledges that there is a form of human friendship that is based on love of the good. It was not a failure to understand Aristotle's theory of friendship that led him to interpret the previous Mishnah as he did, nor was it a failure to draw a connection between the Mishnah and Aristotle. Why then did he not interpret our Mishnah in more accurate Aristotelian terms?

Possibly Maimonides simply saw no way to reconcile the language of the Mishnah, which speaks literally of a love that lasts forever, with the theory of Aristotle. This formulation may have suggested to him something beyond the Aristotelian doctrine of love of virtue, which is only long-lasting and not eternal. But this is an unlikely explanation. By the time he wrote the *Guide*, Maimonides was aware that the term '*olam* does not mean eternity:

You know that the word '*olam* does not signify eternity *a parte post* unless it is conjoined with the word '*ad*, which may come either after it... or before it.... (MAIMONIDES, *Guide* 2.28)

While it is possible that Maimonides was not yet aware of this when he composed the *Commentary*, there are better ways to explain his interpretation.

In general, Maimonides much prefers to conceive of love in divine rather than human terms. He entitles one book of the *Mishneh Torah Sefer HaHavah*, and devotes it entirely to the service of God. He speaks in dramatic terms about the love of God in the *Guide* (3.51) and the *Mishneh Torah (Hilchot Yesodei HaTorah 2.1-3, 4.12)*. In his introduction to *Avot* he interprets the obligation to know God in all one's ways as an obligation to direct all one's actions towards achieving closeness to God (chapter five). This preference for love of the divine leads necessarily to a devaluation of human friendships. Given the firm, singular imperative to love of God, friendship between human beings can only have a secondary, instrumental, importance. Since the term לעולם in the Mishnah lends itself to interpretation in terms of love of God, and since this is the most important form of love for Maimonides, it makes sense that he would interpret it in these terms, despite the fact that the example of David and Jonathan is rather inconvenient.

Even in the passage we have just quoted, where Maimonides offers a brief summary of Aristotle's theory of friendship, there are important deviations from Aristotle's theory. The division of friendship based on pleasure into two kinds, one based on physical enjoyment and the other on trust, is not found in Aristotle. More importantly, there is a serious change in the description of the highest form of friendship. Whereas Aristotle argued that the good friendship is based on the mutual love of virtue, Maimonides de-

scribes it as a kind of partnership in pursuit of the good, and exemplifies it with the example of the student and the teacher. He seems to think of good friends as partners in the search for wisdom and knowledge. But surprisingly enough, this conception of friendship, to which Aristotle ought to subscribe wholeheartedly, is not to be found in his discussion of friendship.<sup>26</sup> Even in his discussion of the philosophical way of life, he minimizes the role of friends:

ὁ δὲ σοφὸς καὶ καθ' αὐτὸν ὦν δύναται θεωρεῖν, καὶ ὅσῳ ἂν σοφώτερος ᾖ, μᾶλλον βέλτιον δ' ἴσως συνεργούς ἔχων, ἀλλ' ὅμως αὐταρκέστατος.

The wise man is able to contemplate even on his own, and to the extent that he is wiser all the more so. Perhaps he would do so better having co-workers, but nevertheless, he is most self-sufficient. (NE 10.7.4: 1177a34-5)

For the vast majority of his discussion of friendship, Aristotle treats the higher form of friendship as based on the mutual love of moral goodness, not intellectual goodness. Why then does Maimonides describe friendship in these intellectual terms?

As we have noted, Maimonides did not base his account of Aristotle on the actual text of the *Ethics*. The changes we have noted may well have appeared already in the source on which Maimonides is relying. Neither the concept of the trusted friend nor the friendship of philosophical seekers is found in the Latin or Hebrew translations of the *Summum Alexandrinorum* or in the recently published Arabic translation of the *Ethics*.<sup>27</sup> Quite possibly Maimonides found them in Alfarabi's lost commentary/paraphrase of the *Ethics*. In any case, these changes are certainly congenial to Maimonides' views. Like his source, Maimonides would have had difficulty reconciling Aristotle's denigration of pleasure, with which he wholeheartedly agreed (*Guide* 3.36), with his apparent acceptance of a category of friendship based on pleasure, and therefore would have had good reason to introduce an additional kind of friendship within this category. Similarly, the omission of friendship based on the appreciation of moral virtue and its replacement with philosophical friendship, reflects a widespread post-Aristotelian view of virtue to which Maimonides subscribed.

<sup>26</sup> The closest he gets is mentioning the possibility that some friends would enjoy philosophizing together: NE 9.12.2: 1172a5 (a phrase that is omitted from the full Arabic translation of the *Ethics*: p. 524). See also NE 9.1.7: 1164b2-3.

<sup>27</sup> There is however an interesting passage in the *Summa* which could have suggested the latter concept. Aristotle speaks of two friends as being νοῦσαι καὶ πράξαι δυνατότεροι (NE 8.1.2: 1155a16). In this context, the term νοῦσαι means to plan or deliberate. The *Summa* uses a noun, *intellectum*, presumably reflecting the Arabic 'aql or intellect. This may have suggested to a commentator such as Alfarabi or to Maimonides himself that a friend is useful for intellectual development and not merely for advice.

Despite his lengthy discussion of moral virtue and friendship as ends in themselves, Aristotle concludes the *Ethics* by placing intellectual contemplation on a higher level (*NE* 10.7: 1177a12-1178a8). Medieval thinkers like Maimonides accepted this conclusion and used it to modify the earlier account of moral virtues as ends in themselves. Instead of ends in themselves, Maimonides describes the moral virtues as healthy states of the soul necessary for achieving intellectual contemplation (see the introduction to the *Introduction to the Commentary on Avot*, known as the *Eight Chapters*). For Maimonides, the contemplation of the divine is much more highly valued than the contemplation of the moral virtue of one's companion could ever be.

Given his essential lack of sympathy for Aristotle's conception of friendship of the good, one has to wonder whether Maimonides would have ever mentioned the subject of friendship if it were not mentioned in the Mishnah. Indeed, even in the *Guide* his discussions of friendship are brief (e.g. 3.46) and have nothing to do with the mutual pursuit of knowledge he alludes to in the *Commentary on the Mishnah*. When he speaks of love in the *MT*, it is love of God, not human friendship, that is his chief concern (See *Hilchot Yesodei Ha-Torah* 2.1-3, 4.12). This form of love is based, as one might expect, purely on intellectual apprehension, the degree of love being proportional to the degree of knowledge one attains. In the *Commentary on the Mishnah*, Maimonides is to a greater degree at the mercy of the text on which he is commenting, which is why it is in some ways more interesting than Maimonides' other writings. Since the Mishnah spoke highly of friendship, Maimonides was forced to do so as well. He found a simple solution, emphasizing a form of friendship that is more consistent with Aristotle's conclusions than Aristotle's own discussion of friendship, and also one that is consistent with Jewish devotion to learning.

Maimonides' failure to grant an important place to human love and friendship has important consequences for his account of the commandment to love one's neighbor. Truth to tell, this commandment would be difficult to explain on Aristotelian grounds even if Maimonides did recognize the value of human friendship. Since Aristotelian friendship is based primarily on the good qualities of the beloved, it would be difficult to love one's neighbor unless he or she possessed such qualities. Moreover, since love is a natural reaction to the qualities of the beloved, there is little room for commanding it. As we will see, later thinkers, such as Rabbi Schneur Zalman, the founder of Chabad hasidism, were able to overcome these problems by offering a Neoplatonic understanding of the soul which attributes to every soul qualities worthy of love. But since Maimonides generally adopts an Aristotelian conception of the soul, in which the soul is a mere potentiality and only becomes perfected by means of acquired characteristics, no such egalitarian solution is possible. Instead,

Maimonides follows rabbinic tradition in explaining love of one's neighbor in a metaphoric sense as a commandment that is fulfilled solely within the realm of action:<sup>28</sup>

מצוה על כל אדם לאהוב את כל אחד ואחד מישראל כגופו, שנאמר "ואהבת לרעך כמוך" (ויקרא יט, יח). לפיכך צריך שיספר בשבחיו ולחוס על ממונו, כמו שהוא חס על ממון עצמו ורוצה בכבוד עצמו. והמתכבד בקלון חברו, אין לו חלק לעולם הבא.

It is an obligation for everyone to love each Jewish person as himself, as is said, "You shall love your neighbor as yourself" (Lev. 19:18). Therefore one must speak in his praise and show concern for his property, just as he shows concern for his own property and desires his own honor. He who achieves honor through his neighbor's disgrace has no portion in the world to come. (*MT, Hilchot Deot* 6.4)

#### RABBI JACOB ANATOLI

In his book *Malmad HaTalmidim*, written in the early thirteenth century, Jacob ANATOLI offered a fuller discussion of the Aristotelian theory of love than what we find in Maimonides, acknowledging its relevance to things other than God. He had clearly read Aristotle's *Ethics* or a detailed translation/paraphrase of it in Arabic. Like Maimonides, he presents the full tripartite theory, but he offers more detail, some of it very close to Aristotle's own discussion. In one way he even offers a better account of Aristotle's theory than Aristotle himself. Although Aristotle divides love into three categories, in practice he discusses forms of love which do not fit into any of these categories, such as love of parents for children, love of relatives and fellow townsmen, and above all love of self.<sup>29</sup> Anatoli places most of these (love of family members, relatives and of self) in a single category which he calls natural love (אהבה טבעית או קרבה) and sets them aside to discuss the three other categories.<sup>30</sup> As we will

<sup>28</sup> On the rabbinic and philosophical views of the commandment to love see HARVEY 1987.

<sup>29</sup> Love of children: *NE* 8.8.3: 1159a27-33; 8.12: 1161b11-1162a33; see also: 8.1.3: 1155a16-22; 8.7.1-2: 1158b11-28; 8.11.2: 1161a15-20; 8.14.4: 1163b15-28; love of relatives: *NE* 8.10.5-6: 1160b32-1161a9; 8.11.4-5: 1161a22-30; 8.12: 1161b11-1162a33; 8.14.4: 1163b15-28; 9.2.7-10: 1165a16-35; love of fellow townsmen: *NE* 8.1.4: 1155a22-28; see 8.9.3-6: 1160a2-1160a30; 9.6: 1167a22-1167b16; and above all love of self: *NE* 8.12.3: 1161b27-33; 9.4: 1166a1-1166b29; 9.8: 1168a28-1169b2. Aristotle does say that love of self is possible even for those who are not good, on condition that they think themselves good (*NE* 9.4.7: 1166b2-6), suggesting that even in these relationships the three categories hold in some way. But he makes no such argument about the other kinds, and he certainly does not explain the relationship between these kinds and the three categories of lovable objects. In any case, since Aristotle seems to acknowledge a bond with children and relatives because of their being children and relatives his tripartite classification is inadequate.

<sup>30</sup> He does not however equate this with the love that is not dependent on a *davar*.

see below, this category of natural love seems to be derived from an earlier post-Aristotelian source. In contrast with natural love, he argues that genuine love is dependent on acquired characteristics, a proposition which seems to be an extrapolation from Aristotle: Aristotle did not explicitly limit the lower forms of love to acquired characteristics.

Anatoli presents his account of friendship in the form of an explanation of the relations between Isaac and Rebecca and their two sons, Esau and Jacob. The Bible says that Isaac loved Jacob because of *tzayid*, quarry that he brought home from the wilds (Gen. 25:28). This is therefore a connection based on utility or pleasure. Anatoli is bothered, however, by the idea that Isaac, whom he considers to have achieved prophetic perfection, would have allowed such considerations to warp his judgment and prefer Esau to Jacob, who had a much better character. His explanation is of interest because it may reflect a detailed knowledge of Aristotle's chapters on friendship. Anatoli argues that Isaac recognized Jacob's superiority and preferred him, but he felt that he had a debt to Esau for the quarry that he provided him, and an obligation to repay him in kind. Hence he intended to offer him a blessing that was primarily concerned with material prosperity.

This explanation recalls Aristotle's discussion of the difficulty of balancing debts that arise on different grounds. His initial argument resembles that of Anatoli:

καὶ τὰς μὲν εὐεργεσίας ἀνταποδοτέον ὥς ἐπὶ τὸ πολὺ μᾶλλον ἢ χαριστεῖον ἑταίροις, ὥσπερ καὶ δάνειον ᾧ ὀφείλει ἀποδοτέον μᾶλλον ἢ ἑταίρῳ δοτέον.

And one must repay services, as a general rule, rather than do favors to one's companions, just as one must pay back a loan to a lender rather than make a gift to a companion. (NE 9.2.3: 1164b31-3)

Here Aristotle considers the question of whether a debt takes precedence over other kinds of reasons for making a gift, and he goes on to consider higher obligations such as the obligation to one's father. Although Aristotle ultimately argues that in some circumstances these other obligations take precedence over debts, Anatoli may have seen in this discussion a potential explanation of Isaac's behavior.

Anatoli departs from Aristotle in describing the second kind of friendship. He describes this as *אהבת מנוחה*, רצוני לומר נחת רוח והשקט הנפש ("love of relaxation, that is, enjoyment and spiritual rest") rather than as pleasure. He follows Maimonides, or the source on which Maimonides is relying, in subdividing this category into love of pleasure, such as the love of women, and trusted friendship:

אהבת בטחון, והוא כשימצא אדם חבר טוב שתבטח נפשו בו להודיעו סודותיו מוטב ועד רע.

Trusted friendship, which is when someone finds a good friend in whom he can trust to reveal the secrets in his heart, both good and bad. (ANATOLI [1886], *Toldot*)

This passage is clearly based either on Maimonides or on Maimonides' source for this concept.

Anatoli's knowledge of Aristotle seems to have contributed to his understanding of the duration of the higher form of love described in the Mishnah:

האהבה העליונה, והיא אהבת המעלה, מתמדת לעולם כל זמן שאותן האישים נמצאים לפי שאינה תלויה בדבר שהוא חוץ להם.

The superior love, which is love of virtue, endures for the long-term, as long as the people exist, because it is not dependent on anything outside of them. (*ibid.*)

Here Anatoli shows that he recognizes that the term '*olam* does not mean eternity, and he interprets it reasonably as referring to the period during which the individuals exist.

In the description of this form of love we find further evidence of a close reading of Aristotle, or reliance on a source which had read Aristotle closely. Like Maimonides, Anatoli sees this highest form of friendship as friendship of the wise, not the morally virtuous. But he shows more awareness of what makes this a long-lasting friendship:

אהבת החכמים זה את זה למעלתו בבחינת עצמו לא בדבר חוץ מעצמו.

The love through which one wise man loves another for the virtue he possesses in himself, not in something outside of him. (*ibid.*)

Here Anatoli describes clearly the sense in which a good Aristotelian friend is an object of desire in and of himself. It is the fact that the essential characteristics of the friend, the moral or in this case intellectual virtues, are the objects of desire that accounts for the long-lasting nature of the friendship (see quotation above p. 22).

Anatoli makes further comments that seem to reflect awareness of Aristotle's discussion of friendship:

פעמים תמצאנה השלוש מעלות בשני אישים יחד, באהבת תלמיד לרב. ופעמים שתים מהם באהבת חתן וכלה. ופעמים אחת מהן לבדה.

Sometimes the three qualities are found together in two people, as in the love of a student for a teacher, and sometimes two of them [are found together in two people] as in the love of a groom and a bride, and sometimes one of them alone [is found]. (*ibid.*)

These comments recall two different topics in Aristotle. On the one hand, Aristotle argues that the good man is also pleasant and useful (*NE* 8.3.6-7: 1156b7-24). This seems to be reflected in the example of the student's love for a teacher: the teacher, as the good man, offers all three benefits to the student. This is why this relationship is described by Anatoli as a one-sided relationship: he only speaks of the love of the student for the teacher, not of any reciprocal love. This seeming imbalance is explained by Aristotle on the grounds that the greater affection of the recipient balances the greater benefits he receives (*NE* 8.7.2: 1158b20-28; 8.8.5: 1159b1-10).

On the other hand, Aristotle discusses at length the possibility of mixed relations, where pleasure, for example, is offered in return for utility (*NE* 8.4.1-2: 1156b33-1157a20). The example of a bride and groom may reflect the kind of relationship in which pleasure is offered in exchange for useful financial support (*NE* 8.4.2: 1157a12-20). By speaking of a mutual love between groom and bride, Anatoli seems to imply that each of the partners has something to offer the other, unlike the case of the teacher, in which the love is one-sided.

The third case, in which only one good is transferred, may refer to Aristotle's conception of friendships in which a single good is exchanged between the two parties. But Anatoli seems to depart from Aristotle here, since the order in which he presents the three cases implies that this is a lower form of relationship than that of groom and bride, whereas Aristotle clearly rates it higher (*NE* 8.4.1: 1156b33-1157a12).

#### RABBI JOSHUA IBN SHU'AYB

Another perceptive student of Aristotle was Rabbi Joshua ibn Shu'ayb (1280-1340, Spain). He was a student of Rabbi Solomon ben Aderet (the Rashba, born 1235) and is thus associated with anti-philosophic polemics. Nevertheless, he studied Aristotle's thought and offered a brief summary of the Aristotelian theory of friendship, dividing it into three categories which reflect Aristotle's discussion better than Aristotle's own division into three. His account is similar to that of Anatoli, but with some important changes. According to ibn Shu'ayb, there are three kinds of love: natural love, physical love and spiritual love. Physical love includes both sexual love (which he refers to by the ambiguous phrase "love of women") and economic partnerships, combined here just as I have argued they are in the Mishnah. Spiritual love is love of excellence (*ma'alah*) such as the love between a teacher and a student. Although he omits the moral virtues as objects of love, restricting the highest form of love to intellectual objects, this summary accurately reflects the three

categories of friendship in Aristotle's theory, reconciling Aristotle with the Mishnah by combining the two lower forms of Aristotelian friendship into a single category which he calls physical love.

We are already familiar from Anatoli with the category of natural love. Ibn Shu'ayb expands on Anatoli's description by adding two additional categories, both of which can be found in Aristotle's wide-ranging discussion of friendship. He describes this natural love as the love of a father to his son, the love of relatives, love of oneself, love of one's neighbors more than members of another town, and also any love that has no clear cause. He explains this last category in the following way:

כי יראה אדם שני אנשים שלא ראה אותן מעולם ונלחמים זה עם זה, או משחקים בקוביא או באיזה שחוק ויאהב לאחד יותר מהאחד וירצה שינצח או ירויח. וזה מכח התולדות לא ידעו סבה אלא אמרו יש טבע אוהב טבע אחר, וכמו שאמרו חכמים ז"ל תרוויחו בני חד מזלא נינהו.

Because a person may see two people whom he has never seen before fighting with each other or playing dice or another game, and he loves one of them more than the other and wants him to win or profit. And this comes from causes whose explanation is unknown. It is said that "one nature loves another nature". As the Sages have said, the two of them are destined for each other. (*Parashat V'eleh Toldot*, s.v. *Ahavti etchem*)

This comment seems to reflect the following comments in Aristotle's discussion of goodwill:

ἀλλ' οὐδὲ φίλησις ἐστίν. οὐ γὰρ ἔχει διάτασιν οὐδ' ὄρεξιν, τῇ φιλήσει δὲ ταῦτ' ἀκολουθεῖ· καὶ ἡ μὲν φίλησις μετὰ συνηθείας, ἡ δ' εὖνοια καὶ ἐκ προσπαίου, οἷον καὶ περὶ τοὺς ἀγωνιστὰς συμβαίνει. εὖνοι γὰρ αὐτοῖς γίνονται καὶ συνθέλουσιν, συμπράξαιεν δ' ἂν οὐδέν.

[Favor] is not affection. For it does not have intensity or desire, but these both are connected with affection. And affection comes with acquaintance over time, while favor can occur instantaneously, as happens with competing athletes. For people favor them and wish them well, but they wouldn't work together with them on anything. (*NE* 9.5.2: 1167a28-b4)

ὅλως δ' εὖνοια δι' ἀρετὴν καὶ ἐπείκειάν τινα γίνεται, ὅταν τῷ φανῇ καλὸς τις ἢ ἀνδρεῖος ἢ τι τοιοῦτον, καθάπερ καὶ ἐπὶ τῶν ἀγωνιστῶν εἴπομεν.

In general, favor occurs because of virtue and some kind of goodness, when someone appears beautiful or brave or some such thing to someone else, just as we said concerning competing athletes. (*NE* 9.5.4: 1167a19-21)

Ibn Shu'ayb's source may have understood "instantaneously" (ἐκ προσπαίου) as lacking in a clear cause. The idea that favor, an incipient form of friendship (*NE* 9.5.3: 1167a3), can be aroused by observing competing athletes is too unusual to be found in both of these texts by coincidence. But where did Ibn Shu'ayb get the example of dice-players? This too may derive ultimately from

Aristotle. At the very end of the discussion of friendship Aristotle mentions this occupation:

καὶ ὅ ποτ' ἐστὶν ἑκάστοις τὸ εἶναι ἢ οὐ χάριν αἰροῦνται τὸ ζῆν, ἐν τούτῳ μετὰ τῶν φίλων βούλονται διάγειν· διόπερ οἱ μὲν συμπίνουσιν, οἱ δὲ συγκυβεύουσιν, ἄλλοι δὲ συγγυμνάζονται καὶ συγκυνηγοῦσιν ἢ συμφιλοσοφοῦσιν, ἕκαστοι ἐν τούτῳ συνημερεῦντες ὅ τι περ μάλιστ' ἀγαπῶσι τῶν ἐν τῷ βίῳ· συζῆν γὰρ βουλόμενοι μετὰ τῶν φίλων, ταῦτα ποιοῦσι καὶ τούτων κοινωνοῦσιν οἷς οἴονται συζῆν.

And whatever existence means for each one, whatever it is for the sake of which they choose to live, they wish to occupy themselves with that together with friends. So some drink together, some play dice together, others exercise and hunt together, or philosophize together, each of them spending their time in what they love most in life. For since they wish to live together with their friends they do so and share in those things which they think are living together. (NE 9.12.2: 1172a2-8)

Although here Aristotle is speaking of ways in which friends pass the time, not about admiration of competing athletes, the example of dice-players may have caught ibn Shu'ayb's eye.

But although some of these ideas derive ultimately from Aristotle's text, Maimonides, Anatoli and Ibn Shu'ayb belong to a common tradition that is not based purely on the text of Aristotle's *Ethics*. Maimonides shares with Anatoli the concept of the trusted friend, and Anatoli shares with Ibn Shu'ayb the category of natural love, but neither of these appear in the *Ethics* or in the extant Arabic translations/paraphrases of the *Ethics*. It is impossible to say that Maimonides, the earliest of these sources, was the sole source for Anatoli and Ibn Shu'ayb, since the latter sources share elements that are absent from Maimonides. The most probable conclusion is that all three relied on an unknown Arabic source which offered a summary of Aristotle's theory of friendship, possibly Alfarabi's lost commentary/paraphrase of the *Ethics*.

DON ISAAC ABARBANEL

Don Isaac Abarbanel (1437–1508) clearly understood and accepted the basic premises of Aristotle's theory of friendship, and interpreted the Mishnah as reflecting these conceptions. In his commentary on *Avot* (ad loc.) he brings the Mishnah into line with Aristotle by arguing that the sages divided the three kinds of friendship into two parts:

האמנם חכמינו הקדושים לא עשו באהבה כי אם שני חלקים בלבד לפי שראו שפעולות האנשים כפי הרכבתם יתחלקו לשני מינים. הא' אשר ימשך אל צורתם והם הדברים אשר יפנו בהם אל התכלית האמתית הטוב. והמין השני הוא אשר ימשך אל חומרם ובזה יוכלו הערב והמועיל.

However, our holy sages divided love into only two parts, since they considered that the actions of men are divided into two parts in accordance with man's composite nature. The first is what is consequent on their form, and these are the things that enable them to pursue their true and good end. The second kind is consequent on their matter, and in this are included the pleasurable and the useful.

Thus in his view the author of our Mishnah conflated the two lower forms of Aristotelian love into a single form, that which is dependent on a *davar*. By *davar*, the *Tanna* means something other than the person who is the nominal object of the love:

כי האהבה התלויה בדבר היא המכוונת לדבר אחר כאילו האהבה היא כלי להשיג את הערב המועיל ההוא.

For the love that is dependent on a *davar* is that which is aimed at something else, as if the relationship is a means to obtain that pleasurable or useful thing. According to this we would expect that the higher form of love is directed at something intrinsic to the person who is the nominal object of love. But Abarbanel surprises us by arguing that the higher form of love is

מדובקת בטבע השלימות והמדע האמתי וזה דבר בלתי משתנה ולכן האהבה ההיא אינה בטלה לעולם כי הדברים השכליים הם קיימים בעצמם ובלתי משתנים.

Attached to the nature of perfection and truth and this is something unchanging, and therefore that relationship is never dissolved since the intellectual objects exist in themselves and are unchanging.

It is not easy to see how this is love that is not dependent on something other than the friend, unless we are to identify the friend with the object of intellectual contemplation. Like Maimonides, Abarbanel assumes that the higher form of love must be caused by something, and also like Maimonides he seems to depart from Aristotle and the Mishnah by positing that the highest form of friendship is love of the intellect, rather than love of a person.

In his commentary on the Torah, Abarbanel offers a different perspective. Here it seems that he understood the Mishnah as speaking literally of a love that is not dependent on anything, or at least not on any of the three factors mentioned by Aristotle. In fact he equates the love that is not dependent on anything with the kind that Anatoli called "natural":

**וישראל אהב את יוסף וגו' עד וילכו אחיו לרעות.** בא הכתוב הזה להודיע שהיתה אהבת יעקב ליוסף מפני חכמתו ושלמותו לא מפני שהוא בנו. לפי שאהבה אשר היא מהאב לבנים היא מפאת הדמיון ולכן תמצא בבעלי חיים שאין להם שכל. ואם היתה אהבת יעקב אל יוסף מהצד שהוא בנו היה ראוי שיאהב את שאר בניו יותר ממנו כי האהבה היא כפי הדבר האהוב. ולכן בהכרח לאהוב י"א בנים מלאהוב בן אחד לבדו. אבל הוא ע"ה אהב את יוסף מכל בניו וזה מורה שהיתה אהבתו

אותו אהבה אמיתית, אהבה שהיא תלויה בדבר שלמות חכמה והשכל, והיא אהבת הטוב במה שהוא טוב.

**And Israel loved Joseph more than all his sons** ... and his brothers went to herd. This verse comes to inform us that Jacob loved Joseph because of his (Joseph's) intelligence and perfection, not because he was his son. For a father's love for his sons derives from their similarity, and therefore is found in animals which have no intelligence. And if Jacob had loved Joseph because he was his son, then he ought to have loved the other sons more than him, because love is in accordance with the thing that is loved. Therefore it would follow of necessity to love eleven sons more than only one. But Jacob loved Joseph more than all his sons, and this shows that his love for him was genuine love, love that is dependent on the *davar* of the perfection of his intelligence and his mind, and this is love of the good because of its being good. (ABARBANEL [1964] on Gen. 37:3)

The term *davar* here is superfluous and seems to be introduced only in order to make the point that the higher form of love, love for the perfection of wisdom and knowledge, also belongs in the category of love that is dependent on a *davar*. This contradicts his own commentary on *Avot*, in which he described the love of perfection and knowledge as a love which is not dependent on a *davar*. The result is that in the commentary on the Torah, love that is dependent on a *davar* is a higher form of love than that which is not, since it depends on perfection, while love that is not dependent on a *davar* is reduced to the category of family affection, similar to the category of "natural" love that we recall from Anatoli. How can we explain this divergence?

In both cases, Abarbanel offers an interpretation consistent with Aristotelian philosophy. I suggest that in his commentary on *Avot*, he felt constrained to offer an interpretation more consistent with the language and spirit of the Mishnah. He could not accept that there is such a thing as love that is not dependent on anything, but he interpreted that phrase as referring to a higher form of love, the love of the intellect, since the Mishnah evidently regards this form of love as the higher one. In the commentary on the Torah, however, he was not constrained to offer an interpretation that accords with the spirit of the Mishnah. Here he interprets the Mishnah literally in one sense: he understands love that is not dependent on a *davar* in a literal non-Aristotelian sense. But he reverses the judgement of the Mishnah, placing this category of love below the kind of love that is dependent on a *davar*. In other words, here he contrasts the three forms of Aristotelian love, all of which are in some sense dependent on a *davar*, with the non-Aristotelian form that is praised more highly by the Mishnah, and places the Aristotelian forms ahead of the non-Aristotelian form praised by the Mishnah. Although this seems like a clear deviation from the spirit of the Mishnah, he could point out in his defense that the Mishnah did not explicitly rank the two forms of love, but only said that the love that is not based on a *davar* is longer-lasting. Abarbanel could agree that this natural,

parental form of love is more long-lasting than love based on virtue and still rank it below a love that is based on some good quality.

RABBI SCHNEUR ZALMAN

Aside from the “natural” form of love, Aristotelian friendship is highly non-egalitarian: love based on any of the lovable qualities is restricted to those who have them. It implies that there will be proportionally greater love for those who have more lovable qualities, and less for those lacking in them. This is true not only in the case of the lower qualities, such as pleasure and utility, but also for love based on virtue. It therefore creates a conflict with some aspects of Jewish belief, especially those that stress group solidarity and egalitarianism. Thus, as we have seen, it is difficult to explain the commandment to love one’s neighbor within an Aristotelian context. Aside from the difficulty of commanding the emotions, how can one possibly love any given neighbor if any given neighbor may lack lovable qualities?

This question was considered by Rabbi Schneur Zalman of Liadi in his *Likutei Amarim (Tanya)*. In chapter 32 he discusses the commandment of loving one’s neighbor as oneself, arguing that it is possible to fulfill this commandment only by placing the soul before the body. Since the body demands material comforts that exist in limited quantities, anyone who values the body will naturally come into conflict with others for the provision of those comforts. If they have affection for each other, it is only because of some physical benefit they hope to gain, and this he interprets as love that is dependent on a *davar*:

ולכן העושים גופם עיקר ונפשם טפלה אי אפשר להיות אהבה ואחוה אמיתית ביניהם אלא התלויה בדבר בלבד

So those who make their bodies primary and their souls secondary can never have true love and togetherness, but only the kind that is dependent on a *davar*.

On the other hand those who value the soul over the body are capable of a higher form of love, one that is not dependent on a *davar*. But while this may help to a certain extent, it does not at first sight offer a complete solution. Qualities of soul are no less varied than qualities of body, and good qualities are no less rare in the spirit than in the body. Indeed, since most people can be useful in one way or another, while virtuous people are rare, Aristotle’s higher form of love is a rarity (*NE* 8.3: 1156b24). Why then does Rabbi Schneur Zalman consider that a higher form of love, a love of the soul, is capable of motivating love for one’s neighbor?

In contrast to Aristotelianism, which sees the soul as a mere potentiality, Neoplatonic thought sees the soul as stemming from a higher realm of existence. In line with this, Rabbi Schneur Zalman is able to answer this question by placing emphasis not on the virtues that a man cultivates, but rather on the inherent quality of the soul itself. He explains that one is able to love one's neighbor when one perceives,

הטוב הגנוז שבהם שהוא ניצוץ אלקות שבתוכם המחיה נפשם האלוקית

The good that is hidden in them, which is a spark of divinity inside them which sustains their divine soul.

Despite the non-Aristotelian orientation of this idea, Rabbi Schneur Zalman shares with Aristotle the belief that love can only be aroused by the presence of some good quality. When this belief is combined with the command to love one's neighbor no explanation is possible other than positing the existence of something inherently good in the soul of every human being. Thus Neoplatonism provided a more plausible philosophical explanation of the commandment to love one's neighbor, and one capable of inspiring a more popular movement.

## CONCLUSION

Whether it influenced the Mishnah or not, the Aristotelian theory of friendship had a great impact on Jewish thinkers and commentators, even when they do not remain faithful to the letter or spirit of Aristotelian thought. Most influential was the idea that, aside from some forms of "natural" love, all love has to be directed towards a particular quality. For Aristotle, the highest form of friendship is based on the love of moral virtue. This idea is almost completely absent from the Jewish commentators, who tend to interpret the highest form of friendship in intellectual or theological terms. Surprisingly enough, the Mishnah, with its example of David and Jonathan, comes closest to reflecting this aspect of Aristotle's theory. The explanation for this may lie, paradoxically, in the fact that the author of the Mishnah was less deeply involved in Aristotelian philosophy than some of the later commentators. An awareness of the intellectualizing tendencies found in other parts of Aristotle's corpus, which had such influence on medieval religious sentiment, is ultimately responsible for the later commentators' intellectualizing understanding of love. The author of the Mishnah reflects a common-sense understanding of friendship, which in this case happens to be closest to that of Aristotle.

## BIBLIOGRAPHY

- ABARBANEL [2004]  
DON ISAAC ABARBANEL  
(1437-1508), *Naḥalat Avot*,  
Jerusalem 2004.
- ABARBANEL [1964]  
DON ISAAC ABARBANEL  
(1437-1508), *Commentary on  
the Torah*, repr. Jerusalem תשכ"ד  
(1964).
- ADANI 1604  
R. SOLOMON BEN JESUAH ADANI,  
*M'lechet Sh'lomo*, Hebron 1604.
- AKASOY & FIDORA 2005  
A.A. AKASOY & A. FIDORA,  
eds., *The Arabic Version of the  
Nicomachean Ethics*, with an  
introduction and translation  
by D.M. DUNLOP, Leiden and  
Boston 2005.
- ALASHKAR [2007]  
R. JOSEPH BEN MOSES BEN JUDAH  
ALASHKAR (born ca. 1470),  
*Merkevet HaMishneh*, ed. Y.S.  
SPIEGEL, Jerusalem 2007.
- ALBO [1930]  
R. JOSEPH ALBO (1380-1444),  
*Sefer Halkkarim*, ed. I. Husik,  
New York 1930.
- ALMOSNINO 1563  
R. MOSES ALMOSNINO  
(1518-1579), *Pirkei Moshe*,  
Salonica 1563.
- ALTER [2001]  
R. JUDAH ARYEH LEIB ALTER  
(1847-1905), *Sefat Emet on  
the Torah and the Holidays  
(Moadim)*, Jerusalem 2001.
- ANATOLI [1866]  
R. YAAKOV BEN ABBA MARI  
ANATOLI (1194?-1256), *Malmad  
HaTalmidim*, Lyck, Prussia 1866.
- BERTINORO [2005]  
R. OBADIAH BEN ABRAHAM OF  
BERTINORO (15<sup>th</sup> century), in  
*Commentary on Mishnah Avot*,  
in *Mishnat Reuven: Masechet  
Avot with the commentaries of  
the early teachers (rishonim)*  
ed. Rav Mordechai Leib  
Katzenelnbogen, Jerusalem  
2005.
- DUNLOP 2005  
D. DUNLOP, Introduction to  
AKASOY & FIDORA 2005.
- DURAN [2000]  
R. SIMEON BEN ZEMACH DURAN  
(THE RASHBATZ, 1361-1444),  
*Magen Avot*, ed. E. R. ZINI,  
Jerusalem 2000.
- FOWLER 1982  
G.B. FOWLER, "Manuscript  
Admont 608 and Engelbert  
of Admont (c. 1250-1331).  
Appendix 14. Summa  
Alexandrinorum", *Archives  
d'histoire doctrinale et littéraire  
du Moyen Age* 49 (1982),  
195-252.
- GERONDI [2005]  
R. JONAH BEN ABRAHAM GERONDI  
(RABBEINU YONAH, died 1264),  
*Commentary on Mishnah Avot*, in  
*Mishnat Reuven: Masechet Avot  
with the commentaries of the  
early teachers (rishonim)* ed. Rav  
Mordechai Leib Katzenelnbogen,  
Jerusalem 2005.
- GERSONIDES [2001]  
R. LEVI BEN GERSHON  
(GERSONIDES, THE RALBAG,  
1288-1344), *Commentary on  
Samuel*, in *Mikraot Gedolot  
Hamaor*, Jerusalem, 2001.
- GILL 2012  
C. GILL, "The Transformation  
of Aristotle's Ethics in Roman  
Philosophy" in: J. MILLER, ed.,  
*The Reception of Aristotle's  
Ethics*, Cambridge 2012, 31-52.
- HARVEY 1987  
S. HARVEY, "Love," in: A.A.  
COHEN and P. MENDES-FLOHR,  
eds., *Contemporary Jewish  
Religious Thought*, New York  
1987, 557-563.
- HARVEY 1998  
S. HARVEY, "The Sources of  
the Quotations from Aristotle's  
Ethics in the Guide of the  
Perplexed and the Guide to  
the Guide", *Jerusalem Studies  
in Jewish Thought* 14 (1998),  
87-102 (in Hebrew).

- HARVEY 2007  
S. HARVEY, "The Greek Library of the Medieval Jewish Philosophers," in: C. D'ANCONA (ed.), *The Libraries of the Neoplatonists*, Leiden 2007, 493-506.
- HA'YIZHARI [2006]  
R. MATTATHIAS BEN MOSES HA'YIZHARI (fl. 1413), *Commentary on Avot*, ed. Y. S. SPIEGEL, Jerusalem 2006.
- I. HOROWITZ [1997]  
R. ISAAH SEGAL HOROWITZ (THE SHLAH) (born about 1558), *Shnei Luchot HaBrit*, ed. M. KATZ, Haifa 1997.
- S. HOROWITZ [1997]  
R. SHABBETAI SEGAL HOROWITZ (son of the preceding), *Vavei HaAmudim*, in: I HOROWITZ [1997].
- IBN SHU'AYB [1992]  
R. JOSHUA IBN SHU'AYB (1280-1340), *Derashot*, ed. Zeev METZGER, Jerusalem 1992.
- KARO [1994]  
R. ISAAC BEN JOSEPH KARO, *Toldot Yitzhak*, Jerusalem 1994.
- KENNY 1978  
A. KENNY, *The Aristotelian Ethics*, Oxford 1978.
- KLEIN 1977  
R. MENASHE KLEIN, *Mishne Holochos*, Brooklyn 1977.
- LIADI [1998]  
R. SCHNEUR ZALMAN OF LIADI, *Likkutei Amarim: Tanya Mevu'ar*, ed. Rav Avraham Alashvili, Kiryat Malachi 1998.
- LIEBERMAN 1950  
S. LIEBERMAN, *Hellenism in Jewish Palestine*, New York 1950.
- MAHARAL [1997]  
R. JUDAH LOEW BEN BEZALEL (THE MAHARAL) (1520?-1609), *Netzach Yisrael*, ed. Joshua David Hartman, Machon Jerusalem, Jerusalem 1997.
- MAIMONIDES, *Commentary*  
R. MOSES BEN MAIMON, *Commentary on the Mishnah*, trans. Rav Yosef Kappah, Mossad Harav Kook, Jerusalem תשכ"ג (1963).
- MAIMONIDES, *Guide*  
R. MOSES BEN MAIMON, *Guide of the Perplexed*, trans. Shlomo Pines, Chicago 1963.
- MARCHESI 1904  
C. MARCHESI, *L'Etica Nicomachea nella tradizione latina Medievale (Documenti ed Appunti)*, Messina 1904.
- MEIRI [1977]  
R. MENACHEM BEN SOLOMON MEIRI (1249-1315), *Commentary on Avot*, Zichron Yaakov 1977.
- NIELSEN 2012  
K.M. NIELSEN, "The Nicomachean Ethics in Hellenistic Philosophy: A Hidden Treasure?" in: J. MILLER, ed., *The Reception of Aristotle's Ethics*, Cambridge 2012, 5-30.
- SANDBACH 1985  
F.H. SANDBACH, *Aristotle and the Stoics*, Cambridge 1985.
- SCHNEERSON 1990  
R. MENACHEM MENDEL SCHNEERSON, *Be'urim l'Pirkei Avot*, Brooklyn 1990.
- SHARVIT 2004  
S. SHARVIT, *Masechet Avot L'Doroteha*, Jerusalem 2004.
- SHARVIT 2006  
S. Sharvit, *L'shonah v'Signonah shel Masechet Avot L'Doroteha*, Beersheba 2006.
- WEISBLUM [1978]  
R. ELIMELECH WEISBLUM (THE NOAM ELIMELECH, 1717-1787), *Sefer Noam Elimelech*, Mossad Harav Kook, Jerusalem 1978.

# The Rabbi and the Emperors: Artichokes and Cucumbers as Symbols of Status in Talmudic Literature

SUSAN WEINGARTEN

This paper looks at two vegetables, artichokes and cucumbers, as they appear in talmudic and classical literature, in connection with the figures of Rabbi Judah haNasi and the Roman Emperor Tiberius. In both cases these vegetables appear as symbols of high status, and I shall be examining Jewish and classical attitudes to them. The combination of Jewish and classical sources makes the paper most appropriate as a contribution to this celebration of Ranon Katzoff, whose interest in both Judaism and Hellenism, and consistent willingness to share his expertise, have given me much over the years of our friendship.

By the time Rabbi Judah haNasi became leader of the Jews of the Land of Israel in the third century, *provincia Palaestina* had been part of the Graeco-Roman world for hundreds of years. From Rabbi's Mishnah and the later talmudic literature it is clear that Jews shared many aspects of Graeco-Roman culture with their non-Jewish neighbours, including both some foods and some attitudes to food.<sup>1</sup> As reflected in the talmudic literature, identifications of foods and even attitudes to them changed very little over time, as opposed to the complex development of *halakhot*. I therefore take examples from different

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<sup>1</sup> KRAUS 1910, vol I, 78-126; COOPER 1993, 37-78; HAMMEL 1990, ch. 1; KRAEMER 2007, esp. 25-29; ROSENBLUM 2010.

places in talmudic literature, not necessarily in chronological order of writing or editing. I am also of the opinion, nowadays less fashionable, that the Babylonian Talmud sometimes preserves information about late antique Palestine.<sup>2</sup>

We can identify many Greek (and fewer Latin) food-names in the Aramaic and Hebrew of the written texts of the talmudic literature. The rabbis sometimes use Greek terminology to explain food names. Thus, for example, biblical regulations on agriculture include a ban on growing two different kinds of crops together. Mishnah *Kilayim* discusses what kinds of vegetables are allowed to be grown together with the vines in a vineyard. Transgression of this ban would mean that the vines could not be used—so the rabbis were careful to distinguish between what are seen as deliberately sown crops, and thus forbidden in the vineyard, and wild growths, which are permitted. We learn that thistles (*qotzim*) are allowed in a vineyard, i.e. they are seen as wild growths, but artichokes (*qinras*) are not allowed, so that it is clear that artichokes are seen as cultivated rather than wild growths.<sup>3</sup> *Qotz*, the wild thistle, is a biblical Hebrew term, while the Aramaic *qinras* appears to be derived from the Greek for artichoke, *kinara* or *kynara*. We shall see that artichokes were carefully cultivated in the Graeco-Roman world; presumably their name came with the agricultural methods which turned wild thistles into cultivated artichokes. This, and other talmudic discussions, can help us to identify and distinguish among different kinds of plants.

Mishnaic *qishuin* (and indeed biblical *qishuim*) are usually translated as ‘cucumbers.’ The Modern Hebrew term *qishuim* nowadays refers to courgettes or zucchini. However, these came from the Americas. In this paper we shall be concerned with both artichokes and cucumbers which Pliny (Rome, first century CE) tells us were eaten by the Roman aristocracy and which the Babylonian Talmud attributes to Rabbi Judah haNasi. We begin with cucumbers.

## IDENTIFICATION OF ‘CUCUMBERS’

We begin with the problems of identifying *qishuim*. In the Bible (Numbers 11:5) the children of Israel in the wilderness, condemned to eat the dry manna, are said to have longed for *qishuim*, among other things. Biblical *qishuim*, usually translated as ‘cucumbers,’ have been identified by Feliks and Zohary as chate melons, *Cucumis melo* var. *Chate*, which were cucumber-shaped, and

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<sup>2</sup> These two premises in my analysis of foodways in talmudic times will be the subject of further substantiation in the future.

<sup>3</sup> *Mish. Kilayim* 5.8. On eating wild thistles, especially in the Sabbatical year, see the discussion in WEINGARTEN 2005c.

usually cooked before eating.<sup>4</sup> The term *qishuin* appears throughout the talmudic literature, almost always in agricultural contexts. Paris has recently suggested that by the Mishnaic period the term *qishuin* refers to the snake melon (also known as the snake cucumber), *Cucumis melo* subsp. *melo Flexuosus*, which is very closely related to the chate melon, but is more snake-like in shape.<sup>5</sup> The snake melon is covered with a downy coating which has to be removed before eating. This process of removing the hairs appears to be referred to in the Mishnah as *piquis*,<sup>6</sup> from the Greek πορίζειν, to shave, and mediaeval Arabic sources actually call the snake melon ‘*faqqous*.’ I have bought some hairy snake melons in the market in Safed, where they are sold under the name of *faqqous*, or Arab cucumber.

The Babylonian Talmud reports *qishuin* on the table of Rabbi Judah ha-Nasi. These were clearly very desirable vegetables, but it is not absolutely clear whether they were chate melons, snake melons or the modern cucumber. Some Mishnaic sources note *qishuin* together with *delu'in*, gourds, which need cooking, as well as *avatiḥim*, watermelons, and *melaḥefonim*,<sup>7</sup> but in the source about the vegetables of Rabbi’s table *qishuin* are listed with radishes and lettuce, which appear to have been eaten raw, with or without salt or a dressing.<sup>8</sup>

Turning now to classical sources, it is possible that the Latin *cucumis*, usually translated ‘cucumber,’ also refers to the snake melon. Pliny notes the hairy covering (*lanugo*) of the *cucumis*, and the Latin writer on agriculture, Columella, calls it *hirtus*, hairy.<sup>9</sup> The collection of recipes attributed to Apicius talks of ‘*cucumeres rasos*,’ shaved or scraped cucumbers. While ‘*rasos*’ can mean scraped or peeled, it is particularly used of shaving hair,<sup>10</sup> and may thus back up the suggestion that these were hairy snake melons, rather than our modern ‘cucumbers.’ As for our modern cucumber, *cucumis sativus*, eaten raw, it is not clear whether this had arrived in Mediterranean lands by the classical period.<sup>11</sup> If it had, it may have been sought after because of its novelty.

<sup>4</sup> FELIKS 2005, 56-57; ZOHARY & HOPF 2000, 193-195.

<sup>5</sup> PARIS 2011, and bibliography ad loc.

<sup>6</sup> *Mish. Ma’aserot* 1.5. See on this: PARIS 2011; LIEBERMAN 1955, 666-672.

<sup>7</sup> *Mish. Terumot* 8.6 etc. Note that whereas Modern Hebrew calls the cucumber ‘*melaḥefon*,’ in the talmudic literature this term is distinguished from *qishuin*, and seems to have been used for a variety of sweet melon, from the Greek *melopepon*.

<sup>8</sup> *Yer. Shabbat* 7.2 10a, col. 409 and cf. *Bab. Shabbat* 108b. Dressings for lettuce can be found in *Apic.* 3.18.1-2.

<sup>9</sup> Plin. *H.N.* 19.70 and cf. Columella *de re rustica* 10.389-392.

<sup>10</sup> L&S s.v. *rado*: *rasus* is a participle of *rado*: to scrape, scratch, shave, rub, or smooth: of the hair, to shave off with a razor (while *tondere* is to cut off with shears).

<sup>11</sup> DALBY 2003. *Cucumis sativus*, the true cucumber, arrived from India. ZOHARY & HOPF 2000. See

In the fourth century, the church father Jerome, who was in contact with Jews, lived in Palestine for thirty-five years, and studied Hebrew, translates biblical *qishuim* as *cucumeres*, the same term used by Pliny (see below, n.19) for the desirable cucumbers on the table of the emperor Tiberius. Recently, however, the botanists Janick and Paris have suggested, in a number of convincingly argued papers (which refer to both the classical and Jewish sources as well as many ancient pictorial representations), that *cucumeres* and *qishuim* both refer to the snake melon, pointing out that there is no definite visual evidence for the modern cucumber in Europe before the fourteenth century.<sup>12</sup>

Whether we accept the identification with the snake melon or not, it at least seems clear that both talmudic *qishuim* and Roman *cucumeres* seem to be referring to the same vegetable. In this paper we shall continue to call it ‘cucumber,’ in full knowledge that this may be anachronistic.

## OUT OF SEASON VEGETABLES: ‘CUCUMBERS’

Exotic spices and meats have long been recognised as luxury foods. Dormice and peacocks’ tongues were famously foods at Roman banquets with their conspicuous consumption.<sup>13</sup> Vegetables, on the other hand, were not usually praised by ancient authors, who tended to regard them as second-rate food.<sup>14</sup> This view seems to be shared by both classical and Jewish sources. For example, according to Midrash Genesis Rabbah, the extraordinarily desirable pottage for which Esau sold his birthright to Jacob had in it ‘the taste of bread, the taste of meat, the taste of fish, the taste of locusts: the taste of all the good things in the world.’<sup>15</sup> The taste of vegetables is conspicuously lacking here. Similarly, in the Babylonian Talmud, Rav Hisda says he didn’t eat vegetables when he was poor, as they increased his appetite, nor when he was rich, as then he could eat fish and meat.<sup>16</sup>

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PARIS & JANICK below for new theories of dating this arrival. Archaeological evidence is difficult to interpret as the seeds of snake or chate cucumbers/melons and the modern *cucumis sativus* are indistinguishable.

<sup>12</sup> JANICK, PARIS & PARRISH 2007; PARIS & JANICK 2008a, 33-42; PARIS & JANICK 2008b with bibliographies. While Paris and Janick appear to be correct about the absence of pictures of modern cucumbers before the 14<sup>th</sup> century, this is, of course, an argument *ex silentio*.

<sup>13</sup> But see the now classic article by BEARD 2005.

<sup>14</sup> GOWERS 1996 index s.v. ‘vegetables’.

<sup>15</sup> Midrash Genesis Rabbah Toldot 67.2.

<sup>16</sup> *Bab. Shabbat* 140b.

However, there were some vegetables which were different: they were available out of season. The diet of people in the ancient world in general was dependent on seasonality to a far greater extent than today. As late as the sixteenth century, one of the expressions of impossible magical powers attributed to the Devil was the provision of grapes in winter.<sup>17</sup> Not to be dependent on the seasons was to have boundless, almost supernatural power. In Palestine, then as now, green vegetables sprouted with the winter rains, but dried up by the summer. In antiquity, only the extraordinarily rich could circumvent this cycle by transporting foods from afar, or cultivating them with complex and expensive artificial methods. Old-fashioned Roman aristocrats who, in theory at least, approved of the simple life, disapproved of such luxury, and especially disapproved of tampering with nature. Pliny pours scorn on self-indulgent gourmets who import cultivated artichokes from the ends of the empire,<sup>18</sup> while Columella, his contemporary, even looks askance at the emperor Tiberius who so loved cucumbers that he had them cultivated for his table in wheeled boxes under ‘transparent stone’ or glass frames so they could be brought to him every day, even in the winter.<sup>19</sup> Columella wonders if this was really worth all the effort.

Pliny relates to this information about Tiberius’ out-of-season *cucumeres* in the following passage:

...the cucumber, a delicacy for which the emperor Tiberius had a remarkable partiality: in fact there was not a day on which he was not supplied with it, as his kitchen gardeners had cucumber beds mounted on wheels which they moved into the sun and on wintry days withdrew under the cover of frames glazed with transparent stone.<sup>20</sup>

Rabbi Judah haNasi, also known simply as ‘Rabbi’, is also noted in the talmudic sources as having out-of-season *qishuin* on his table, over a hundred

<sup>17</sup> Magic grapes: Christopher Marlowe *Dr Faustus* Act IV, scene vii. It is interesting that *qishuin* are actually associated with magic in *Mish. Sanhedrin* 7.11, and the *gemara* on this in *Bab. Sanhedrin* 68a, where Rabbi Eliezer and Rabbi ‘Aqiva are discussing the 3000 halakhot about magical activities with *qishuin*, and some of the magic actually takes place. This deserves further discussion, but this is not the place to go into it.

<sup>18</sup> *H.N.* 19, 152-3

<sup>19</sup> *Col. de re rustica* 11. 51-53. SYME 1989 notes that this is the only time Columella mentions Tiberius, or for that matter any other emperor.

<sup>20</sup> Plin. *H.N.* 19.64 : *Cucumis, mira voluptate Tiberio principi expetitus: nullo quippe non die contigit ei pensiles eorum hortos promoventibus in solem rotis olitoribus rursusque hibernis diebus intra specularium munimenta revocantibus*. The *specularia* mentioned here appear to have been transparent plates of thin mica which were also used as a substitute for window glass; cf. Plin. *H.N.* 36.160f and LEON 1926 (*non vidi*: ap. ANDRÉ 1964). They were also used to close in rooms where fruit was preserved (Plin. *H.N.* 15.59): ANDRÉ 1964, 122.

years later. This is in the context of a cluster of stories in the Babylonian Talmud telling of Rabbi's relations with 'Antoninus,' a Roman emperor. Scholars now think that these stories are not to be taken literally, but are there to express Rabbi's unusually close relationship with the higher representatives of Roman rule in Palestine, and his own powerful status as their familiar.<sup>21</sup> The differences between the Palestinian traditions about Rabbi and 'Antoninus' and the Babylonian traditions is a very complex issue and beyond the scope of this paper. However, it is clear that Rabbi was a prominent figure in both Talmudim because of the fact that he was the redactor of the Mishnah. The Babylonian Talmud often underlines his wealth and other signs of status. In this source Rabbi and 'Antoninus' are described as fabulously wealthy:

'And the Lord said unto her: Two nations [*goyim*] are in thy womb' (Genesis, 25:23): Do not read 'nations' [*goyim*], but two very rich men [*gey'im*] And Rav Judah quoted Rav: [These are] Antoninus and Rabbi.<sup>22</sup>

Here the biblical verse about the pregnancy of the matriarch Rebecca refers to the twins she is carrying: Jacob, the patriarch-to-be, and his brother Esau. God tells her that they are destined to become 'two nations.' The Babylonian Talmud expands on this verse: since Jacob is the ancestor of Israel, and Esau was traditionally seen as the ancestor of Rome, they are represented by the rich and powerful Rabbi Judah haNasi, prince of Israel, and 'Antoninus,' the Roman emperor.

In the continuation of this passage on the same page of the Talmud, another of these stories about Rabbi Judah haNasi and 'Antoninus' represents their status through their food. In this particular case, the passage in question is attributed to Rav Yehudah, who cites Rav. Rav was Rabbi's actual pupil, who left Palestine for Babylonia around 219 CE, according to the *Iggeret of Rav Sherira Gaon*. The story can therefore be seen as originating in Rabbi's most intimate Palestinian circle:<sup>23</sup>

... Antoninus and Rabbi: There was no lack of radish or lettuce or cucumbers from their table, neither in the days of sun, nor in the days of rain.<sup>24</sup>

<sup>21</sup> On Rabbi and 'Antoninus' see now, for example, GRAY 2005 who quotes the older literature on this subject; OPPENHEIMER 2007, 43-50.

<sup>22</sup> *Bab. Berakhot* 57b.

<sup>23</sup> I am grateful to Yuval Shahar for pointing this out to me.

<sup>24</sup> *Bab. Berakhot* 57b:

אנטונינוס ורבי, שלא פסק משלחנם לא צנון ולא חזרת ולא קשואין, לא בימות החמה ולא בימות הגשמים.

The construction of this Hebrew passage in the Babylonian Talmud is surprisingly similar in places to Pliny's Latin: both are expressed grammatically as negative statements:

Pliny: there was no day when he was not supplied with [cucumbers]

BT: There was no lack of radish or lettuce or cucumbers from their table

and both passages cite the continuous availability of the cucumbers in the sun/sunny days:

Pliny: sun

BT: days of sun

or wintry/rainy days:

Pliny: winter days

BT: days of rain

Pliny notes only cucumbers here, while the talmudic passage cites three vegetables: radishes, lettuce and cucumbers. We may conclude that this story of a Roman emperor and his cucumbers which were available in all seasons would seem to have become proverbial. The classical story, then, has been transferred to Rabbi and 'Antoninus' as a mark of their high status. This version even goes further than the original: Tiberius just had an uninterrupted supply of cucumbers; Rabbi (and Antoninus) have a non-stop supply of lettuce and radishes as well. It is unclear whether this was a deliberate comparison, however, or whether the story simply grew over time.

In the later talmudic literature, we find that this proverbial status symbol of a never-ceasing supply of cucumbers is pushed back into semi-mythological time, as one of the stories which gathered round the table of Solomon, king of Israel. There is no evidence that Solomon, although reputed to be the wisest of kings, knew of the technology reported by Pliny and Columella for raising cucumbers under transparent stone or glass. But Midrash Deuteronomy Rabbah writes that Solomon's table lacked neither beetroot, *tered*, in the summer nor cucumbers in the winter.<sup>25</sup> Beetroot roots were not developed in

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<sup>25</sup> Midrash Deuteronomy Rabbah 1,5: Had another said: He hath made everything beautiful in its time (Eccl 3:2), they might have said: 'How can one who has not eaten a proper meal in his life declare "He hath made everything beautiful in its time"?' But for Solomon, of whom scripture says: And those officers provided victual for King Solomon... They let nothing be lacking (I Kings 5.7), which latter words R Hama bar Hanina interpreted to mean that they supplied him with beet in the summer and cucumbers in the winter, it was fitting to declare 'He hath made everything beautiful in its time.' (RABBINOWITZ 1939).

antiquity,<sup>26</sup> so the source here must be referring to the leaves, at their best usually during the rainy winter. Midrash Ecclesiastes Rabbah writes that Solomon's table lacked neither roses in the summer nor cucumbers in the winter.<sup>27</sup> The variant 'rose,' *vered*, ורד, instead of 'beetroot,' *tered*, תרד, could be due to a copyist's mistake, for the words are very similar in Hebrew, but it may also perhaps point to some knowledge on the part of the editor of the midrash of ancient banqueting customs, for it was common for banqueters to be adorned with garlands of flowers.<sup>28</sup>

While the latest appearances we have traced of these out-of-season cucumbers have been pushed back into mythology, it is still possible that the original story as applied to Rabbi Judah haNasi, while probably exaggerated, may have had some sort of contemporaneous factual basis. True, there is no evidence that Rabbi had vegetables grown for him under glass like Tiberius, although there is mishnaic evidence that cucumbers could be grown in boxes.<sup>29</sup> However, other talmudic sources make it clear that part of Rabbi's wealth lay in his extensive holdings of land in different parts of Palestine and even outside the province: he had land in Syria, for example, as well as the Jordan valley.<sup>30</sup> The hot, fertile Jordan valley would have been ideal for raising very early vegetables, and indeed the Jerusalem Talmud tells us that Rabbi Judah haNasi used to bring the first-fruits of his cucumbers to 'the government.'<sup>31</sup> It must have been expensive to bring vegetables by land from places relatively so distant from Galilee, but this transport from far away—which meant overcoming the normal local cycle of the seasons too—also served to underline Rabbi's status. It is a mark of his wealth and power that he not only ate the out-of-season vegetables which graced the table of the emperor himself, but actually supplied them to the Roman authorities.

Out-of-season vegetables in general were so desirable that cooks sometimes went to great lengths to trick people into thinking they were being served. Athenaeus, another near-contemporary of Rabbi, who came from Nau-

<sup>26</sup> DALBY 2003, s.v. 'beet'.

<sup>27</sup> Midrash Ecclesiastes Rabbah ii, 5, 1: For all that came unto King Solomon's table... they let nothing be lacking (I Kings 5:7): What does 'They let nothing be lacking' mean? R Hama bar Hanina said: Never did Solomon's table lack anything: neither roses in summer nor cucumbers in winter, but he enjoyed those the whole year. (COHEN 1939).

<sup>28</sup> DUNBABIN 2003, 116, 156, 159 pl. XV and figs. 64, 93.

<sup>29</sup> *Mish.* 'Uqtzin 2.9

<sup>30</sup> Jordan valley: *afarsemon shel bet Rabbi*, *Bab. Berakhot* 43a; *qishuin* may also have come from the hot region of Tiberias where Rabbi had also lands. We note that the Yerushalmi also notes that artichokes (*qinarim*) were grown at *Bet Yerah* and *Tzinbarei*: *Yer. Megillah* 1.1 70a, col. 740.

<sup>31</sup> *Yer. Ma'aser Sheni* 4.1 54d, col. 298.

cratis in Roman Egypt, was the author of the *Deipnosophistae*, an account of banqueting philosophers probably set in Rome itself. Athenaeus writes that cooked gourds were served in winter at the banquet which is the theme of his book, and they misled the participants into thinking they were fresh—but they were merely a cook’s trick, using dried gourds.<sup>32</sup> However, they reminded the banqueters of Aristophanes’ lost play *Seasons*, where cucumbers, grapes and other fruit are said to be on sale in Athens, which is thus become like Egypt, famed for its out-of-season vegetables because of the flooding of the Nile.<sup>33</sup> Ironically, Aristophanes writes, this has led to financial disaster for the sellers—with vegetables available all year, they could no longer charge high prices for them! Aristophanes, as cited here by Athenaeus, would seem to be satirising the enormous efforts people made to have (or to appear to have) out-of-season vegetables and fruit.

## VEGETABLES BROUGHT FROM AFAR: ARTICHOKE

Turning now to artichokes, although we have already noted that they are one of the few vegetables in the talmudic sources whose name can be definitely identified philologically because the term *qinras* comes from the Greek *kinara* or *kynara*, it is still difficult to know whether the artichoke proper is meant here, or rather the closely related cardoon.<sup>34</sup> It is clear, however, that there were a number of edible thistles which grew wild, and that the artichoke is a cultivated variety. The medical writer Galen describes the artichoke as ‘overvalued.’<sup>35</sup> This was partly because of its negative health properties, for he saw it as unwholesome, sometimes hard and woody, with bitter juice. So he recommends boiling artichokes and adding coriander if eating them with oil and *garum*,<sup>36</sup> or frying them in a pan.

<sup>32</sup> Ath. 9.372, p. 187. I am grateful to Andrew Dalby for this reference. Foods masquerading as other foods were clearly popular with Roman banqueters, and there are recipes for them in *Apicius*, e.g. the recipe at 4.2.12 *patina de abua sine abua* ends: ‘no one will know what he is eating.’

<sup>33</sup> On different seasons for vegetables in Egypt because of the flooding of the Nile, see WEINGARTEN 2009.

<sup>34</sup> The identification of the Latin term *cardui* with artichokes, rather than cardoons, has recently been questioned: WRIGHT 2009.

<sup>35</sup> Gal. *Alim. Fac.* 6.2.636

<sup>36</sup> *Garum* was the famous Graeco-Roman salty fermented fish-sauce, called *liquamen* by Apicius, used widely as a condiment. DALBY 2003, s.v. *garum*; CURTIS 1991; GRANT 1999; GRAINGER & GROCOCK 2006, 373-387: *Appendix 4: Excursus on garum and liquamen*. It is found in the talmudic literature under the name of *muries*: WEINGARTEN 2005b.

But Galen's objections to artichokes may not be merely medical. They may also be an echo of the attitude we find in Pliny,<sup>37</sup> who tells us that artichokes were exceptionally prized by the gourmets of Rome, and that there was a roaring trade in them. Pliny disapproved:

'There still remains an extremely profitable article of trade which must be mentioned, not without a feeling of shame. The fact is that it is well-known that at Carthage, and particularly at Cordoba, crops of *carduos*, artichokes, yield a return of 6000 sesterces from small plots—since we turn even the monstrosities of the earth to purposes of gluttony ... they are conserved in honey-vinegar with silphium and cumin, so that there should be no day without thistles for dinner.'<sup>38</sup>

Pliny, writing in the first century, uses all the tricks of rhetoric to put over his disapproval of this ridiculous fad of over-valuing artichokes, and eating them out of season: note the alliteration and assonance of *carduos* with Carthago and Corduba, which he presumably despised as far-away provincial cities.<sup>39</sup> He is also indignant about the enormous prices charged for them, satirising the rich who eat the artichokes as being lower than the animals who despise them.<sup>40</sup> His diatribe does not seem to have been generally successful. Artichokes were still clearly prized in the Roman world of the third and fourth centuries: a mosaic from the so-called 'House of the Buffet Supper' in Antioch shows them on a silver tray as a first course for dinner.<sup>41</sup> And in a Palestinian context, another mosaic with what look like two purplish artichoke heads and a silver bowl, dated to the third century, has been found recently in excavations of ancient Jerusalem—or rather *Aelia Capitolina*.<sup>42</sup>

The classical picture of artichokes as food for the rich and upper classes is confirmed by the talmudic literature. For example, Midrash Esther Rabbah, writes:

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<sup>37</sup> Plin. *H.N.* 19.152f.

<sup>38</sup> Plin. *H.N.* 19.152-3: *certum est quippe carduos apud Carthaginem magnam Cordubamque praecipue sestertium sena milia e parvis redderareis, quoniam portent quoque terrarium in ganeam vertimus, serimusque etiam ea quae refugiunt cunctae quadrupedes ... condiuntur quoque aceto melle diluto addita laseris radice et cumino, ne quis dies sine carduo sit.*

<sup>39</sup> On Pliny's distrust of the 'foreign' taking over the Roman, an old Roman literary trope, see MURPHY 2004, 68ff.

<sup>40</sup> On Pliny's hostility to luxury, a traditional theme of Latin poetry: MURPHY 2004, 71. See also BEAGON 1992, 190: 'moral condemnation of *luxuria* is more than a commonplace to Pliny.'

<sup>41</sup> CIMOK 1995, 44-47.

<sup>42</sup> The mosaic was excavated by Shlomit Wexler-Bdollach and is to be published by Rina Talgam. I am grateful to both for allowing me to see their unpublished pictures and text.

‘Bar Yohania made a feast for the notables of Rome ... What was missing? Only the *qinras* (=artichoke).’<sup>43</sup>

One of the reasons for the perceived desirability of artichokes as food may also have been the effort needed to prepare them—an effort usually only available to the rich through their slaves; the poor would have had little time for this. But one time when the poorer Jews would have had time would be on a festival, when ordinary work was not allowed, but food-preparation was permitted, as it contributed to the enjoyment of the festival. The Tosefta specifically states that while cutting vegetables was generally not allowed on a festival (lest people actually go and cut them down in the fields), trimming artichokes and ‘*akavit*/‘*aqubit*, a wild thorny plant, was allowed, as this was part of the preparation needed for cooking these prickly vegetables, which was allowed on a festival:

‘[On a festival] they do not cut vegetables with shears but they do trim the *qinras*, artichoke, and the ‘*akavit*/‘*aqubit*.’<sup>44</sup>

Whether poorer people actually ate artichokes as special festival food, or rather only ate the wild ‘*akavit*/‘*aqubit* is unclear from this source.

The Babylonian Talmud records that artichokes were sent over long distances to be eaten by Rabbi Judah haNasi. A rich man called Bonias ‘sent Rabbi a measure of artichokes from Nawsah, and Rabbi estimated it at two hundred and seventeen eggs.’<sup>45</sup> The eggs here are a measure of volume: clearly there were quite a lot of artichokes. ‘Nawsah’ may refer to a settlement on an island in the Euphrates River outside Babylonia.<sup>46</sup> It was a long way from Galilee where Rabbi lived, and only the rich could afford to pay for the transport of these luxuries. Some way of preserving the artichokes, like keeping them in honey-vinegar as described by Pliny above, must have been used.

<sup>43</sup> Midrash Esther Rabba 2.4. KLEIN 1940 suggested that this may be the first reference to the famous Roman Jewish artichoke dish *carciofi alla giudia*. (For a recipe see SERVI MACHLIN 1993, 180-181). Unfortunately there is no proof to confirm Klein’s charming suggestion, since, as we have seen, artichokes seem to have been famously popular among the Roman pagan nobility. See also LÖW 1924, 409. The question of whether the midrash is to be seen as referring to a Persian situation is beyond the scope of this paper.

<sup>44</sup> *Tosefta Beitza* [Yom Tov] iii.19 and cf. *Bab. Beitza* 34a. ‘*Akavit*/‘*aqubit* has been identified with tumbleweed, *Gundelia Tourneforti*, which is a wild edible thistle still eaten in Galilee and Lebanon, and known by its Arabic name, ‘*aqub*. See SHMIDA 2005, 236; HELOU 2009, 83-84. ‘*Aqub* can still be bought in the present-day market in Tiberias in the spring, its price depending on whether the vendor has removed the thorns or left that pleasure to the buyer. Its taste when cooked is not unlike artichoke.

<sup>45</sup> *Bab. Eruvin* 83a (my translation).

<sup>46</sup> For the identification of Nawsah see OPPENHEIMER 1983, 266-267.

Unlike the classical sources, there is no moral condemnation here of artichokes as symbols of conspicuous consumption, and tampering with nature. The rabbis of the Talmudim are generally presented as appreciative of good food, and as seeing feasting as desirable, rather than to be condemned.<sup>47</sup> Eating good food, for example, is one of the recommended ways of celebrating or ‘honouring’ Sabbath and festival.<sup>48</sup> Indeed, Rabbi himself, when looking back nostalgically to the time when the Temple still stood, represented his longing for it in terms of desire for the wonderful foods that would have been available in that now legendary time.<sup>49</sup>

How did Rabbi eat his cucumbers and artichokes? Unfortunately the talmudic literature does not tell us, but there are details in some Roman authors which may give us some idea of the possibilities. We have already cited Rabbi’s contemporary, the medical writer Galen, who visited Syria and other parts of the Near East. He sometimes describes methods of cooking similar to those found in the talmudic literature.<sup>50</sup> We saw that Galen recommends eating artichokes fried, or boiled with the addition of coriander, *garum* and oil. Athenaeus tells us artichokes must be well-seasoned, or they will be inedible. The fourth-century Roman cookery book attributed to Apicius recommends serving artichokes with *liquamen* and oil, and either chopped boiled egg; or cumin and pepper; or pounded green herbs with pepper and honey.<sup>51</sup>

When it comes to cucumbers, Galen considers them indigestible, and recommends avoiding them. Athenaeus also discusses the digestibility of cucumbers, and notes that stewing them makes them slightly diuretic.<sup>52</sup> *Apicius’* ‘*cucumeres rasos*,’ the shaved or scraped cucumbers already mentioned earlier, were cooked in *liquamen* or *oenogarum*,<sup>53</sup> or in vinegar together with honey, herbs and spices, or cooked with brains in an egg sauce.<sup>54</sup> It is also interesting

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<sup>47</sup> This point about the generally positive attitude of the rabbis (in this case the Babylonian rabbis) to the good things in life is made by GAFNI 1990 130 citing BEER 1975. But having made his point, Gafni hedges here, warning against taking a series of anecdotes from different periods as evidence. However, we should note that this picture is consistent over both Palestinian and Babylonian sources, and if we compare it to, say, the attitudes of early Christian writers or Philo, we see that this trend is absent there. See WEINGARTEN 2005a.

<sup>48</sup> For a discussion of the rabbinical requirement in both Bavli and Yerushalmi to honour the Sabbath by eating good food, see COHEN 2012, 33–38.

<sup>49</sup> Midrash Lamentations Rabbah iii, 6/17.

<sup>50</sup> See e.g., WEINGARTEN 2007, 274–276.

<sup>51</sup> Apic. 3.6.

<sup>52</sup> Ath. 3.74c.

<sup>53</sup> *Garum* (above n.36) and wine sauce.

<sup>54</sup> Apic. 3.6.1: *cucumeres rasos*; 3.6.2: *aliter cucumeres rasos*.

to note the presence of snake melons in a glass jar with liquid on a wall-painting at Pompeii, perhaps indicating that these ‘cucumbers’ were sometimes pickled.<sup>55</sup>

I would like to add one final, tentative suggestion for further consideration and study. ‘Cucumbers’ and artichokes appear in the Graeco-Roman literature as extremely desirable foods, suitable for the tables of the Emperor himself. Costly efforts were made to get hold of them. However, according to Pliny, turning mere vegetables into luxury foods, cultivating them artificially, transporting them for long distances and eating them out of season are perversions of the natural order and a shameful display of conspicuous consumption.<sup>56</sup> For him, *natura*, the world, the work of nature and nature herself, is a god, so that changing it is tantamount to impiety. The extent of the Romanisation of the eating habits of the upper echelons of Palestinian Jewish society is apparent from those attributed to Rabbi Judah haNasi. We might wonder how far Jews also shared Pliny’s cultural attitudes towards food and its conspicuous consumption. For the rabbis, the world is created by God and given to man, ‘to work it and to keep it.’<sup>57</sup> Although God gave the laws of *kilayim*, forbidding specific kinds of interference with the created world, outside these particular cultivation laws, the rabbis do not appear to see anything wrong in human manipulations of time and space which result in good and enjoyable food. Thus they report the use of these desirable cucumbers and artichokes, grown out of season or brought from afar to Rabbi’s table, as a means of conveying his elevated status. They appear to be siding with the powerful, self-indulgent emperors, rather than the attitudes of Pliny’s moralising aristocracy. How far this picture may be seen as representative of either the ancient Roman or the ancient Jewish world needs to be elucidated.

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<sup>55</sup> DE CARO 2001 p. 70, pl. 47; Ercolano, Casa dei Cervi (IV, 21). I am grateful to Harry Paris for pointing this out to me.

<sup>56</sup> *NH* ii,1: BEAGON 1992 27. See also WILKINS & HILL 2006, on morally loaded Graeco-Roman criticisms of luxurious dining, especially chapter 7: Food in ancient thought.

<sup>57</sup> Genesis 2.15.

## BIBLIOGRAPHY

- ANDRÉ 1964  
J. ANDRÉ, (ed. and tr.), *Pline l'ancien: Histoire naturelle* xix, Paris 1964.
- BEAGON 1992  
M. BEAGON, *Roman Nature: the Thought of Pliny the Elder*, Oxford 1992.
- BEARD 2005  
M. BEARD, "Apart from Vomitoriums and Orgies, What Did the Romans Do for Us?", *Guardian*, 29<sup>th</sup> October 2005.
- BEER 1975  
M. BEER, *Amoraei Bavel: Peraqim Be-Hayei Ha-Kalkalah*, Ramat Gan 1975 (in Hebrew).
- CIMOK 1995  
F. CIMOK (ed.), *Antioch Mosaics*, Istanbul 1995.
- COHEN 1939  
A. COHEN, tr., *The Midrash Rabbah: Ecclesiastes*, in: vol. 8 of L. I. RABINOWITZ, ed., *The Midrash Rabbah*, London 1939.
- COHEN 2012  
S.J.D. COHEN, *Dancing, Clapping, Meditating: Jewish and Christian Observance of the Sabbath in Pseudo-Ignatius*, in: B. ISAAC & Y. SHAHAR (eds.), *Judaea-Palaestina, Babylon and Rome: Jews in Antiquity*, Tübingen 2012, 33-38.
- COOPER 1993  
J. COOPER, *Eat and Be Satisfied: a Social History of Jewish Food*, Northvale 1993.
- CURTIS 1991  
R.I. CURTIS, *Garum and Salsamenta: Production and Commerce in materia medica*, Leiden 1991.
- DALBY 2003  
A. DALBY, *Food in the Ancient World from A to Z*, London 2003.
- DAVIDSON 2006  
A. DAVIDSON, *The Oxford Companion to Food*, Oxford 2006<sup>2</sup>.
- DE CARO 2001  
S. DE CARO, *La natura morta nelle pitture e nei mosaici delle città vesuviane*, Napoli 2001.
- DUNBABIN 2003  
K.M.D. DUNBABIN, *The Roman Banquet: Images of Conviviality*, Cambridge 2003.
- FELIKS 2005  
Y. FELIKS, *The Jerusalem Talmud, Tractate Ma'aserot, Annotated Critical Edition*, Ramat Gan 2005 (in Hebrew).
- GAFNI 1990  
I. M. GAFNI, *The Jews of Babylonia in the Talmudic Era: a Social and Cultural History*, Jerusalem 1990.
- GOWERS 1996  
E. GOWERS, *The Loaded Table: Representations of Food in Roman Literature*, Oxford 1996.
- GRAINGER & GROCOCK 2006  
S. GRAINGER & C. GROCOCK, *Apicius: a Critical Edition*, Totnes 2006.
- GRANT 1999  
M. GRANT, *Roman Cookery*, London 1999.
- GRAY 2005  
A.M. GRAY, "The Power Conferred by Distance from Power: Redaction and Meaning in b. A.Z. 10a-11a", in: J.L. RUBENSTEIN (ed.), *Creation and Composition*, Tübingen 2005, 23-99.
- HAMMEL 1990  
G. HAMMEL, *Poverty and Charity in Roman Palestine: First Three Centuries CE*, Berkeley 1990.
- HELOU 2009  
A. HELOU, "An Edible Wild Thistle from the Lebanese Mountains", in: S. FRIEDMAN (ed.), *Vegetables: proceedings of the Oxford Symposium on Food and Cookery 2008*, Totnes 2009, 83-84.
- JANICK, PARIS & PARRISH 2007  
J. JANICK, H.S. PARIS & D.C.

- PARRISH, "The Cucurbits of Mediterranean Antiquity: Identification of Taxa from Ancient Images and Descriptions", *Annals of Botany* 100 (2007), 1441-1457.
- KLEIN 1940  
S. KLEIN, "Bar-Yohannis from Sepphoris at Rome", *Bulletin of the Jewish Palestine Exploration Society* 7 (1940), 47-51 (in Hebrew).
- KRAEMER 2007  
D. KRAEMER, *Jewish Eating and Identity through the Ages*, New York London 2007.
- KRAUS 1910  
S. KRAUS, *Talmudische Archäologie*, Leipzig 1910.
- LEON 1926  
E.F. LEON, "A Roman Substitute for Window Glass", *Journal of the American Institute of Architects* 14 (1926), 455-477.
- LIEBERMAN 1955  
S. LIEBERMAN, *Tosefta Ki-Fshuta: Order Zera'im Part II*, New York 1955.
- LÖW 1924  
I. LÖW, *Die Flora der Juden*, Vol. 1, Wien 1924.
- MURPHY 2004  
T. MURPHY, *Pliny the Elder's Natural History: the Empire in the Encyclopedia*, Oxford 2004.
- OPPENHEIMER 1983  
A. OPPENHEIMER, *Babylonia Judaica in the Talmudic Period*, Wiesbaden 1983.
- OPPENHEIMER 2007  
A. OPPENHEIMER, *Rabbi Judah HaNasi*, Jerusalem 2007 (in Hebrew).
- PARIS 2011  
H.S. PARIS, "Semitic-Language Records of Snake-Melons (*Cucumis melo*, *Cucurbitaceae*) in the Medieval Period and the 'Piquus' of the 'Faqqous'", *Genetic Resources and Crop Evolution* 59/1 (2011), 31-38.
- PARIS & JANICK 2008a  
H.S. PARIS & J. JANICK, "What the emperor Tiberius grew in his greenhouses", in: M. PITRAT (ed.), *Cucurbitae 2008: Proceedings of the IXth EUCARPIA Meeting on Genetics and Breeding of Cucurbitaceae*, Avignon, France, May 21-24 2008, Avignon 2008, 33-42.
- PARIS & JANICK 2008b  
H.S. PARIS & J. JANICK, "Reflections on Linguistics As an Aid To Taxonomical Identification of Ancient Mediterranean Cucurbits: The Piquus of the Faqqous", in: M. PITRAT (ed.), *Cucurbitae 2008: Proceedings of the IXth EUCARPIA Meeting on Genetics and Breeding of Cucurbitaceae*, Avignon, France, May 21-24 2008, Avignon 2008, 43-51.
- RABBINOWITZ 1939  
J. RABBINOWITZ, tr., *The Midrash Rabbah: Deuteronomy*, in: vol. 7 of L. I. RABINOWITZ, ed., *The Midrash Rabbah*, London 1939.
- ROSENBLUM 2010  
J. ROSENBLUM, *Food and Identity in Early Rabbinic Judaism*, Cambridge 2010.
- SYME 1989  
R. SYME, "Diet on Capri", *Athenaeum* 77, 1989, 261-272.
- SERVI MACHLIN 1993  
E. SERVI MACHLIN, *The Classic Cuisine of the Italian Jews*<sup>2</sup>, New York 1993.
- SHMIDA 2005  
A. SHMIDA, *MAPA's Dictionary of Plants and Flowers in Israel*, Tel Aviv 2005 (in Hebrew).
- WEINGARTEN 2005a  
S. WEINGARTEN, "Magiros, Nahtom and Women at Home: Cooks in the Talmud", *JJS* 56 (2005), 285-297.
- WEINGARTEN 2005b  
S. WEINGARTEN, "Mouldy Bread and Rotten Fish: Delicacies in the Ancient World", *Food and History* 3, 2005, 61-72.
- WEINGARTEN 2005c  
S. WEINGARTEN, "Wild foods in the Talmud: the Influence of Religious Restrictions on Consumption", in: R. Hosking (ed.), *Wild Foods: Proceedings of the Oxford Symposium on Food and Cookery 2004*, Totnes 2005, 323-328.
- WEINGARTEN 2007  
S. WEINGARTEN, "Eggs in the Talmud", in: R. Hosking (ed.), *Eggs in Cookery: Proceedings of the Oxford Symposium on Food and Cookery 2006*, Totnes 2007, 270-281.
- WEINGARTEN 2009  
S. WEINGARTEN, "A Vegetable Zodiac from Late Antique Alexandria", in: R. Hosking (ed.), *Vegetables: Proceedings of the Oxford Symposium on Food and Cookery*, 2008, Totnes 2009, 225-237.
- WILKINS & HILL 2006  
J.M. WILKINS & S. HILL, *Food in the Ancient World*, Malden-Oxford 2006.
- WRIGHT 2009  
C.A. WRIGHT, "Did the Ancients Know the Artichoke?" *Gastronomica* 9/4 (2009), 21-27.
- ZOHARY & HOPF 2000  
D. ZOHARY & M. HOPF, *Domestication of Plants in the Old World*, Oxford 2000<sup>3</sup>.



# The Jews and Their Own History



# Philo on the Beginning of the Jewish Settlement at Rome

MIRIAM PUCCI BEN ZEEV

While dealing with Roman policy towards the Jews of Rome, Philo states that Augustus “was aware that the great section of Rome on the other side of the Tiber was occupied and inhabited by Jews, most of whom were Roman citizens emancipated. For having been brought as captives to Italy they were liberated by their owners and were not forced to violate any of their native institutions.”<sup>1</sup> This passage is taken at face value in many works dealing with the beginning of the Jewish settlement at Rome, but it certainly deserves a closer examination.

Let us start from the end. That in Augustan times the Jews were not forced to violate any of their native institutions is plausible. Several Roman documents cited by Flavius Josephus<sup>2</sup> attest to Augustus’ endorsement of tradition-

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<sup>1</sup> Philo *Leg.* 155.

<sup>2</sup> They consist of an edict, a *mandatum* issued by Augustus concerning Asian Jews, and three letters. Two of those were sent to the magistrates, council and people of Ephesus in Asia Minor, one by Marcus Vipsanius Agrippa, Augustus’ best general and son-in-law, and the other by Julius Antonius, proconsul of Asia. A third letter was written by Agrippa to the Greek authorities of Cyrene

al Jewish rights in different places around the Mediterranean,<sup>3</sup> and at Rome, too, Augustus may have bestowed some kind of benefits on local synagogues, if Momigliano is correct in suggesting that two of them, that of the Augustesians and that of the Agrippesians,<sup>4</sup> received their name from Augustus and Agrippa.<sup>5</sup> These testimonies are in line with those of contemporary inscriptions and papyri, which amply attest to Augustus' care for the rights of the peoples who lived under Roman government, at least in some specific areas.<sup>6</sup>

As for the other statements of Philo's passage concerning the beginning of the Jewish community of Rome, they raise a number of questions: when and in which circumstances Jewish prisoners of war – the term used by Philo, *aichmalotai*, leaves no doubt as to its meaning – reached Rome; whether they constituted the first bulk of the Jewish settlement; whether all or most of them were liberated by their owners and whether this means that they automatically became Roman citizens.

While the presence of Jewish slaves in different places of the Mediterranean is attested both in Persian times – the Book of Joel mentions Jews sold

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(respectively, *AJ* 16. 162-165; 166; 167-168; 169-170; 172-173).

<sup>3</sup> See Pucci Ben Zeev 1998, 235-293.

<sup>4</sup> The synagogue of the Augustesians is mentioned in *CIJ* 284 = *JWE* 547; *CIJ* 301 = *JWE* 96; *CIJ* 338 = *JWE* 169; *CIJ* 368 = *JWE* 189; *CIJ* 416 = *JWE* 194; *CIJ* 496 = *JWE* 542. On the synagogue of the Agrippesians, see *CIJ* 365 = *JWE* 170; *CIJ* 425 = *JWE* 130; *CIJ* 503 = *JWE* 549.

<sup>5</sup> Momigliano's suggestion (Momigliano 1931/1932) is endorsed by Richardson, who observes that there is no synagogue of the Tiberians or Claudians or Neronians or Vespasians. "The ones who are honored are exactly the persons who, on historical grounds, we should expect to have been honored" (Richardson 1998, 29 n. 52). The possibility that these synagogues were associations of slaves and freedmen from the households of Augustus and M. Agrippa, suggested by Schürer, Müller and Bormann, is rejected by Leon 1960, 142, but shows up again in the work of Horbury (Horbury 1991, 135). See also Noy 1995, 79. As for the synagogue of the Agrippesians, it may have been erected in honor of Agrippa Vipsanius (see Leon 1960, 141), but it cannot be ruled out that it honored instead one of the two Jewish kings, Agrippa I or II, both of whom spent a great deal of time in Rome. Noy considers also the possibility that the name might derive from a building or area, perhaps the *Horrea Agrippiana* in *Regio VIII* of the city (Noy 1995, 110).

<sup>6</sup> On Augustus's confirmation of privileges and rights previously granted to peoples, cities and individuals by Roman authorities, see Pucci Ben Zeev 1998, 255-256. In specific domains, however, Augustus was careful to maintain clear boundaries. Suetonius, for example, points out that "considering it also of great importance to keep the people pure and unsullied by any taint of foreign or servile blood, Augustus was most chary of conferring Roman citizenship and set a limit to manumission. When Tiberius requested citizenship for a Grecian dependent of his, Augustus wrote in reply that he would not grant it unless the man appeared in person and convinced him that he had reasonable grounds for the request; and when Livia asked for it for a Gaul from a tributary province, he refused, offering instead freedom from tribute, and declaring that he would more willingly suffer a loss to his privy purse than the prostitution of the honor of Roman citizenship. Not content with making it difficult for slaves to acquire freedom, and still more so for them to attain full rights, by making careful provision as to the number, condition, and status of those who were manumitted, he added the proviso that no one who had ever been put in irons or tortured should acquire citizenship by any grade of freedom" (*Aug.* 40.3-4).

by Phoenicians to Greeks, presumably in Asia Minor<sup>7</sup> – and in Hellenistic days – Jewish slaves are mentioned in inscriptions found in Asia Minor and at Delphi<sup>8</sup> – we have no means to determine whether these were captives of war and whether they reached Rome. Guignebert suggests that the first Jews at Rome were those captured and made slaves in Asia Minor while fighting with Antiochus III against Rome in the years 192-188,<sup>9</sup> but no source can be found to suggest that they arrived at Rome. Juster, Leon and Smallwood identify the prisoners of war mentioned by Philo with the Jews taken prisoners in Judaea by Pompey after his conquest of Jerusalem in 63 BCE.<sup>10</sup> This, however, is doubtful. While enslavement was undoubtedly a common procedure after victorious wars – images of prisoners appear in numerous works of Roman art, private and public, small-scale and monumental<sup>11</sup> – from Roman sources we also understand that after victorious wars, the captured enemies who ended up at Rome were not numerous. The majority of them would have been disposed of, most commonly sold off as slaves on the spot to itinerant dealers near the war zone, and would have figured in the triumph only in the form of the cash their sale raised. Caesar's account of his campaign in Gaul affords numerous instances of this immediate disposal of captured foes.<sup>12</sup> Large-scale trade is

<sup>7</sup> Joel 4:6.

<sup>8</sup> The epigraphical material is cited by STERN 1979, 1 n. 2.

<sup>9</sup> GUIGNEBERT 1969, 238. Of course, Jews might also have been taken prisoners by the Seleucids during their campaigns against the Hasmonians and may have later somehow come to Rome, but for this, too, we have no source at all.

<sup>10</sup> JUSTER 1914, 15; LEON 1960, 4; SMALLWOOD 1970, 235; SMALLWOOD 1976, 131; See also KASHER 1987a, 50.

<sup>11</sup> Captives appeared on terracotta plaques that were used as household decorations, on items of domestic pottery, and even on gemstones. When similar images were set on coins as well, hardly anyone can have failed to understand their import. Whether in the form of triumphal arches and columns, coin issues or other artistic media such as battle sarcophagi (in all their horrendous savagery), the images of warfare and of the human spoils that warfare produced must bear some relationship to a lived historical reality. The works on which these images appeared were abstract symbols of Roman power, but they could function as symbols only because in the first instance they commemorated real events: Rome's military victories against foreign enemies. It was a longstanding convention in ancient warfare that prisoners of war became the slaves of those who captured them, and the manacles, shackles, and chains that appear so frequently on captives in works of art provide a particular confirmation, for within Roman mentality and practice shackles and chains were tokens not of captivity alone, but of the total loss of freedom that captivity brought (hence the force of the iconographical motif). The images of captives found in Roman works of art suggest that over time Rome regularly and consistently enslaved in significant numbers captives of both sexes, children as well as adults, and the images need to be recognized accordingly as evidence relevant to the history of the Roman slave supply. The record of mass enslavements is sparse and of small scale enslavements non-existent, probably because capturing prisoners was such a conventional aspect of warfare that ancient historians hardly needed to go into detail about it. It was only when something exceptional happened that their interest was aroused. See BRADLEY 2004, 309-314.

<sup>12</sup> Concerning the tribe of the Aduatuci, we read: "About 4,000 of the men having been slain,

attested in a few major cities of the Roman world<sup>13</sup> – for example at Delos<sup>14</sup> – and slave sales took place as small-scale transactions in many towns and villages, at opportunistic markets temporarily set up by itinerant dealers after military campaigns, or at periodic markets, especially fairs that took place at regular intervals. A portion of the proceeds from the sale of the prisoners was distributed as booty to individual captors, the balance being deposited to the credit of the state, or taken possession of by the general in command of the capturing forces.<sup>15</sup> If prisoners were assigned as loot to individual soldiers, they too were disposed of in the same way. Here and there a soldier would, for one reason or another, retain his prisoner as a personal slave, but in general he had almost no facilities for providing or caring for a number of them. A few prisoners may have been ransomed and released from captivity by the payment of a stipulated sum of money, or by the surrender of specific property.<sup>16</sup> Those who were not sold shared the fate of condemned criminals, being employed to work on building projects,<sup>17</sup> in mines and quarries,<sup>18</sup> or performing either as gladiators or as passive victims for the beasts during festivals, celebrations and games celebrated everywhere in the provinces.<sup>19</sup> Probably only a minimal

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the rest were forced back into the town. The day after, Caesar... sold the whole spoil of that town. The number of 53,000 persons was reported to him by those who had bought them" (*BG* 2.33.7). Similarly, dealing with the war against the Veneti, "Caesar... having put to death all their senate, sold the rest for slaves" (*BG* 3.16.4).

<sup>13</sup> HARRIS 1980, 126. On the specific structures identified as slave-markets at Delos, Ephesus, Magnesia on Maeander, Pompeii, Herculaneum, Ostia, Rome and Leptis Magna, see TRUMPER 2009, 32.

<sup>14</sup> See YAVETZ 1988, 1. As for the legendary number of 10,000 slaves that would have been sold daily in Delos after 167/166 BCE (*Str.* 14.5.2), the number is certainly a symbolic number, which would simply imply "very many." See BRADLEY 1994 33 and BODEL 2005. On the so-called Agora of the Italians at Delos, see also COARELLI 2005, esp. 209.

<sup>15</sup> DAVIS 1913, 523. Plutarch points out that the inscriptions carried in the triumph of Pompey set forth that "whereas the public revenues from taxes had been fifty million drachmas, they were receiving from the additions which Pompey had made to the city's power eighty-five million, and that he was bringing into the public treasury in coined money and vessels of gold and silver twenty thousand talents, apart from the money which had been given to his soldiers, of whom the one whose share was the smallest had received fifteen hundred drachmas" (*Pomp.* 45.3). Appian (*Mithr.* 116) tells us that "Pompey distributed rewards to the army: 1,500 Attic drachmas to each soldier and in like proportion to the officers, the whole, it was said, amounting to 16,000 talents".

<sup>16</sup> DAVIS 1913, 524.

<sup>17</sup> "For the execution of these designs, he (Nero) ordered all prisoners, in every part of the empire, to be brought to Italy; and that even those who were convicted of the most heinous crimes, in lieu of any other sentence, should be condemned to work at them" (Suet. *Nero*, 31).

<sup>18</sup> On the sub-human conditions of this kind of work, see MILLAR 1984, 137-147.

<sup>19</sup> See PEARSON 1973; WISTRAND 1992; PASS 1995; KYLE 1998; DODGE 1999, 207, 224-225; POTTER 1999, 303, 308, 317-323.

proportion of the prisoners taken in war reached Rome.<sup>20</sup> The Roman military leader would strike a balance between creating a powerful impression on the day of the triumph and the expense, inconvenience, and practical difficulties of transporting, feeding, guarding and managing a large number of unwilling captives.<sup>21</sup> What seems to have counted for most, in the written versions of the Roman triumph at least, was the display of defeated monarchs and their royal families in the triumph.<sup>22</sup> The roll call of these monarchs, princes, princesses, and “chieftains” was an evocative one. It was even a cliché of Roman word play that triumphs involved the enemy leaders themselves being led as prisoners in the victory parade: the enemy *duces* (“leaders”) themselves being *ducti* (“led” as prisoners).<sup>23</sup> The triumph, as it came to be written up at least, was a key context in which Rome dramatized the conflict between its own political system and the kings and kingship which characterized so much of the outside world. Glamorous prisoners were a powerful proof of the splendor of the victory achieved.<sup>24</sup> In the impressive triumph celebrated by Pompey on September 28 and 29, 61 BCE, the focus was on princes and kings, spoils and arms.<sup>25</sup> Pliny mentions the Jews among the peoples defeated by Pompey,<sup>26</sup> and Plutarch adds that the name of Judaea showed up in one of the sixty-one inscriptions carried in the triumph that informed spectators about Pompey’s victories over conquered lands and peoples.<sup>27</sup> Among the defeated kings walked Aris-

<sup>20</sup> According to Rich, we can never be sure what proportion of those sold as slaves ended up working for Roman owners; the merchants who bought them may have disposed of many in other markets (RICH 2005, 242).

<sup>21</sup> BEARD 2007, 119. On the material conditions under which slaves lived during their travels – independent mobility completely lacking; privacy for eating, sleeping or personal hygiene nonexistent; food no more than enough to keep the merchandise alive – see BRADLEY 1994, 47.

<sup>22</sup> See BEARD 2007, 120. In his *Res Gestae* 4.3 Augustus writes that in his triumphs “nine monarchs or children of monarchs were led before my chariot”.

<sup>23</sup> BEARD 2007, 121.

<sup>24</sup> BEARD 2007, 121-135.

<sup>25</sup> Appian emphasizes that in the triumphal procession were “two-horse carriages and litters laden with gold or with other ornaments of various kinds, also the couch of Darius, the son of Hystaspes, the throne and scepter of Mithridates Eupator himself, and his image, four meters high, made of solid gold, and 75,100,000 drachmas of silver coin. The number of wagons carrying arms was infinite, and the number of the beaks of ships”. (App. *Mithr.* 116).

<sup>26</sup> “Pompey the Great, having freed the seacoast from pirates and restored to the Roman people dominion of the seas, now celebrates a triumph over Asia, Pontus, Armenia, Paphlagonia, Cappadocia, Cilicia, Syria, Scythia, Judaea, Albania, Iberia, Crete and the land of the Basternae, and he has won victories over King Mithridates and King Tigranes” (Plin., *H.N.* 7.26).

<sup>27</sup> “His triumph had such a magnitude that, although it was distributed over two days, still the time would not suffice, but much of what had been prepared could not find a place in the spectacle, enough to dignify and adorn another triumphal procession. Inscriptions borne in advance of the procession indicated the nations over which he triumphed. These were: Pontus, Armenia, Cappadocia,

tobulus II, the leader of the resistance to Pompey's conquest of Judaea, whom Plutarch and Appian call "king",<sup>28</sup> along with his children – two daughters and two sons<sup>29</sup> – and his father-in-law, Absalom, who was also his uncle.<sup>30</sup> We hear nothing concerning other Jewish prisoners. Appian only mentions "the multitude of captives and pirates, none of them bound, but all arrayed in their native costumes".<sup>31</sup> The question of how many captives were on display in triumphal processions is difficult to answer with any confidence. Ancient figures – especially, but not only, when they concern battle casualties or other tokens of Roman military success – are notoriously unreliable.<sup>32</sup> While detailed and specific accounts are offered concerning the rank, status, and exotic character of the headline captives, sources are vague about the number of captives put on show.<sup>33</sup> Beard wonders, for example, where the mass of prisoners were kept before the triumph. This must have been an especially pressing question when, as often happened in the late Republic, a period of months or even years elapsed between the victory and the parade itself. A strategic selection of some of the most impressive captives is the model suggested by Josephus con-

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Paphlagonia, Media, Colchis, Iberia, Albania, Syria, Cilicia, Mesopotamia, Phoenicia and Palestine, Judaea, Arabia, and all the power of the pirates by sea and land which had been overthrown (Plut. *Pomp.* 45.1-2). See HOLLIDAY 1997, 146 and n. 137 there.

<sup>28</sup> Plutarch points out that "the captives led in triumph, besides the chief pirates, were the son of Tigranes the Armenian with his wife and daughter, Zosime, a wife of King Tigranes himself, Aristobulus, king of the Jews, a sister and five children of Mithridates, Scythian women, and hostages given by the Iberians, by the Albanians, and by the king of Commagene; there were also very many trophies, equal in number to all the battles in which Pompey had been victorious either in person or in the persons of his lieutenants" (*Pomp.* 45.4). As for Appian, he writes: "Before Pompey himself were led the satraps, sons, and generals of the kings against whom he had fought, who were present (some having been captured and others given as hostages) to the number of 324. Among them were Tigranes..., and five sons of Mithridates, namely, Artaphernes, Cyrus, Oxathres, Darius, and Xerxes, also his daughters, Orsabar and Eupatra. Olthaces, chief of the Colchians, was also led in the procession, and Aristobulus, king of the Jews, the tyrants of the Cilicians, and the female rulers of the Scythians, three chiefs of the Iberians, two of the Albanians, and Menander the Laodicean, who had been chief of cavalry to Mithridates" (*Mithr.* 117). Later, among all these enemy leaders, Eutropius singles out only three of them: "In the six hundred and ninetieth year from the building of the city..., Metellus triumphed on account of Crete, Pompey for the Piratic and Mithridatic wars. No triumphal procession was ever equal to this; the sons of Mithridates, the son of Tigranes, and Aristobulus, king of the Jews, were led before his car" (*Breviarium historiae Romanae* 6.16).

<sup>29</sup> *BJ* 1.157; *AJ* 14.79.

<sup>30</sup> *BJ* 1.154; *AJ* 14.71. Not all of Aristobulus' children, though, reached Rome. One of them, Alexander, escaped during the journey and went back to Judaea (*BJ* 1.158), where he tried to raise a rebellion against Rome.

<sup>31</sup> App. *Mithr.* 116.

<sup>32</sup> BEARD 2007, 118. On casualty figures, see also BRUNT 1971, 694-697. Oakley observes that "it would be unwise to hold that any individual figure certainly goes back to authentic records" (OAKLEY 1998, 190).

<sup>33</sup> BEARD 2007, 119.

cerning the aftermath of Titus' suppression of the Jewish revolt. He refers to "the tallest and most beautiful" of the young prisoners being reserved for the triumph.<sup>34</sup> Scipio Aemilianus, too, is said to have picked out fifty of the survivors of the siege of Numantia for his triumph of 132 BCE<sup>35</sup> and similarly, after his military success against various German tribes, Germanicus took only a handful of prominent captives for the triumph.<sup>36</sup> When large-scale transport of prisoners to Rome is attested, special circumstances may lay behind this. Concerning those brought from Sardinia in 175 BCE, for example, Gracchus may have used the human profits, in the shape of slave captives, to make up for the absence of rich booty from Sardinia.<sup>37</sup>

It seems therefore reasonable to assume that not many Judaeans followed Pompey to Rome in 61 BCE. Pompey's army had just finished a five year campaign, having marched through Asia and Syria winning battle after battle. If all those prisoners actually accompanied their captor to Rome, Radin argues, the question of transportation and provision for such a horde would have been tremendous. One cannot conceive what could have induced a general or private to assume this enormous expense and care, when slave-markets were available and nearby. If they got to Rome, the city's population must have swelled visibly. There is no record that it did, and had such a thing taken place, it could scarcely have escaped notice.<sup>38</sup>

In all probability, the first Jewish inhabitants of Rome were not the prisoners brought to the city by Pompey. This clearly appears from a passage of Cicero. In a speech delivered in September 59 BCE, two years after Pompey arrived at Rome, Cicero speaks of the Jewish community of Rome as large, united, and influential.<sup>39</sup> Leon is probably correct in pointing out that while we can make liberal allowance for Cicero's exaggerations and distortions, his

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<sup>34</sup> "Fronto put to death all the seditious and brigands...; he selected the tallest and most handsome of the youth and reserved them for the triumph; of the rest, those over seventeen years of age he sent in chains to the mines in Egypt, while multitudes were presented by Titus to the various provinces, to be destroyed in the theatres by the sword or by wild beasts; those under seventeen were sold. During the days spent by Fronto over this scrutiny, eleven thousands of the prisoners perished from starvation, partly owing to their jailers' hatred, who denied them food, partly through their own refusal of it when offered; moreover, for so vast a multitude even corn failed" (Jos., *BJ* 6.417-419).

<sup>35</sup> "Having reserved fifty of them for his triumph, Scipio sold the rest and razed the city to the ground" (App. *Hisp.*, 98).

<sup>36</sup> See BEARD 2007, 107-108.

<sup>37</sup> BEARD 2007, 119.

<sup>38</sup> RADIN 1915, 228-229. Similar views are held by STERN 1979, 2; SOLIN 1983, 609 n. 31; FUKS 1985, 26-27.

<sup>39</sup> "You know what a big crowd it is, how they stick together, how influential they are in informal assemblies": *Pro Flacco* 28.66 = *GLAJJ*, I, no. 68. See ALEXANDER 1990, 122-123.

words would have little point were it not a fact that the Jews of Rome were already a well-known element of the Roman population.<sup>40</sup> Only two years had elapsed between Pompey's arrival at Rome and Cicero's speech, surely not enough time for them to be liberated and become a well-known presence in the city. The Jewish captives who arrived with Pompey could not have been sold, enfranchised and become organized, all within less than two years. It would be impossible to explain the immediate and wholesale enfranchisement of so large a number of people. Ransom by wealthy coreligionists<sup>41</sup> would demand a much longer time, and it would be impossible to imagine what could have induced Pompey's soldiers or those who purchased from them to enfranchise immediately slaves transported from such a distance and at such expense.<sup>42</sup>

There must have been other Jews already settled in the city by the time the Jewish prisoners brought by Pompey, whatever their number, arrived. Valerius Maximus mentions Jews at Rome in the second century BCE.<sup>43</sup> They were not slaves since they are said to have been "sent back to their homes" (*repetere domos suas*).<sup>44</sup> Perhaps they were the first Jews at Rome, who may have returned to the city later, as usually happened when orders of expulsion were issued. Others may have arrived at Rome later. Gruen suggests that there may have been a continuum in the Jewish settlement at Rome since 139 BCE.<sup>45</sup>

One may therefore construe Philo's statement to apply not to the very beginning of the Jewish community of Rome but rather to later times, when Jewish prisoners of war may have found their way to Rome as a consequence of continual warfare in Judaea in the first century BCE.<sup>46</sup> Josephus tells us that after Pompey's conquest of Jerusalem one of Aristobulus' sons, Alexander,

<sup>40</sup> See LEON 1960, 7-8.

<sup>41</sup> On the religious duty for Jews to ransom enslaved fellow Jews, see WILLIAMS 1994, 176 n. 73.

<sup>42</sup> Radin concludes that Philo's statement "is at best a conjecture, made without any better acquaintance with the facts than we ourselves possess, and contradicted by the necessary inference from Cicero's words" (RADIN 1915, 228-230). See also SMALLWOOD 1976, 131; MARSHALL 1975, 140; SOLIN 1983, 608 n. 31.

<sup>43</sup> In 139 BCE, the *praetor peregrinus* Cn. Cornelius Scipio Hispanus banished the Jews and the astrologers from the city. The event is reported two centuries later by Valerius Maximus (*Facta et dicta memorabilia* 1.3.3), probably relying on a lost passage of Livy. Unfortunately, the text of Valerius has a lacuna at this point, which has been filled by two epitomes written in the fifth and sixth centuries CE, one by Julius Paris and the other by Januarius, which raise quite a number of problems of interpretation.

<sup>44</sup> *Facta et dicta memorabilia* 1.3.3, *Ex Epitoma Iulii Paridis* = GLAJJ, I, no. 147 b. See LEON 1960, 3-4.

<sup>45</sup> GRUEN 2002, 19.

<sup>46</sup> See FUKS 1985, 25; RUTGERS 1995, 168 and BARCLAY 1996, 289.

escaped during the journey to Rome and returned to Judaea, mustering a considerable force and trying to rebuild the city wall of Jerusalem, which Pompey had destroyed. According to Josephus, in the repression that followed, three thousands Jews were killed and three thousands were taken prisoners.<sup>47</sup> A few years later, Aristobulus himself fled from Rome, arrived in Judaea and tried to restore the fortifications razed by Gabinius. In the battle which followed, five thousand Jews fell.<sup>48</sup> How many were taken prisoner is left unsaid. Then a new disturbance took place, led again by Alexander. Josephus writes that the Roman forces killed ten thousand men.<sup>49</sup> A further tumult must have taken place when Crassus, after having despoiled the Temple of Jerusalem, was killed during his war against the Parthians. Josephus offers no detail but concentrates on the results: C. Cassius Longinus, the new governor sent to Syria, captured Tarichaeae and “reduced thirty thousand Jews to slavery”.<sup>50</sup> More Jews may have been taken as prisoners by the Romans in 37 BCE when C. Sosius, at the head of the Roman forces, helped Herod to recover Jerusalem from the last of the Hasmonean kings, Antigonus. After the victory, a little copper coin was struck by Sosius in Zacynthus, where the reverse portrays a captive Jew and a captive woman mourning at the foot of a trophy. It is possible that in the triumph celebrated three years later by Sosius in September 34, Jewish captives marched in front of his triumphal carriage.<sup>51</sup> Other Jews were taken prisoners in Varus’ time and later, during the anti-census protests of 6 CE.<sup>52</sup> Unfortunately the numbers preserved by Josephus cannot be substantiated and have long been recognized as exaggerated.<sup>53</sup> In fact, it appears that the literature of Roman times as a whole, and in many cases irrespective of literary genres and individual authors, is permeated by conventional or symbolic numeric valuations to an extent that seriously restricts the range even of tentative calculations and quantifying comparisons. Most numerical data are merely conventional figures which cannot even be accepted as rough approximations or rounded variants of actual figures known to the authors.<sup>54</sup> The numbers of

<sup>47</sup> *BJ* 1.160-163; *AJ* 14.82-85.

<sup>48</sup> *BJ* 1.171-174; *AJ* 14.92-97.

<sup>49</sup> *BJ* 1.177; *AJ* 14.100-102.

<sup>50</sup> *BJ* 1.180; *AJ* 14.120.

<sup>51</sup> BROUGHTON 1952, 397-398. On the coin issued by Sosius, see HART 1952, 180 and SYDENHAM 1975, 199, no. 1272. See also FUKS 1985, 27.

<sup>52</sup> *AJ* 17.289. See KASHER 1987a, 50-51 and NOY 2000, 256-257.

<sup>53</sup> SMALLWOOD 1976, 36 n. 51; KASHER 1987a, 71 n. 23.

<sup>54</sup> Scheidel suggests basic patterns of stylization: the first category is made up of powers of ten, i.e. 10, 100, 1,000, and so forth; the second type consists of three multiplied by powers of ten: 300, 3,000 or even 3,000,000. All these figures and multiples occur repeatedly in Roman literature. See

prisoners reported by Josephus, therefore, provide only some indication of the impression left by the events on the sources he used.<sup>55</sup>

Philo's passage, therefore, may be interpreted as meaning that in his own time, the Jewish population of Rome included slaves who had been captured in Judaea, even if these slaves were certainly not the only Jewish inhabitants of the city or the first ones to arrive. A slave origin may have been the tradition of the Roman Jews themselves, whom Philo would have met at Rome when participating in the Alexandrian embassy to Caligula.<sup>56</sup>

Philo goes on to state that at Rome the Jewish prisoners of war were then liberated by their owners and became Roman citizens. This statement, too, is often taken at face value by scholars. Following Juster,<sup>57</sup> La Piana and Leon observe that at Rome Jewish slaves were ransomed by fellow Jews or freed by their owners, who must have found them intractable as slaves because of their insistence on observing the dietary laws, abstaining from work on the Sabbath, and practicing their exotic (to the Romans) religious rites; these Jews will then have acquired Roman citizenship and became a part of the city rabble.<sup>58</sup> Smallwood argues that manumission may have come very quickly to some of the Jews sold as slaves in Rome, if their purchasers found them to be more trouble than they were worth because of their dietary and other laws and their disinclination to work one day in seven.<sup>59</sup> Unfortunately no source may be cited in support of this hypothesis.<sup>60</sup> As Barclay points out, despite frequent but baseless assertions that their dietary and Sabbath practices must have made them awkward as slaves, there is no reason to believe that Jewish slaves were freed particularly quickly.<sup>61</sup> Noy suggests that the freed Jews were people doing skilled work rather than being used as forced labor<sup>62</sup> and that the religious duty for Jews to try to ransom enslaved fellow Jews may have meant that slavery lasted a shorter time for Jewish slaves at Rome than for others.<sup>63</sup> He may be correct, but no source is found to confirm it.

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SCHEIDEL 1996, 223-224.

<sup>55</sup> See SMALLWOOD 1970, 235.

<sup>56</sup> See NOY 2000, 256 and GRUEN 2002, 15-16.

<sup>57</sup> JUSTER 1914, 15.

<sup>58</sup> LA PIANA 1927, 345; LEON 1960, 4.

<sup>59</sup> See RADIN 1915, 131.

<sup>60</sup> RADIN 1915, 230.

<sup>61</sup> BARCLAY 1996, 289 n. 21. See also FUKS 1985, 29.

<sup>62</sup> NOY 2000, 256 and 281 n. 429.

<sup>63</sup> NOY 2000, 257.

May we accept as a fact that the Jewish slaves, as a whole, were freed by their owners? A look into contemporary Roman sources dealing with slaves may cast some doubts.

Not all the slaves were liberated. After the triumph, prisoners of war were consigned to the arena (and then, after death, thrown into the Tiber, if Kyle is correct),<sup>64</sup> or sent to specific labor projects, or disposed of by sale.<sup>65</sup> Figures and proportions are impossible to calculate.<sup>66</sup> It is quite probable that not all those sold as slaves were later liberated. Against Alföldi, who maintains that a slave could probably count on being freed almost as a matter of course,<sup>67</sup> Harris and Wiedemann convincingly argue that Roman literary sources prove no more than that frequent manumission was an ideal at Rome.<sup>68</sup> No doubt, many slaves remained slaves their entire life.<sup>69</sup> Cicero does state that six years is a longer period than careful, hardworking slaves who had been captured in war should expect to serve,<sup>70</sup> but it appears that this statement does not point at the real practice, but rather at the impression that Cicero was interested in promoting in his readers concerning his humanitarian attitudes. We also learn that there were precise limitations concerning the number of slaves a master could free.<sup>71</sup>

All in all, it appears that not all the slaves at Rome were liberated. The same, of course, also applies to Jewish slaves.

Even when slaves were manumitted, the procedure of the liberation itself was not as easy and simple as Philo seems to imply, and, moreover, not all the freed slaves automatically obtained Roman citizenship.

Manumissions were either formal or informal. Formal manumissions were carried out by enrollment on the census list of Roman citizens – a rather unusual procedure<sup>72</sup> – or by testament. In this case, the testament had to contain

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<sup>64</sup> See KYLE 1998.

<sup>65</sup> See above, notes 18-21.

<sup>66</sup> BRADLEY 2004, 306-307.

<sup>67</sup> ALFÖLDI 1972, 114.

<sup>68</sup> HARRIS 1980, 118; Wiedemann concludes that “the literary evidence cited by Alföldi in support of his proposition that the Romans actually practiced regular manumission appears to prove only that they believed that they should do so” (WIEDEMANN 1985, 162-163, 165, 167).

<sup>69</sup> On the living conditions of slaves and on the cruelty not only of their masters but also of the Roman law, see WATSON 1983, 53-65. See also BRADLEY 1994, 179.

<sup>70</sup> *Philip.* 8.32.

<sup>71</sup> Gaius 1.42-43.

<sup>72</sup> See WATSON 1987, 24. On the difference between the manumission by *census* and by *vindicta*, see DAUBE 1946. On possible oriental influences on these procedures, see RABINOWITZ 1960.

clear and definite clauses,<sup>73</sup> and often the deceased's heirs would be compensated for the loss by a cash payment from the slave. Other formal ways to free a slave were manumissions by adoption<sup>74</sup> and by *vindicta*. The slave was touched by the lictor's rod (*vindicta*)<sup>75</sup> in the presence of a magistrate with *imperium*. It was a juristic dodge, originally employed when a free man was wrongly held as a slave. The master would arrange for a friend to bring the claim against him in front of the magistrate. He would put up no defense, and the magistrate would declare the slave free.<sup>76</sup> In all these cases, formal manumission required the approval of a Roman magistrate with *imperium*, either the praetor in Rome or the governor in a province.<sup>77</sup> The manumitted slave became free and automatically a Roman citizen,<sup>78</sup> the equal of a freeborn citizen except for the fact that magistracies were not open to him.<sup>79</sup> Philo mentions Jews at Rome entitled to free distributions of corn in Augustus' days,<sup>80</sup> which means that some Jews, at least, did enjoy citizenship,<sup>81</sup> since these distributions were limited to full citizens.<sup>82</sup> However, we have no means to ascertain how numerous these Jewish Roman citizens may have been, nor whether they were former slaves.

Much more frequent, it appears, was informal manumission. It was carried out by a letter conferring freedom (*per epistulam*), or by a declaration of the

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<sup>73</sup> See WATSON 1987, 26.

<sup>74</sup> This was a common procedure in Republican days. The master adopted his slave as his child or gave the slave in adoption to another. The act of adoption gave automatic manumission (WATSON 1987, 27).

<sup>75</sup> See BERGER 1953, 565.

<sup>76</sup> WATSON 1987, 24-25.

<sup>77</sup> WEAVER 1997, 56.

<sup>78</sup> See GARDNER 1993.

<sup>79</sup> SIRKS 1981, 248.

<sup>80</sup> *Leg.* 158.

<sup>81</sup> See BARCLAY 1996, 289-290.

<sup>82</sup> Under both Julius Caesar and Augustus, the free distributions of grain (*frumentationes*) rose to the point where they were being issued, even if only briefly, to some 320,000 recipients at the rate of 5 *modii* per month. Caesar established a limit of 150,000 recipients: "(Caesar)...reduced the number of those who received grain at public expense from three hundred and twenty thousand to one hundred and fifty thousand" (Suet. *Jul.*, 41.3), and later, in 2 BCE, Augustus set a limit of 200,000 recipients for the *frumentationes*: "I gave 40 denarii apiece to the plebs who then received the public grain; they were a few more than 200,000" (Aug., *Res Gestae* 15.4); "Yet he was not uniformly munificent, but in most respects was very strict; for instance, since the multitude receiving doles of corn had increased enormously, not by lawful methods but in such ways as are common in times of strife, he caused the matter to be investigated and struck out half of their names at one time before the distribution" (Cass. Dio 43.21.4). See VAM BERCHEM 1939; FARQUHAR CHILVER 1949; ROWLAND 1976; RICKMAN 1980.

master made before friends or witnesses (*inter amicos*). In these cases, the slaves obtained freedom often in exchange for the payment of large amounts of money for their freedom and that of their nearest relatives:<sup>83</sup> freedom, but not citizenship. Even the freedom appears to have been more apparent than real,<sup>84</sup> since the status of slaves informally freed remained a middle one between that of slaves and that of free persons. Under civil law they remained slaves, since the informal manumission was invalid. On the one hand, Gaius' statement *quos praetor in libertate tuebatur* (3.56) may be interpreted as meaning "whom the praetor maintained in freedom", and this means that the praetor might even accept them as litigants in lawsuits, which would have been impossible had they have been considered slaves.<sup>85</sup> On the other hand, however, their patron kept not only the right to *obsequium* (respect) – a freedman could not summon a patron to court without permission, or give evidence against him in a criminal charge – but also the right to a fixed number of days of work, and the right to be economically supported by his freedman if he was needy.<sup>86</sup> The status of these freedmen was later regulated in Augustus' time by the *lex Junia*, probably issued in 17 BCE,<sup>87</sup> and henceforth these people were called Junian Latins.<sup>88</sup> The main reason why their freedom was only apparent is that they were not free to leave their estates to their children after their death. In this respect they were still considered slaves.<sup>89</sup> This meant that at the death of a Junian Latin the law was supposed never to have existed, *ac si lex lata non esset*.<sup>90</sup> His assets were consequently considered as *peculium* and went to those who manumitted him. Junian Latins, therefore, had no right of inheritance, either to make or to benefit from a will.<sup>91</sup> Thus during their lifetime they enjoyed *libertas* and *commercium*, which included full right of owning property, conducting business transactions and contracts as if they were Roman citizens, and had access to the Roman courts. But after their deaths, they were treated as if they had been slaves all along. Their whole estate went by right

<sup>83</sup> LÓPEZ BARJA DE QUIROGA 1995, 328-329. According to Hopkins, manumission through payment must have been a very common practice, and these sums may have been considerable (HOPKINS 1978, 118).

<sup>84</sup> Gaius 3.56.

<sup>85</sup> SIRKS 1981, 249.

<sup>86</sup> See WATSON 1987, 39-41 and 53-65.

<sup>87</sup> On the date, see SIRKS 1981, 250 and the bibliography quoted on p. 251 n. 9.

<sup>88</sup> Gaius 3.56.

<sup>89</sup> *ibid.*

<sup>90</sup> *ibid.*

<sup>91</sup> "The *Lex Junia* does not, however, permit them either to make a will, or to receive under the will of another, or to be appointed testamentary guardians" (Gaius 1.23-24).

of slave ownership (*iure peculii*) to the patron who had manumitted them, and not to their own children.<sup>92</sup> Masters, therefore, had many good reasons for preferring informal manumissions to formal ones. No wonder that Junian Latins were a sizeable group among freedmen, and may even have formed a majority of them.<sup>93</sup> Balsdon invokes practical reasons for this preference,<sup>94</sup> but Sirks convincingly argues that the goal of informal manumission was the securing of the complete estate of the informally freed man or woman by the master or mistress.<sup>95</sup> The situation is well described by Sirks. Freedmen and slaves were used by Roman society to manage their riches, not only because the distances made the use of intermediaries desirable, if not indispensable, but also because the Romans had values and prohibitions that made it necessary for the rich and the senators to make use of freedmen and slaves. The law of the second century BCE gave cause for discontent: with a slave the *dominus* kept the ownership and the profits of the expended capital, but was deemed personally liable *in solidum*; with a freedman the patron was not liable but got nothing back unless he had lent money. Informal manumission must have been rather a good solution, as it was non-existent for civil law and thus, after the freedman's death, all his assets were his master's property. The weak point will have been the status of the informal freedman and consequently his liability and legal personality. The *lex Junia* brought a clear gain to the patrons, since the informally freed person now received a status recognized in civil law and was enabled by the *ius commercii* to contract with private persons or the state, to own and to litigate,<sup>96</sup> but, at the end, he left everything to his former owner. As Salvian wrote more than four hundred years after the *lex Junia* was passed, these people "live as if they were freeborn and die as slaves".<sup>97</sup> Junian Latins could later become Roman citizens, but the procedure was rather complicated.

<sup>92</sup> This was very blatantly and uncharacteristically discriminatory, and the discrimination lasted for more than five centuries. Despite some mitigating concessions, concern for family values had little to do with it. Many scores of thousands, even hundreds of thousands, of children were involved. Rome was, after all, a slave society. See WEAVER 1997, 57. Only in 9 CE did the *lex Papia Poppaea* rule that when a freedman's inheritance was valued at 100,000 sesterces or more, the patron was only to be excluded by a freedman having at least three children. Otherwise he would always obtain a proportional share: half when competing with one child and a third when there were two (Gaius 3.42). See LÓPEZ BARJA DE QUIROGA 1995, 329.

<sup>93</sup> See LÓPEZ BARJA DE QUIROGA 1986-1987; WEAVER 1990; 1991.

<sup>94</sup> "This type of informal emancipation" he points out, "might proceed from the selfishness or indecision of a master, but in many cases it simply reflected the fact that... a magistrate with imperium was not on the doorstep whenever a master wished to emancipate his slave" (BALSDON 1979, 87).

<sup>95</sup> "I assume that the Romans used informal manumissions in at least some cases in order to put out capital and at the same time secure its complete return, with the profits made" (SIRKS 1983, 254).

<sup>96</sup> SIRKS 1981, 272-274. See also SIRKS 1983, 212.

<sup>97</sup> *Ut vivant scilicet quasi ingenui, et moriantur ut servi (Timothei ad ecclesiam libri IIII 3.7.34).*

Citizenship was granted if the ex-slaves were freed again by *iteratio*, which meant the repetition of the act which had made him a Junian Latin, repeated by the former Quiritary owner, this time formally, by *vindicta*, by *census* or by *testamentum*.<sup>98</sup> An additional way to become a Roman citizen, the *anniculi probatio*,<sup>99</sup> was established by the *lex Sentia* of 4 CE when an improperly manumitted slave married a Roman citizen, a Latin colonist, or a Junian Latin. This procedure required a specific action by Junian Latin couples at the time of marriage in the form of a declaration, in front of seven Roman adult citizens, of their intent to have children in order to qualify for future citizenship. In this case, when a child was born to them and reached one year of age, the father and the mother could appear before the praetor and be declared free and citizens.<sup>100</sup> Gaius, however, points out<sup>101</sup> that at first this procedure was possible only for those who had been manumitted when less than thirty years old.<sup>102</sup> In any case, the freed slaves who got Roman citizenship had almost all the rights of Roman citizens during their life time, just not after death.<sup>103</sup> Cases are also reported in which a Latin who had obtained Roman citizenship returned to his previous status of Latin at his death.<sup>104</sup> In theory, therefore, the difference between formally or informally manumitted slaves was great, but much less so in practice. Gaius' statement that "it happens that the title to the property of Latins under the *Lex Junia*, and that to the estates of freedmen who are Roman citizens, differ greatly"<sup>105</sup> has an ironic meaning. The 'great difference' mentioned by Gaius concerned only the identity of those who are entitled to the property of the dead ex-slave: sons, grandsons and great-grandsons of the master in the first case, and extraneous heirs of the master in the second.<sup>106</sup> In

<sup>98</sup> Gaius 1.35. See SIRKS 1983, 247.

<sup>99</sup> *Anniculus* was a one-year-old child.

<sup>100</sup> See WEAVER 1990, 59.

<sup>101</sup> Gaius 1.28-29.

<sup>102</sup> It was only later that "a decree of the Senate issued under the consulship of Pegasus and Pusio granted [this possibility] to all Latins, even though they were more than thirty years of age at the time when they were manumitted" (Gaius 1.31). See CHERRY 1990, 254-256. An additional way to obtain Roman citizenship was offered by the *lex Visellia* of 24 CE, which stated that persons become Roman citizens, where by manumission they have become Latins when either under or over thirty years of age, if they have served for six years in the guards at Rome (Gaius 1.32b). A decree of the Senate is said to have been subsequently enacted by which Roman citizenship was bestowed on Latins if they had served for three years in the army, and additional possibilities were provided in Claudius' time (Gaius 1.33). See SIRKS 1981, 254.

<sup>103</sup> Gaius 3.40-44.

<sup>104</sup> Gaius 3.72.

<sup>105</sup> Gaius 3.57.

<sup>106</sup> Gaius 3.57-63.

both cases, the children of the deceased, whether Latin or Roman citizens, lost their share, and, in the words of López Barja de Quiroga, “they had to start again from scratch”.<sup>107</sup>

From Roman sources, therefore, it emerges that for Jewish slaves – however numerous they may have been – the procedure of manumission and its meaning in practice had to be much less easy and rosy than Philo’s passage suggests.

It may therefore be no accident that a number of passages in Latin literature stress the fact that the Jews of Rome belonged to a low socio-economic stratum. Persius mentions a Jewish house with “greasy window-sills”: on the table, “floppy tunnies’ tails” – a part of the fish considered of inferior quality – were found on dishes of red ware, a meaningful detail since red terracotta was used by poor families.<sup>108</sup> Juvenal, while complaining that Rome is becoming a city of foreigners, points out that the holy fount and grove and shrine at the old Porta Capena “are let out to the Jews, who possess a basket and a truss of hay for all their furnishings”,<sup>109</sup> and among Rome’s characteristic nuisances Martial mentions Jewish beggars, who have been “taught to beg” by their mothers.<sup>110</sup> No wonder that they are said to have lived predominantly on the right bank of the Tiber, in an area of generally poor residences, which suggests a generally humble mode of life.<sup>111</sup> There was apparently nothing to be proud of in the fact that “the great section of Rome on the other side of the Tiber was occupied and inhabited by Jews”,<sup>112</sup> but Philo probably did not know that.

All in all, Philo’s statement that the first inhabitants of Rome were slaves who were later freed by their owners and enjoyed Roman citizenship implies a reality much more rosy than it probably was and cannot be taken at face value.

However, this does not mean that Philo consciously lied to his readers, as some scholars assume.<sup>113</sup> One might surmise that it could have happened at Rome, while participating in the embassy to Emperor Caligula after the Alexandrian riots of 38 CE, that Philo heard about the past of the Jewish commu-

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<sup>107</sup> LÓPEZ BARJA DE QUIROGA 1995, 329.

<sup>108</sup> *Sat.* 5.176-184 = *GLAJJ*, I, no. 190.

<sup>109</sup> *Sat.* 3.14-16 = *GLAJJ*, II, 1980, no. 206.

<sup>110</sup> *Epig.*, 12.57.13 = *GLAJJ*, I, no. 246.

<sup>111</sup> Philo *Leg.* 155. This is apparently the only Jewish settlement at Rome known to Philo. See SMALLWOOD 1970, 234. On the low social and economic status of the Jews of Rome, see also SMALLWOOD 1976, 132 and BARCLAY 1996, 290.

<sup>112</sup> *Leg.* 155.

<sup>113</sup> Willrich, for example, accuses Philo of “not having the slightest respect for facts and of building upon his reader’s gullibility more audaciously than any writer has ever done” (WILLRICH 1903, 402-403 n. 1 and 417 n. 1, quoted by SCHWARTZ 1989/1990, 114 and 117).

nity from one of the local Jews with whom he came in contact. Perhaps he did not have the means to check its historical reliability. Actually he may not have even thought about checking his source.<sup>114</sup> After all, he was not a historian but rather a politician<sup>115</sup> who did not write his works in order to uncover historical truth.<sup>116</sup> Even his so-called “historical” writings, *In Flaccum* and *Legatio*, have long been recognized as being not impartial recapitulations of the past but rather pieces of political writing, composed with overt propagandistic purposes.<sup>117</sup> The treatment of the Jewish troubles at Alexandria in 38 CE in his *In Flaccum*, for example, has been defined by Schwartz not as history, but rather as a combination of theology and novelistic writing.<sup>118</sup> No wonder, therefore, that both the *In Flaccum* and the *Legatio* have been found to display historical mistakes, inconsistencies, discrepancies, omissions and anachronisms.<sup>119</sup> Philo’s political agenda was certainly more important for him than factual accuracy.<sup>120</sup> When he wrote these works, early in Claudius’ reign,<sup>121</sup> Jews were still anxiously awaiting a clear official statement by the new emperor concerning their rights, and Philo had many good reasons to emphasize the tokens of the Augustan Roman policy towards the Jews, setting them as a reminder and an example to follow.<sup>122</sup>

<sup>114</sup> Schwartz observes that “Philo’s histories are frequently quite enjoyably read or heard read, but this enjoyment sometimes results from a willingness to depart from the facts in order to make the story more dramatic. This, apparently, did not bother Philo, because he was out to write enjoyable and didactic historical novels, and would have been very surprised or even amused, I suspect, if someone would have taken him at his word so seriously as to go, for example, to the docks of Alexandria to check the details of his story about Agrippa, or to some emergency room in Rome to check if the Jewish king had really passed out for two days as he claims” (SCHWARTZ 1989/1990, 119-120).

<sup>115</sup> Goodenough defines him “a fearless and experienced politician... a vivid realist in politics” (GOODENOUGH 1938, 20). See KAHN 1998, 117-127.

<sup>116</sup> On Philo’s rhetoric and dramatic intent, see SCHWARTZ 1989, 113-119; CALABI 2002 and MUEHLBERGER 2008, 46-67.

<sup>117</sup> See BOX 1939, LVII-LIX; SMALLWOOD 1970, 206-207; BILDE 1978; KRAUS REGGIANI 1984, 569.

<sup>118</sup> SCHWARTZ 1989/1990, 116-117. On the role of divine providence in the works of Philo, see KASHER 1987b and BORGES 2000.

<sup>119</sup> Agrippa’s real intent in his visit to Alexandria would have been covered up (see KUSHNIR STEIN 2000). Caligula’s projected voyage to Alexandria is presented as motivated by his wish to bring to completion the process of self-divinization in this city, while it was probably related to the political situation in the city (BELLEMORE 1994 and SALVATERRA 1989). The discrepancies found between Philo’s account and Josephus’ version of the conflict in Judaea at the time of Pontius Pilate, too, may probably be ascribed to apologetic bias (MAIER 1969; FUKS 1982, 503-507; SCHWARZ 1983). Rarely may Philo’s version of facts be defended from a historical point of view, as suggested by SMALLWOOD 1987, 127.

<sup>120</sup> See SCHWARZ 1983, 26-45.

<sup>121</sup> See SANDMEL 1984, 8.

<sup>122</sup> See SMALLWOOD 1970, 233. On Philo’s stress on Augustus’ image as the ideal princeps in contrast

Instead of accusing Philo of perversion of the truth, one would agree with Schwartz when he aptly speaks of his “apologetic rearrangement of history”.<sup>123</sup>

Philo’s statement on the beginning of the Jewish settlement at Rome, too, is probably to be seen as another example of factual inaccuracy that betrays his will to stress and emphasize once again the favorable policy implemented in past time by the Roman government towards the Jews.

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to the wicked Gaius, see also BARRACLOUGH 1984, 453-454 and NIEHOFF 2001, 90-93.

<sup>123</sup> SCHWARTZ 1989/1990, 114 n. 2. See also BORGÉN 2000, 41-57.

## BIBLIOGRAPHY

- ALEXANDER 1990  
M.C. ALEXANDER, *Trials in the Late Roman Republic, 149 BC to 50 BC*, Toronto-Buffalo-London 1990.
- ALFÖLDI 1972  
G. ALFÖLDI, "Die Freilassung von Sklaven und die Struktur der Sklaverei in der römischen Kaiserzeit", *RSA* 2, 1972, 97-129.
- BALSDON 1979  
J.P.V.D. BALSDON, *Romans and Aliens*, Chapel Hill 1979.
- BARCLAY 1996  
J.M.G. BARCLAY, *Jews in the Mediterranean Diaspora: from Alexander to Trajan (323 BCE - 117 CE)*, Edinburgh 1996.
- BARRACLOUGH 1984  
R. BARRACLOUGH, "Philo's Politics, Roman Rule and Hellenistic Judaism," *ANRW* 2.21.1, 1984, 417-553.
- BEARD 2007  
M. BEARD, *The Roman Triumph*, Cambridge, Massachusetts 2007.
- BELLEMORE 1994  
J. BELLEMORE, "Gaius the Pantomime", *Antichthon* 28, 1994, 65-79.
- BERGER 1953  
A. BERGER, *Encyclopedic Dictionary of Roman Law*, Philadelphia 1953.
- BILDE 1978  
P. BILDE, "The Roman Emperor Gaius (Caligula)'s Attempt to Erect his Statue in the Temple of Jerusalem", *ST* 32, 1978, 67-93.
- BODEL 2005  
J. BODEL, "Caveat emptor: Towards a Study of Roman Slave-Traders", *JRA* 18, 2005, 181-195.
- BORGEN 2000  
P. BORGEN, "Philo's *Against Flaccus* as Interpreted History", in: K.J. ILLMAN *et al.* (eds.), *A Bouquet of Wisdom: Essays in Honour of Karl-Gustav Sandelin*, Åbo 2000, 41-57.
- BOX 1939  
H. BOX, *Philonis Alexandrini In Flaccum*, London-New York-Toronto 1939.
- BRADLEY 1994  
K. BRADLEY, *Slavery and Society at Rome*, Cambridge 1994.
- BRADLEY 2004  
K. BRADLEY, "On Captives under the Principate", *Phoenix* 58, 2004, 298-318.
- BROUGHTON 1952  
T.R.S. BROUGHTON, *The Magistrates of the Roman Republic*, vol. 2, New York 1952.
- BRUNT 1971  
P.A. BRUNT, *Italian Manpower 225 BC - AD 14*, Oxford 1971.
- CALABI 2002  
F. CALABI, "Il governante sulla scena: politica e rappresentazione nell' *In Flaccum* di Filone di Alessandria", in: F. CALABI (ed.), *Immagini e rappresentazione. Contributi su Filone di Alessandria*, New York 2002, 45-57.
- CHERRY 1990  
D. CHERRY, "The Minician Law: Marriage and the Roman Citizenship", *Phoenix* 44, 1990, 244-266.
- COARELLI 2005  
F. COARELLI, "L' 'Agora des Italiens': lo statarion di Delo?", *JRA* 18, 2005, 197-212.
- DAUBE 1946  
D. DAUBE, "Two Early Patterns of Manumission", *JRS* 36, 1946, 57-75.
- DAVIS 1913  
G.B. DAVIS, "The Prisoner of War", *The American Journal of International Law* 7, 1913, 521-545.

- DI SEGNI 1999  
L. DI SEGNI, "New Epigraphical Discoveries at Scythopolis and in Other Sites of Late Antique Palestine", in: *Atti dell'XI congresso internazionale di epigrafia greca e latina. Roma, 18-24 Settembre 1997*, Rome 1999, 637-638.
- DODGE 1999  
H. DODGE, "Amusing the Masses: Buildings for Entertainment and Leisure in the Roman World", in: D.S. POTTER & D.J. MATTINGLY (eds.), *Life, Death and Entertainment in the Roman Empire*, Ann Arbor 1999, 229-279.
- FARQUHAR CHILVER 1949  
G.E. FARQUHAR CHILVER, "Princeps and Frumentationes", *AJP* 70, 1949, 7-21.
- FUKS 1982  
G. FUKS, "Again on the Episode of the Gilded Roman Shields at Jerusalem", *HTR* 75, 1982, 503-507.
- FUKS 1985  
G. FUKS, "Where Have All the Freedmen Gone? On an Anomaly in the Jewish Grave-Inscriptions from Rome", *JJS* 36, 1985, 25-31.
- GARDNER 1993  
J.F. GARDNER, *Being a Roman Citizen*, London-New York 1993.
- GOODENOUGH 1938  
E.R. GOODENOUGH, *The Politics of Philo Judaeus*, New Haven 1938.
- GRUEN 2002  
E. GRUEN, *Diaspora: Jews amidst Greeks and Romans*, Cambridge-London 2002.
- GUIGNEBERT 1969  
C. GUIGNEBERT, *Le monde juif vers le temps de Jésus*, Paris 1969.
- HARRIS 1980  
W.V. HARRIS, "Towards a Study of the Roman Slave Trade", in: J.H. D'ARMS & E.C. KOPFF (eds.), *The Seaborne Commerce of Ancient Rome: Studies in Archaeology and History*, Rome 1980, 117-140.
- HART 1952  
H.S.J. HART, "Judaea and Rome: The Official Commentary", *JTS* 3, 1952, 172-198.
- HOLLIDAY 1997  
P.J. HOLLIDAY, "Roman Triumphal Painting: Its Function, Development, and Reception", *The Art Bulletin* 79, 1997, 130-147.
- HOPKINS 1978  
K. HOPKINS, *Conquerors and Slaves: Sociological Studies in Roman History*, Cambridge-New York 1978.
- HORBURY 1991  
W. HORBURY, "Herod's Temple and 'Herod's Days'", in: W. HORBURY (ed.), *Templum Amicitiae: Essays on the Second Temple Presented to Ernst Bammel*, Sheffield 1991, 103-149.
- JUSTER 1914  
J. JUSTER, *Les Juifs dans l'empire romain: leur condition juridique, économique et social*, vol. 2, Paris 1914.
- KAHN 1998  
J.G. KAHN, "La valeur et la légitimité des activités politiques d'après Philon d'Alexandrie", *Méditerranées* 16, 1998, 117-127.
- KASHER 1987a  
A. KASHER, "The Nature of the Jewish Migration in the Mediterranean Countries in the Hellenistic-Roman Era", *MHR* 2, 1987, 46-75.
- KASHER 1987b  
A. KASHER, "Notes and Illuminations concerning Philo's Historiographical Character", in: J. SALMON *et al.* (eds.), *Studies in Historiography: Collected Essays*, Jerusalem 1987, 34-38 (in Hebrew).
- KRAUS REGGIANI 1984  
C. KRAUS REGGIANI, "I rapporti fra l'impero romano e il mondo ebraico al tempo di Caligola secondo la 'Legatio ad Gaium' di Filone Alessandrino", *ANRW* 2.21.1, 1984, 554-586.
- KUSHNIR STEIN 2000  
A. KUSHNIR STEIN, "On the Visit of Agrippa I to Alexandria in AD 38", *JJS* 51, 2000, 227-242.
- KYLE 1998  
D.G. KYLE, *Spectacles of Death in Ancient Rome*, London-New York 1998.
- LA PIANA 1927  
G. LA PIANA, "Foreign Groups in Rome during the First Centuries of the Empire", *HTR* 20, 1927, 183-403.
- LEON 1960  
H.J. LEON, *The Jews of Ancient Rome*, Philadelphia 1960.
- LÓPEZ BARJA DE QUIROGA 1986-1987  
P.L. LÓPEZ BARJA DE QUIROGA, "Latinus Iunianus, una aproximación", *SHHA* 4-5, 1986-1987, 125-136.
- LÓPEZ BARJA DE QUIROGA 1995  
P.L. López Barja de Quiroga, "Freedmen Social Mobility in Roman Italy", *Historia* 44, 1995, 326-348.
- MAIER 1969  
P.L. MAIER, "The Episode of the Golden Roman Shields at Jerusalem", *HTR* 62, 1969, 109-121.
- NIEHOFF 2001  
M. NIEHOFF, *Philo on Jewish Identity and Culture*, Tübingen 2001.
- MARSHALL 1975  
A.J. MARSHALL, "Flaccus and the Jews of Asia (Cicero *Pro Flacco* 28.67-69)", *Phoenix* 29, 1975, 139-154.

- MILLAR 1984  
F. MILLAR, "Condemnation to Hard Labour in the Roman Empire, from the Julio-Claudian to Constantine", *Papers of the British School at Rome* 52, 1984, 137-147.
- MOMIGLIANO 1931/1932  
A. MOMIGLIANO, "I nomi delle prime sinagoghe romane e la condizione giuridica della comunità di Roma sotto Augusto", *La Rassegna Mensile di Israel* 6, 1931/1932, 283-292.
- MUEHLBERGER 2008  
E. MUEHLBERGER, "The Representation of Theatricality in Philo's 'Embassy to Gaius'", *JSJ* 39, 2008, 46-67.
- NOY 1995  
D. NOY, *Jewish Inscriptions of Western Europe*. Vol. 2: *The City of Rome*, Cambridge 1995.
- NOY 2000  
D. NOY, *Foreigners at Rome: Citizens and Strangers*, London 2000.
- OAKLEY 1998  
S.P. OAKLEY, *A Commentary on Livy Books VI-X*, Vol. 2: *Books VII and VIII*, Oxford 1998.
- PASS 1995  
P. PASS, *The Game of Death in Ancient Rome: Arena Sport and Political Suicide*, Madison 1995.
- PEARSON 1973  
J. PEARSON, *Arena: the Story of the Colosseum*, New York 1973.
- POTTER 1999  
D.S. POTTER, "Entertainers in the Roman Empire", in: D.S. POTTER & D.J. MATTINGLY (eds.), *Life, Death and Entertainment in the Roman Empire*, Ann Arbor 1999, 280-350.
- PUCCI BEN ZEEV 1998  
M. PUCCI BEN ZEEV, *Jewish Rights in the Roman World: The Greek and Roman Documents Quoted by Josephus Flavius*, Tübingen 1998.
- RABINOWITZ 1960  
J.J. RABINOWITZ, "Manumission of Slaves in Roman Law and Oriental Law", *JNES* 19, 1960, 42-45.
- RADIN 1915  
M. RADIN, *The Jews among the Greeks and Romans*, Philadelphia 1915.
- RICH 2005  
J.W. RICH, "Prisoners of War", *CR* 55, 2005, 242-243.
- RICHARDSON 1998  
P. RICHARDSON, "Augustan Era Synagogues in Rome", in: K.P. DONFRIED & P. RICHARDSON (eds.), *Judaism and Christianity in First Century Rome*, Grand Rapids 1998, 17-29.
- RICKMAN 1980  
G. RICKMAN, *The Corn Supply of Ancient Rome*, Oxford 1980.
- ROWLAND 1976  
R.J. ROWLAND, "The 'Very Poor' and the Grain Dole at Rome and Oxyrhynchus", *ZPE* 21, 1976, 69-73.
- RUTGERS 1995  
L.V. RUTGERS, *The Jews in Late Ancient Rome: Evidence of Cultural Interaction in the Roman Diaspora*, Leiden 1995.
- SALVATERRA 1989  
C. SALVATERRA, "Considerazioni sul progetto di Caligola di visitare Alessandria", in: L. CRISCUOLO & G. GERACI (eds.), *Egitto e storia antica dall'ellenismo all'età araba: bilancio di un confronto. Atti del colloquio internazionale, 31 agosto - 2 settembre 1987*, Bologna 1989, 631-656.
- SANDMEL 1984  
S. SANDMEL, "Philo Judaeus: an Introduction to the Man, his Writings and his Significance", *ANRW* 2.21.1, 1984, 3-46.
- SCHEIDEL 1996  
W. SCHEIDEL, "Finances, Figures and Fiction", *CQ* 46, 1996, 222-238.
- SCHWARTZ 1983  
D.R. SCHWARTZ, "Josephus and Philo on Pontius Pilate", *The Jerusalem Cathedra* 3, 1983, 26-45.
- SCHWARTZ 1989-1990  
D.R. SCHWARTZ, "On Drama and Authenticity in Philo and Josephus", *SCI* 10, 1989-1990, 113-129.
- SIRKS 1981  
A.J.B. SIRKS, "Informal Manumission and the Lex Junia", *RIDA* 28, 1981, 247-276.
- SIRKS 1983  
A.J.B. SIRKS, "The Lex Junia and the Effects of Informal Manumission and Iteration", *RIDA* 30, 1983, 211-292.
- SMALLWOOD 1970  
E.M. SMALLWOOD, *Philonis Alexandrini Legatio ad Gaium*, Leiden 1970.
- SMALLWOOD 1976  
E.M. SMALLWOOD, *The Jews under Roman Rule, from Pompey to Domitian*, Leiden 1976.
- SMALLWOOD 1987  
E.M. SMALLWOOD, "Philo and Josephus as Historians of the Same Events", in: L. FELDMAN & G. HATA (eds.), *Josephus Judaism and Christianity*, Grand Rapids 1987, 114-132.
- SOLIN 1983  
H. SOLIN, "Juden und Syrer in westlichen Teil der römischen Welt. Eine ethnisch-demographische Studie mit besonderer Berücksichtigung der sprachlichen Zustände", *ANRW* 2.29, 1983, 587-789.
- STERN 1979  
M. STERN, "The Expulsion of the Jews from Rome in Ancient Times", *Zion* 44, 1979, 1-27 (in Hebrew).
- SYDENHAM 1975  
E.A. SYDENHAM, *The Coinage of the Roman Republic*, rev. by

- G.C. HAINES, ed. L. FORRER & C.A. HERSH, New York 1975.
- TRUMPER 2009  
M. TRUMPER, *Graeco-Roman Slave-Markets: Fact or Fiction?* Oxford-Oakville 2009.
- VAM BERCHEM 1939  
D. VAM BERCHEM, *Les distributions de blé et d'argent à la plèbe romaine sous l'empire*, Geneva 1939.
- WATSON 1983  
A. WATSON, "Roman Slave Law and Romanist Ideology", *Phoenix* 37, 1983, 53-65.
- WATSON 1987  
A. WATSON, *Roman Slave Law*, Baltimore, Maryland 1987.
- WEAVER 1990  
P.R.C. WEAVER, "Where Have All the Junian Latins Gone? Nomenclature and Status in the Early Empire", *Chiron* 20, 1990, 275-305.
- WEAVER 1991  
P.R.C. WEAVER, "Children of Freedmen (and Freedwomen)", in: B. RAWSON (ed.), *Marriage, Divorce and Children in Ancient Rome*, Canberra 1991, 166-190.
- WEAVER 1997  
P.R.C. WEAVER, "Children of Junian Latins", in: B. RAWSON & P. WEAVER (eds.), *The Roman Family in Italy: Status, Sentiment, Space*, Canberra-Oxford 1997, 55-72.
- WIEDEMANN 1985  
T.E.J. WIEDEMANN, "The Regularity of Manumission at Rome", *CQ* 35, 1985, 162-175.
- WILLIAMS 1994  
M.H. WILLIAMS, "The Organization of Jewish Burials in Ancient Rome in the Light of the Evidence from Palestine and the Diaspora", *ZPE* 101, 1994, 165-182.
- WILLRICH 1903  
H. WILLRICH, "Caligula", *Klio* 3, 1903, 85-118, 288-317, 397-470.
- WISTRAND 1992  
M. WISTRAND, *Entertainment and Violence in Ancient Rome: the Attitudes of Roman Writers of the First Century AD*, Göteborg 1992.
- YAVETZ 1988  
Z. YAVETZ, *Slaves and Slavery in Ancient Rome*, New Brunswick-Oxford 1988.

# Illegitimate Jesus: Family Matters with “Toledot Yeshu”

MICHAEL MEERSON

“Where is your father?” the Pharisees said to Jesus, and Jesus gave elusive answers that could only contribute to the never-ending inquiry into his origins: “My father and I are two witnesses of my mission, but you know neither of us” (paraphrase, John 8:12-19). Thus the circumstances of Jesus’ birth became a leitmotif of the religious controversy, all the more poignant since all parties agreed on basic facts: there was a couple, Joseph and Mary, and they had a child, Jesus; Joseph, however, was not his biological father.

The debaters learned to play out this minimalist setting to accommodate their own beliefs, some by an interpretation of the narrative basics—Jesus said that he was a son of a human parent and God; clearly, the human parent was Mary the virgin, since the incorporeal God was his father<sup>1</sup>—and some by enhancing the story with details. Was Mary married to Joseph, or only betrothed? If betrothed, did they eventually marry? Did Jesus, actually, have a human father? Was his father a Jew or a Gentile? As the meaning of possible answers changed so did the answers, since the polemicist sought to perpetuate a preferable significance of the birth narrative in the ever-changing social environment. For the student of religion, the analysis of social dynamics behind

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<sup>1</sup> Tert. *Marc.* 4.10.6.

the fluctuating storyline should open broader avenues for understanding its authors and their authentic audience; for the legal historian, any adjustment to the details of Jesus' lineage might signal a corresponding development in norms of the community responsible for that adjustment.

This paper presents an attempt to follow the Jewish polemicist, and, arguably, the most notorious product of his polemic—*Toledot Yeshu* (Life Story of Jesus), the body of traditions as old as the Gospels, which coalesced into a written composition by the eighth century.<sup>2</sup> Aiming to interest both the student of religion and the student of legal history, the paper will not only document but also seek to explain the diverse and sometimes contradictory attempts of *Toledot Yeshu* to represent its antagonist as illegitimate. The paper will also argue that these fluctuating representations of Yeshu's illegitimate lineage do reflect the evolving legal, social and cultural norms of the story's tradents and audience.

## I. A PARADOX

Close to two hundred extant manuscripts tell many different versions of the story,<sup>3</sup> all revolving around a few touchstones: the shameful birth of Yeshu, his use of magic, and his inglorious death. Yeshu was tried and condemned because he stole the Ineffable Name from the Temple, and used it to lead the people astray; he stole the Name because he was excommunicated; and he was excommunicated because he turned out to be a mamzer—the illegitimate child of Miriam, a chaste and beautiful woman who was *married* to the scholar Yohanan.<sup>4</sup> Across from their house, there lived a certain Yoseph ben Pandera, a handsome fellow, who set himself a goal to seduce Miriam by all means. Seeing that his charm was of no avail, Yoseph resorted to deceit and violence. One Sabbath eve, when Yohanan went to a synagogue, and Miriam was menstruating and stayed home, Yoseph came to the couple's house and raped Miriam, pretending that he was her husband. In the morning, Miriam accused Yohanan of breaking the commandments of God, and soon they both understood what had really happened. Contrary to Yohanan's expectations, Yoseph never re-

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<sup>2</sup> This date is debatable. HORBURY 1970b argues for a much earlier date, the second century CE. SOKOLOFF 2011, on a basis of linguistic analysis of the Aramaic fragments, dates the composition of *Toledot Yeshu* to the fifth or sixth century. In addition to MEERSON & SCHÄFER 2014, see KRAUSS 1902 and DI SEGNI 1985.

<sup>3</sup> See the lists of the manuscripts in DI SEGNI 1984 and MEERSON & SCHÄFER 2014, vol. 2, 1-48.

<sup>4</sup> In some versions the name of the rapist is Yohanan, and the husband is Yoseph. For different variants of the late-medieval birth narrative in the *Toledot Yeshu*, see SCHÄFER 2012.

turned to Miriam, and so Yohanan was unable to capture him in the presence of the two witnesses who would have been necessary for his accusation. When Yohanan noticed that Miriam was pregnant, he left her without a divorce and went to Babylonia. In a due time, Miriam bore a boy and named him Yeshua, after the name of her paternal uncle. When Yeshua grew older, he became an exceptional student, capable of learning “in one day what others learn in a year,” but also an arrogant and disrespectful person. For this reason, the sages decided to investigate his origins, and discovered the truth, that Yeshua was “a bastard and the son of a menstruant.” These new facts elegantly explained both his success and arrogance,<sup>5</sup> but most importantly, they allowed the sages to expel Yeshua,<sup>6</sup> for he had already become a real nuisance. Most versions say that the problem was that he did not bow before rabbis and taught *halakha* in front of his teacher, but some say that it was his keen sense of justice:<sup>7</sup>

(22r) In those days, the court of that place was judging the nation's cases, and they were perverting the judgments with bribery and with favoritism. And this Yeshu ha-Not[sri] was sitting there. Once he rebuked them regarding a righteous person, and they were mena[cing] him on that account. He bested them in the argument [...]. (22v) And they had enough of him and were searching for a pretext to remove him from his position amongst them. One day, Yeshu went to the village for his work and was delayed there. The court called Miriam, his mother [...] On account of her greatly advanced age, she feared the oath by the Divine Name and told the court what happened. When Yeshu returned from the village, he came to sit in his customary place. The court arose and drove him out. They said to him this: *A bastard shall not enter into the congregation of God* (Deut. 23:3). He said to them, “And even if it were as you say, I am wiser than you and fear the Lord, and I will not hold back His rebuke from you, *You shall surely rebuke your kinsman*” (Lev. 19:17). They replied to him, “From now on, we will not accept your words, and you will not even dwell among us, because you are a bastard.” He tried

<sup>5</sup> Yer. Kid. 4.14: רוב ממזרים פקחים (“most bastards are intelligent”).

<sup>6</sup> The Pentateuchal ruling, “No bastard shall be admitted into the congregation of God” (Deut. 23:2), has proved to have far-reaching consequences. First, Israelites would not marry them, thus obstructing the efforts of bastards' families “to make the political and economic alliances attendant on ‘good marriages’” (See KATZOFF 2003, 281). Second, persons of illegitimate birth suffered serious economic disadvantages, to be discussed in the last section of this paper. And third, the most relevant obstruction at the moment, they were forbidden to enter Jerusalem and to learn Scripture (*Ab. R. N.* version A, ch. 12; version B, ch. 4; see BAR-ILAN 2000, 134-35). See also BAUMGARTEN 1974; BLIDSTEIN 1974.

<sup>7</sup> MS St. Petersburg RNL EVR 1.274, the manuscript is dated to 1536; published in MEERSON & SCHÄFER 2014, vol. 1, 155-66; vol. 2, 71-78. Surprisingly, *Toledot Yeshu* is not only a satire on the Gospels but also a work of self-criticism concerning contemporary Jewish society; see YASSIF 2011.

to appease them, but they did not relent until he gave in and went away in his zeal. And Jeroboam turned to evil ways. He went from his home to the land of the Galilee and proclaimed, “I am the son of God. You will believe in me because of the signs that I will show you.” And every vain and reckless person gathered around him.<sup>8</sup>

The excommunication of Yeshua (renamed Yesu)<sup>9</sup> triggered the series of events culminating in his execution and burial. The discovery of Yesu’s true parentage, therefore, was crucial to the plot. Had he been a legitimate son of Yohanan, the sages would have had a hard time getting rid of him.

The legal status of Yesu drew the attention of Maimonides, who doubtlessly was familiar with the story. In his *Letter to Yemen*, written about 1172, Maimonides replies to an inquiry of Ya’akov ben Natan’el seeking support of Maimonides in countering a campaign by Muslim converts and a local messianic movement. In a passage where Maimonides speaks about enemies of the Jewish nation, he first considers those who tried to demolish the God-given Law by conquest—“Syrians, Persians, and Greeks”—then, those who did it combining two methods, conquest and controversy:<sup>10</sup>

The first one to have adopted this plan was Jesus the Nazarene, may his bones be ground to dust. He was a Jew because his mother was a Jewess although his father was a Gentile. For in accordance with the principles of our law, a child born of a Jewess and a Gentile, or of a Jewess and a slave, is legitimate. *Jesus is only figuratively termed an illegitimate child.*

With reference to a late medieval version of the *Toledot*, this comment is surprising. Did Maimonides refer to an earlier version of the *Toledot Yesu*?

## II. A CHILD OF INTERMARRIAGE

Most likely, yes. The very first mention of the controversial opinion regarding the birth of Jesus differs from the medieval versions in some significant details. According to Celsus, who himself heard this from “a certain Jew,” Jesus was born from a poor country woman, who gained her subsistence by spinning, and “was turned out of doors by a carpenter to whom she had been

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<sup>8</sup> All quotations of the *Toledot Yesu* texts are taken from MEERSON & SCHÄFER 2014.

<sup>9</sup> The excommunication is explicit in the version published by WAGENSEIL 1681; e.g., MS Harvard 57.22r: “They blew three hundred trumpets, and they announced concerning him that he is a bastard and unfit to join the community. And they called his name Yesu, an acronym: ‘let his name and his memory be erased.’ When Yesu heard this matter, that he had been disqualified to join the community, he became sad in his heart and fled.”

<sup>10</sup> HALKIN 1952, 13.

*betrothed*, as having been guilty of adultery, and that she bore a child to a certain soldier named Panthera.”<sup>11</sup> The foreign nationality of Panthera/Pandera surfaced again in an Aramaic version of *Toledot Yeshu*,<sup>12</sup> while in Amulo’s *Contra Iudaeos* (846), Pandera is “someone of uncertain origin.”<sup>13</sup> Eventually, he became Yoseph (ben) Pandera, a Jew and even, in East European versions, a scholar.<sup>14</sup> The reason for Pandera’s metamorphosis is important for the thesis stated in the beginning, but is not clear at the moment. Yet it is clear that Maimonides referred to the antique tradition that knew a Roman soldier or just a foreigner, Panthera/Pandera.

Apparently, Celsus’ Yeshu was doubly illegitimate too: as the offspring of an adulterous woman and as the offspring of a Jewess and a Gentile. Of these two blemishes in Yeshu’s pedigree, the first follows from the definition of *mamzerim* given in *Mish. Yeb.* 4:13: They are the offspring of “any [union] for which the participants are liable to excision.” Since the illicit union of a married woman with someone other than her husband is included in the category of transgressions punishable by excision (*Mish. Ker.* 1:1), R. Shimon ben Azzai (*Mish. Yeb.* 4:13) specifies: “I discovered a family register in Jerusalem, in which was written: ‘So-and-so is a bastard, [having been born] of a married woman’”; just like Yeshu.

The offspring of a Jewess and a Gentile was also considered illegitimate by some prominent sages, but never undisputedly. The harsh opinion of R. Yohanan ben Zakkai and his disciples (R. Eleazar and R. Hanina) was countered by a more lenient attitude of other sages of later generations, such as Shimon bar Kappara and R. Yehoshua ben Levi (e.g., *Bab. Yeb.* 45a). The roots of the debate stem from the ambiguity of legal norms concerning the validity of betrothal between the groom and the bride with different personal statuses (*Mish. Kid.* 3:12). The illegitimacy of the offspring of intermarriage was not there stated explicitly but could be deduced, if one so wished:

<sup>11</sup> Orig., *Cels.*, 1.32: ὡς ἐξωσθεῖσα ἀπὸ τοῦ μνηστευσαμένου αὐτὴν τέκτονος, ἐλεγχεῖσα ἐπὶ μοιχείᾳ καὶ κύουσα ἀπὸ τινος στρατιώτου Πανθήρα τοῦνομα. See also Eus. *Ecl. proph.* 3:10: according to the Jews, Jesus was “fathered from a panther.” See a discussion of Celsus’ account of the family of Jesus in SCHÄFER 2007, 19–20. On the name Panthera/Pandera, see DEISSMANN 1906.

<sup>12</sup> Aramaic *Toledot Yeshu* were published by KRAUSS 1911; ADLER 1910; GINZBERG 1928, 1:329–338; HORBURY 1970; FALK 1978; BOYARIN 1978.

<sup>13</sup> “...nescio cuius ethnici.” Amulo was a bishop of Lyon. On this source, see SCHÄFER 2011, 44–48.

<sup>14</sup> The so-called “Slavic” version (due to the East European provenance of the manuscripts); e.g., MS. Princeton 28, quoted *infra*.

- (a) unions by valid betrothal produced offspring with the status of the father;
- (b) sinful unions for which betrothal was nevertheless valid, such as a union of a divorcée and a priest, for example, produced offspring with the status of the tainted party;
- (c) unions in which the woman had no right, according to Scripture, to valid betrothal with the particular individual produced bastards;
- (d) unions in which the woman, such as a Gentile or a slave, had no right to valid betrothal with any Jewish man excluded their offspring from Israel—like the mothers, the children were either Gentiles or slaves.<sup>15</sup>

If the situations described by the parts (c) and (d) are gender specific, meaning that they concern a fully legitimate man and a woman of tainted status, then the status of the offspring of an Israelite woman and a Gentile has to be inferred from parts (a) and (b). According to the inverse of part (a)—“unions by invalid betrothal produced offspring with a status of the wife”—their children would be legitimate Jews; but according to a possible argument *a fortiori* from part (b), they would be Gentiles. A similar ambiguity would have existed in Roman law too, had the pre-*lex Minicia* ruling, roughly identical with the above part (a), continued alongside the later principle, established by the *lex Minicia*, according to which a couple without *conubium* bore offspring with the status of the tainted parent (no matter the gender).<sup>16</sup> However, the case of a Jewess and a Gentile involves no ambiguity if it falls under category (c), which then should be understood as referring to both the offspring of incestuous unions and the offspring of an Israelite woman and a man of tainted status. Their union as well produced bastards.

<sup>15</sup> The explicit ban on intermarriage originated in Second Temple Judaism as a part of the struggle for a national identity. *Jubilees*' adaptation of *Genesis* and its attempt to “erase” intermarriage from the lives of the patriarchs provides evidence of this relatively later policy in Judaism. See WERMAN 1997; COHEN 1983.

<sup>16</sup> *Conubium* denotes “capacity of a man or woman to conclude a valid marriage with a given individual.” *Ulp. Tit. 5.3–5, 8–10*: “When *conubium* is present, children always follow (the status of) their father. When *conubium* is not present, they follow their mother's (legal) status, except for a person born from a male peregrine and a female Roman citizen; for the *lex Minicia* orders that the child of a foreign mother or father follows the condition of the parent of lower status.” The *Lex Minicia* solved a paradoxical situation, in which the offspring of a Roman woman married to a peregrine with *conubium* was a peregrine, but the offspring of a Roman woman and a peregrine without *conubium* was a full-fledged Roman citizen. The quotations are taken from FRIER & MCGINN 2004, 31–32. See COHEN 1985 who argues that Roman rules of the offspring's status before the *lex Minicia* were responsible for the matrilineal principle in Jewish law; and also see KATZOFF 2003, disproving the position of Cohen.

An overload in category (c) threatened the breakdown of the concept of illegitimacy<sup>17</sup> and forced the sages to readdress the question: Why should the illicit unions which are liable to different punishments bring about an identical diminution of their offspring's status? In response, the amoraim (*Bab. Yeb.* 45) divided category (c) into two subcategories—one, incestuous unions punishable by excision (henceforth: c.1), whose offspring were bastards, and one, unions punishable by flogging only (henceforth: c.2). Their children were considered legitimate. An undesirable consequence of this subdivision was the fusion of the categories (b) and (c.2). Therefore the objection was raised—“if the son of a widow who was married to a high priest, who is not subject to a prohibition to all [b], is tainted, how much more the offspring of this one, who is forbidden to all [c.2] should be tainted?”

The sages therefore agreed to acknowledge a child of a Jewess and a Gentile or a slave as legitimate but tainted, like a child of a widow and the high priest. Yet in practice the ruling was not necessarily accepted: the main disadvantage of an illegitimate child persisted—legitimate Jews who knew he was “tainted” still refused him betrothal with their children (*Bab. Yeb.* 45a)

This is how some rabbis ended up offering illegal advice: either conceal your origins by emigrating somewhere where nobody knows you, or marry your own kind.<sup>18</sup> Clearly, the above differentiation on account of the invalid betrothal has created more shortcomings in legal reasoning than it has eliminated, a fact which can only reassure us in the social importance of the rabbis' decision to pursue that differentiation and its consequence—legitimation of children of intermarriage.

### III. A CHILD OF ADULTERY

The foreign nationality of Yeshu's father could now only pose an impediment to the polemicist's cause: In fact, in Maimonides' time it guaranteed Yeshu legitimate status even if his mother was an adulteress,<sup>19</sup> and threatened the polemicist with an accusation of killing the gentile Messiah.<sup>20</sup> Thus Pandera

<sup>17</sup> See LEVY 1949, ch. 2, who describes, by an example of the concept of “inherently dangerous object,” a process in which a legal concept overburdened by subcategorizing ceases to exist as a useful legal concept.

<sup>18</sup> “When someone of that class [i.e., the son of a Jewess and a Gentile] came before R. Judah, he said to him, ‘Either emigrate or marry your own kind’” (זיל איטמ, או נסיב בת מינך).

<sup>19</sup> Maimonides, *Hilchot Isurei Biah* 15:3.

<sup>20</sup> Such accusations regarding Jesus' non-Jewish father, constructed, ironically, on the basis of the early *Toledot* tradition were indeed pronounced in the not too distant past by HAECKEL 1899, 379.

became a Jew, named Yoseph or Yohanan ben Pandera, and Yeshe still appeared as a bastard born from an adulterous affair with a married woman. That Miriam was betrothed to Joseph, not married, offered no hope for Yeshe's situation. Or did it?

The acquisition of Miriam was accomplished by paying the bride-price. This real act transaction established the beginning of marriage,<sup>21</sup> formalized by a marriage agreement, which was also written at that stage.<sup>22</sup> If the bride or the groom got cold feet, their betrothal could not be ruptured by a mere renunciation.<sup>23</sup> Instead, a formal writ of divorce had to be issued (*Mish. Ket.* 5:1).<sup>24</sup> If a year had passed since the day of betrothal, and the betrothed couple had neither consummated their marriage nor divorced, the bride was entitled to the maintenance of a married woman from the estate of her fiancé (*Mish. Ket.* 5:2; *Tosefta Ket.* 5:1).<sup>25</sup> And, of course, any sexual relationship with a man other than her fiancé was considered adultery and was punished by stoning (*Deut.* 22:24; *Sifre Deut.* 242; *Mish. Sanh.* 7:4, 9; *Tosefta Sanh.* 10:8, 12:2). At the same time, the possibility of the espoused ones' intimacy during the betrothal period was accounted for by the requirement of a waiting period of three months in case a woman remarries, be it after the nuptials, or only the betrothal—this was necessary to assure her new fiancé that she was not pregnant (*Tosefta Yeb.* 6:6; *Bab. Yeb.* 42b; *Mish. Yeb.* 4:9). Such intimacy, although illicit elsewhere,<sup>26</sup> was permitted in Judea (*Mish. Yeb.* 4:10; *Ket.* 1:5; *Yer. Ket.* 1:4-5, 25), because, as the Palestinian Talmud explains, the occupiers decreed that an officer "possesses" first.<sup>27</sup> Therefore, the source continues, it was en-

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<sup>21</sup> All Near Eastern and Hellenistic contracts were real-act transactions, meaning, in the case of marriage, that an actual payment of the bride-price had to be made and this payment established the beginning of marriage. See PESTMAN 1961, 13-20. For a Jewish marriage, the bride-price was paid at betrothal, irreversibly instituting matrimonial obligations for the groom and the bride. On the acquisition of a bride at the stage of betrothal, see COHEN 1949, 77-79. On Hellenistic contracts as real-act transactions, see RUPPRECHT 2005.

<sup>22</sup> Which follows from *Tosefta Ket.* 4:9 that I discuss *infra*: Hillel's answer regarding betrothal, which assumes that the fiancée already has her marriage agreement (*ketubbah*). See COHEN 1949, 82-83.

<sup>23</sup> As the Roman *sponsalia* could (*D.* 24.2.2.2). See COHEN 1949, 81, 115.

<sup>24</sup> "If a woman was widowed or divorced, whether at the stage of betrothal or at the stage of consummated marriage, she collects the full amount [of her *ketubbah*]," which may contradict *Mish. Ed.* 4:7 and *Git.* 8:9 (see *infra*) depending on whether or not the groom and the bride spent a night together. See COHEN 1949, 108.

<sup>25</sup> See COHEN 1949, 109.

<sup>26</sup> *Mish. Ed.* 4:7 and *Git.* 8:9 says that a man who divorced his wife and then spent a night with her should give her a writ of divorce in the case of marriage, but not in the case of betrothal; thus taking for granted that the fiancée "was not yet shameless" before his betrothed. See EPSTEIN 1948, 126-27.

<sup>27</sup> See a brief discussion in ILAN 1993, 261-262.

acted that the fiancé might have intimacy with his bride while she is still in her father's house. The betrothal has in essence merged with nuptials.

Nevertheless, applying this observation to a discussion of the legitimacy of a child conceived by the bride from someone other than her fiancé does not bring about a clear conclusion. How so? All circumstantial evidence bearing on matters of legitimacy is countered by the “queen of proofs,” the famous answer of Hillel to this very question (*Tosefta. Ket.* 4.9): If a betrothed woman is abducted, and conceives children from her abductor, are they legitimate? Hillel answers “Yes,” because marriage contracts say “When you enter my house you shall be my wife according to the law of Moses and Israel,”<sup>28</sup> meaning that before the home-taking takes place, the woman is not yet a man's wife, and the laws of adultery do not apply. Philo too mentions “some,” presumably legal authorities, who turn a blind eye to the above situation (intercourse with a man's bride) because it falls in between the categories of seduction of an unmarried woman (φθορά) and adultery (μοιχεία).<sup>29</sup> Superficially, these marriage customs of the Alexandrian Jews aimed at loosening the mutual obligation of a betrothed couple, and at enabling the groom or the bride to escape marriage with impunity. Therefore, an escape clause, quoted by Hillel in strict accordance with Jewish law,<sup>30</sup> was inserted. The betrothal appears to be separated from nuptials.

The contradictory rulings displayed in the two above paragraphs cannot be harmonized. On the one hand, the rabbis assimilate betrothal with nuptials by permitting the bride to her fiancé; on the other, rabbis distance betrothal from nuptials by permitting the bride to elope with her seducer, to marry him,

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<sup>28</sup> See also *Yer. Ket.* 4:8; *Yer. Yeb.* 15:3.

<sup>29</sup> *Leg.* 3.72. See a discussion of the excerpt from *Tosefta. Ket.* 4.9 and Philo in BELKIN 1940, 241-250; see also COHEN 1949, 124-26 and KATZOFF 1996. These “some” might be Roman (according to Katzoff), but, in my opinion, more likely Jewish legal authorities who, like Hillel, maintained that the bride's intimacy with a man other than her groom during the betrothal is not adultery.

<sup>30</sup> *Mish. Kid.* 3:1: “He who says to a woman, ‘You are betrothed to me after thirty days [have passed],’ and someone else came along and betrothed her during the thirty days, she is betrothed to the second party.” On conditional clauses in Jewish law, see COHEN 1949, 129. *PPolitlud.* 4 (Herakleopolis, 134 BCE) presents a remarkable example of a similar situation: A certain Philotas, member of the *politeuma*, betrothed Nikia daughter of Lysimachus. Although they drew up their marriage agreement and Lysimachos swore to provide the dowry, the father then joined Nikia to another man, without even “the customary deed of divorce” (εἰθισμένον τοῦ ἀποστασίου τὸ βυβλίον) from Philotas. Philotas, therefore, wished to summon Lysimachos to the court, obviously believing that the actions of Lysimachos were illegal. Might this papyrus signal a controversy which was finally solved in favor of those who wished the betrothal to be just a preliminary agreement? See KISTER 2002, 57-60. Erroneous perception of the Roman law on adultery (in fact, the violation of a betrothed woman was as well considered adultery: *D.* 50.16.101) could hardly contribute to the formation of the corresponding Jewish concept. On this erroneous perception by the sages (R. Hanina in *Bab. Sanh.* 57b) see COHEN 1949, 129.

and to bear him legitimate children! Yet it appears that both enactments had an identical legal intent. In the case of the alleged *jus primae noctis*, it is difficult to tell who the foreign offenders were. They could be Greeks,<sup>31</sup> or rather Romans whose two legions stationed by the end of the first century in Judea might be held accountable for the sages' concern and their incongruous enactment.<sup>32</sup> Whereas the occupiers' "decree" was certainly a myth,<sup>33</sup> ten thousand soldiers did pose a considerable danger to Judaeans women. It is not clear, however, how the rabbis' permission of sexual intimacy between the betrothed couple could save a woman from being raped by a Roman soldier. In fact, this permission definitely solved only one problem: If the bride became pregnant, her child would not automatically become illegitimate. Moreover, once the groom was allowed to be alone with his bride, he might be forced to recognize her children, even if he suspected they were not from him, because "He who says, 'This son of mine is a bastard,' is not believed. And even if both parties say concerning the fetus in the mother's womb, 'He is a bastard,' they are not believed" (*Mish. Kid.* 4:8). R. Judah objects, "They are believed," meaning that the testimony of the mother was indispensable. Her children were legitimate as long as she did not break under interrogation and testify to the opposite. The other enactment, reported by Hillel, gave the mother of the child another option to the same purpose—to leave her groom for the father of her child legally. Considered in this manner, the above enactments appear to pursue one goal: rendering the obsolete statute inoperative (concerning the status of children conceived during the betrothal period), while avoiding the harmful consequences of its possible annulment.<sup>34</sup>

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<sup>31</sup> Of the second century BCE, encouraged by anti-Jewish policy of Antiochus IV: BELKIN 1940.

<sup>32</sup> Five legions participated in the first Jewish revolt: X *Fretensis*, V *Macedonica*, XII *Fulminata*, XV *Apollinaris*, and VI *Ferrata*. After the war, the last four legions withdrew, but X *Fretensis* remained stationed in Jerusalem. After 74 CE Judea became a consular province, and one more legion was permanently stationed there—II *Traiana*. *Legio* VI *Ferrata* also returned after 138 CE. See DANDO-COLLINS 2010.

<sup>33</sup> See LEVI 1898; SCHMIDT-BLEIBTREU 1988; ILAN 1993, 263-264.

<sup>34</sup> A well-known tactic now and then: A nice Roman example is an interpretation given by jurists to the law permitting the father to kill his daughter caught in adultery. Only if he is the *pater familias* (who could be eighty years old), only in his house, only if he "caught the adulterer inside his daughter" ("in filia adulterum deprehenderit"), and only if he kills both his daughter and her lover immediately, "with virtually the same blow" the father would be vindicated by the law. Otherwise (e.g., the seducer is killed, but the daughter escaped), he would be charged with homicide (*D.* 48.5.21-22, 24). Were fathers likely to take a risk and exercise their *vitalis necisque potestas*?

#### IV. A CHILD OF A RAPE VICTIM

The husband's decision about his wife and her child presents the most substantial mismatch of facts reported in the birth narratives of the Gospels and of Celsus: In the Gospels, δίκαιος Joseph accepts Mary and Jesus, and, it may be argued, travels from Nazareth to Bethlehem because Judaeen customs were exactly applicable to his situation;<sup>35</sup> in the account of Celsus, however, the carpenter rejects his pregnant wife.<sup>36</sup> Both stories report a moral conflict; and the question, which of the two husbands was considered truly δίκαιος, should not be addressed lightly. It is very difficult to recover a contemporary opinion regarding the following dilemma: Should the husband (or groom) leave his pregnant-by-rape wife (or bride) and her child?

To start with an attitude expressed in Scripture and the exegetical literature: a raped virgin was supposed to marry the offender,<sup>37</sup> but if this was impossible, she certainly did not become unmarriageable. After the rape, Dinah married Simeon and bore a daughter from Sichem—Asenath; later, she bore a son to Simeon too—Saul. When Simeon divorced Dinah, she married Job and bore him seven sons and three daughters.<sup>38</sup>

If a married woman was raped, her husband could refuse sharing a bed with her ever again. But he, certainly, did not send his wife away. Such was the case of Bilhah, who slept throughout the intercourse with Reuben (Gen. 35:22), and screamed for help as she woke up. She was “defiled” by the rape,<sup>39</sup> but nevertheless allowed to stay in Jacob's house. The incident with Sarah in

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<sup>35</sup> Not inconsistently with my suggestion, Jane SCHABERG 1987, 91, considers as “home-taking” Luke's description (2:5) of Joseph traveling from Nazareth to Bethlehem with the pregnant Mary, called “his betrothed” (ἐμνηστευμένη)—the public act finalizing the marriage.

<sup>36</sup> The Talmud maintains the same opinion regarding the decision of Jesus' father: *Bab. Shab.* 104b, discussing the “fool's” family background, concludes that his mother Stada was “turned away by her husband.” Her son, therefore, was called by the matronymic “ben Stada,” although his father was Pandera. See a discussion in SCHÄFER 2007, 16-17.

<sup>37</sup> Exod. 22:29: “The man who has raped her must pay her father fifty shekels of silver and she must become his wife because he has violated her.” Therefore, Tamar implores Amnon to marry her (2 am. 13:16). For the same attitude among Greeks and Romans, see Hermog. *Stat.* 10, and Sen. *Con.* 1.5, 2.3, 3.5, 7.8, 8.6—the rapist either dies or marries his victim without dowry. See COLE 1984, 105.

<sup>38</sup> Jacob exposed Asenath, and the archangel Michael took her to Egypt, where the Heliopolite priest Potiphar reared her as his own (*Gen. Rab.* 966-967; *Pirke R. El.* 35, 37-38; *Targ. Yer. Gen.* 41; *Yalk. Reub. Gen.* 32:25; see OPPENHEIM 1886).

<sup>39</sup> According to *Jubilees* 33:3-4 and the *Testament of Reuben* 3:11-15. Dinah, however, was not “defiled” according to Ephraim of Nibisis: “*You went up to your father's bed* (Gen 49:4): also it is explained that while Bilhah was sleeping, he cohabited with her, and therefore, she was not cursed with him” (Ephrem, *Genesis* 42.2 in McVEY 1994, 201; I am also relying on a lecture delivered by Yifat Monnickendam at Princeton University in 2011 entitled “Rape, Abduction and the Creation of a Bond in Ephrem and Qumran”).

Egypt (Gen. 12:1-20) is more controversial because Scripture is ambiguous on what really happened while Sarah was alone with Pharaoh, and because Abraham and Sarah continued living as husband and wife after the incident. Jewish and most Christian authors retell a sanitized variant of the story: although Abraham was trying to conceal Sarah's beauty from the Egyptians, she was found and reported to Pharaoh. He seized Sarah, promising her for her love the land of Goshen, gold and silver. In the night, however, all Pharaoh's attempts to approach Sarah were frustrated by an invisible angel who hit him every time he tried to touch her; and in the morning, leprosy stains were found all around the palace. Then Pharaoh sent Sarah back to Abraham with gifts and a handmaid, Hagar.<sup>40</sup> Ephrem of Nisibis, however, expresses a different opinion—Sarah was raped, but this fact neither defiled her, nor changed the affection of Abraham<sup>41</sup>:

If a [captor] kidnaps you and exposes your dignity in the field, the force of the defiler will argue [concerning you] that you are chaste, *just as Sarah [too] was chaste in the bosom [of Pharaoh] for she did not commit adultery by her own will*. The will became [a priest that by] his hyssop [purifies one who has been defiled] by force.

An important detail for the current inquiry—the pregnancy of the victim—is lacking in the above stories. Greek and Roman literature may fill the gap.<sup>42</sup> The *Epitrepontes* and the *Samia* of Menander give us an indication of popular opinion on the subject; and the *Alexander Romance*, attributed to Pseudo-Callisthenes, describes Philip and Alexandra in a situation quite similar to that of Joseph and Mary.

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<sup>40</sup> *Apocalypse of Lamech* [1QapGen], 43-44; *Gen. Rab.* 389, 554; *Tan. Lekh.* 5, 6; *Pirke R. El.* 26; for a discussion ZAKOVITCH & SHINAN 1983; John Chrys., *Hom. 32 in Gen.* 32 (PG 53, 292-303); Eus., *PE* 9.17; Hier., *Quaest. Hebr. Gen.* 12.15-16. In *BJ* 5.9.379, Josephus “re-makes” an example of Sarah's salvation from Pharaoh's lust to draw an interesting parallel between Roman and Egyptian invaders: “In old times there was one Necao, King of Egypt, who was also called Pharaoh; he came with a prodigious army of soldiers, and seized Queen Sarah, the mother of our nation.” Did he imply that Romans presented a threat to Jewish women similar to that of Necao for Sarah? See also Jos. *AJ* 1.1.8.1, and Philo *Abr.* 96-98.

<sup>41</sup> Ephr., *Hymn. de Vir.* 1.9 (adapted from the translation by McVEY 1989, 263-264; and MONNICKENDAM 2011).

<sup>42</sup> I omit a discussion of victims of divine rapists and seducers. On the women's part, they might welcome their association with the gods—like Tyro who fell in love with Enipeus (Hom. *Od.* 11.236-254), “the most beautiful of rivers flowing the earth”—or might feel disgraced by it, like Creusa, raped by Apollo (Eur., *Ion*). It depended on the gods' manners, and the gods' subsequent actions. Mortal men certainly did not avoid marrying the gods' lovers and victims: Echeclus, for example, was eager to marry Polymele, the mother of Hermes' son Eudorus (Hom. *Il.* 16.180-86); and Amphitryon married his fiancée Alceme when she was pregnant with Heracles (Plaut., *Amph.*). See LEFKOWITZ 1993.

“The father is he who raised the child, not he who sired it,”<sup>43</sup> wrote Menander, and elaborated on this idea in his comedies. In *Epitrepontes*, Charisios discovers that his wife Pamphile had given birth to a baby during his absence, just five months after their wedding. Offended, he deserts Pamphile and her child. Eventually, it is Charisios who turns out to be the offender and a complete fool too, since it was he who, roaring drunk, raped Pamphile and begot on her their child before she became his wife.<sup>44</sup> A somewhat similar situation occurred in the *Phasma*;<sup>45</sup> and, fiction aside, a surprisingly real concern of finding oneself in Charisios’ shoes is reported by Roman jurists, who advised testators to institute posthumous heirs (*postumi*) virtually from any woman with whom they had intercourse, lest in case they marry them in the future, making these *postumi* their legal dependents (*sui heredes*) and ruining their testament.<sup>46</sup> A lesson for husbands who for their fear of raising illegitimate children are too quick in accusing their pregnant wives of infidelity is repeated in *Samia*.<sup>47</sup> After an absence from home, Demeas finds his concubine Chrysis with their, as he thought at the moment, newborn child. Demeas is enraged, while his adopted son, Moschion, unsuccessfully tries to convince Demeas to forget his prejudice towards illegitimate children (lines 135-42):

*D*: Would you expect me to rear a bastard son here?! / What you suggest is disgusting, and not my way! / *M*: For heaven’s sake! Who is / legitimate, and who a bastard, if he’s a human being? *D*: Oh, well, / You’re kidding. *M*: No, by Dionysus! I said it / seriously. I don’t think one pedigree differs from another at all. / But if one fairly judges the matter, then, a good man is legitimate /, and a vile man is also a bastard...

The decision of Chrysis to keep the child turns to be a “just cause” for Demeas to consider sending her away.<sup>48</sup> Soon, the situation gets worse. Demeas, who “knows everything”, (line 316) accuses Chrysis of adultery with Moschion. When both the concubine with the child and his son leave Demeas, the “comic tyrant” finds himself as alone and deserted as the “tragic” Creon. Even his friend and neighbor, Nikeratos, decries Demeas (lines 410-12):

<sup>43</sup> *Mon.* 637: πατήρ ὁ θρέψας κούχ ὁ γεννήσας πατήρ.

<sup>44</sup> See GOMME & SANDBACH 1973; FANTHAM 1975, 67-68.

<sup>45</sup> Pheidias falls in love and eventually marries a daughter of his stepmother conceived in premarital rape by Pheidias’ father (now the stepmother’s husband): See GOMME & SANDBACH 1973, 673-6; TRAILL 2008, 66-67.

<sup>46</sup> A Roman testament was invalid if the testator passed over any of his dependents (*sui heredes*). For the aforementioned advice regarding *postumi*, see *D.* 28.2.5; this concerns even those women with whom legal marriage is impossible, such as one’s sister (*D.* 28.2.9.3), perhaps assuming a *Phasma*-like possibility, that one day she might turn out to be his stepsister.

<sup>47</sup> See KEULS 1973.

<sup>48</sup> Lines 354-55: ἔχεις δὲ πρόφασιν ὅτι τὸ παιδίον / ἀνείλετ’.

[to Chrysis] ...I personally heard the women say / You kept the child and rear it—lunacy!  
But that [Demeas] is a joy! (ἀλλ' ἔστ' ἐκείνος ἡδύς)

In other words, he was a really “nice” person, whose prejudice, suspicion and jealousy almost cost him his family and friends. Fortunately for all the characters of Menander’s comedies, the poor wives were vindicated, and the jealous husbands were dissuaded. But for King Philip in the *Alexander Romance*, there is no happy ending, because his wife, Alexandra, had indeed conceived a child from a man who deceived and raped her. This was the Egyptian magician Nectanebo. First, when Philip was absent from home, Nectanebo had sent a dream to the queen, in which he appeared as the Lybian god Ammon. Having thus aroused the queen’s desire for Ammon, the magician then came to the queen’s chamber, and, pretending to be the Lybian god, sired a child that would become Alexander the Great. Nectanebo had also taken care to convince Philip of the divine origin of Alexandra’s pregnancy by sending a message to him in a dream. When Philip returns, he finds Alexandra pregnant and comforts her: “We must indeed be fortunate, darling. It is not some vile mortal who smote you; you are pregnant with a god’s child!” For a moment, the reader may think the king is cuckolded. But no, one day Nectanebo overheard Philip saying to himself: “A god? Nonsense. It is some vile mortal who smote you, and I shall find and kill him!” To put it simply: Philip reassured his wife, but secretly swore to punish the offender.<sup>49</sup>

Real-life husbands probably acted in the same way, preferring to keep their raped or even seduced wives, and to avoid washing their dirty laundry in public. That is why Aeschines was unable to convince husbands of raped women to testify against their offender, the notorious Timarchus. In 346 BCE, he attempted to prosecute Aeschines; Aeschines counterattacked and secured the conviction of Timarchus, accusing him, among other charges, of rape (ll. 107ff.): “And he [Timarchus] displayed such licentiousness (ἀσέλγεια) in his treatment of wives of free men as no other person ever did. *But I present none of the men here to testify in public to the personal misfortune that he chose to conceal.*”<sup>50</sup>

Our Yoseph/Yohanan was not made of iron, either. In the early medieval versions of the *Toledot*, he eventually believed that Miriam was raped, consummated their marriage, and legitimized her son, Yeshu. Three manuscripts

<sup>49</sup> Retold (not quoted) from WOLOHOJIAN 1969, 23-31.

<sup>50</sup> ὃν οὐδένα ἐγὼ παρακαλῶ δεῦρο τὴν αὐτοῦ συμφορὰν, ἣν εἴλετο σιγάν. In his attack on Timarchus, Aeschines repeatedly accuses him of sexual promiscuity as a rapist and a male prostitute (18-22, 41-43, 51-52, 159-60). See a discussion in DOVER 1978, Chapter 2: “The Prosecution of Timarkhos.”

report this variant of the story, each with some particulars. The only complete Hebrew translation from the Aramaic *Toledot*, preserved in an oriental manuscript, MS New York JTS 8998, tells how Yehudah Pardasi (Yehudah ha-Ganan in other versions) interrogates Yeshu (*Yoseph—husband, the foreigner Pandira—seducer*):

(1r) And Yehudah Pardasi caught him and brought him before them and they asked Yeshua the wicked and said to him, “From what place are you? And from what nation?” And he said to them, “I am a Jew, and also a bastard.” And they said to him, “Your father, what was his name, and his business and occupation”? And he said, “The name of my father was Pandira, and he was a foreigner in Israel and a player.” “And your mother, what was her name, and her business”? He answered, “Her name is Miriam, and she braids women’s hair. When my father died, and Yoseph became aware of her [condition], he married her.”

The innocence of Miriam and the compassion of her husband Yoseph are emphasized in the St. Petersburg manuscript (MS RNL EVR 1.274; *Yoseph—husband, Yohanan—rapist*):

(21v) After three months, her belly grew, and Yoseph noticed. He said to her, “Oh, Miriam, my beloved, what is that?” She answered to him, “Oh, my husband, from that Sabbath eve when you slept with me I felt that I had become pregnant.” When Yoseph heard such words of his wife, he said to her, “Oh, woe is me, what are you saying? That never happened! You shall know that that wicked man who quarreled [with me] did that.” She said to him, “Oh, my husband, I (22r) did not sin!” And from his great love for Miriam, for she was very beautiful, he did not reveal what happened, so that the matter would not have to go before a court. When in the due time the pregnancy became obvious, he was afraid that the local people might cause trouble, since she had always been barren. And Yoseph took her and left their [cit]y of Nazareth.

According to these stories, Yeshu was a sort of “crypto”-bastard, judged illegitimate only in his twenties on the grounds of a suspicion of the sages, self-incrimination, or a late testimony of his mother. This was doubtfully legal and believable; therefore, the benefits of such presentation were dwarfed by its disadvantages—a sympathetic picture of Yeshu’s family. Getting rid of the husband Yoseph was then a natural solution, presented in a Yemenite manuscript (MS New York JTS 6312):

(67v) Immediately, [Yehoshua ben Perahiah] went to visit this woman—the mother of Yeshu—and said to her, “Tell me the origin of this boy, and I shall be your guarantor for Paradise.” The woman said, “Once I went out at night, to launder my shawls after menstruation, and I still was impure. Then, someone approached me, and I did not recognize him, and he raped me, and so I conceived this boy.” The sages immediately took notice of this thing, and said, “Blessed be the Lord, who reveals His secret to those who fear Him!” And the mother of Yeshu was an extremely important woman, although a frivolous one, and because she used to go out alone, without (a man) who would keep her safe, she brought this misfortune upon herself.

Because the son of a single mother would not have been a bastard, this version introduces a detail, which, since its addition, recurs in most copies of the *Toledot Yeshu*—Miriam was menstruating; therefore Yeshu was born under a cloud no matter who his parents were.<sup>51</sup> Whether this detail escaped a *Toledot* copy of Maimonides or was introduced after his time is impossible to tell. Perhaps he knew the first two of the above stories, but was not convinced by the fraudulent illegitimization of their antagonist.

Late medieval versions, attempting to secure the illegitimate status of Yeshu, made Yoseph (in the version below called Yohanan) change his mind again. Yet this change came at a certain cost for the whole *Toledot*, in which the birth narrative now occupies half of the entire story thanks to the complex feelings and deliberations of its personages, reading more like a modern drama with a feminist coloring.

In the days of the Second Temple, Queen Helene had a family relative, the virgin Miriam (MS Princeton 28.1r-10v; *Yohanan* —husband, *Yoseph*—rapist):

beautiful and clever and modest and complete in all of the virtues, and her name was known in every house of honorable people, and she was an orphan, and she was very rich from many assets in Efrat Bethlehem (in) Judah. And because of the many delights that she had, she dwelled in Jerusalem,

where one of her neighbors was the carpenter Panderi, a good craftsman but a “simpleton of simpletons.” He left a single son, Yoseph, who unlike his father grew intelligent and knew some *halakha*. In an unlucky hour he fell in love with Miriam, and “drained his soul to attract her”:

He was always coming and going near her and speaking to her heart. She did not want to embarrass him: With two hands she pushed him away, with kindness and laughter, and he thought that maybe she would agree to marry him, even though she was from the royal line, and he was lowly and the son of a proselyte.

Soon the queen decided to give away her orphan relative Miriam to “an important young man from the royal Davidic line,” and a student of the renowned Rabbi Tanhuma, named Yohanan. He was clever, handsome, “complete in all of the virtues,” and a great expert in all of the chambers of Scripture. The manuscript then tells us how Miriam betrothed Yohanan, surprisingly accompanying this with a critique of the couple’s sexual promiscuity, yet customary in their time:

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<sup>51</sup> The author of this version of the *Toledot* clearly believed that a child of a menstruating woman was a bastard, the conclusion made according to *Mish. Yeb.* 4:13 and *Mish. Ker.* 1:1, but contrary to *Bab. Yeb.* 49b and Shulhan Arukh, *Even ha-Ezer* 4:13, which plainly states that a child of a menstruating woman is *pagum* (blemished).

And it was the custom in days of old in Israel, that a fiancé betrothed his fiancée at the time of the writing of the terms of the agreement because of the promiscuity that there was in Judaism... Yohanan thus married Miriam immediately at the time of the writing of the agreement.

When Yoseph learned about the betrothal, “his countenance withered their expressions,” he fell lovesick and would have died, had his mother not taken the business into her hands. Her first plan of luring Miriam to the feast in their house failed. The girl, led by compassion for her ill neighbor, indeed came to visit him, but when Yoseph attempted to rape her,

Miriam grew strong and escaped from the house and went up to her house, shocked out of her senses. She took her clothes there and left in embarrassment and did not reveal her shame. And also because of her modesty, she said in her heart, *Wickedness proceedeth from the wicked: but mine hand shall not be upon him.* (1 Sam. 24:13)

But Yoseph’s mother did not give up. She devised another plan: Her son would give money to Yohanan and become his student! That is what Yoseph told him:

You, Yohanan, are a lion in our company, the greatest and most important of the scholars, and you are from the inhabitants of Jerusalem and from the seed of Davidic kingship, while I am an ignorant man and from those who left Jerusalem. Yet I have a lot of money... Give me a sign for good! For if I would get only one sign from you, I will glorify you, and you will be called a great expert, earning a lot of money ... *Where you go, I will go, and where you sleep, I will sleep* (Ruth 1:16), and I will enrich you with much money. Whatever you claim from me, I will surely help you. We have only one purse between us and one God for all of us.

And so it turned out that Yoseph bought the righteous Yohanan with his flattery and money. When Miriam saw Joseph coming with Yohanan, she was shocked, “her face changed, and she could not speak peaceably to him.” When they were finally alone, Miriam tried to dissuade Yohanan from joining that wicked man, but all in vain. Yohanan was too proud to listen; instead, he preached in parables:

My love, I will tell you a parable about a burning candle. A hundred people come and light their candles from it, and that candle (turns) darkness into light, still the candle burns as before. Thus am I, and even if you are right and he is a totally wicked man, I do not care, for I will certainly not learn from his wicked deeds; on the contrary, he will learn good deeds from me.

But he was certainly wrong, because soon, while Yohanan was sleeping drunk in Yoseph’s bed, Yoseph pretended that he was Yohanan and, saying that he was going to die if Miriam would not allow him to touch her, Yoseph raped

Miriam. When Yohanan sobered up, and learned from Miriam what had happened, he realized that Miriam was now “forbidden” to him. Yet Miriam could not grasp it, “May the fulfillment of God’s commandment cause separation from my spouse?”<sup>52</sup> Miriam implored Yohanan but to no avail, and he left her, saying: “*Turn away your eyes from me, for they have overcome me* (Cant. 6:5), and do not see my face anymore, because a disgrace was done to you.” Later, testifying before the Sanhedrin and telling the truth, Miriam says, ““Do not call me Miriam, because God has changed me.’ They therefore called her name Maria.” Of all people, only Yoseph did not forsake Miriam, accepting her and their child. It seems that in the eyes of the author, Yoseph, a rapist and simpleton, now proved himself a true altruist comparable to Ruth, with whose words he is speaking:

*Everything that you want, I will do for you* (Num. 22:17), because I do not desire a dowry or a gift. *For all of my people know that you are a worthy woman* (Ruth 3:11). And do not notice that the world is gossiping after you, for what is yours is mine, and what is mine is yours, as they say, *Only death with separate me from you* (Ruth 1:17) and *where you sleep I will sleep* (Ruth 1:16).

The story then ends, rather dramatically: “And she abandoned herself like one of the whores.”

## V. THEN AND NOW

There was a long way to go from a poor country woman in the story of Celsus to the rich and beautiful Miriam of the seventeenth-century *Toledot*, a more modest and sensible woman than her scholarly husband, whose pride and coldness were solely responsible for Miriam’s fall from grace, for her “metamorphosis” into Maria. Such exaltation of Miriam at expense of her husband’s reputation was, at least partially, collateral damage from the polemicist’s struggle with the changing legal and moral norms inside Jewish society.

Speaking of the children’s legitimacy, what were the causes of these changes? Doubtlessly, the opinion on what is good or bad for the society has totally reversed in the last twenty-five centuries. Whereas the law of Solon banned fathers from legitimizing their bastard children,<sup>53</sup> the Israeli Genetic Information Act of 2000 required that a married woman or man should

<sup>52</sup> She alludes to *pikuach nefesh* for the “dying” Yoseph, who, she thought, was her husband Yohanan (MS. Princeton 28, fol.3v.23).

<sup>53</sup> Which, in opinion of LAPE 2003, 122, “follows from the laws which exclude the bastard from inheritance rights and from the phratry oath”; see also WOLFF 1944, 79.

This slow but total sea change has, first of all, economic reasons. It was argued that Solon, by his legislation, intended to limit the procreative zeal of wealthy aristocrats and thus to shape a new democratic society with a lower percentage of prominent families and their members.<sup>55</sup> This purpose was foreign to the Mediterranean nations of later periods; and for Jewish society, whose mothers were “notorious” for raising all their children<sup>56</sup> instead of exposing some, an impediment to children’s legitimacy could only bring disadvantages. The husband, in his marriage agreement, promised the wife to provide for their children; more specifically, he undertook to maintain their daughters and to pass their family estate, including the wife’s dowry, to their sons.<sup>57</sup> These benefits were only available to the couple’s children from each other; illegitimate children were excluded as co-owners of the parental estate and had neither a legal claim to maintenance from their mother’s husband, in case of her predecease, nor full inheritance rights.<sup>58</sup> Such a situation was asking for a remedy.

<sup>54</sup> BOROCHOV website. See also LAURIE 2004, 284-285.

<sup>56</sup> See SCHÄFER 1998, 175, quoting Philo *Leg.* 3.110: “Parents who expose their children ‘are breaking the laws of nature and stand self-condemned on the gravest charges, the love of pleasure, hatred of men, murder, and the most abomination of all, murder of their own children.’ See also Tac. *Hist.* 5.5.

<sup>58</sup> See *Tosefta B. Bat.* 7:1: “A bastard child leaves his inheritance to his relatives.”

ILLEGITIMATE JESUS: FAMILY MATTERS WITH “TOLEDOT YESHU”

while in Jewish law, the problem was addressed by another, far more effective approach—by limiting the number of potentially illegitimate children.<sup>60</sup> The threat of Roman legionnaires quartering since the first century CE throughout the villages of Judaea<sup>61</sup> had to trigger countermeasures on the part of the sages, addressing, on one hand, the possible marriage of a Gentile (such as a Roman veteran, for example) with a Jewess;<sup>62</sup> and on the other, incidents of abduction and rape, which, in fact, were among the most important motives behind the inquiry into the status of children of mixed marriages, recorded in *Bab. Yeb.* 45a:

R. Aha, head of the castle, and R. Tanhum b. Hiyya of Kefar Akko redeemed some female captives, who came from Armon to Tiberias. There was one who had become pregnant by a gentile...

If these “female captives” were married, their redemption would have been a duty of the women’s husbands, who, then, would have been obliged to accept them as legal wives again, notwithstanding their abduction and even rape (*Pyadin* 10.10-11 [Babatha’s *ketubba*): “And if you are taken captive, I will redeem you from my “house” and estate, [and I will rest]ore you as a wife (לֹאֲנִתָּה לִּי בִּנְךָ...”)”<sup>63</sup> In all cases envisioned by the legal enactments in *Bab. Yeb.* 45a-b, and by the ransom clauses in marriage contracts, children of the violated women were likely to turn out legitimate, whether she was single or married, and, at least in Judea, even if she was betrothed. Even in this case, a decision on the child’s status was in the hands of both parents.

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*liberatorum* (D. 38.8.2 [Gaius]; 38.8.4 [Ulpian]). See GARDNER 1998, part I.5 (a-b); and *ead.* 2001, 53-54.

<sup>60</sup> Instead of two different answers to a common problem, as I here suggest, HAYES 2002, 89, in her analysis of laws on intermarriage and personal status, supposes that “the parallels between specific aspects of Roman and Jewish laws... owe something to the interaction of these two great legal systems...”. This, indeed, is also possible.

<sup>61</sup> For example, *Pyadin* 11, written in May 124, indicates that the first Thracian cohort was stationed in the middle of Ein Gedi (lines 13-14): “Judah son of Eleazar Khtousion of Ein Gedi to Magonius Valens, centurion of the *cohors I milliaria Thracum* greetings....” Lines 17-19: “the abutters of the said courtyard being the east tents... to the north a road and a praesidium.” For the translation and a discussion of these excerpts, see COTTON 2001. For Roman military units stationed inside cities and villages, see ISAAC 1990, 269-280.

<sup>62</sup> Although Augustan legislation forbade soldiers and officers in active service to form legal marriages, they could form stable relationships with non-citizen women and have children from them. One of the few Roman testaments from Egypt before the *Constitutio Antoniniana*, BGU I 326 (189-94 CE) is evidence of such situation: Gaius Longinus Castor, a veteran from the praetorian fleet of Misenum, wrote a testament to his three daughters (not wives, *pace* the interpretation of ROWLANDSON 1988 [188 no. 139]). On such unions, see TREGGIARI 1991, 46-47. Veterans, however, could marry non-citizen women by a special permission; see CSILLAG 1976, 97.

<sup>63</sup> Meaning that a violated wife was not forbidden to her husband (*Bab. Yeb.* 100b; *Bab. Ket.* 51b). See YADIN 2002, 118-141; for a discussion regarding a captive wife’s status, see FRIEDMAN 1996; SAFRAI 1996.

Thus, the social and moral norms of late antiquity had introduced changes into the early versions of *Toledot Yeshu*, clearly against the intention of the polemicist: Yeshu became the legitimate child of the raped Miriam, a single woman, or, alternatively, married to the righteous Yoseph/Yohanan, who was kind enough to adopt the child. Late medieval polemicists tried to rectify the situation—so that Yeshu would still be a *mamzer*—but the result of their attempts was rather peculiar: Yoseph/Yohanan, “forgetting” to give a divorce document to his wife, emigrated and disappeared “to the end of his days,” while the “fallen” Miriam-Maria was convinced to cohabit with her rapist, producing with him more and more illegitimate children.<sup>64</sup>

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<sup>64</sup> The Huldreich version is an exception (Johann Jacob Huldreich [Huldricus], *Sefer Toledot Yeshua ha-Notsri/Historia Jeschuae Nazareni: à Judaeis blasphemè corrupta/ex manuscripto hactenus inedito nunc demum edita, ac versione et notis, illustrata a Joh. Jac. Huldrico* [Leiden: J. du Vivie, 1705]: Miriam willingly elopes with her seducer (not rapist) and lives with him in unlawful marriage. See YOFFIE 2011.

## BIBLIOGRAPHY

- ADLER 1910  
E.N. ADLER, "Un fragment araméen de Toldot Yéshou», *REJ* 61, 1910, 126-130.
- BAR-ILAN 2000  
M. BAR-ILAN, "The Attitude toward Mamzerim in Jewish Society in Late Antiquity", *Jewish History* 14, 2000, 125-170.
- BAUMGARTEN 1974  
J.M. BAUMGARTEN, "The Exclusion of 'Netinim' and Proselytes in 4Q Florilegium", *RevQ* 8, 1974, 87-96.
- BELKIN 1940  
S. BELKIN, *Philo and the Oral Law. The Philonic Interpretation of Biblical Law in Relation to the Palestinian Halakah*, Cambridge 1940.
- BLIDSTEIN 1974  
G. BLIDSTEIN, "4Q Florilegium and Rabbinic Sources on Bastard and Proselyte", *RevQ* 8, 1974, 431-435.
- BOROCHOV *website*  
A. BOROCHOV, *Family Law in Israel*, <http://www.family-law.co.il/paternity>, access date 8 August 2014.
- BOYARIN 1978  
D. BOYARIN, "A Revised Version and Translation of the 'Toledot Yeshu' Fragment", *Tarbiz* 47, 1978, 249-252 (in Hebrew).
- COHEN 1949  
B. COHEN, "On the Theme of Betrothal in Jewish and Roman Law", *PAAJR* 18, 1949, 67-135.
- COHEN 1983  
S.J.D. COHEN, "From the Bible to the Talmud: The Prohibition of Intermarriage", *HAR* 7, 1983, 23-29.
- COHEN 1985  
S.J.D. COHEN, "The Origins of the Matrilineal Principle in Rabbinic Law", *AJSR* 10, 1985, 19-53.
- COLE 1984  
S.G. COLE, "Greek Sanctions against Sexual Assault", *CP* 79, 1984, 2, 97-113.
- COTTON 1994  
H.M. COTTON, "A Cancelled Marriage Contract from the Judaean Desert", *JRS* 84, 1994, 64-86.
- COTTON 2001  
H.M. COTTON, "Ein Gedi between the two Revolts", *SCI* 20, 2001, 139-154.
- CSILLAG 1976  
P. CSILLAG, *The Augustan Laws on Family Relations*, Budapest 1976.
- DANDO-COLLINS 2010  
S. DANDO-COLLINS, *Legions of Rome: The Definitive History of Every Imperial Roman Legion*, London 2010.
- DEISSMANN 1906  
A. DEISSMANN, "Der Name Panthera", in: C. BEZOLD (ed.), *Orientalische Studien Th. Nöldeke zum siebzigsten Geburtstag (2. März 1906) gewidmet*, Giessen 1906, vol. 2, 871-875.
- DI SEGNI 1984  
R. DI SEGNI, "La tradizione testuale delle Toledòth Jéshu: Manoscritti, edizioni a stampa, classificazione", *La Rassegna mensile di Israel* 50, 1984, 83-100.
- DI SEGNI 1985  
R. DI SEGNI, *Il vangelo del ghetto*, Rome 1985.
- DOVER 1978  
K.J. DOVER, *Greek Homosexuality*, London 1978.
- EPSTEIN 1948  
L.M. EPSTEIN, *Sex Laws and Customs in Judaism*, New York 1948.
- FALK 1978  
A. FALK, "A New Fragment of the Jewish Life of Jesus", *Immanuel* 8, 1978, 72-79.

- FANTHAM 1975  
E. FANTHAM, "Sex, Status, and Survival in Hellenistic Athens: A Study of Women in New Comedy", *Phoenix* 29, 1975, 44-75.
- FRIEDMAN 1996  
M.A. FRIEDMAN, "Babatha's Ketubba: Some Preliminary Observations", *IEJ* 46, 1996, 55-76.
- FRIER & MCGINN 2004  
B.W. FRIER & T.A.J. MCGINN (eds.), *A Casebook on Roman Family Law*, Oxford 2004.
- GARDNER 1998  
J.F. GARDNER, *Family and Familia in Roman Law and Life*, Oxford 1998.
- GARDNER 2001  
J.F. GARDNER, "Death, Taxes and Status in Pliny's Panegyrics", in: J.W. CAIRNS and O.F. ROBINSON (eds.), *Critical Studies in Ancient Law, Comparative Law and Legal History*, Oxford 2001, 51-60.
- GINZBERG 1928  
L. GINZBERG, *Genizah Studies in Memory of Doctor Solomon Schechter (Ginze Schechter)*, New York 1928.
- GOMME & SANDBACH 1973  
A.W. GOMME & F.H. SANDBACH, *Menander: A Commentary*, London 1973.
- HAECKEL 1899  
E. HAECKEL, *Die Welträthsel. Gemeinverständliche Studien über Monistische Philosophie*, Bonn 1899.
- HALKIN 1952  
A. S. HALKIN, *Moses Maimonides, Epistle to Yemen. The Arabic Original and the Three Hebrew Versions*, trans. Boaz Cohen, New York 1952.
- HAYES 2002  
C. HAYES, "Genealogy, Illegitimacy, and Personal Status", in: P. SCHÄFER (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture III*, Tübingen 2002, 73-89.
- HORBURY 1970a  
W. HORBURY, "The Trial of Jesus in Jewish Tradition", in: E. Bammel (ed.), *The Trial of Jesus: Cambridge Studies in Honor of C. F. D. Moule*, Naperville 1970, 103-121.
- HORBURY 1970b  
W. HORBURY, *A Critical Examination of the Toledoth Jeshu*, unpublished dissertation, Cambridge University 1970.
- ILAN 1993  
T. ILAN, "Premarital Cohabitation in Ancient Judea: The Evidence of the Babatha Archive and the Mishnah (*Ketubbot* 1.4)", *HTR* 86, 1993, 247-264.
- ISAAC 1990  
B. ISAAC, *The Limits of Empire: The Roman Army in the East*, Oxford 1990.
- KATZOFF 1985  
R. KATZOFF, "Donatio ante nuptias and Jewish Dowry Additions", *YCS* 28, 1985, 231-244.
- KATZOFF 1996  
R. KATZOFF, "Philo and Hillel on Violation of Betrothal in Alexandria", in: I.M. GAFNI, A. OPPENHEIMER & D.R. SCHWARTZ (eds.), *The Jews in the Hellenistic-Roman World: Studies in Memory of Menachem Stern*, Jerusalem 1996, 39\*-57\*.
- KATZOFF 2001  
R. KATZOFF, "Oral Establishment of Dowry in Jewish and Roman Law: דברים הנקנים באמירה and Dotis Dictio", in: J.W. CAIRNS & O.F. ROBINSON (eds.), *Critical Studies in Ancient Law, Comparative Law and Legal History: Studies in Honor of Alan Watson*, Oxford and Portland 2001, 157-171.
- KATZOFF 2003  
R. KATZOFF, "Children of Inter-marriage: Jewish and Roman Conceptions", in: C. HEZSER (ed.), *Rabbinic Law in its Roman and Near Eastern Context*, Tübingen 2003, 277-286.
- KEULS 1973  
E. KEULS, "The *Samia* of Menander: an Interpretation of Its Plot and Theme", *ZPE* 10, 1973, 1-20.
- KISTER 2002  
M. KISTER, "From Philotas to Hillel: 'Betrothal' Contracts and their Violation", *SCI* 21, 2002, 57-60.
- KRAUSS 1902  
S. KRAUSS, *Das Leben Jesu nach jüdischen Quellen*, Berlin 1902.
- KRAUSS 1911  
S. KRAUSS, "Fragments araméens du Toldot Yéschou", *REJ* 62, 1911, 28-37.
- LAPE 2003  
S. LAPE, "Solon and the Institution of the 'Democratic' Family Form", *CJ* 98, 2003, 117-138.
- LAURIE 2004  
G. LAURIE, *Genetic Privacy: A Challenge to Medico-Legal Norms*, Cambridge 2004.
- LEFKOWITZ 1993  
M.R. LEFKOWITZ, "Seduction and Rape in Greek Myth", in: A.E. LAIOU (ed.), *Consent and Coercion to Sex and Marriage in Ancient and Medieval Societies*, Washington 1993, 17-37.
- LEVI 1898  
I. LEVI, "Hanoucca et le *jus primae noctis*", *REJ* 30, 1898, 220-231.
- LEVY 1949  
E. LEVY, *An Introduction to Legal Reasoning*, Chicago 1949.

- McVEY 1989  
K. E. McVEY, *Ephrem the Syrian: Hymns*, New York 1989, 263-264.
- McVEY 1994  
K. E. McVEY, ed., *St. Ephrem the Syrian: Selected Prose Works*, trans. E.G. MATHEWS, Jr. & J. P. AMAR (FC 91), Washington 1994.
- MEERSON & SCHÄFER 2014  
M. MEERSON & P. SCHÄFER, *Toledot Yeshu: The Life Story of Jesus*, Tübingen 2014.
- MONNICKENDAM 2011  
Y. MONNICKENDAM, *Halakhic Issues in the Writings of the Syriac Church Fathers Ephrem and Aphrahat*, Ramat Gan 2011.
- OPPENHEIM 1886  
G. OPPENHEIM, *Fabula Josephi et Asenathae Apocrypha*, Berlin 1886.
- PESTMAN 1961  
P.W. PESTMAN, *Marriage and Matrimonial Property in Ancient Egypt*, Leiden 1961.
- ROWLANDSON 1988  
J. ROWLANDSON (ed.), *Women and Society in Greek and Roman Egypt: A Sourcebook*, Cambridge 1988.
- SAFRAI 1996  
Z. SAFRAI, "Two Notes on the Ketubba of Babatha", *Tarbiz* 65, 1996, 717-719 (in Hebrew).
- RUPPRECHT 2005  
H.A. RUPPRECHT, "Greek Law in Foreign Surroundings: Continuity and Development", in: M. GAGARIN & D. COHEN (eds.), *The Cambridge Companion to Ancient Greek Law*, Cambridge 2005, 328-342.
- SCHÄFER 1998  
P. SCHÄFER, *Judeophobia: Attitudes Toward the Jews in the Ancient World*, Cambridge 1998.
- SCHÄFER 2007  
P. SCHÄFER, *Jesus in the Talmud*, Princeton 2007.
- SCHÄFER 2011  
P. SCHÄFER, "Agobard's and Amulo's *Toledot Yeshu*", in: SCHÄFER, MEERSON & DEUTSCH 2011, 27-48.
- SCHÄFER 2012  
P. SCHÄFER, "Jesus' Origin, Birth, and Childhood according to the *Toledot Yeshu* and the Talmud", in: B. ISAAC & Y. SHAHAR (eds.), *Judaea-Palaestina, Babylon and Rome: Jews in Antiquity*, Tübingen 2012, 139-165.
- SCHÄFER, MEERSON & DEUTSCH 2011  
P. SCHÄFER, M. MEERSON & Y. DEUTSCH (eds.), *Toledot Yeshu* ["*The Life Story of Jesus*"] *Revisited: A Princeton Conference*, Tübingen 2011.
- SCHABERG 1987  
J. SCHABERG, *The Illegitimacy of Jesus: a Feminist Theological Interpretation of the Infancy Narratives*, San Francisco 1987.
- SCHMIDT-BLEIBTREU 1988  
H.F.W. SCHMIDT-BLEIBTREU, *Jus Primae Noctis Herrenrecht der ersten Nacht*, Bonn 1988.
- SOKOLOFF 2011  
M. SOKOLOFF, "The Date and Provenance of the Aramaic *Toledot Yeshu* on the Basis of Aramaic Dialectology", in: SCHÄFER, MEERSON & DEUTSCH 2011, 13-26.
- TRAILL 2008  
A. TRAILL, *Women and the Comic Plot in Menander*, Cambridge 2008.
- TREGGIARI 1991  
S. TREGGIARI, *Roman Marriage: Iusti Coniuges from the Time of Ulpian*, Oxford 1991.
- WAGENSEIL 1681  
J.C. WAGENSEIL, *Tela Ignea Satanae*, Altdorf 1681.
- WERMAN 1997  
C. WERMAN, "Jubilees 30: Building a Paradigm for the Ban on Intermarriage", *HTR* 90, 1997, 1-22.
- WOLFF 1944  
H.J. WOLFF, "Marriage Law and Family Organization in Ancient Athens: A Study of the Interrelation of Public and Private Law in the Greek City", *Traditio* 2, 1944, 43-95.
- WOLOHOJIAN 1969  
A.M. WOLOHOJIAN, *The Romance of Alexander the Great by Pseudo-Callisthenes*, New York 1969.
- YADIN 2002  
Y. YADIN ET AL. (eds.), *The Documents from the Bar Kokhba Period in the Cave of Letters: Hebrew, Aramaic and Nabataean-Aramaic Papyri*, Jerusalem 2002.
- YASSIF 2011  
E. YASSIF, "Toledot Yeshu: Folk-Narrative as Polemics and Self-Criticism", in: SCHÄFER, MEERSON & DEUTSCH 2011, 101-136.
- YIFTACH-FIRANKO 2003  
U. YIFTACH-FIRANKO, *Marriage and Marital Arrangements. A History of the Greek Marriage Document in Egypt 4<sup>th</sup> century BCE—4<sup>th</sup> century CE*, Munich 2003.
- YOFFIE 2011  
A.M. YOFFIE, "Observations on the Huldreich Manuscripts of the *Toledot Yeshu*", in: SCHÄFER, MEERSON & DEUTSCH 2011, 61-78.
- ZAKOVITCH & SHINAN 1983  
Y. ZAKOVITCH & A. SHINAN, *Abram and Sarai in Egypt, Gen. 10:10-12 in the Bible, the Old Versions and the Ancient Jewish Literature*, Jerusalem 1983, 86-102.

# The Land of Israel



# Die römische Armee und der Ausbau der heißen Bäder von Hammat Gader

WERNER ECK

Wenige Personen haben im spätantiken Palästina so großen Einfluss ausgeübt und so viele Zeugnisse hinterlassen wie Kaiserin Eudocia, die Gemahlin des oströmischen Kaisers Theodosius II. Zweimal pilgerte sie ins Hl. Land, von der zweiten Pilgerfahrt aber kehrte sie nicht mehr nach Konstantinopel zurück, sie blieb vielmehr bis zu ihrem Tod in Jerusalem.<sup>1</sup> Zahlreiche Bauten wurden von ihr gestiftet, wovon bis heute vor allem die Kirche des hl. Stephanus nördlich des Damaskustores in Jerusalem Zeugnis gibt.<sup>2</sup> Unmittelbar neben dieser Kirche hat sie ihre Grabstätte gefunden.

So sehr die Kaiserin auch vor allem als Christin und Förderin der Kirche in Palästina auftrat, so hat sie dennoch ihre Herkunft aus einem intellektuellen, paganen Elternhaus, wo immer dies auch gestanden haben mag, nicht ganz

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<sup>1</sup> Zur Person der Kaiserin siehe K. G. Holum, *Theodosian Empresses. Women and Imperial Dominion in Late Antiquity*, Berkeley 1982 und F. Millar, *A Greek Roman Empire. Power and Belief under Theodosius II (408–450)*, Berkeley 2006. Johannes Heinrichs bin ich für hilfreiche Hinweise zu Dank verpflichtet.

<sup>2</sup> M. Lagrange, *Saint Étienne et son sanctuaire à Jérusalem*, 1894; H. Vincent - F. Abel, *Jérusalem II. Jérusalem nouvelle*, 1926, 4, 743 ff.; E. D. Hunt, *Holy Land Pilgrimage in the Later Roman Empire AD 312–460*, 1984, 189 f.; K. Bieberstein - H. Bloedhorn, *Jerusalem. Grundzüge der Baugeschichte vom Chalkolithikum bis zur Frühzeit der osmanischen Herrschaft*, 1994, Bd. 2, 231 ff.; M. Küchler, *Jerusalem. Ein Handbuch und Studienreiseführer zur Heiligen Stadt*, Göttingen 2007, 968 ff.

vergessen.<sup>3</sup> Poesie, eigenes dichterisches Gestalten wurde ihr nicht fremd, selbst wenn dieses sich oft in Homernachahmung erschöpfte.<sup>4</sup> In ihrer Umwelt hat ihr intellektuelles, kulturelles Bemühen dennoch Eindruck gemacht, zumindest in konservativen Zirkeln wie etwa in Antiochia in Syrien. Doch selbst in Palaestina, das für ihre Umgebung schon damals vor allem das Heilige Land der Christenheit war, hat sie sich von dieser Kultur nicht distanziert, sondern Gedichte verfasst und diese auch einem breiteren Publikum zugänglich gemacht. Dass diese literarische Überlieferung zutreffend ist, wurde Anfang der 80er Jahre des vergangenen Jahrhunderts deutlich, als eine lange griechische Versinschrift veröffentlicht wurde, die bei den Ausgrabungen in den Badeanlagen von Hammat Gader neben vielen anderen epigraphischen Zeugnissen entdeckt worden war.<sup>5</sup> Dass sie als Christin die Verfasserin dieses langen Gedichtes war, wird durch die Überschrift

✠ Εὐδοκίας Ἀγούστης ✠

deutlich hervorgehoben.

In dem hexametrischen Gedicht beschreibt sie den Badekomplex in Hammat Gader und nennt dabei die Quellen, die die Anlage speisen. Sie führt insgesamt sechzehn Quellen an, von denen einige heiß, andere lauwarm und wieder andere kalt seien. Ihre Namen sind: Inderin und Matrona, heiliger Elias, Antoninus der Gute, Galatea, die taufrische, und Hygieia, alter Klibanus, die Nonne und Briare, die Quelle des Patriarchen und auch eine Quelle mit dem römischen Cognomen Repentinus, eine Aufmerksamkeit erregende Erscheinung unter den anderen.

Man hat versucht, alle diese Namen zu erklären und mit Inhalt zu füllen.<sup>6</sup> Das ist am wenigsten eben mit dem römisch-lateinischen Cognomen Repentinus gelungen, der neben Namen ganz anderer kultureller und sprachlicher Herkunft erscheint. Repentinus blieb ein Rätsel.

<sup>3</sup> Dazu Holum, *Theodosian Emperresses* (Anm. 1) 112 ff. Seine Erörterungen zu ihrer Herkunft wirken sehr plausibel; nach ihm stammte sie nicht aus Athen, sondern aus dem syrischen Antiochia.

<sup>4</sup> P. van Deun, *The poetical writings of the Empress Eudocia. An evaluation*, in: *Early Christian poetry. A collection of essays*, hg. J. den Boeft - A. Hilhorst, Leiden 1993, 273–282. Vgl. auch J. Burman, *The Athenian Empress Eudocia*, in: *Post-Herulian Athens. Aspects of Life and Culture in Athens A.D. 267–529*, hg. P. Castrén, Helsinki 1994, 63–87.

<sup>5</sup> Y. Hirschfeld - G. Solar, *IEJ* 31, 1981, 197–219 (noch ohne Text der Inschrift); J. Green - Y. Tsafir, *Greek Inscriptions from Hammat Gader: A Poem by the Empress Eudocia and two Building Inscriptions*, *IEJ* 32, 1982, 77 ff., bes. 77 ff; *AE* 1989, 743; *SEG* 44, 1356; siehe ferner die Ausgabe aller Inschriften durch L. Di Segni, in: *The Roman Baths of Hammat Gader. Final Report*, hg. Y. Hirschfeld, Jerusalem 1997, 185 ff., Nr. 49; St. Busch, *Versus balnearum: die antike Dichtung über Bäder und Baden im römischen Reich*, Stuttgart - Leipzig 1999, 84 ff.

<sup>6</sup> Siehe dazu etwa den Kommentar bei Di Segni (Anm. 5) 230 und Busch (Anm. 5) 92 ff.

Eine weitere Inschrift, die erst vor kurzem ebenfalls in Hammat Gader gefunden wurde, löst nun die Frage, weshalb diese Quelle Repentinus genannt und warum vermutlich der Name auch bis auf die Zeit Eudocias bewahrt wurde. Die Erlaubnis zur Publikation des neuen Textes verdanke ich dem israelischen archäologischen Kollegen Moshe Hartal, der auch alle Informationen geliefert hat, wie und wo die Inschrift gefunden wurde. Ihm wird auch das Photo, das hier publiziert werden kann, verdankt. Er gab folgende Informationen zu dem epigraphischen Dokument:

„The inscription was found in the pool of the hot water of Ein Jerab, about 500 m NNW of the baths of Hammat Gader excavated by the late Yizhar Hirschfeld.<sup>7</sup> Unfortunately it was found not in any stratigraphic context.“ Soweit die wichtige Aussage dessen, der das epigraphische Zeugnis gefunden hat.

Die Inschrift steht auf einer Tafel, deren Rand oben, rechts und unten erhalten ist. Der linke Teil ist leicht schräg von rechts oben nach links unten abgebrochen. Ein profilierter Rahmen umgibt die Inschriftfläche, die als tabula ansata gestaltet war. Rechts ist noch eine ansa erhalten, die linke ist mit dem gesamten linken Teil der Tafel verloren. Schon die äußeren Elemente des Inschriftenträgers zeigen, dass die Steintafel ursprünglich in einen baulichen Kontext gehörte, also in die Wand eines Bauwerks eingelassen war. „The measurements of the stone are not known, but according to the meter on the photo one can estimate the width with ca. 80 cm and the height with ca. 60 cm.“<sup>8</sup> Die Tiefe lässt sich nicht genauer erschließen; doch zeigt das Photo, dass es sich nicht um eine Tafel von nur geringer Dicke gehandelt haben kann. Vermutlich war sie mindestens 10 cm dick, ein ganz übliches Maß für eine Bauinschrift. Das Photo lässt ferner erkennen, wie die Höhe der Buchstaben von Zeile 1 zu Zeile 2 sowie 3 und 4 abnimmt. „In the first line the height should be a bit less than 7 cm.“ Konsequenterweise nimmt so mit abnehmender Höhe die Zahl der Buchstaben pro Zeile zu, wobei auch die Worttrenner in Gestalt von Efeublättern, vor allem bei der Ergänzung des linken verlorenen Teils, einzurechnen sind. Wie die folgende Rekonstruktion zeigen wird, ist ungefähr die Hälfte der Inschrift erhalten, so dass die ursprüngliche Breite unter Einschluss des Rahmens etwa 1.60 m betragen haben dürfte.

Folgendes ist zu lesen:

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<sup>7</sup> Y. Hirschfeld, *The Roman Bath of Hamat Gader, Final Report*, Jerusalem 1997. Die lateinische Inschrift ist offensichtlich nach der Publikation des Final Reports gefunden worden.

<sup>8</sup> So schriftlich Moshe Hartal.



[---] AVRELIO ·

[---]INO · AVG · P · P ·

[---]I · FERR · CVRANTE

[---]EPENTINO · LEG AVG · PR PR

Zur Lesung: Das Schriftbild zeigt einige auffällige Eigenheiten. So sind mehrere Ligaturen im Text vorhanden: die Buchstaben AV in Zeile 2 und Zeile 4 im Wort *Aug.*, NT in Zeile 3 in *curante* und ebenso in Zeile 4 in *[R]epentino* stehen in Ligatur. In der letzten Zeile sind mehrere Buchstaben sehr klein geschrieben, sicherlich deswegen, weil sonst der Text nicht in die Zeile gepasst hätte; andererseits ist der Buchstabe P am Ende in PR zweimal außerordentlich hoch, ebenfalls aus dem Grund um Platz zu sparen, da so das jeweils folgende R unter das vorausgehende P gemeißelt werden konnte.<sup>9</sup> Das lässt neben dem gesamten Schriftbild erkennen, dass keine sehr sorgfältige Ordination des Textes erfolgt war. Allerdings wurde, wie ebenfalls die Rekonstruktion erkennen lässt, darauf geachtet, sachlich zusammengehörende Elemente des Textes in derselben Zeile unterzubringen.

<sup>9</sup> Eine ähnliche Erscheinung findet man in CIIP II 1355 beim Legionsnamen *Ferr.*

Es wird unmittelbar klar, dass es sich bei dem Fragment um eine Bauinschrift aus der Zeit eines Kaisers handelt, dessen Name die Elemente Aurelius und Antoninus enthält. Der Name des Kaisers kann im Dativ stehen (wie bei der Dedikation einer Statue), was im Osten des Reiches im Gegensatz zum Westen nicht nur bei Tempeln für einen Kaiser oder bei Ehrenbögen durchaus üblich war,<sup>10</sup> sondern auch bei normalen Bauwerken.<sup>11</sup> Doch ist auch möglich, dass der Name des Kaisers hier im Ablativ erscheint, was dann nur die Zeit angäbe, in der der Bau errichtet und die Inschrift angebracht wurde.<sup>12</sup> Entscheiden lässt sich die Frage nicht. An der Errichtung des Bauwerks war die *legio VI Ferrata* beteiligt, die ihr Lager in Galiläa bei Legio-Caparcotna hatte.<sup>13</sup> Das Lager liegt rund 60 km westlich des Fundortes der Inschrift. Die Oberaufsicht über die Maßnahme hatte der proprätorische senatorische Statthalter, von dessen Namen nur das Cognomen *[R]epentinus* erhalten ist. Obwohl am Anfang etwas fehlt, ist die Ergänzung eindeutig; Repentinus ist der einzige Name im lateinischen Onomastikon, der mit dem erhaltenen Namensrest zusammenpasst.<sup>14</sup> Der Text enthält somit die üblichen Elemente einer Bauinschrift, wenn eine militärische Einheit beteiligt war.

Zu klären ist, um welchen Kaiser es sich handelt, wie der volle Name des Statthalters lautet und ob die gesamte Legion oder nur eine Abteilung an der Baumaßnahme beteiligt war.

Die Namen Aurelius und Antoninus erscheinen bei mehreren Kaisern, außer bei Marc Aurel (161-180 n. Chr.) auch noch bei Commodus (180-192 n. Chr.), Caracalla (211-217 n. Chr.) und Elagabal (218-222 n. Chr.). Doch scheiden die beiden letzteren wie auch Marc Aurel selbst aus, weil bei ihnen die beiden Namenselemente Aurelius und Antoninus direkt aufeinander folgen, während in diesem Text zwischen beiden noch ein weiteres Namenselement erscheinen muss, um die Lücke am Anfang von Zeile 2 zu füllen. Damit

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<sup>10</sup> So z. B. bei einem Ehrenbogen in Jerusalem: H. Cotton - W. Eck, Ein Ehrenbogen für Septimius Severus und seine Familie in Jerusalem, in: *Donum Amicitiae, Studies in Ancient History* publ. on occasion of the 75<sup>th</sup> Anniversary of Foundation of the Department of Ancient History of the Jagiellonian University, hg. E. Dąbrowa, Krakau 1997, 11 ff. = CIIP I 2, 719.

<sup>11</sup> CIL III 202 = IGLS VI 2918.

<sup>12</sup> Das gilt z.B. auch für manche der Bauinschriften vom Aquädukt in Caesarea, siehe W. Eck, Zu lateinischen Inschriften aus Caesarea in Iudaea/Syria Palaestina, ZPE 113, 1996, 129 ff. = CIIP II 1200. 1202. 1204. 1208.

<sup>13</sup> E. Ritterling, Legio, RE XII 1591 (seitdem sind viele Zeugnisse hinzugekommen); B. Isaac, *The Limits of Empire: The Roman Army in the East*, Oxford 1992, 432 f.; H. M. Cotton, *The Legio VI Ferrata*, in: *Les Légions romaines sous le Haute-Empire, Actes du Congrès de Lyon* (17 - 19 septembre 1998), hg. Y. Le Bohec, Lyon 2000, 351 ff.

<sup>14</sup> Siehe dazu die Datenbank Clauss-Slaby.

kommt allein Commodus in Frage.<sup>15</sup> Die beiden ersten Zeilen kann man damit in folgender Weise ergänzen:

[IMP · CAES · M ·] AVRELIO  
[COMMODO · ANTON]INO · AVG · P · P ·

Während in Zeile 1 den sieben auf der rechten Seite erhaltenen Buchstaben acht im linken, ergänzten Teil entsprechen, lautet das Verhältnis in der nächsten Zeile acht erhaltene zu zwölf ergänzten. Das scheint im ersten Augenblick ein deutlich verschobenes Verhältnis; doch war offensichtlich in Zeile 1 der Text links etwas eingerückt, analog dazu, dass auf der rechten Seite *Aurelio* auch schon vor dem Ende der Schriftfläche endet (siehe die Abb.). In Zeile 2 sind aber zu den acht Buchstaben auf der rechten Seite noch die vier *hederae* hinzuzuzählen; tut man dies, dann kommt man auf ein Verhältnis von 12 Zeichen auf der rechten und 13 auf der linken (einschließlich einer *hedera* nach Commodus), also auf ein fast vergleichbares Verhältnis wie in Zeile 1. Die Ergänzung ist also durchaus passend. Ob allerdings der Name Commodus in dieser Zeile eradiert war, wie es in nicht wenigen Inschriften nach seiner Ermordung am 31. Dezember 192 geschah, muss wegen des Verlust des linken Teils der Inschrift offen bleiben.<sup>16</sup>

In der darauf folgenden Zeile stand der Name der *legio VI Ferrata*; doch darf man davon ausgehen, dass nur eine Abteilung der Legion an der Baumaßnahme mitwirkte. Mehrere Bauinschriften gerade aus dieser Provinz zeigen, dass man für Baumaßnahmen, die von Soldaten durchgeführt wurden, üblicherweise *vexillationes* abordnete.<sup>17</sup> Eine solche Bezeichnung darf man auch hier in der Lücke ergänzen. Dabei muss diese Bezeichnung im Nominativ stehen; denn eine Formulierung wie *per vexillationem*,<sup>18</sup> wie sie ebenfalls be-

<sup>15</sup> Zu seinem Namen PIR<sup>2</sup> A 1482.

<sup>16</sup> Siehe solche Rasuren z. B. in CIL VI 2099 = Scheid, CFA 94; CIL X 7237 = Dessau 6770; CIL XI 970 = Dessau 7216; CIL VIII 2495, 2699; AE 1956, 167. Zur Rasur des Namens des Commodus in Syria R. Duncan-Jones, *Structure and Scale in the Roman Economy*, Cambridge 1990, 60 f.

<sup>17</sup> Siehe z. B. für Abu Gosh: AE 1902, 230; 1926, 136: *Vexillatio leg(ionis) X Fre(tensis)* = CIIP I 722, 723; für Gadara: AE 1994, 1782; 1995, 1577: *Vex(illatio) [le]g(ionis) VI F(errat)ae*. Ferner die *vexillationes*, die an der Erbauung des Aquädukts nach Caesarea beteiligt waren, siehe Eck, *Zu lateinischen Inschriften* (Anm. 12).

<sup>18</sup> Siehe z. B. AE 1922, 53: *Imp(erator) Caes(ar) L(ucius) Sep(timius) Severus Pius Pertinax Aug(ustus) et M(arcus) A(urelius) A(ntoninus) [[Brit(annicus) Pa(r)th(icus) max(imus) Ge]rm(anicus)] titulum quod divo Commod[o] fratr[is] suo erasum fuerat restit[ue]runt per vexil(lationem) [[leg(ionis) III Aug(ustae)] P(iae) V(indicis) Q(uinto) A(nicio) Fa(usto) leg(ato) Augustorum pr(o)pr(aetore) [co(n)s(ule) c(larissimo) v(iro)] sub cura G(ai) Iuli Saturnini (centurionis) [[leg(ionis)] eiusde]m M(arco) Arrio / Muciano e[t] Fabiano co(n)s(ulibus); oder: CIIP II 1206, 1207: *Imp(erator) Caes(ar) Traianus Hadrianus Aug(ustus) fecit per vexillatione(m) leg(ionis) X Frete(nsis)*.*

kannt ist, scheidet hier aus, da dies entweder den Kaiser oder den Statthalter im Nominativ also als Subjekt im Text erfordert, was aber nicht der Fall ist:

[VEXILLAT · LEG · VI · FERR · CVRANTE. Die Relation der Zeichen beträgt hier 14 zu 14 (unter Einschluss der Trennzeichen).

In der letzten Zeile stand der Name des konsularen Statthalters, von dessen Nomenklatur nur das Cognomen Repentinus erhalten ist, das jedoch genügt, um die Person zweifelsfrei zu identifizieren. Denn das Cognomen Repentinus ist in den höheren *ordines* des Imperium Romanum nur sehr selten bezeugt.<sup>19</sup> Da der in der Inschrift genannte Statthalter von Syria Palaestina senatorischen Rang besaß, kommen für eine Identifizierung nur Personen mit diesem sozialen Status in Frage, die zudem zeitlich ins späte 2. Jahrhundert gehören müssen. Insgesamt kennen wir drei Senatoren mit diesem Namen.

Einen P. Claudius Pallas Honorat(us) Repentinus, dessen Name aber allein wegen seiner Länge in der Inschrift nicht unterzubringen ist; auch wäre sein Hauptcognomen Pallas. Ob er bis zum Konsulat gekommen ist, wie es bei dem Repentinus der neuen Inschrift der Fall gewesen sein muss, bleibt offen.<sup>20</sup>

Von einem zweiten Senator [---]IVVEN[V]S Re[p]lentinus ist immerhin bekannt, dass er Statthalter der Provinz Arabia war, was es theoretisch möglich macht, ihn hier in Betracht zu ziehen.<sup>21</sup> Doch lässt sich über seine Datierung wenig sagen, lediglich, dass er vor 235 amtiert haben muss.

Der dritte Senator trägt den Namen Cornelius Repentinus. Er war bisher nur als Sohn des ehemaligen Prätorianerpräfekten Sex. Cornelius Repentinus bekannt,<sup>22</sup> aus dessen Namen auch das Praenomen erschlossen werden kann; ferner ist er als Schwiegersohn des kurzlebigen Kaisers Didius Iulianus bezeugt, der seinen Verwandten im April 193 für die kurze Zeit seiner Regierung zum *praefectus urbi* gemacht hatte.<sup>23</sup> Das setzt voraus, dass Repentinus damals konsularen Rang besaß, also vor 193 einen Suffektkonsulat erhalten hatte. Damit ist kaum zu bezweifeln, dass er der Statthalter ist, der in dieser Inschrift unter Kaiser Commodus genannt ist.

<sup>19</sup> Siehe dazu zusammenfassend PIR<sup>2</sup> R p. 56.

<sup>20</sup> CIL III 4567: *P(ublio) Claudio Pallanti Honorat(o) Repentino adlecto inter tribunicios, leg(ato) pr(o) pr(aetore) provinciae Africae, praetori, leg(ato) pr(o) pr(aetore) provinciae Asiae, leg(ato) Aug(usti) leg(ionis) X G(eminae), C(aius) Iul(ius) Magnus dec(urio) col(oniae) Karn(unti) equo publico, ex V decur(iis) dignissimo l(ocus) d(atus) d(ecreto) d(ecurionum)*; vgl. PIR<sup>2</sup> C 950.

<sup>21</sup> AE 2000, 1534 = IGLS XIII 2, 9484.

<sup>22</sup> PIR<sup>2</sup> C 1428 sowie G. Camodeca, *La carriera del prefetto del pretorio Sex. Cornelio Repentino*, ZPE 43, 1981, 43 ff.

<sup>23</sup> PIR<sup>2</sup> C 1427.

Die letzte Zeile ist also folgendermaßen zu rekonstruieren:

[SEX · CORNELIO · R]EPENTINO · LEG · AVG · PR PR

Das Zahlenverhältnis der Zeichen im verlorenen und erhaltenen Teil beträgt hier zwar 14/21. Doch kommt dieses scheinbare Missverhältnis durch die Ligaturen auf der rechten Seite zustande und vor allem durch das massive Zusammendrängen der Buchstaben am Ende der Zeile. Der Steinmetz hatte keine sorgfältige *ordinatio* durchgeführt.

Damit lautet der Gesamttext:

*[Imp(erator)ie) Caes(ar)ile) M(arco)] Aurelio | [Commodo Anton]ino Aug(usto) p(atr)ile) p(atr)iae) | [vexillat(io) leg(ionis) VI] Ferr(atae) curante | [Sex(to) Cornelio R]epentino leg(ato) Aug(usti) pr(o) pr(aetore).*

Die Baumaßnahme wurde also durch eine Vexillation der *legio VI Ferrata* durchgeführt, die damals unter dem Kommando des Statthalters Sex. Cornelius Repentinus gestanden hatte. Diese Baumaßnahme erfolgte unter Commodus (180-192 n. Chr.), allerdings ergibt sich der genauere Zeitpunkt nicht aus diesem Text. Doch kann der Zeitraum, in dem die Baumaßnahme erfolgte, eingengt werden.

Der Senator war bisher, wie erwähnt, nur durch die Stellung als *praefectus urbi* im Jahr 193 bekannt gewesen. Wenn aber nun klar ist, dass er in der konsularen Provinz Syria Palaestina das Kommando hatte, muss er zuvor eine entsprechende Laufbahn absolviert haben, wozu mit großer Wahrscheinlichkeit auch eine Statthalterschaft in einer prätorischen kaiserlichen Provinz gehörte. Vor kurzem ist eben für diesen Cornelius Repentinus gerade eine solche Position in seiner vorausgehenden Laufbahn bekannt geworden. Denn ein Meilenstein aus der Provinz Cilicia, dessen Kenntnis der Freundlichkeit von Mustafa Sayar (Istanbul) verdankt wird, bezeugt einen Cornelius Repentinus, der während der 10. tribunizischen Gewalt eines Kaisers mit dem Namen Marcus Aurelius [---] Antoninus als Statthalter der Provinz Cilicia amtiert hat. Die Abfolge der kaiserlichen Namens Elemente und der eradierte Namensteil führen auch in diesem noch unpublizierten Text auf Kaiser Commodus. In der Inschrift aus Kilikien führt Commodus aber auch die *tribunicia potestas X*, die vom 10. Dezember 184 bis zum 9. Dezember 185 dauerte.<sup>24</sup> Ein senatorischer Statthalter von Cilicia erhielt sein Amt als Prätorier, worauf zumeist kurz darauf ein Suffektkonsulat folgte.

<sup>24</sup> Mustafa Sayar wird diese Meilensteininschrift im zweiten Band der Inschriften von Anazarbos veröffentlichen.

Diese Konstellation ist so passend für den in der Inschrift von Hammat Gader genannten Cornelius Repentinus, dass es nicht den leisesten Zweifel geben kann, dass die beiden neuen Zeugnisse sich auf dieselbe Person beziehen.

Cornelius Repentinus hat somit wohl als letztes Amt seiner prätorischen Laufbahn die Statthalterschaft von Cilicia übernommen. Wann er diese angetreten und wann er sie beendet hat, lässt sich nicht unmittelbar sagen, jedoch mit ziemlicher Sicherheit erschließen. Die Statthalterschaft in Syria Palaestina muss er noch unter Commodus beendet haben. Denn wenn ihn sein Schwiegervater Didius Iulianus im April des Jahres 193 zum *praefectus urbi* machen konnte, sollte er damals bereits nach Rom zurückgekehrt sein. Das muss also spätestens im Herbst des Jahres 192 geschehen sein, wenn nicht früher. Bei einer Normaldauer der Statthalterschaft in Palaestina von kaum weniger als zwei, eher drei Jahren sollte er spätestens im Jahr 189/190 in diese östliche Provinz gegangen sein, was seinen Konsulat vor diesem Zeitpunkt festlegt. Da leicht zwischen Konsulat und Statthalterschaft in Syria Palaestina noch eine stadtrömische *cura* gelegen haben kann, kommt man für den Suffektkonsulat etwa in die Jahre um 187/188, womit weiterhin das Amt in Cilicia ungefähr in die Jahre zwischen 184 und 186/7 fallen sollte. Damit kann man von folgender Abfolge der Ämter des Cornelius Repentinus ausgehen:

Prätorischer Statthalter in Cilicia ca. 184 - 186/7

Konsulat ca. 187/188.

Konsularer Statthalter in Syria Palaestina spätestens ca. 189- 192 (oder etwas früher).

Denkbar ist lediglich, dass der Meilenstein aus Cilicia, datiert ins Jahr 184/5, im letzten Jahr der dortigen Statthalterschaft des Repentinus aufgestellt wurde. Dann würden die nachfolgenden Ämter, Konsulat und *legatio* in Syria Palaestina, ca. zwei Jahre früher datiert werden müssen.

Wenn man dann davon ausgehen kann, dass Repentinus zum Zeitpunkt seines Konsulats rund 40 Jahre alt war, gehört seine Geburt in die zweite Hälfte der 40er Jahre des 2. Jahrhunderts unter Antoninus Pius. Damals stand sein Vater, der Ritter Sex. Cornelius Repentinus, noch am Anfang seiner ritterlichen Laufbahn.<sup>25</sup> Doch unter Antoninus Pius stieg er zur Position eines der beiden *praefecti praetorio* auf, eine Funktion, die er auch noch in den frühen Jahren

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<sup>25</sup> AE 1980, 235 (Puteoli): *Sex(to) Cornelio [Sex(ti?) filio]] Quir(ina) [Repe]ntino cl(arissimo) v(iro) p[raef(ecto)] pr[ae]t(orio) divi Antonini Pii et Imperatorum M(arci) [Aureli Antonini Aug(usti)] Arme[niaci et L(uci) Aureli Veri Aug(usti) Arm]eniaci Parthici maximi ab ep[istulis] proc(uratori) XX hereditatium? ad]vocat[o] fisci sacerdoti Caeni]nensi colonia [Flavia A]ug(usta) [Puteoli].*

von Marc Aurel und Lucius Verus innehatte. Da in einer Inschrift aus Puteoli der Vater Cornelius Repentinus um das Jahr 167 *clarissimus vir* genannt wird, hatte er bereits senatorischen Rang erreicht, und mit ihm vermutlich auch sein Sohn. Dieser dürfte somit einen normalen senatorischen Cursus durchlaufen haben. Vom vermutlichen Jahr seines Konsulats um 187/88 aus zurückgerechnet, sollte er gegen Ende der 60er Jahre des 2. Jahrhunderts mit der Quästur in den Senat gelangt sein. Eine etwas spätere *adlectio* in eine der Rangklassen ist zwar nicht ausgeschlossen, doch angesichts des senatorischen Ranges seines Vaters nicht sehr wahrscheinlich. Weitere Ämter außer den schon genannten lassen sich bisher für ihn nicht nachweisen, doch darf man zumindest für einige Jahre ein Legionskommando in einer Provinz annehmen; ohne eine solche Erfahrung wäre er kaum zum Statthalter einer Zweilegionenprovinz, wie es Syria Palaestina war, ernannt worden.

Während seiner Statthalterschaft in Syria Palaestina hat er, wie die neue Inschrift zeigt, in Hammat Gader durch eine Abteilung der *legio VI Ferrata* zwischen ca. 189 und 192 (oder maximal ca. zwei Jahre früher) ein Bauwerk errichten lassen. Die Inschrift ist nicht im Verbund des ursprünglichen Bauwerks gefunden worden, jedoch „in the pool of the hot water of Ein Jerab (Hammat Gader = el-Hama)“. Das lässt vermuten, dass dort ein Gebäude errichtet wurde, das dem Badebetrieb diente. Weil bei dieser Baumaßnahme eine Legionsvexillation eingesetzt wurde, liegt es mehr als nahe zu vermuten, dass es sich um eine Anlage handelte, die zunächst einmal, vielleicht aber auch ausschließlich dem römischen Militär in Syria Palaestina diente. Bäder, die man primär als Militärbäder ansehen muss, finden sich fast in allen Provinzen des Reiches, in dem Teile des exercitus Romanus stationiert waren.<sup>26</sup> So heißt es in einer Inschrift aus Qasr al Uwaynid in der Provinz Arabia:<sup>27</sup>

*Castellum et s(uum) praesidium Severianum. Vexillatio leg(ionis) III Cyren(a)ic(ae) baln(eum) Mucia[no] et Fab[ian]o [co(n)]s(ulibus) ex(s)truxit.*

<sup>26</sup> Siehe etwa R. Jackson, Waters and Spas in the Classical World, in: The Medical History of Waters and Spas, hg. R. Porter, Medical History Suppl. 10, London 1990, 8 f.; E. Brödner, Die römischen Thermen und das antike Badewesen, Darmstadt 1992; G. Wesch-Klein, Soziale Aspekte des Römischen Heerwesens in der Kaiserzeit 1998, 84 ff.; E. Dvorjetski, Medicinal Hot Springs in the Greco-Roman World, in: Y. Hirschfeld (Hrsg.), The Roman Baths of Hammat Gader, Jerusalem 1997, 468 f.; K. Scherberich, Römische Militärheilbäder, in: Inquirens subtilia diverga. Festschrift D. Lohrmann, hg. H. Kranz – L. Falkenstein, Aachen 2002, 393 ff.; ferner H. Manderscheid, Bibliographie zum römischen Badewesen unter besonderer Berücksichtigung der öffentlichen Thermen, München 1988.

<sup>27</sup> AE 2001, 1978.

Im obergermanischen Jagsthausen lautet ein Text:<sup>28</sup>

*Imp(eratoribus) L(ucio) Septimio Severo Pio Pertinace et M(arco) Aur(elio) Antonino Aug[us]t[us] et Geta Caes(are)] balneum coh(ortis) I Ger(manorum) vetustate dilabsum a solo restitutum ex precepto Caesoni Rufiniani leg(ati) Augg(ustorum) pr(o) pr(aetore) cura agente Iulio Clodiano trib(un)o coh(ortis) s(upra) s(criptae).*

Und im afrikanischen Lambaesis ließ Kaiser Gallienus Thermen wiederherstellen:<sup>29</sup>

*Imp(erator) Caes(ar) P(ublius) Licinius Egnatius G(a)llienus Pius F(elix) Aug(ustus) thermas vetustate conlabsas per leg(ionem) suam III Aug(ustam) restituit curante Iulio Fortunatiano v(iro) c(larissimo) co(n)s(ulari) com(i)te et legato Aug(usti) et Aurel(io) Syro v(iro) e(gregio) praef(ecto) leg(ionis).*

In Aquincum werden die Thermen ausdrücklich als die Badeanstalt der Legion genannt:<sup>30</sup>

*Thermas maiores leg(ionis) II Adi(utricis) Claudianae magno tempore in[te]rmissas et destitutas r[e]tractatis porticibus aditibusque [pri]us refeci[t] exhiberi inde [inc]episse militib(us) [iuss]it [pri]die Kal(endas) Iuli(as) praes[ide] pr(ovincia) e(gregio) v(iro) Clemen(tio) Silvi(no) et cura Aur(eli) Frontini praef(ecti) leg(ionis) eiusdem Paterno II et Mariniano co(n)s(ulibus).*

Ähnliche Texte finden sich auch an anderswo.<sup>31</sup> Die neue Inschrift bezeugt somit eine Praxis, wie sie in allen Provinzen des Reiches beim Heer üblich war. Zur allgemeinen Hygiene, vor allem aber auch zur Heilung von Krankheiten wurden durch Truppenabteilungen des *exercitus* kleinere und größere Bäder erbaut.<sup>32</sup> Dabei nutzte man, wo immer möglich, natürliche Quellen, um solche

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<sup>28</sup> AE 1995, 1165.

<sup>29</sup> AE 1971, 508.

<sup>30</sup> CIL III 3525 = 10492 = Dessau 2457.

<sup>31</sup> CIL III 1374 (Micia); IAM II 2, 82 (Volubilis).

<sup>32</sup> Bezeugt sind sie z.B. in Germania superior in folgenden Kastellen: Elztal-Neckarburken, Hüfingen-Friesenheim, Jagsthausen, Köngen, Osterburken, Reinau-Buch, Rottweil, Schwäbisch Gmünd und Walldürn. Für Thermen in den Kastellen des rätischen Limes siehe Th. Fischer – E. Riedmeier-Fischer, *Der römische Limes in Bayern*, Regensburg 2008, 224 s.v. Thermen.

Einrichtungen mit heißem Wasser zu versorgen. In diesen Kontext lassen sich nunmehr auch die Quellen von Hammat Gader einordnen.<sup>33</sup> Damit ist die Inschrift, in der die *legio VI Ferrata*, also eine der beiden Legionen der Provinz Syria Palaestina genannt wird, auch ein weiteres wichtiges Zeugnis für die Zugehörigkeit dieses Gebiets zu dieser Provinz. Der Yarmuk bildete die Grenze zwischen Syria Palaestina und der jenseits des Flusses beginnenden Provinz Arabia.

Über die unmittelbare Information für die Errichtung eines großen Gebäudes, wohl einer Badeanlage, durch das römische Militär, löst die Inschrift aber nun das Rätsel um den Namen der einen Quelle Repentinus, das sich durch die zu Beginn genannte poetische Inschrift aus Hammat Gader ergab und das bisher nicht lösbar schien. Die Kaiserin Eudocia hat, als sie in das spätantike Palästina ihre Pilgerreisen unternahm und dort schließlich für lange Zeit im Exil lebte, auch die Bäder in Hammat Gader besucht. Dabei hat man ihr vermutlich im Detail erklärt, welche Namen die einzelnen Quellen trugen. Ebenso ist es möglich, dass sie selbst die einzelnen Gebäude in Augenschein genommen und dabei auch diese Inschrift gesehen und daraus ihre Information bezogen hat. Trotz ihrer Schulung in der griechischen Literatur muss sie natürlich auch die lateinische Sprache noch beherrscht haben; das erforderte damals schlicht ihre Rolle am Kaiserhof in Konstantinopel als Gemahlin von Theodosius II. Dass sie aus der Inschrift einen Namen für die Badeanlage abgeleitet hat, ist also durchaus möglich. Möglich ist freilich auch, dass die Informationen, wie die Quellen benannt wurden, auf andere zurückgehen. Dass Leute, die wenig Latein verstanden, dann aus der Inschrift herauslasen, zwei der Quellen hätten die Namen Antoninus und Repentinus getragen, ist leicht vorstellbar.<sup>34</sup> Doch weder Eudocia, wenn sie selbst die Inschrift gelesen hatte, noch andere, die sie darüber informierten, haben den Inhalt der lateinischen Inschrift vollständig verstanden. Das ergibt sich sehr klar aus dem Namen „Antoninos der Gute“, wie eine der Quellen benannt wird. Den Namen Antoninus trugen verschiedene Kaiser der antoninischen und severischen Dynastie: Antoninus Pius, Marc Aurel, Commodus, Caracalla und Elagabal. Unterscheiden konnte man sie offensichtlich nicht mehr; doch war Antoninus Pius eine bekanntere Person, wenn nicht sogar mit dem Namen Antoninos Marc Aurel, der Philosoph auf

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<sup>33</sup> Siehe zur gesamten Region Th. Weber, Thermalquellen und Heilgötter des Ostjordanlandes in römischer und byzantinischer Zeit, MDAI (Da) 11, 1999, 445 ff.

<sup>34</sup> Dann sollte man allerdings annehmen, dass der Name des Commodus im linken Teil von Zeile 2 eradiert war.

dem Kaiserthron, assoziiert wurde.<sup>35</sup> Eudocia ist hier vermutlich auch ein Opfer der verwirrenden Zahl der kaiserlichen Antonini geworden. Verstanden hat man jedenfalls nicht genauer, wer denn die beiden Personen waren, deren Namen zwei Quellen trugen. Gleiches geschah auch nach der Auffindung des Gedichts im wissenschaftlichen Verständnis. Der Name Antoninos der Gute wurde fast zwangsläufig als Antoninus Pius verstanden. Und der Name Ῥεπεντίνος wurde bisher entweder als Name eines donor verstanden,<sup>36</sup> oder auch als personification of a spring.<sup>37</sup> In einer Region, in der Roms Sprache nur über geringen Einfluss verfügte, ist es wenig wahrscheinlich, dass ohne einen gewichtigen Anlass ein rein römischer Name mit einer Quelle verbunden wurde.

Der neue Text zeigt nun sehr klar, dass der Name der Quelle von dem Statthalter abgeleitet wurde, unter dessen Oberaufsicht ein Gebäude errichtet wurde, das offensichtlich für das Bad von zentraler Bedeutung war. Denn wäre nicht in seiner Zeit ein ganz wesentlicher Entwicklungsschritt in der Ausgestaltung des Bades erreicht worden, dann wäre es kaum verständlich, dass der Name des Statthalters Repentinus mit einer der Wasserquellen bzw. einer der wesentlichen baulichen Einrichtungen des Bades verbunden worden wäre. Das aber lässt erschließen, dass der monumentale Ausbau der Badeanlagen von Hammat Gader und ihre umfassende Nutzung mit großer Wahrscheinlichkeit erst im späten 2. Jahrhundert n. Chr. einsetzte und eine Folge der durch die *legio VI Ferrata* verstärkten Präsenz des römischen Heeres im Norden der Provinz Syria Palaestina war. Doch war die Nutzung dieser neuen Anlagen wohl sehr schnell nicht mehr auf das römische Heer beschränkt. Gerade weil auf diese Weise eine gute Infrastruktur geschaffen war, boten sich auch für andere die Möglichkeiten, dort tätig zu werden. Das könnte z.B. die Stadt Gadara gewesen sein, die auf der anderen Seite des Flusses in der Provinz Arabia lag; doch war die Provinzgrenze für Baumaßnahmen eben keine Grenze. Ebenso ist es möglich oder sogar wahrscheinlich, dass private Unternehmer bei den nun großzügiger erschlossenen Quellen ein lohnendes Feld für ihre Aktivitäten sahen. Damit ist dieses epigraphische Zeugnis auch ein Hinweis auf den Einfluss, den das römische Heer auf die Entwicklungen in

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<sup>35</sup> Siehe S. Schmidt-Hofner, Trajan und die symbolische Kommunikation bei kaiserlichen Rombesuchen in der Spätantike, in: Rom in der Spätantike. Historische Erinnerung im städtischen Raum, hg. R. Behrwald - Chr. Witschel, Stuttgart 2012, 33 ff., bes. 43 ff. mit Hinweisen, wie Antoninus Pius in der Spätantike gesehen wurde.

<sup>36</sup> Green – Tsafir (Anm. 5) 87.

<sup>37</sup> Di Segni (Anm. 5) 230 und 261 n. 43.

einer Provinz ausüben konnte.<sup>38</sup> Die Folgen dieses Einflusses lassen sich, wie nicht nur die Inschrift der Eudocia zeigt, bis in die Spätantike und sogar noch darüber hinaus verfolgen.<sup>39</sup>

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<sup>38</sup> Dazu neben dem oben schon genannten Werk von B. Isaac (Anm. 13) noch W. Eck, Rom und Judaea. Fünf Vorträge zur römischen Herrschaft in Palaestina, Tübingen 2007, Kap. 3.

<sup>39</sup> Vgl. dazu W. Eck, Das Heer und die Infrastruktur von Städten in der römischen Kaiserzeit - das Beispiel Iudaea/Syria Palaestina, in: Cura Aquarum in Israel II. Water in Antiquity. Proceedings of the 15th International Conference on the History of Water Management and Hydraulic Engineering in the Mediterranean Region. Israel 14– 20 October 2012, hg. Ch. Ohlig – T. Tsuk, Siegburg 2014, 207-214. - Nicht eingegangen wird hier auf die phantastischen Thesen von E. Dvorjetski, Roman Emperors at the Thermo-Mineral Baths in Eretz-Israel, Latomus 56, 1997, 567-581; er geht davon aus, "that the baths of Hammat-Gader were officially inaugurated in the days of emperor Caracalla... Possibly the baths of Hammat-Gader became the imperial estate of Caracalla, and they were given to Rabbi Judah on lease or as an award." Dazu soll wegen des angeblichen „encampment of the tenth legion in the area of Hammat-Gader“ das Gebiet zum territorium legionis geworden sein, und damit rechtlich kaiserlicher Besitz. Diese phantastische Rekonstruktion ist vielleicht daraus entstanden, dass der Autor den Namen Antoninos im Gedicht der Eudocia als den Namen Caracallas missverstanden hat (während Eudocia den Namen zwar auch nicht zutreffend interpretiert hat; sie aber hat ihn als Antoninus Pius interpretiert) und dies mit den Aussagen in Mischna und Talmud über die angeblich enge Vertrautheit zwischen Rabbi Juda und Caracalla kombiniert hat. Man sollte sich doch, wenn man historisch arbeitet, an eine stringente Methode halten, und nicht unvergleichliche Quellen miteinander vermischen. Solche Geschichten können kein Fundament für historische Aussagen sein.

# A Preliminary Survey of Letters in the Judaean Desert Documents\*

NAHUM COHEN

Oral messages and letters in general were the commonest means of communication in the ancient world.<sup>1</sup> Letters written on papyrus were found in Egypt, Nessana, the Judaean Desert, Masada, Provincia Arabia, Syria, Dura Europos and Mesopotamia.<sup>2</sup> Ostraca, too, were employed for writing letters. (See e.g.

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\* Thanks are due to Prof. B. Zissu, Bar-Ilan University, and to Dr. M. Ben Shalom, Achva Academic College for Education. Both read an earlier version of this article and made valuable comments. Dr. Uri Yiftach, then of the Hebrew University, suggested changes and new ideas in the present article, which were gratefully implemented. M. Capasso of Lecce University, Italy provided useful information. Many thanks are extended to the librarians of the Achva Academic College for doing their utmost to locate books and articles needed for this study. All other errors are solely mine. Papyri, ostraca and papyrological journals are cited according to the online edition of the *Checklist of Editions of Greek, Latin, Demotic and Coptic Papyri, Ostraca and Tablets*, available on the web at: <http://scriptorium.lib.duke.edu/papyrus/texts/clist.html>. I did not have access to YIFTACH-FIRANKO 2013.

<sup>1</sup> For a survey of Greek letters in the 1<sup>st</sup> -8<sup>th</sup> centuries CE see LUISELLI 2008, 677-719. Letters primarily sustained direct contacts among relatives, acquaintances and friends. They created a kind of feeling between addressers and addressees as though they were conversing face to face with one another, overcoming geographical distances. See BAGNALL & CRIBIORE 2006, 12-13; LUISELLI 2008, 701-702. Letters continued to be a major means of communication after the Arabic conquest of Egypt (639 CE). See GROB 2010, xiv-xv.

<sup>2</sup> Egyptian extant testimony regarding letters show that they can be traced in the course of hundreds of years BCE and CE. These have been published as parts of documentary papyrological editions. Special collections have been published, too. Some examples follow: NALDINI 1968, 1998; TIBILETTI

**nos. 12-14** on the list of letters *infra*). Letters, written on palm leaves and on pieces of wood, were found in Yemen and in Roman Britain, and on cloth, leather and parchment in Iran.<sup>3</sup> In the western provinces of the Roman Empire there is testimony of letters written on papyrus (or on other materials), but the letters themselves were mostly lost.<sup>4</sup> Letters were undoubtedly in daily use as a common means of communication throughout these vast regions too.<sup>5</sup>

The sources discussed in this article originated mainly in Judaea, around the shores of the Dead Sea and Masada.<sup>6</sup> In many cases the addressers and the addressees were illiterates, while literates inscribed and read out for them the letters they sent or received.<sup>7</sup> Letters of this kind were occupied mainly with the circumstances of daily life.

This article will concentrate on letters (private including instructions and messages, business letters, letters of recommendation/introduction) written on papyri and other materials<sup>8</sup> and exchanged among inhabitants of Judaea around the shores of the Dead Sea and Masada during the first two centuries CE.<sup>9</sup> A preliminary survey of the letters will be performed touching also upon

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1979; COTTON 1981 (letters in Latin); BAGNALL & CRIBIORE 2006 (women's letters); GROB 2010 (letters in Arabic). A recent detailed bibliography is available in LUISELLI 2008, 720-34. No letters have so far been found among the Herculaneum papyri, most of which are literary-philosophical. Except for two very fragmentary texts showing some features of letters most of the Petra papyri (published or in the deciphering process) have the nature of other documentary manuscripts, (electronic message from A. Arjava, The Finnish Cultural Foundation, Helsinki, to whom I hereby extend my deep thanks.)

<sup>3</sup> See GROB & KAPLONY 2008, 672 and LUISELLI 2008, 776.

<sup>4</sup> The Vindolanda Tablets are an exception in this respect. See BOWMAN & THOMAS 1983-2003. These are the Latin wooden tablets from Vindolanda, Roman Britain. For the manufacturing and marketing of papyri see LEWIS 1974, 115-134 and 1989, 40-41. Egypt was the only exporter of writing material (papyri) in antiquity. See *op. cit.* (1974) 101. Private letters were saved from destruction by a variety of causes, for which see BAGNALL & CRIBIORE 2006, 22-23; LUISELLI 2008, 712-14.

<sup>5</sup> Letters from these regions survived mostly in literary sources. Among others they are attested in the writings of Cicero (*ad Atticum* and *ad Familiares*); Pliny the Younger (*Epistulae*); Plutarch (e.g. *Alexandros*); Suetonius (e.g. *Divus Iulius*). Well known letters, written by St. Paul, St. Peter and others are recorded in the New Testament.

<sup>6</sup> Henceforward in this article the phrase "the Judaeen Desert letters" will refer to those of Masada as well.

<sup>7</sup> See Hanson 1991, 159-68 for the level of illiteracy in Egypt. For Judaea see GREENFIELD 1993; GOODMAN 1994, 99-108. Literacy as a feature of Jewish life was integrated early in the history of the Jews, as the phrase "the People of the Book" (in the *Koran*, e.g. chap. 3.63-66) might indicate. See also SCHOLEM 1989, particularly 153-56.

<sup>8</sup> Out of the 42 letters discussed in this article 36 were written on papyrus, three on ostraca, two on hide and one on wood. See *infra*.

<sup>9</sup> The essays collected by GROB & KAPLONY 2008 demonstrate the wide geographical range of the use of letters in the Near East and the large variety of languages employed. The editors failed, however, to refer to letters which originated from the Judaeen Desert (penned in Hebrew, Aramaic, Greek, and Latin) with their special characteristics, as the following discussion will show. For a survey of these letters see COTTON, COCKLE & MILLAR 1995, 224-35 and the following list.

the structures, phraseology and the needs and motives for writing in these documents.

## THE JUDAEAN DESERT LETTERS

### KEY OF PARAMETERS

*P.Mur* – *P.Murabba'ât*; *Mas.* – *Masada*; **Pl.** – plate - photo; **C** – number of text in the list of COTTON, COCKLE & MILLAR 1995; **M** – material; **St.** – state of preservation; **Meas.** – measurements, in this article width is followed by height; **For.** – format: indicates physical feature; **Pal.** – paleography; **Type** – type of letter; **L** – language; **Pro.** – provenance; Bar-Kokhba's letters (**nos. 27-42** on the list) were found in the Cave of Letters, Naḥal Hever (see footnote 13 infra); **D** – date, all dates are CE; *war* under this parameter refers to the Bar Kokhba war (132-36 CE); **Cor.** corresponding figures/parties; **A** – address; **G** – greetings; **Text** – subject and contents; **Sal.** – salutations; **Wit.** – witnesses; **Sig.** – Signature; **Add.** – address (whereabouts).

- Where it is not certain that the manuscript listed is a letter, the data will be printed in a smaller font.
- Plus or minus indicate that the item in question is either present or missing in the manuscript surveyed. A parameter will be marked with a plus even if the data regarding it is only partial.
- In order to form consistency in transcribing proper names the present author printed one set of names. Where this is at discrepancy with the version given by the editor of a certain text, the editor's version will be provided in brackets.<sup>10</sup>
- Two titles of the leader of the Jews in the Bar-Kokhba War are employed: 'Bar-Kokhba' and 'Shim'on son of Kosibah'.
- Information regarding one or more parameters that appeared in parts of a papyrus that have been lost is indicated by L (Lost).
- Unless otherwise stated, the texts were inscribed by one hand.

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<sup>10</sup> The data in these texts is based on the following editions: *P.Mur*.II & and the accompanying vol. of plates; *Masada* I; *P.Masada* II; *P.Hever*; *DJD* XXXVIII; *P.Yadin* II & and the accompanying vol. of plates.

- Average number of letters in a line will be indicated only in complete documents.
- For an overview of some of the parameters in each document see table on p. 152 *infra*.

**1** *P. Mur. II 42*; **Pl.** – *P. Mur. II ii, xlv*; **C** – 312; **M** – papyrus; **St.** – the papyrus sheet suffered some damage at the top and left sides, otherwise the text is nearly complete; **Meas.** – 15.4x21 cm; **For.** – rectangular text with width longer than height; three horizontal folds and two vertical; average number of letters in a line (except for the signatures) is 29; the bottom margin is far larger than the rest; verso blank; **Pal.** – the untrained hand produced a cursive text leaning leftwards from the top down with uneven spacing between the lines; the few ink stains do not hinder a fluent reading of the manuscript; the writing runs along the fibers; **Type** – business letter; **L** – Hebrew; **Pro.** – the papyrus was found in a cave in Wadi Murabba‘at; the addressers resided in Bet-Mašiko (Hebrew בית מִשְׁכּוֹ); **D** – war; **Cor.** From the administrators of Bet-Mašiko, Yeshua‘ (Yešua‘) and ‘El‘azar, to Yeshua‘ (Yešua‘) son of Galgula, chief of the camp; **A** – (+); **G** – (+); **Text** – The issue of not returning a cow legally purchased cannot be resolved on account of the war raging in the area; **Sal.** – (+); **Wit.** – three witnesses; **Sig.** – three signatories; **Add.** – (-).

**2** *P. Mur. II 43*; **Pl.** – *P. Mur. II ii, xlvi*; **C** – 313; **M** – papyrus; **St.** – The papyrus was torn at the bottom; remnants of another document are visible; text nearly complete; **Meas.** – 11.5x8.8 cm; **For.** – originally the text might have been nearly square; at least two vertical folds and one horizontal; top and right margin survived, bottom small parts, left not at all; average number of letters in a line is 18; verso blank; **Pal.** – the hand is semi-formal producing a fine text with letters varying in size (0.2-1 cm) and uneven interlinear spacing; the writing runs against the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; **L** – Hebrew; **Pro.** – the papyrus was found in a cave in Wadi Murabba‘at; probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Kaphar ha-Baruk, a village in the southern area of Judaea, see *P. Mur. II 43*, pp. 159-160; **D** – end of war (?); **Cor.** – Shim‘on (Šim‘on) son of Kosibah (Kosiba‘) to Yeshua‘ (Yešua‘) son of Galgula and others; **A** – (+); **G** – (+); **Text** – the son of Kosibah warns Yeshua‘ (Yešua‘) and others not to harm the Galileans, otherwise he would punish them severely; **Sal.** – (-); **Wit.** – (-); **Sig.** – the signature of Shim‘on son of Kosibah has partly survived; **Add.** – (-).

**3** *P. Mur. II 44*; **Pl.** – *P. Mur. II ii, xlvi*; **C** – 314; **M** – papyrus; **St.** – the papyrus was neatly cut on all four sides; but for two small lacunas which damaged

a few letters, the text is nearly complete; **Meas.** – 9.7x12 cm; **For.** – rectangular text with height longer than width; no folds traced; no margin at left, the rest are very narrow; average number of letters in a line is 18; verso blank; **Pal.** – the practiced hand produced a semi-formal script with large letters and uneven interlinear spacing; the writing runs along the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; **L** – Hebrew; **Pro.** – the papyrus was found in a cave in Wadi Murabba‘at; probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Yeshua‘ (Yešua‘) son of Galgula, see **no. 2** supra; **D** – end of war (?); **Cor.** – Shim‘on (Šim‘on) son of Kosibah (Kosiba‘) to Yeshua‘ (Yešua‘) son of Galgula; **A** – (+); **G** – (+); **Text** – Shim‘on (Šim‘on) instructs Yeshua‘ (Yešua‘) to collect corn for him and send it after the Sabbath, which is to be observed; **Sal.** – (-); **Wit.** – (-); **Sig.** – (-); **Add.** – (-).

**4** *P.Mur. II 45*: **Pl.** – *P.Mur. II ii, xlvii*; **C** – 330; **M** – papyrus; **St.** – the highly fragmentary papyrus was torn on all four sides with several holes and ink stains all over; the extant lines at right survived intact; **Meas.** – 9.1x9.5 cm; **For.** – rectangular text, height seems to have been longer than width; some margin survived at right, the rest lost; three horizontal folds and one vertical are visible; verso blank; **Pal.** – the hand is semi-formal producing large letters with uneven interlinear spacing; the writing runs along the fibers; **Type** – private letter; **L** – Hebrew; **Pro.** – the papyrus was found in a cave in Wadi Murabba‘at; Mezaḏ Ḥasidim (1.6), a fortress not identified as yet, could have provided a clue to the provenance of this letter; (see *P.Mur. II 45.6*, p. 163; not in REEG 1989; **D** – end of war; **Cor.** – (?); **A** – (L); **G** – (L); **Text** – report on the food reserves at the fortress and the war casualties (?); **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** (L).

**5** *P.Mur. II 46*: **Pl.** – *P.Mur. II ii, xlvii*; **C** – 330; **M** – papyrus; **St.** papyrus complete on top, right and bottom; left side cut abruptly; four tiny fragments in addition; the main fragment suffered cuts and breaks all over; **Meas.** – of main fragment 7x11.6 cm; **For.** – rectangular text with height longer than width; margins survive except on the left; at least four vertical folds and one horizontal are traceable; verso blank; **Pal.** – this semi-formal almost literary hand produced an elegant script; the writing runs along the fibers; **Type** – letter of recommendation; **L** – Hebrew; **Pro.** the papyrus was found in a cave in Wadi Murabba‘at; its addresser, Yehonathan (Yonatan) son of (?), resided in Ein Gedi; **D** – end of war; **Cor.** – Yehonathan (Yonatan) son of (?) to Yoseh son of (?); **A** – (+); **G** – (+); **Text** – Yehonathan (Yonatan) writes to Yoseh recommending that Euphronius(?), the undertaker, son of ‘Eli‘azer, be provided

with several articles needed by him to perform his tasks; **Sal.** – (+); **Wit.** – (-) **Sig.** – contrary to the semi-formal hand of text the script of the signature is cursive; **Add.** – (-).

**6** *P.Mur. II 47*: **Pl.** – *P.Mur. II ii*, xlviii; **C** – 330; **M** – papyrus; **St.** – two fragments survived of this papyrus sheet; only at right the beginnings of several lines are intact; the rest is highly fragmentary; **Meas.** – of both fragments combined 6.7x8.5 cm; **For.** – right margin survived; three vertical folds are visible; verso blank; **Pal.** – the semi-formal almost literary hand produced fine letters with nearly even interlinear spacing; the writing runs against the fibers; **Type** private letter?; **L** – Hebrew; **Pro.** – the papyrus was found in a cave in Wadi Murabba‘at; Tekoa‘ (1.6), a village south of Bethlehem (see YADIN 1971, p.125; ESHEL & AMIT 1998, map on p. 15) might provide a clue to the provenance of this letter; Tekoa‘ is also recorded in *P.Yadin II 55.3*, **no. 33** and 61.1, **no.39** infra; **D** – war; **Cor.** – (?); **A** – (L); **G** – (L); **Text** – The letter may have dealt with olives, or the production of oil. See *P.Mur. II 47*, p. 167; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**7** *P.Mur. II 48*: **Pl.** – *P.Mur. II ii*, xlviii; **C** – 330; **M** – papyrus; **St.** – only two small fragments survived; **Meas.** – of both fragments combined 5.5x9 cm; **For.** – top and bottom margins partly survived; verso blank; **Pal.** – fine cursive script probably produced by a professional hand with almost no ligatures; the writing runs along the fibers; **Type** – private letter(?), apparently part of the administrative correspondence of Bar-Kokhba; **L** – Hebrew; **Pro.** – the fragments were found in a cave in Wadi Murabba‘at; the letter was probably written in Bar-Kokhba’s camp (at Herodion?) and sent to its addressee; **D** – war; **Cor** – from Shim‘on (Šim‘on?) to the son of Yohanne‘; **A** – (+); **G** – (+); **Text** – the letter probably dealt with events relating to the war; **Sal.** – (+); **Wit.** – (-); **Sig.** – there is an indication that the letter was signed, though no name survived; **Add.** (-).

**8** *P.Mur. II 49*: **Pl.** – *P.Mur. II ii*, xlviii; **C** – 331; **M** – papyrus; **St.** – two tiny fragments; **Meas.** – 6.2x0.8 (frag. 1) and 6x5.6 cm; **For.** – verso blank; **Pal.** – the hand is semi-formal; the writing runs along the fibers; **Type** – a letter(?); **L** – Hebrew (?); **Pro.** – (?); the fragments were found in a cave in Wadi Murabba‘at; **D** – (L); **Cor.** (?); **A** – (L); **G** – (L); **Text** – (?); **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**9** *P.Mur. II 50*: **Pl.** – *P.Mur. II ii*, xlviii; **C** – 331; **M** – papyrus; **St.** – four tiny fragments with very little script; **For.** – verso blank; **Pal.** – the hand is cursive

with no ligatures; the writing runs along the fibers; **Type** – a letter(?); **L** – Hebrew(?); **Pro.** – (?); the fragments were found in a cave in Wadi Murabba'at; **D** – (L); **Cor.** – (L); **A** – (L); **G** – (L); **Text** – (?); **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**10** *P.Mur. II 51*: **Pl.** – *P.Mur. II ii, xlviii*; **C** – 331; **M** – papyrus; **St.** – two tiny fragments with some script; **Meas.** – of the larger fragment (no. 2): 3.2x1.4 cm; **For.** – verso blank; **Pal.** – the hand is semi-formal; the writing runs against the fibers; **Type** – a letter(?); **L** – Hebrew(?); **Pro.** – the fragments were found in a cave in Wadi Murabba'at; Galgala (frag. 1.1) as a place name might allude to the provenance of the letter. See *P.Mur. II 51*, p.169; **D** – (L); **Cor.** – as a proper name Galgala might refer to one of correspondents of this letter; **A** – (L); **G** – (L); **Text** – (?); **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**11** *P.Mur. II 52*: **Pl.** – *P.Mur. II ii, xlviii*; **C** – 331; **M** – papyrus; **St.** – six tiny fragments with very little script; **Meas.** – of the largest fragment (1): 3.3x1.4 cm; **For.** – verso blank; **Pal.** – the hand is semi-formal; the writing runs along the fibers; **Type** – a private letter(?); **L** – Hebrew?; **Pro.** – the fragments were found in a cave in Wadi Murabba'at; Kaphar ha-Baruk(?) in **no. 2** was addressed to Yeshua' (Yešua') son of Galgala in that same village; see **Cor.** *infra*; **D** – (?); **Cor.** – if the reading of frag. 1 is correct the letter might have been written to Yeshua' (Yešua') son of Galgala (editor's conjecture) as in *P.Mur. II 43.2 (no. 2)*. See *P.Mur. II 52*, p. 169; **A** – (L); **G** – (L); **Text** – frag. 2 might indicate that Galileans, one or more, were involved in this letter; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**12** *Mas. I 554*: **Pl.** – 45; **C** – 235; **M** – ostrakon; **St.** – text incomplete; **Meas.** – 6.5x8.5 cm; **Pal.** – hand: semi-cursive with few ligatures, interlinear space – 0.5 to 0.7 cm; **Type** – business letter; **L** – Aramaic; **Pro.** – Masada; **D** – 67-73/4; **Cor.** – from the son of Ma'uzi to (?); **A** – (L); **G** – (L); **Text** – The son of Ma'uzi begs the borrower to return a loan he lent him; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**13** *Mas. I 555*: **Pl.** – 45 ; **C** – 236; **M** – ostrakon; **St.** – broken on all four sides; **Meas.** – 5x5.8 cm; **Pal.** – Text written in charcoal and faintly visible with uneven size of letters; **Type** – private letter(?); **L** – Aramaic; **Pro.** – Masada; **D** – 67-73/4; **Cor.** – (?); **A** – (L); **G** – (L); **Text** – A quantity of wheat is to be delivered to someone, perhaps Reuben. Barley might have been referred to as well; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**14** *Mas. I 556*; **Pl.** – 45; **C** – 237; **M** – ostrakon; **St.** – this letter was inscribed on a big amphora, which was broken to pieces; thirteen shards of clay combined to provide the text, which is incomplete as yet; **Meas.** – 18.5x14.6 cm; **Pal.** – the hand shows uneven size of letters, between 0.5 to 1.2 cm, and interlinear space of about 1-1.2 cm; **Type** – private letter; **L** – Aramaic; **Pro.** – Masada; **D** – 67-73/4; **Cor.** – One of the correspondents is a man named Yehōhanan; **A** – (+); **G** – (+); **Text** – The letter might have dealt with the transport and delivery of myrrh and fruit; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**15** *P.Mas. II 724*; **Pl.** – 4; **C** – 260; **M** – papyrus; **St.** – one large fragment survived; **Meas.** – 14.4x8.3 cm; **For.** – top, right and left margins survived; one vertical fold is traceable; verso carries an address; **Pal.** – the fragment is light brown; the hand is elegant and apparently professional with large letters and wide spaces between the lines (about 1.5 cm); the address on the verso (a different hand) is written in elongated thin letters; the text in both recto and verso runs along the fibers; **Type** – a fragment of a letter of recommendation; **L** – Latin with one word written in Greek characters on the verso; **Pro.** – Masada; **D** – before February – March 73(?); for a discussion of dates with relevance to the siege and fall of Masada see *P.Masada II*, pp. 21-23: ‘Excursus on the Date of the Fall of Masada’; **Cor.** – Titulenus Vindex to Iulius Lupus; **A** – (+); **G** – (+); **Text** – Titulenus Vindex introduces Ven...atus, his *familiaris*, to (Tiberius) Iulius Lupus, Prefect of Egypt; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (+).

**16** *P.Mas. II 726*; **Pl.** – 5; **C** – 262; **M** – papyrus; **St.** – highly fragmentary; **Meas.** – 10x2 cm; **For.** – verso blank; **Pal.** – the hand is cursive with medium-sized letters, few ligatures and uneven interlinear spaces (1-0.5 cm); text runs along the fibers; **Type** – private letter?; **L** – Latin; **Pro.** – Masada; **D** – shortly before spring of 73 or of 74; for the date see *P.Mas. II*, introduction to the Latin papyri; **Cor.** – The rank of both addresser and addressee seem to be higher than that of a centurion; **A** – (L); **G** – (L); **Text** – The letter might have dealt with some imminent danger(?) and the forwarding of a centurion and reinforcement(?); **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**17** *P.Mas. II 728*; **Pl.** – 5; **C** – 263; **M** – papyrus; **St.** – three tiny fragments; **For.** – verso blank; **Pal.** – three tiny fragments of a light colored papyrus; the hand, seemingly untrained, produced large letters; **Type** – letter; **L** – Latin; **Pro.** – Masada; **D** – shortly before spring of 73 or of 74; **Cor.** – (?); **A** – (L); **G** – (L); **Text** – the letter might have been forwarded to a certain Sulpicius; see

**Add** infra; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – the reconstructed name in this one line text might allude to the address of the letter; see *P.Masada* II p. 73.

**18** *P.Mas. II 728a*: **Pl.** – 5; **C** – 263; **M** – papyrus; **St.** – two tiny fragments, only one bearing some script; **Meas.** – of the inscribed fragment 4x1.5 cm; **For.** – verso blank; **Pal.** – text written along the fibers in thick black ink; **Type** – letter; **L** – Latin; **Pro.** Masada; **D** – shortly before spring of 73 or of 74; **Cor.** – (?); **A** – (L); **G** – (L); **Text** – (?); **Sal.** – (+); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**19** *P.Mas. II 741*: **Pl.** – 8; **C** – 242; **M** – papyrus; **St.** – one large fragment in addition to three tiny ones, only two of which bear remnants of writing; **Meas.** – of the large fragment 12x9 cm; **For.** – top margin and parts of left and right survived; two vertical folds are detectable; verso blank; **Pal.** – the writing is neat, round and upright resembling a professional hand; some letters are ornamented; the initial characters of the names (l. 1) are larger than the rest; the interlinear space is even; text written along the fibers; **Type** – private letter; **L** – Greek; **Pro.** – Masada; Abaskantos might have sent the letter to Yehudah (Judah) from Ein Gedi, see *P.Mas. II* p. 87; **D** – before spring of 73 or of 74; for the date see *ibid.* p. 86; **Cor.** – Abaskantos to Yehudah (Judah); *P.Mas. II 741* is probably the earliest Jewish documentary papyrus from Palestine (see *ibid.* p. 86); **A** – (+); **G** – (+); **Text** – Abaskantos sends Mnemon to Yehudah (Judah) probably to deliver some provisions including lettuce; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**20** *P.Mas. II 745*: **Pl.** – 9; **C** – 245; **M** – papyrus; **St.** – one badly damaged fragment; **Meas.** – 4.5x5.8 cm; **For.** – verso blank; **Pal.** – a light colored fragment bearing remains of five lines running along the fibers; the hand is cursive; **Type** – private letter; this may be inferred from the salutation and the wider space between the last line and the rest of the text; **L** – Greek; **Pro.** – Masada; **D** – before spring of 73 or of 74; **Cor.** – (?); **A** – (L); **G** – (L); **Text** – end of a letter with a salutation; **Sal.** – (+); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**21** *P.Mas. II 746*: **Pl.** – 9; **C** – 246; **M** – papyrus; **St.** – nine mostly tiny fragments; **Meas.** – frag. a: 3.2x2.1 cm; frag. d: 3.1x3.1 cm; the rest are tinier; **For.** – verso blank; **Pal.** – the hand is cursive; the interlinear spaces are more or less even; the writing runs along the fibers; **Type** – private letter (?), as the salutation and wider space between the lines in frag. i might indicate; **L** – Greek; **Pro.** – Masada; **D** – before spring of 73 or of 74; **Cor.** – (?); **A** – (L); **G** – (L); **Text** – highly fragmentary text with a salutation; **Sal.** – (+); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**22** *P.Hever* 30: **Pl.** – XX; **C** – 311; **M** – papyrus; **St.** – the right side of the papyrus is more or less complete, the left (including a part of the text) was highly damaged; **Meas.** – 10x12.5 cm; **For.** – rectangular text with height longer than width; only parts of the left margin were lost, the rest survived; the verso carries an address; **Pal.** – the hand is non-calligraphic, except for the signature at 1.8, which is semi-cursive (different hand); the script on the verso is cursive; the writing (on both sides) runs along the fibers; **Type** – private letter; **L** – Hebrew; **Pro.** – the provenance of this letter is uncertain; it belongs to the Wadi Seiyâl papyri, but actually might have been found in Naḥal Hever; see *P.Hever* p. 3; **D** – war; **Cor.** – Shim'on son of Mataniah to Shim'on son of Kosibah; **A** – (+); **G** – (+); **Text** – the addresser reports to Shim'on son of Kosibah an incident, perhaps a calamity which took the lives of a group of people. The reporter and others, however, survived; **Sal.** – (+); **Wit.** – (-); **Sig.** – (+); **Add.** – (+); the other name on the verso ('El,,) might have referred to the letter carrier.

**23** *P.Hever* 342: **Pl.** – LIV; **M** – hide; **St.** – one small fragment; **Meas.** – 4.8x6.2 cm; **For.** – verso blank; **Pal.** – four lines of the text survived written in a Jewish cursive hand; the average height of letters is about 0.4 cm; inter-linear spacing is 0.7-0.9 cm; **Type** – letter (?); **L** – Aramaic; **Pro.** – (?); **D** – 1<sup>st</sup> - 2<sup>nd</sup> century CE; **Cor.** – Three names are recorded in the extant text: Yehudah, 'El'azar and probably 'Elishua'; if the reading of the last name is correct, it will be its first appearance in non-literary documents from the Judaean Desert. **A** – (L); **G** – (L); **Text** – (?); **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**24** *P.Hever* 343: **Pl.** – LV; **M** – hide; **St.** – one relatively large fragment together with another two, tiny ones (frag. a+b), were found together; the tiny fragments are probably parts of a different document; **Meas.** – 7.2x9 cm; frag. a and b combined 5.1x2.1 cm; **For.** – rectangular text with height longer than width; right and bottom margins of the recto survived; left of the recto and top of the verso only partly remained; **Pal.** – the fragmentary text of the larger fragment, written on both recto and verso, bears the remains of 15 lines; the hand is early Nabatean with many letters resembling the Jewish semi-cursive script of the late Hasmonaean period; average height of the letters is 0.5; so is the interlinear space; the script on the verso is perpendicular to the text on the recto; **Type** – private letter; **L** – Aramaic; **Pro.** – the provenance of the main fragment is unknown; **D** – 1<sup>st</sup> century CE (?); **Cor.** – do the names Shim'on (1.13) and Šdlhy (? , 1.14) allude to the addressees?; **A** – (L); **G** – (L); **Text** – the two names inscribed on the verso, Shim'on and Šdlhy, were probably involved in the incidents described in the original letter. The narrator's brother

is expected to deliver his house to the addressee/s. On the verso an evil deed committed is reported; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**25** *DJD XXXVIII 11 (Jericho)*: **Pl.** – XV; **M** – papyrus; **St.** – three fragments joined together augmented by five much smaller ones render this papyrus highly fragmentary; **Meas.** – the three larger pieces combined: 9.3x8.1 cm; frags. a-c: 1.1x2.2, 1.1x2.8, 1.2x2.6 cm respectively; the rest are tinier; **For.** – top margin is intact, left partly survived, the rest did not; three vertical folds and one horizontal are traceable; verso blank; **Pal.** – the hand is mostly Jewish cursive with many ligatures among the letters; the interlinear space is 1.2-1.5 cm; the joined fragments bear six lines, the tinier ones a line each at least; the writing runs against the fibers; **Type** – business or private letter; **L** – Hebrew; **Pro.** – this document was found together with other fragments of papyri at a terrace below the lower entrance of the Abi'or Cave, west of Jericho; **D** – (L); **Cor.** – (?); **A** – (L); **G** – (L); **Text** – this manuscript might have been a letter reporting several property transaction, which included selling and exchanging of stores, parts of a house, 'half its opening' and roof, and a courtyard. **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**26** *Papyrus Har Yishai 2* (See COHEN 2006): **Pl.** – 2; **M** – papyrus; **St.** – a highly fragmentary papyrus with 21 fragments; **Meas.** – 8.5x8cm; fragments: a: 3.1x2.9; f+g: 4x2 cm; h: 1.9x1.5 cm; j+k+l: 1.5x3.2; the rest are either tinier or do not bear any reconstructible text; **For.** – no margin survived; verso blank; **Pal.** – the fragmentary sheet is dark brown with stains covering large sections of its lower part; the hand is second century, nice with very few ligatures; it runs against the fibers; **Type** – probably a private letter; **L** – Greek; **Pro.** – found in a cave at Har Yishai in the vicinity of Ein Gedi; **D** – 90-130; **Cor.** – three persons are mentioned here: 'El'azar (Eleazar), the son of Hanania and Yehudah (Ioudas); all three of them might have been the correspondents in this letter; **A** – (L); **G** – (L); **Text** – The addresser forwards to the addressee/s and others some information regarding something to be acquired probably at Ein Gedi; **Sal.** (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**27** *P.Yadin II 49 (5/6Hev no. 49)*: **Pl.** – 83; **C** – 326; **M** – papyrus; **St.** – the papyrus sheet suffered much damage on its left side, of which four narrow fragments survived; the right column is nearly complete, the left is very fragmentary; **Meas.** – 18x9.5; **For.** – rectangular text with width longer than height; top and right margins are intact; at bottom the text touches the very edge, left margin was lost; average number of letters in the right column is 24; verso blank; **Pal.** – a practiced hand produced this well written cursive script

with large letters and few ligatures; text runs along the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba, probably brought to the Cave of Letters by Yehonathan’s wife (see YADIN 1971, 134-5); **L** – Hebrew; **Pro.** – probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Ein Gedi; **D** – 134(?); **Cor.** – Shim’on son of Kosibah (Kosiba’) to Mesabala’, Yehonathan son of Ba’yan and the men of Ein Gedi; **A** – (+); **G** – (+); **Text** – Shim’on reproaches his addressees for their indifference towards their brothers’ needs. He demands that they unload a shipload of fruit and handle it carefully; **Sal.** – (+); **Wit.** – (-); **Sig.** (L); **Add.** – (L).

**28** *P.Yadin II 50 (5/6Hev no. 50)*: **Pl.** 83; **C** – 322; **M** – papyrus; **St.** – complete with minor damage at the left side; **Meas.** – 7.2x12.5 cm; **For.** – rectangular text with height longer than width; all four margins survived; three horizontal and three vertical folds are traceable; average number of words in a line is 16; verso blank; **Pal.** – the hand is cursive with special features appertaining to “Jewish” script; most of the letters lean forward, except for the *resh* which leans backward; almost no ligatures; the text runs along the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Aramaic; **Pro.** – probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Ein Gedi, where Bar-Kokhba’s agents were positioned; **D** – 134(?); **Cor.** – Shim’on son of Kosibah (Kosiba’) to Mesabala’ (Mesabalah) son of Shim’on and Yehonathan son of Ba’yan; **A** – (+); **G** – (-); **Text** – Shim’on son of Kosibah (Kosiba’) instructs his addressees to deliver to him a certain El’azar and to take care of the fruit, the trees and other matters, urging his agents to punish anyone who tries to resist them; **Sal.** – (-); **Wit.** – (-); **Sig.** – Shim’on son of Yehudah issued the letter in Bar Kokhba’s name; **Add.** – (-).

**29** *P.Yadin II 51 (5/6Hev no. 51)*: **Pl.** – 84; **C** – 319; **M** – papyrus; **St.** – highly fragmentary; **Meas.** – 19.3x26.2 cm; **For.** – rectangular text with height longer than width; top left and bottom margins survived, right only partly; verso blank; **Pal.** – a practiced hand produced this text written in a cursive script with “Jewish” features; the letters are large, well-spaced and with no ligatures; the writing runs along the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Hebrew; **Pro.** – probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Ein Gedi; **D** – war; **Cor.** – Shim’on (son of Kosibah) to Yehonathan son of Ba’yan and the rest of the people of Ein Gedi; **A** – (+); **G** – (+); **Text** – Shim’on’s instructions to Yehonathan and the rest of the people of Ein Gedi regarding the utensils, children and the fruit or the iron that probably belonged to the gentiles. **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**30** *P.Yadin II 52 (5/6Hev. no. 52)*: **Pl.** – 90; **C** – 317; **M** – papyrus; **St.** – right side of the main text nearly complete, left highly fragmentary; in addition there are two fragments bearing some script; **Meas.** – of main text 9.5x25.3 cm; **For.** – rectangular text with height longer than width; all four margins survived; four vertical and three horizontal fold are detectable; for verso see **Add. infra**; **Pal.** – the hand is second century cursive with many ligatures; text runs along the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Greek; **Pro.** – probably written somewhere between Bar-Kokhba's camp (at Herodion?) and Ein Gedi; **D** – September or early October 135; **Cor.** – Soumaios to Yehonathan son of Ba'yan (Yonathes son of Beianos) and to Mesabala' (Masabala); **A** – (+); **G** – (+); **Text** – Soumaios urges his addressees to hurry sending him palm branches and citrons for the festival of Tabernacles (Sukkot). He apologizes for writing in Greek on account of their (his) inability to write in Hebrew; **Sal.** – (+); **Wit.** – (-); **Sig.** – (+); **Add.** – faint remnants of one or both names of the addressees survived on the verso.

**31** *P.Yadin II 53 (5/6Hev no. 53)*: **Pl.** – 85; **C** – 318; **M** – papyrus; **St.** – complete on all its sides except for the lower, which is full of cuts and breaks; the left part suffered more damage than the right; **Meas.** – 12x8 cm; **For.** – rectangular text with width longer than height; top, right, and bottom margins survived, at left the text touches the very edge; average number of letters in a line is 20; verso blank; **Pal.** – a practiced hand produced this well written “Jewish” cursive script with no ligatures; the text runs against the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Aramaic; **Pro.** – probably written in Bar-Kokhba's camp (at Herodion?) and sent to Ein Gedi, where Yehonathan was positioned; **D** – war; **Cor.** – Shim'on son of Kosibah to Yehonathan son of Ba'yan; **A** – (+); **G** – (+); **Text** – Shim'on orders Yehonathan to perform whatever a person named Elisha' asks him to do; **Sal.** – (+); **Wit.** – (-); **Sig.** – (-); **Add.** – (-).

**32** *P.Yadin II 54 (5/6 Hev. no. 54)*: **Pl.** – 86; **C** – 315; **M** – wood; **St.** – a sheet of wood broken into four pieces on account of being folded first vertically in the middle and then horizontally; following the restoration the text is complete; **Meas.** – 17.5x7.5; **For.** – rectangular text with width longer than height; all four margins survived; the wood tablet was almost neatly cut into four pieces; average number of letters in a line is 20; verso blank; **Pal.** – the cursive hand produced a text in two columns with letters of varying sizes and uneven spaces between the lines; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **Pro.** – probably written

in Bar-Kokhba's camp (at Herodion) and sent to Ein Gedi, where Yehonathan and Mesabala' were positioned; **D** – war; **Cor.** Shim'on son of Kosibah to Yehonathan and to Mesabala' (Mesabalah); **A** – (+); **G** – (+); **Text** – Shim'on instructs his addressees to seize some stolen wheat and place several people under guard warning them that if they disobey his orders, they will be punished; **Sal.** – (-); **Wit.** – (-); **Sig.** – the letter is signed by Shemue'l son of 'Ammi in Bar-Kokhba's name; **Add.** – (-).

**33** *P.Yadin II 55 (5/6 Hev. no. 55)*: **Pl.** – 87; **C** – 328; **M** – papyrus; **St.** – while the text is nearly complete, the papyrus is full of breaks and lacunas; **Meas.** – 10.8x24.3; **For.** – rectangular text with width longer than height; all four margins survived; three vertical and one horizontal folds are visible; average number of letters in a line is 17; verso blank; **Pal.** – the hand produced a “Jewish” cursive script with most of the letters leaning forward; several letters in Greek are visible above the Aramaic text, probably part of a different document; the writing runs along the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Aramaic; **Pro.** – probably written in Bar-Kokhba's camp (at Herodion?) and sent to Ein Gedi, where Yehonathan and Mesabala' were positioned; **D** – war; **Cor.** – Shim'on son of Kosibah to Yehonathan and to Mesabala'; **A** – (+); **G** – (-); **Text** – Shim'on son of Kosibah orders his addressees to dispatch to him any person from Tekoa' together with other people and warns that punishment will be exacted from them if they do not comply; **Sal.** – (-); **Wit.** – (-); **Sig.** – (-); **Add.** – (-).

**34** *P.Yadin II 56 (5/6 Hev. no. 56)*: **Pl.** – 88; **C** – 325; **M** – papyrus; **St.** – nearly complete; **Meas.** – 9.5x21.5 cm; **For.** – rectangular text with height longer than width; all four margins survived; two vertical folds and three horizontal are visible; average number of letters in a line is 21; verso blank; **Pal.** – the practiced hand produced a fine “Jewish” cursive script with very few ligatures; the writing runs along the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Aramaic; **Pro.** – probably written in Bar-Kokhba's camp (at Herodion?) and sent to Ein Gedi, where Yehonathan, Mesabala' (Mesabalah) and the son of Hayyata', Bar-Kokhba's agents, were positioned; **D** – war; **Cor.** – Shim'on son of Kosibah to Yehonathan son of Ba'yan, Mesabala' (Mesabalah) and to the son of Hayyata'; **A** – (+); **G** – (+); **Text** – Shim'on instructs his agents at Ein Gedi to deliver to him some goods including salt, the youth and another person. The Romans are referred to as well; **Sal.** – (+); **Wit.** – (-); **Sig.** – (-); **Add.** – (-).

**35** *P.Yadin II 57 (5/6 Hev. no. 57)*: **Pl.** – 89; **C** – 329; **M** – papyrus; **St.** – nearly complete; **Meas.** – 22x6.6 cm; **For.** – rectangular text with width longer than height; all four margins survived; three horizontal folds and four vertical are traceable; average number of letters in a line is 44; verso blank; **Pal.** – this practiced hand produced a “Jewish” cursive script with almost no ligatures; the writing runs against the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Aramaic; **Pro.** – probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Qiryat ‘Arabayyah, identified with H. al-‘Arub located north-west of Tekoa’ on the main route between Beth-Ther and Ein Gedi; see YADIN 1961, 49, REEG 1989, 88 and Yardeni in *P.Yadin II*, pp. 322-323; **D** – war; **Cor.**; – Shim‘on to Yehudah son of Menasheh; **A** – (+); **G** – (-); **Text** – Shim‘on instructs Yehudah to dispatch the two donkeys he had sent him together with two men to Yehonathan and Mesabala’ (Mesabalah) so that palm branches, citrons, myrtle branches and willows be packed and delivered for the large population present at the camp; **Sal.** – (+); **Wit.** – (-); **Sig.** – (-); **Add.** – (-).

**36** *P.Yadin II 58 (5/6 Hev. no. 58)*: **Pl.** – 89; **C** – 324; **M** – papyrus; **St.** – fragmentary papyrus with breaks and holes all over; text fairly reconstructed; **Meas.** – 12x7.1 cm; **For** – rectangular text with width longer than height; nearly all four margins survived; two horizontal and three vertical folds are visible; average number of letters in a line is 18; verso blank; **Pal.** – the unprofessional hand produced a “Jewish” cursive script with large spaces between the letters and the lines and no ligatures; the writing runs against the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Aramaic; **Pro.** – probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Ein Gedi (?); **D** – war; **Cor.** – Shim‘on to Yehonathan (Yonathan) and Mesabala’ (Mesabalah); **A** – (+); **G** – (+); **Text** – Shim‘on instructs Yehonathan and Mesabala’ (Mesabalah), his agents, to deliver to his camp (at Herodion?) four loads of salt; **Sal.** – to Bar-Kokhba’s agents at Ein Gedi(?) and to the men of Qiryat ‘Arabayyah; **Wit.** – (-); **Sig.** – (-); **Add.** – (-).

**37** *P.Yadin II 59 (5/6 Hev. no. 59)*: **Pl.** – 85; **C** – 320; **M** – papyrus; **St.** – the papyrus is fragmentary with holes and breaks in many places; the ink faded almost entirely in large parts of the papyrus; **Meas.** – 14x8 cm; **For.** – rectangular text with width longer than height; all four margins survived; two horizontal and three vertical folds are visible; verso blank; **Pal.** – the hand produced a fluent second century cursive; text runs along the fibers with ligatures here

and there; a large space between lines 6 and 7 is visible; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Greek; **Pro.** – this letter like others in the group of texts discussed here may have been written in Bar-Kokhba’s camp (at Herodion?) and sent to Ein Gedi where Yehonathan (Yonathes), Bar-Kokhba’s agent, was positioned; **D** – autumn 135(?); **Cor.** – Annanos (or Aelianos, see *P.Yadin* II, p. 364) to Yehonathan (Yonathes); **A** – (+); **G** – (+); **Text** – Annanos (or Aelianos) reminds Yehonathan (Yonathes) of the message of Shim’on son of Kosibah (Simon son of Kosiba) regarding the needs of their brothers; **Sal.** – (+); **Wit.** – (-); **Sig.** – (-); **Add.** – (-).

**38** *P.Yadin* II 60 (5/6 *Hev.* no. 60): **Pl.** – 91; **C** – 323; **M** – papyrus; **St.** – highly fragmentary; **Meas.** – 7.2x5.9 cm; **For.** – except for the bottom margin all the other three were lost; two vertical folds are traceable; verso blank; **Pal.** – “Jewish” cursive script written carelessly; letters varying in size and no ligatures; the writing runs against the fibers; **Type** – private (?) letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Hebrew; **Pro.** – probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Ein Gedi; **D** – war; **Cor.** – Shim’on to Yehonathan and (?); **A** – (+); **G** – (L); **Text** – Shim’on might have forwarded some instructions to his agent Yehonathan; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**39** *P.Yadin* II 61 (5/6 *Hev.* no. 61): **Pl.** – 91; **C** – 321; **M** – papyrus; **St.** – the papyrus sheet suffered severe damage, and is highly fragmentary as a result; **Meas.** – 11.2x13.5; **For.** – top and left margins and maybe a part of the bottom survived; verso blank; **Pal.** – the hand produced a “Jewish” cursive script with large spaces between the letters and the lines and no ligatures; the writing runs along the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Hebrew or Aramaic; **Pro.** – probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Tekoa’ (see **no. 6** supra); **D** – war; **Cor.** – Shim’on son of Kosibah ([Kosiba’]) to the people of Tekoa’; **A** – (+); **G** – (?); **Text** – Shim’on writes to the people of Tekoa’ demanding the payment of a certain debt; **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**40** *P.Yadin* II 62 (5/6 *Hev.* no. 62): **Pl.** – 91; **C** – 327; **M** – papyrus; **St.** – severely damaged and highly fragmentary as a result; **Meas.** – 9.2x10 cm; **For.** – two possible vertical folds; verso blank; **Pal.** – the hand produced a “Jewish” cursive script with large spaces between the letters and no ligatures; the writing runs along the fibers; **Type** – letter(?), part of the administrative correspond-

ence of Bar-Kokhba; see **no. 27** supra; **L** – Aramaic(?); **Pro.** – (?); **D** – (L); **Cor.** – (?); **A** – (L); **G** – (L); **Text** – (?); **Sal.** – (L); **Wit.** – (L); **Sig.** – (L); **Add.** – (L).

**41** *P.Yadin II 63 5/6 Hev. no. 63*: **Pl.** – 92; **C** – 316; **M** – papyrus; **St.** – damaged along the lines of the folds; most of the text survived though stains of ink cover parts of it; **Meas.** – 13.8x16.5 cm; **For.** – rectangular text with width longer than height; all four margins survived; three vertical and likewise horizontal folds are visible; average number of letters in a line is 28; verso blank; **Pal.** – the practiced hand produced a carelessly written “Jewish” cursive script with large spaces between the letters and the lines; the writing runs along the fibers; **Type** – private letter, part of the administrative correspondence of Bar-Kokhba; see **no. 27** supra; **L** – Aramaic; **Pro.** – probably written in Bar-Kokhba’s camp (at Herodion?) and sent to Ein Gedi(?), if the name Mesabala’ (Mesabalah) is correctly reconstructed; **D** – war; **Cor.** – Shim’on son of Kosibah (Kosiba) to Yehonathan(?) and to Mesabala’? (Mesabalah?); **A** – (+); **G** – (+); **Text** – Shim’on demands that a debt, requested in a previous letter, delivered by Shim’on son of Yishma’el, be paid to him; **Sal.** – (+); **Wit.** – (-); **Sig.** – (-); **Add.** – (-).

**42** *P.Yadin II 64*: **Pl.** – **91**; **M** – papyrus; **St.** – highly fragmentary; **Meas.** 8.7x12 cm; **L.** – probably Greek; **Pro.** – Ein Gedi(?). Information regarding the rest of the parameters is either highly doubtful or missing. No edition is provided for *P.Yadin II 64*, only a plate. The text is too fragmentary. See *P.Yadin II*, p. 349 and plate no. 91 in the accompanying volume of plates. The manuscript was probably part of the administrative correspondence of Bar-Kokhba (see **no. 27** supra) which might suggest a similar provenance, addresser/s and addressee/s as in many of the letters in this group.

## PRELIMINARY ANALYSIS

Letters from the Judaean Desert were written in several languages. Extant are 42 letters:

Hebrew – 17 (nos. **1-11, 22, 25, 27, 29, 38, 39**);

Aramaic – 14 (nos. **12-14, 23, 24, 28, 31-36, 40**);

Greek – 7 (nos. **19-21, 26, 30, 37, 42**);

Latin – 4 (nos. **15-18**).

The chronological span of the letters from the Judaean Desert is not wide, as they were dated into a relatively short period, starting in the 1<sup>st</sup> century CE

(the earliest approximately datable documents, are dated to 67-73/4 CE), and up to the end of the Bar-Kokhba War (132-36 CE). Within this period, very short time frames yield evidence: this is in particular the case with the Greek and Latin documentation from Masada, all dating to 67-74 CE, and the letters composed or preserved, in connection with the Bar-Kokhba War.

In addition, some are very fragmentary and partly or entirely illegible. In fact, in some cases the identification of a text as a letter, considered by the editors, is highly conjectural, depending more on the archival context of the preservation of the document than on its context. Recognizing this is crucial for assessing the text for which a survey of this group of documents can be conducted. A further analysis of the structure of the documents will take into consideration the broader context of the various epistolographical traditions evident in different cultural settings, periods and regions, in the Roman East. For now we will restrict ourselves to the following preliminary account of the components of the Judaean Desert letters.<sup>11</sup>

**Address and greetings:** The address and greetings (i.e. ‘A to B, greetings’) are very brief in the Judaean Desert letters. At times merely the address is inked with no greeting to accompany it. See e.g. *P.Yadin* II 55.1-2 – **no. 33** on the above list; no greetings, just address; *P.Yadin* II 56.1-2 – **no. 34**; very short address and greetings: שמעון בר כוסבה ליהונתן בר בעין/ולמסבלה ובר חטיה אחי שלם. (Shim‘on son of Kosibah to Yehonathan son of Ba‘yan, and to Mesabala’ (Mesabalah), and the son of Hayyata’: my brothers, Peace).

**The body of the letter:** This is the main part of the letter. See e.g. *P.Yadin* II 59. (**no. 37**). The text contains an account of past activities, and instructions of future ones. Common subject matter and occurrences of daily life, buying/selling property, debt collection and the like are related. That the subject matter depends on the relations between the author and the addressee is self-evident.

**The closing unit:** Where they are indicated in the Judaean Desert epistles, the salutations are limited to a word or two. See *P.Hever* 30, שלם (greetings, a very brief salutation); *P.Yadin* II 53: הוה/הוי שלם (fare thee well) (**nos. 22 and 31** respectively). See Summary of Parameters *infra* where the main components of the closing unit in each of the surveyed letters are shown.

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<sup>11</sup> As regards structure Judaean Desert letters contain the same components as Egyptian letters do, although these components are somewhat differently composed here. For the structure of the Egyptian letter see *ASP* 44 (*P.Berl.Cohen*) pp. 102-105 and the bibliography cited *ad loc.*

**Dates and signature:** Most Judaean Desert letters are undated. In most cases in the above survey the dating is circumstantial, as it is apparent that the letters in question were forwarded in the course of the Bar-Kokhba War. In only eight out of forty-two are the letters signed by the addresser or his representative. See Summary of Parameters *infra*.

**Addresses and delivery:** Only two letters contain notes of delivery.<sup>12</sup> They are: *P.Mas.* II 724 and *P.Hever* 30, nos. 15 and 22 respectively.<sup>13</sup> Since some of the letter carriers were acquainted with the addressees, the practice of adding addresses or notes of delivery was rendered somewhat redundant at times.<sup>14</sup>

**Needs and motives for writing:** Letters written with the purpose of saluting the addressees or asking about their well-being are absent from Judaean Desert letters. Furthermore, extant Judaean Desert papyri do not include letters exchanged among family members and acquaintances, which renders the whole picture of private correspondence from Judaea rather incomplete as yet.<sup>15</sup> Two observations might be offered:

1. The paucity of the group of letters from the Judaean Desert and the short period into which they were dated do not allow for a large variety of manuscripts. That might explain the absence of some kinds of letters, like epistles of salutations and women's letters of all sorts.
2. Twenty two of the extant letters from the Judaean Desert were written during the Bar-Kokhba War. Daily matters at the time were more pressing, and some of them were urgently in need of answers. Consequently the texts

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<sup>12</sup> In Egyptian letters the addresses are frequently inscribed on the back side of the manuscripts.

<sup>13</sup> Bar-Kokhba's letters forwarded to Jehonathan, son of Ba'yan, to Mesabala' and others were safeguarded into a leather sack and brought to the Cave of Letters by Jehonathan's wife. This is Yadin's conjecture, (1971) 134. The backs of most of these letters are blank. No addresses were indicated, since the writer was the Premier over Israel (see e.g. *P.Yadin* 54.1, no. 32), and most of his addressees were his well-known lieutenants.

<sup>14</sup> See *P.Yadin* II 63.5-6, no. 41, where Shim'on son of Kosibah indicates that a letter of his was delivered by a third person.

<sup>15</sup> Egyptian papyri are plentiful in this respect. Egyptian family members preserved family and other acquaintances' correspondence. See LUISELLI 2008, 680-81. In many letters the writers complain about the long time which had elapsed since they had heard from their loved ones. During that period they were living in a state of anxiety waiting to receive any information about them. See KOSKENNIEMI 1956, 64-67. One of many such situations related in Egyptian letters is that of Sempronius, who was probably dwelling in Alexandria. He wrote a letter to Saturnila, his mother, who lived with his brother, Maximus, in a different Egyptian nome. The letter expresses the son's enormous concerns about his mother's health. He complains that she never answered his many letters and messages. As a result he is beyond himself with fears regarding her well-being. See *Sel.Pap.* I 121 (2<sup>nd</sup> century CE).

are brief and laconic.<sup>16</sup> In many cases the letters have the nature of instructions forwarded by the Premier, Bar Kokhba (e.g. *P.Yadin* 55, **no. 34**). Under such circumstances emotions and words of endearment were naturally out of place. Most of the letters dealt with the necessities of war, leaving aside personal or family matters. Frequently there are neither greetings nor salutation.<sup>17</sup> Still, here and there flashes of affection or respect are detected as can be discerned from the following four letters. In *P.Masada* II 741 (CE 73/74, **no. 19**) the word “brother” can be spotted. In *P.Yadin* II 59.7 (**no. 37**), a letter forwarded on Bar-Kokhba’s instructions, ἀδελφός (“brother”) might express amiability, but also allude to “brothers in arms”.<sup>18</sup> Further instances are *P.Yadin* II 56.2 (**no. 34**) once more recording the epithet “brothers”, and *DJD* XXVII 30.3 (**no. 22**) where the text may be interpreted as an expression of affection and respect (see p. 103 ad loc.).

**Women’s letters** are entirely absent from the papyri found in the Judaean Desert. Extant testimony does not reveal such activity regarding women in Judaea.<sup>19</sup> Yet women were involved in business, law suits, inheritance and other issues which required the writing of documents including letters.<sup>20</sup> Women must have corresponded with one another. In case they were illiterate, someone might have done the actual reading and/or writing for them. Thus the lack of letters involving women among the Judaean Desert documents seems to be a matter of chance.<sup>21</sup>

<sup>16</sup> *P.Yadin* 57-59 (**nos. 35-37** respectively) are very short, 4-5 lines each. Longer are *P.Yadin* 54 (17 ll.) and 52 (21 ll.) the longest among the Bar Kokhba letters, (**nos. 32** and **30** respectively). The rest come in between. BAGNALL & CRIBIORE 2006, 14 agree that such short manuscripts written under special circumstances may be regarded as private letters.

<sup>17</sup> See e.g. *P.Yadin* II 57 (**no. 35**). The usual greeting at the beginning is absent, but appears at the end of the letter.

<sup>18</sup> For this appellation signifying not only blood relations see the discussion of ἀδελφός in *ASP* 44 (*P.Berl.Cohen*) p. 157. The current colloquial use in Israel of the phrases “brother” and “sister” (Hebrew: אחי, אחותי) addressed to acquaintances, and at times to total strangers might express a similar meaning.

<sup>19</sup> In Egypt correspondence among males and females was a common fact of life. Isis’ letter to her mother Thermouthion (*BGU* VII 1680, 3<sup>rd</sup> century CE) may serve as an example here. BAGNALL & CRIBIORE 2006 collected over two hundred women’s letters from Ptolemaic, Roman and Byzantine Egypt. The Roman period was the most voluminous of the three. See *ibid.* p. 19.

<sup>20</sup> See *P.Yadin* I *passim* for the activity and involvement of Babatha, Shelamzion and Julia Crispina. See also the archive of Salome Komaise daughter of Levi in *DJD* XXVII p. 158 ff.

<sup>21</sup> By contrast BAGNALL & CRIBIORE 2006, 14, on the basis of extant data, state that in the Roman period: “women have become more at ease with the epistolary medium”. This only intensifies the perception of loss at not discovering women’s letters among the Judaean Desert papyri. There are, however, two Byzantine letters written by Jewish women: one was reedited by M. Mishor in *Leshonenu* 63 (2001) 53-59 (Hebrew); the other, from Sara to her sons, is soon to be published by Tal Ilan, Freie Universität Berlin.

Finally it ought to be remarked that excavations of new papyri or of writings on other materials, (a possible flow destined not to cease in the foreseeable future), might shed additional light on this issue. Future discoveries might enrich the inventory of the Judaean Desert letters inscribed on papyri and hopefully on other materials as well.

## A SUMMARY OF PARAMETERS

The following table provides the reader with a quick overview regarding the existence of several of the parameters outlined above in the Judean Desert letters. The titles of the parameters are the same as in the list above.

No.	Pro.	Cor.	A	G	Text	Sal.	Wit.	Sig.	Add.
1	+	+	+	+	+	+	+	+	-
2	+	+	+	+	+	-	-	+	-
3	+	+	+	+	+	-	-	-	-
4	+	?	?	?	+	L	L	L	L
5	+	+	+	+	+	+	-	+	-
6	+	?	L	L	+	L	L	L	L
7	+	+	+	+	+	+	-	+	-
8	+	?	L	L	?	L	L	L	L
9	+	L	L	L	?	L	L	L	L
10	+	+	L	L	?	L	L	L	L
11	+	+	L	L	+	L	L	L	L
12	+	+	L	L	+	L	L	L	L
13	+	?	L	L	+	L	L	L	L
14	+	+	+	+	+	L	L	L	L
15	+	+	+	+	+	L	L	L	+
16	+	+	L	L	+	L	L	L	L
17	+	?	L	L	+	L	L	L	+
18	+	?	L	L	?	+	L	L	L
19	+	+	+	+	+	L	L	L	L
20	+	?	L	L	+	+	L	L	L
21	+	?	L	L	+	+	L	L	L
22	+	+	+	+	+	+	-	+	+
23	?	+	L	L	?	L	L	L	L
24	+	+	L	L	+	L	L	L	L
25	+	?	L	L	+	L	L	L	L
26	+	+	L	L	+	L	L	L	L
27	+	+	+	+	+	+	-	L	L
28	+	+	+	-	+	-	-	+	-
29	+	+	+	+	+	L	L	L	L
30	+	+	+	+	+	+	-	+	+
31	+	+	+	+	+	+	-	-	-
32	+	+	+	+	+	-	-	+	-
33	+	+	+	-	+	-	-	-	-
34	+	+	+	+	+	+	-	-	-
35	+	+	+	-	+	+	-	-	-
36	+	+	+	+	+	+	-	-	-
37	+	+	+	+	+	+	-	L	-
38	+	+	+	L	?	L	L	L	L
39	+	+	+	L	+	L	L	L	L
40	?	?	L	L	?	L	L	L	L
41	+	+	+	?	+	+	-	-	-
42	?	L	L	L	?	L	L	L	L

## BIBLIOGRAPHY

- BAGNALL & CRIBIORE 2006  
R.S. BAGNALL, R. CRIBIORE, *Women's Letters from Ancient Egypt, 300 BC-800 AD*, Ann Arbor 2006.
- BOWMAN & THOMAS 1983-2003  
A.K. BOWMAN & J.D. THOMAS, *The Vindolanda Writing-Tablets*, 3 vols., London 1983-2003.
- COHEN 2006  
N. COHEN, "New Greek Papyri from a Cave in the Vicinity of Ein Gedi", *SCI* 25 (2006), 87-95.
- COTTON 1981  
H.M. COTTON, *Documentary Letters of Recommendation in Latin from the Roman Empire*, Königstein 1981.
- COTTON, COCKLE & MILLAR 1995  
H.M. COTTON, W.E.H. COCKLE, & F.G.B. MILLAR, "The Papyrology of the Roman Near East: A Survey" *JRS* 85 (1995), 214-35.
- ESHEL & AMIT 1998  
H. ESHEL, & D. AMIT, *The Bar-Kokhba Refuge Caves*, Tel Aviv 1998 (in Hebrew).
- GOODMAN 1994  
M.D. GOODMAN, "Texts, Scribes and Power in Roman Judaea", in: A.K. BOWMAN & G. WOOLF (eds.), *Literacy and Power in the Ancient World*, Cambridge 1994, 99-108.
- GREENFIELD 1993  
J.C. GREENFIELD, "'Because He/She Did not Know Letters': Remarks on a First Millennium C.E. Legal Expression", *JANES* 22 (1993), 39-44.
- GROB 2010  
E.M. GROB, *Documentary Arabic Private and Business Letters on Papyrus, Form and Function, Content and Context*, Berlin/New York 2010.
- GROB & KAPLONY 2008  
E.M. GROB & A. KAPLONY (eds.), *Documentary Letters from the Middle East: The Evidence in Greek, Coptic, South Arabian, Pehlevi, and Arabic (1<sup>st</sup>-15<sup>th</sup> c. CE)*, Bern 2008 = *Asiatische Studien/Études Asiatiques* 62.3 (2008), 671-906.
- HANSON 1991  
A.E. HANSON, "Ancient Literacy", in J. HUMPHREY (ed.), *Literacy in the Roman World*, *JRA Supp. Ser. 3*, Ann Arbor 1991, 159-98.
- KOSKENNIEMI 1956  
H. KOSKENNIEMI, *Studien zur Idee und Phraseologie des griechischen Briefes bis 400 n. Chr.*, Helsinki 1956.
- LEWIS 1974  
N. LEWIS, *Papyrus in Classical Antiquity*, Oxford 1974.
- LEWIS 1989  
N. LEWIS, *Papyrus in Classical Antiquity: A Supplement (Papyrologica Bruxellensia 23)*, Oxford 1989.
- LUISELLI 2008  
R. LUISELLI, "Greek Letters on Papyrus First to Eighth Centuries: A Survey" in: E.M. GROB. & A. KAPLONY (eds.), *Documentary Letters from the Middle East: The Evidence in Greek, Coptic, South Arabian, Pehlevi, and Arabic (1<sup>st</sup>-15<sup>th</sup> c. CE)*, Bern 2008 = *Asiatische Studien/Études Asiatiques* 62.3 (2008), pp. 677-737.
- NALDINI 1968, 1998  
M. NALDINI, *Il cristianesimo in Egitto: Lettere private nei papiri dei secoli II-IV*, Firenze 1968, 2<sup>nd</sup> ed. 1998.
- REEG 1989  
G. REEG, *Die Ortsnamen Israels nach der rabbinischen Literatur*, Wiesbaden 1989.
- SCHOLEM 1989  
G. SCHOLEM, "The People of the Book", in: A. SCHAPIRA (ed.), *Explications and Implications: Writings on Jewish Heritage and*

*Renaissance* vol. II, Tel Aviv  
1989, 153-61 (in Hebrew).

TIBILETTI 1979

G. TIBILETTI, *Le lettere private  
nei papiri greci del III e IV  
secolo d.C. tra paganesimo e  
cristianesimo*, Milan 1979.

YADIN 1961

Y. YADIN, "Excavations D",  
*IEJ* 11 (1961), 36-62.

YADIN 1971

Y. YADIN, *Bar-Kokhba: The  
Rediscovery of the Legendary  
Hero of the Last Jewish  
Revolt against Imperial Rome*,  
Jerusalem/London/New York  
1971.

YIFTACH-FIRANKO 2013

U. YIFTACH-FIRANKO (ed.), *The  
Letter: Law, State, Society and*

*the Epistolary Format in the  
Ancient World. Proceedings  
of a Colloquium held at the  
American Academy in Rome  
28-30.9.2008 (Legal Documents  
in Ancient Society 1, Philippika  
55)*, Wiesbaden 2013.

# Lawyers in Late Antique Palestine\*

JOSEPH GEIGER

A review of lawyers for our honorand hardly needs justification, nor is the choice of country inappropriate. Needless to say persons with some pretence to professional attainments must have appeared in the courts of law of Graeco-Roman Palestine in all periods. Nevertheless, by the chances of survival of our sources it is only from Late Antiquity that we have explicit evidence of people defined as lawyers.<sup>1</sup>

An appraisal of members of the profession in Late Antique Palestine also presents a good opportunity to consider one aspect of higher education in this country. Lawyers appearing in court and speaking there had to be trained speakers, and accordingly they went through the usual stages of Greek education, including study with a *grammaticus*, and later a rhetor or sophist: not only the numerous pupils of the famous rhetors Aeneas of Gaza<sup>2</sup> and Procopius of Gaza,<sup>3</sup> but also their friends and colleagues who appear in their correspondences provide excellent examples for this. The next stage was study in a

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\* I discussed the subject in a different context in my GEIGER 2012, 66-71.

<sup>1</sup> For an overview see DAN 1982; see also DAN 1978.

<sup>2</sup> His correspondence in MASSA POSITANO 1962.

<sup>3</sup> See his relevant writings and on him, most recently, AMATO 2010.

School of Law, and it so happens that the famous School of Berytus (Beirut)<sup>4</sup> was easily accessible, though some people went as far as Constantinople to study. However, one did not have to go even so far, since a School of Law operated also in this country. Yet, the only safe fact concerning a School of Law in Caesarea is Justinian's prohibition of 533 of teaching there:

... quia audivimus etiam in Alexandrina splendidissima civitate et in Caesariensium et in aliis quosdam imperitos homines devagare et doctrinam discipulis adulterinam tradere: quos sub hac interminatione ab hoc conamine repellimus, ut, si ausi fuerint in posterum hoc perpetrare et extra urbes regias et Berytensium metropolim hoc facere, denarum librarum auri poena plectantur et reiciantur ab ea civitate, in qua non leges docent, sed in leges committunt.<sup>5</sup>

I shall not elaborate on the School of Caesarea,<sup>6</sup> nor on its possible influence on the legal studies of the Rabbis there,<sup>7</sup> but a most interesting observation follows from the prosopographical list below: though we know of a number of people attested to have studied in Beirut, and some who went on to study or practice in Constantinople, not one is known to have studied in Caesarea. I find it difficult to attribute this exclusively to the chances of survival: perhaps Justinian's *homines imperiti* and *doctrina adulterina* were not entirely unwarranted. Nevertheless, one cannot dismiss the possibility that we are aware only of the people at the top of their profession, not of those who studied at inferior institutions.

Latin was an important aspect of the study of law, which consisted mainly in the study of legal texts in that language – little wonder that the Antiochean rhetor Libanius was worried about losing pupils to this competition.<sup>8</sup> Not a few intellectuals in Palestine must have been bilingual, not necessarily limiting themselves to legal texts, so that it is hardly surprising that Caesarea was home, among others, to the Latin historian Eutropius and to the grammarian Priscian.<sup>9</sup>

In Late Antiquity lawyers were as a rule referred to as *scholastikoi*<sup>10</sup> and in the following prosopography I will list them first (abbreviated as sch.), and

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<sup>4</sup> SCHEMMEL 1923, 236-240; COLLINET 1925.

<sup>5</sup> CIC, *Constitutio omnem*, 7.

<sup>6</sup> See SCHEMMEL 1925.

<sup>7</sup> Cf. LIEBERMAN 1970-1971.

<sup>8</sup> WOLF 1952, 53-55.

<sup>9</sup> See on these GEIGER 1999.

<sup>10</sup> See CLAUS 1965. Beside the ecclesiastical writers Eusebius of Caesarea, Socrates and Zacharias only Burchius, Iohannes (2), Nestorius and Dionysius, appear from the present collection in his list, at 20-39.

then I shall proceed and list those for whom legal studies or legal activities are credibly attested. The annotation will be kept to the bare minimum.

Though one can never be too careful with figures and statistics in Antiquity, it seems that the number of lawyers attested in Palestine is rather high and their spread across the country may approach something that is not too far from representing the situation in the various cities. But there is much more to this list than an enumeration of lawyers. One must imagine their teachers, fellow students, the teachers of Latin, and last but not least, the public in the courts of law, part of which at any rate would be able to understand the Greek speeches and even appreciate the finer points of language, style and argument. Thus an enumeration of the known lawyers in Late Antique Palestine reveals for us at least one aspect of classical civilisation there.

## I. SCHOLASTIKOI

### **Aelianus**

Christian sch., late 5<sup>th</sup> c., Elusa.

Paulus Helladicus, *Acta S. Theognii* 18 = *Analecta Bollandiana* 10, 1891, p. 100; *PLRE* II, no. 3.

### **Alexander**

Christian sch., Ascalon; it is suggested that he may be identical with the Head of the Monastery often referred to in the *Pratum spirituale*.

Paulus Helladicus, *Acta S. Theognii* 18 = *Analecta Bollandiana* 10, 1891, pp. 97-98; *PLRE* II, no. 13.

### **Bur(r)ichius**

Sch. from Ascalon and self-described admirer of Plato, visited in the 4<sup>th</sup> c. the royal tombs of Egyptian Thebes; in one of his three inscriptions he mentions his brother **Sapricius**, also a sch. There is absolutely no warrant to connect the name, attested already in Hellenistic times, with the Semitic root B-R-KH, as suggested in *DPhA* II, no. 57

BAILLET 1920-1926, II, nos. 1266, 1279, 1405.

### **Dionysius**

Monophysite sch. in Gaza, second half of 5<sup>th</sup> c.

*PLRE* II, no. 9.

**Diodorus**

Sch. from Gaza, successful in Caesarea, addressee of letters by Aeneas and Procopius of Gaza, accordingly late 5<sup>th</sup> or early 6<sup>th</sup> c.

*PLRE* II, no. 3; *DAN* 1984, 180.

**Dionysius**

Pious Christian sch. from Gaza.

Zach. *HE* II, App. II, p. 268.

**Eutychius**

Or Eutychianus, and ‘sch.’ are tentatively offered in deciphering a stamp from Caesarea, 6-7<sup>th</sup> c.

*CIIP* II, 1772.

**Iohannes (1)**

Sch. from Scythopolis and author of a theological work, second half of 5<sup>th</sup> c.

*PLRE* II, no. 27.

**Iohannes (2)**

Sch. from Scythopolis, ‘son of the tax-farmer’, attested 518 and 528 (Cyril Scyth., *VSab* 61, 70).

*PLRE* II, no. 64

**Isidorus**

Sch. and friend of Procopius of Gaza, apparently also from Gaza.

*PLRE* II, no. 6

**Iulianus (1)**

Stamp of sch. in Caesarea, 5-6<sup>th</sup> c.

*CIIP* II, 1782.

**Nestorius**

Sch. and councillor of Gaza, mid-5<sup>th</sup> c.

Zach. *HE* App. II, p. 267; *Vis* 5; *PLRE* II, no. 5.

**Noesius**

or Anoesius. Sch. in Scythopolis, known from dedicatory inscription in the monastery, 536/537.

*PLRE* III, s.v.

### **Sapricius**

Mentioned as sch. by his brother **Bur(r)ichius**, see there.

### **Stephanus**

Sch. who died in Eleutheropolis, apparently in 555.

*SEG* 8, 1937, no. 301.

### **Theodorus**

Sch. who became a monk, and eventually succeeded Petrus the Iberian as Head of the Monastery, mid-5<sup>th</sup> c.

*PLRE* II, no. 28; *RE* VA, col. 1914, no. 173.

### **Zacharias**

of Gaza, the Church historian and eventually bishop of Mytilene, who also studied law in Berytus, is referred to as Z. rhetor or scholasticus, see attestation and on him, most conveniently, J. RIST, *Biogr.-Bibliogr., Kirchenlex.* s.v. Zacharias, 14, 1998, pp. 303-307 (also in Internet).

## II. LAWYERS AND STUDENTS OF LAW NOT EXPRESSLY REFERRED TO AS *SCHOLASTIKOI*

### **Aeneas**

Known from two letters, including a letter of recommendation, of Procopius of Gaza; he had legal training and was *defensor civitatis* of a number of towns. *PLRE* II, no. 4; DAN 1984, 105-106, 107.

### **Antonius**

Alexandrian rhetor and fervent defender of the Old Religion in mid-5<sup>th</sup> c. Gaza. Advocate in a number of cases, including that of his sister – this came to be settled in Constantinople. He dedicated himself to religion and charity. Dam. frg. 186 = Suda A 2763; *PLRE* II, no. 3; SZABAT 2007, no. 22 (she conjectures that he may have entertained Damascius and Isidorus in Gaza).

### **Arrianus**

A ten verse funerary inscription from Petra<sup>11</sup> refers to him as an expert on Roman law: Αὐσονίων... θεσμῶν; 3<sup>rd</sup>-5<sup>th</sup> c.

MERKELBACH & STAUBER 2002, p. 447, no. 22/71/03.

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<sup>11</sup> Although this paper is confined to Western Palestine I include Petra, at one time capital of Palaestina Tertia.

### **Castor**

Procopius of Gaza, *ep.* 73, mentions him as a person capable of defending in court; if the case took place in the capital he may have been active in Caesarea. *PLRE* II, no. 3.

### **Craterus**

The ‘first’ (ὁ τότε πρωτεύων)<sup>12</sup> among the people of Ascalon, he appeared as orator in court (ὑπεραγωνίζεται), probably in the 3<sup>rd</sup>-4<sup>th</sup> centuries. *Suda* E 3770.

### **Dorotheus**

Lawyer, pupil of Procopius of Gaza and Gessius of Petra; for chronological reasons not to be identified with Dorotheus of Gaza, the correspondent of the ‘Great Old Man’ Barsanuphius of Egypt.<sup>13</sup> *RE* V, col. 1571, no. 17.

### **Epiphanius**

Pupil of Procopius of Gaza, lawyer and eventually governor of an unidentified province. *PLRE* II, no. 4; *RE* VI, col. 196, no. 9.

### **Eudaemon**

Grammaticus or sophist who also wrote poetry, from Pelusium and active in Elusa, the town of his cousin **Eunomus**; attested also as lawyer; second half of 4<sup>th</sup> c. The *Suda* mentions his τέχνη γραμματική and ὀνοματική ὀρθογραφία (perhaps one work); was perhaps also the author of a περὶ διαλέκτων. SEECK 1906, 131; KASTER 1988, no. 55; *PLRE* I, no. 3; *RE* VI, col. 885; SIVAN 2008, 80-81.

### **Eunomus**

Rhetor and lawyer in Elusa, cousin of **Eudaemon**, mentioned by Libanius *ep.* 315 (of 357) and 164 (of 360). *PLRE* I, no. 2.

### **Eustochius**

Lawyer in Palestine, known from many letters of Libanius between 360 and 390. *PLRE* I, no. 3; SEECK 1906, p. 149, no. 1.

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<sup>12</sup> See on the meaning of this LANIADO 2002, 201-211.

<sup>13</sup> See on him BROWN 1991, 232-235.

### **Helpidius**

Sophist, apparently from Palestine, perhaps Caesarea, known from letters of Libanius from 357 on; studied in Athens and in 361 moved to Bithynia and Constantinople, where he was active as a lawyer.

*RE* VIII, col. 208, no. 4; SEECK 1906, p. 171, no. 3.

### **Hierius**

Latin grammaticus of Gaza who moved to Daphne near Antioch (Proc., *ep.* 13). His expertise in Latin and Procopius' recommending him (*ep.* 145) to a provincial governor make legal training probable; also recipient of *ep.* 32 by Diogenes of Antioch.

*PLRE* II, no. 8; KASTER 1988, no. 75.

### **Iohannes (3)**

Lawyer from Gaza, πρεσβευτής.

Zach. *KG* 7.1

### **Iulianus (2)**

The architect of Ascalon, part of whose treatise Τοῦ Ἀσκαλωνίτου Ἰουλιανοῦ τοῦ ἀρχιτέκτωνος ἐκ τῶν νόμων ἥτοι ἐθῶν τῶν ἐν Παλαιστίνῃ is extant, may have had legal training and not just an architect's ad hoc interest in laws relevant to buildings.

GEIGER 1992.

### **Macarius**

Studied law, probably in Berytus, and formerly rhetoric with Procopius (*ep.* 153).

### **Orion**

Pupil and correspondent of Procopius, went on to study law in Berytus and continued to Constantinople, probably to practice there.

*PLRE* II, no. 3

### **Petrus**

Caesarean, after studying rhetoric there went on to study law in Berytus and became a monk, late 5<sup>th</sup> c.

Zach. *VSev.* p. 26; DAN 1984, 162.

### **Philippus**

Lawyer and brother of Procopius of Gaza; his high office in Constantinople is not specified.

*PLRE* II, no. 7.

**Ponton**

Studied rhetoric with Aeneas of Gaza, and went on to study law and to an administrative career.

*PLRE* II, s.v.

**Priscio**

Pupil and correspondent of Libanius together with the son of the latter,<sup>14</sup> attested 390-393. After practicing law he became a sophist in Palestine, perhaps Caesarea; adherent of the Old Religion.

SEECK 1906, 245; *PLRE* I, s.v.

**?Procopius**

We have no direct evidence for the legal training of the great historian from Caesarea, though this seems probable from the offices he carried – and the town had a School of Law.

**Severus**

Lawyer from Gaza and eloquent monk, author of ecclesiastical treatises: Zach. *HE* 7.10, pp. 131-132; not to be confused with Severus of Antioch.

**Sosianus**

Lawyer in Caesarea and correspondent of Procopius of Gaza, perhaps assessor of the governor.

*PLRE* II, s.v.; DAN 1984, 180-181.

**Zenodorus**

Lawyer from Gaza, studied in Berytus and practiced in Constantinople.

*PLRE* II, no. 3.

**Zosimus**

Pupil of Procopius in Gaza, studied law, probably in Berytus.

*PLRE* II, no. 5.

**Anonymus (1)**

Judge, probably governor of Palaestina Prima, brother of **Anonymus (2)**.

Chor. 7, *Or. Funebr. in Mariam*, 5; 8; 21; 22; *PLRE* III, Anon. no. 49.

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<sup>14</sup> PETIT 1957, 34, 39, 46.

### **Anonymus (2)**

Brother of **Anonymus (1)**, studied rhetoric and law.

Chor. 7, *Or. Funebr. in Mariam*, 5; 8; *PLRE* III, Anon. no. 63; *DAN* 1984, 100.

### **Anonymus (3)**

Studied rhetoric in Gaza and carried letter 143 of Procopius to Constantinople, on his way to study law there.

*DAN* 1984, 176.

### **Anonymus (4)**

Lawyer and father of pupil of Choricus (6.36).

## APPENDIX: JEWS AND SAMARITANS

### **Elasius**

Or Gelasius, known from a Greek inscription in the synagogue of Diocaesarea (Sepphoris); he was sch., *comes* and λαμπρότατος (*vir clarissimus*). It is not clear whether he was the donor or the official in whose time the donation was made, and accordingly it cannot be decided whether he was a Jew or not. The synagogue is 5<sup>th</sup> c.; if Elasius was Jewish the inscription must be pre-438, when Jews were not allowed such distinctions<sup>15</sup> – perhaps strengthening the preference for a non-Jewish official.

*PLRE* II, s.v.; *CIJ* no. 991; *ROTH GERSON* 1987, 104-105, no. 24.

### **Arsenius**<sup>16</sup>

**Arsenius** and his two sons, **Sallustius** and **Silvanus**, all three scholastikoi, are mentioned in an inscription at Scythopolis from 500/1 or 515/6, see *DISEGNI* 1999, 625-642 at 638-640. They (viz., **Arsenius** and **Silvanus**, and implicitly **Sallustius**) are known as Samaritans, though not as scholastikoi, from Cyril of Scythopolis, *Vita Sabae* 61, 71.

### **Sallustius**

See on **Arsenius** above.

### **Silvanus**

See on **Arsenius** above.

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<sup>15</sup> *CIC Nov.* 3.2.

<sup>16</sup> I have been alerted to him (and the two next entries) by the kindness of Yoram Tsafrir.

## BIBLIOGRAPHY

- AMATO 2010  
E. AMATO, *Rose di Gaza. Gli scritti retorico-sofistici e le Epistole di Procopio di Gaza*, Alessandria 2010.
- BAILLET 1920-1926  
J. BAILLET, *Inscriptions grecques et latines des tombeaux des rois ou Syringes à Thèbes*, Le Caire 1920-1926.
- BROWN 1991  
P. BROWN, *The Body and Society. Men, Women and Sexual Renunciation in Early Christianity*, London-Boston 1991.
- CLAUS 1965  
A. CLAUS, *Ὁ σχολαστικός*, Doctoral Dissertation, Köln 1965.
- COLLINET 1925  
P. COLLINET, *Histoire de l'école de droit de Beyrouth*, Paris 1925.
- DAN 1978  
Y. DAN, "Cultured Liberal Professionals in the Cities of Eretz-Israel in the Byzantine Period", *Cathedra* 8, 1978, 95-121 (in Hebrew).
- DAN 1982  
Y. DAN, "The Legal Profession in Palestine during the Byzantine Period", *Israel Law Review* 17, 1982, 274-289.
- DAN 1984  
Y. DAN, *The City in Eretz-Israel During the Late Roman and Byzantine Periods*, Jerusalem 1984 (in Hebrew).
- GEIGER 1992  
J. GEIGER, "Julian of Ascalon", *JHS* 112, 1992, 31-43.
- GEIGER 1999  
J. GEIGER, "Some Latin Authors from the Greek East", *CQ* 49, 1999, 606-617.
- GEIGER 2012  
J. GEIGER, *The Tents of Japheth: Greek Intellectuals in Ancient Palestine*, Jerusalem 2012 (in Hebrew).
- KASTER 1988  
R.A. KASTER, *Guardians of Language: The Grammarian and Society in Late Antiquity*, Berkeley-Los Angeles-London 1988.
- LANIADO 2002  
A. LANIADO, *Recherches sur les notables municipaux dans l'empire protobyzantin*, Paris 2002.
- LIEBERMAN 1970-1971  
S. LIEBERMAN, "A Few Words on the Book by Julian the Architect of Ascalon - The Laws of Palestine and its Customs", *Tarbiz* 40, 1970-1971, 409-417 (in Hebrew with an English summary) = S. LIEBERMAN, *Studies in Palestinian Talmudic Literature*, Jerusalem 1991, 339-347. English summary reprinted in S. LIEBERMAN, *Texts and Studies*, New York 1974, 309.
- MASSA POSITANO 1962  
L. MASSA POSITANO (ed.), *Enea di Gaza, Epistole*, Napoli 1962.
- MERKELBACH & STAUBER 2002  
R. MERKELBACH & J. STAUBER, *Steinepigramme aus dem griechischen Osten. Band 4: Die Südküste Kleinasiens, Syrien und Palaestina*, Leipzig 2002.
- PETTIT 1957  
P. PETTIT, *Les étudiants de Libanius: Un professeur et ses élèves au Bas-Empire*, Paris 1957.
- ROTH GERSON 1987  
L. ROTH GERSON, *The Greek Inscriptions from the Synagogues in Eretz-Israel*, Jerusalem 1987.
- SCHEMMEL 1923  
F. SCHEMMEL, "Die Schule von Berytus", *Philologische Wochenschrift* 43, 1923, 236-240.

SCHEMMEL 1925

F. SCHEMMEL, "Die Schule von Caesarea in Palästina", *Philologische Wochenschrift* 46, 1925, 1277-1280.

SEECK 1906

O. SEECK, *Die Briefe des Libanius*, Leipzig 1906.

SIVAN 2008

H. SIVAN, *Palestine in Late Antiquity*, Oxford 2008.

SZABAT 2007

E. SZABAT, "Teachers in the Eastern Roman Empire (Fifth-Seventh Centuries): A Historical Study and Prosopography", in:

T. DERDA, T. MARKIEWICZ, E.

WIPSYCKA (eds.), *Alexandria: Auditoria of Kom el-Dikka and Late Antique Education*, Warsaw 2007, 177-345.

WOLF 1952

P. WOLF, *Vom Schulwesen der Spätantike. Studien zu Libanius*, Baden-Baden 1952.



# The Jews and Greco-Roman Law and Terminology



# Jewish Oath in Ptolemaic Egypt\*

JOSEPH MÉLÈZE-MODRZEJEWSKI

In June 132 B.C.E., a Jewish lady, Berenike, daughter of Archagathos, an inhabitant of Aphroditopolis, most likely the nome capital of Aphroditopolis on the right bank of the Nile, turns to the archons of the *politeuma* in Herakleopolis<sup>1</sup> with a complaint against her business partner Demetrios son of Philotas, who notwithstanding the Greek names is also a *Ioudaios*, a Jew, and a member of the *politeuma*:<sup>2</sup>

5                    τοῖς τὸ λη (ἔτος) ἄρχουσι  
                     παρὰ Βερενίκης τῆς Ἀρχαγάθου  
                     Ἰουδαίας τῶν ἐξ Ἀφ[ρο]δίτης πόλε[ω]ς.  
                     τοῦ λζ (ἔτους) Φάμεν[ώ]θ Δημήτριος

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\* This is an expanded version of a part of my speech presented at the ceremony of renewal of my doctorate by the University of Warsaw on June 6, 2011. My best thanks are due to my friend Jakub Urbanik, who prepared the English translation of my Polish original. I am happy to dedicate it now to my friend Ranon Katzoff in honor of a long friendship which, since our first meeting in 1968, has never been perturbed.

<sup>1</sup> COWEY & MARECH 2001. See the critical review by HONIGMAN 2002, developed in *ead.* 2003, and the answer of the editors COWEY & MARECH 2003. See also FALIVENE 2002; KRUSE 2008; KUGLER 2007 and 2011. I have indicated the historical interest of this collection in my article of synthesis MÉLÈZE-MODRZEJEWSKI 2003.

<sup>2</sup> P.Polit. Iud. 9 – P.Köln inv. 21031 (20 June 132 B.C.E.)

Φιλώτου Ἰουδαῖος τῶν καταγινο-  
 μένων ἐν Πειμπασβύτει  
 προήκατό μοι ἐπιστολὴν ὄρκου  
 πατρίου διομολογούμενος ἀποδώ-  
 10 σειν μοι τὴν συνεχωρημένην  
 τιμὴν ἧς ἐώνητο παιδίσκης Ῥώμης  
 καὶ τοῦ ἐκ ταύτης τέκνου ἐν  
 μηνὶ Παῦνι τοῦ αὐτοῦ (ἔτους) χα(λκού) (τάλαντα) η,  
 ἐὰν δὲ μὴ ἀποδῶι, ἀποτεῖσειν  
 15 ἐν τῷ ἐχομένῳ μηνὶ Ἐπειφ  
 σὺν ἡμιολίαι καὶ εἰς τὸ βασιλικὸν  
 ἐπίτιμον ἀργ(υρίου) (δραχμὰς(?)) σὴ ἄνευ πάσης  
 κ[ρ]ίσεως καὶ καταστάσεως,  
 δώσειν δὲ καὶ μισθὸν κατὰ  
 20 μῆνα τροφῶι τοῦ μὲν  
 ἱματισμοῦ χα(λκού) Βφ ἕως ιε τοῦ  
 Φαμεγῶθ καὶ (πυροῦ) (ἀρτάβας) μέτρα δύο  
 μηνῶν δ κατὰ μῆνα ἐλαίου  
 κοτύ(λας) β τοῦ μηνός, ἀπὸ δὲ τοῦ Παῦν[ι]  
 25 κατὰ μῆνα (πυροῦ) (ἀρτάβην) α, ἐλαίου κοτύ(λας) β,  
 ταῦ[τα] δὲ καὶ ἄλλα τῆς ἐπιστολῆς  
 περιεχούσης καὶ τοῦ Φιλώτου  
 μηθέν μοι ἀποδεδωκότ[ο]ς μέχρι  
 30 τοῦ[ν] γῦν, ἀλλὰ πα[ρα]βεβηκότος τὸν  
 πατριον νόμον, διὸ ἠναγκασ[μ]ένη  
 ξενιτείας πείραν λαμβάνειν καὶ  
 παρακεκομκυῖα πρὸς ὑμᾶς ἄ[λ]-  
 λη[ν] τῶ[ν] ἐν Ἀφροδίτης πόλει Ἰουδαίων  
 περὶ τούτ[ου] ἐπιστολὴν ἀξιῶ  
 35 ἐὰν φαίνεται σ[υν]τάξαι τῷ ὑπηρέτῃ  
 παραπέ[μ]ψαι τὸν Δημήτριον καὶ ἀνα-  
 κλεσαμένους αὐτὸν ἐπαναγκ[ά]σ[α]ι  
 παραχρῆμα ἀποδοῦναι καὶ ἀποτεῖσαι  
 σὺν ἡμιολίαι (τάλαντα) ιβ καὶ τ . [ . ] - ca. 9 - Βφ  
 40 καὶ τὸν πόρον καὶ τὰλλα ἀκολούθως  
 τῷ ὄρκῳ, περὶ δὲ [τ]οῦ εἰς τὸ βασιλικὸν ἐπίτιμον  
 κατὰ τοῦ παραβεβηκότος διαλαβεῖν μισοπονήσως.

— — —  
 (hand 2) (ἔτους) [λ]η Παχὼν κθ . . .

45 λ[ ] π .. τ .. ν -ca. 9- τ  
 λ[ ] π .. τ .. ν -ca. 9- τ                    traces?

-----  
 ται αὐτ[ ] . [ . ] . . . [ -ca. ?- ]

καὶ ταύτης ε[ ] . [ . ] . . . ξ

verso

ἔτους λη Παῦνι ς  
 Βερενίκης πρ(ὸς) Δημή(τριον)

To the archons being in charge in the 38<sup>th</sup> year (of Ptolemy VIII) from Berenike, daughter of Archagathos, a Jewess of the (living) in Aphrodites Polis.

In the year 37, month Phamenôth, Demetrios son of Philotas, a Jew of the ones residing in Peimpasbytis, sent me a letter of oath according to the ancestral law convening that he would give me in the month of Pauni of the same year the agreed price of the slave-girl Rhome and the child of hers that he had bought for himself, (which is) 8 talents of copper coins. (And he conveyed), should he not give me, he would pay in the following month of Epeiph (the same amount) plus the half of it (as damages) and to the royal treasury 78 silver drachmas as penalty, without any judgment or litigation; and that he would give on account of rent for the nurse each month 2500 copper coins for clothing until the 15th of Phamenôth and two artabas of wheat during 4 months as well as 2 kotylai of oil each month, and from the month of Pauni on, one artaba of wheat and 2 kotylai of oil.

And given that, notwithstanding all these and other (conditions) contained in the letter, Philotas (i.e. Demetrios) has not paid anything until now, but has breached the ancestral law, wherefore I have been forced to provide a proof of being away from home (because of this matter) and having conveyed over to you another letter of some of the Jews of Aphroditis Polis, I request, if it pleases you, to command the hyperetes to conduct Demetrios here, and once you have summoned him, to compel him to pay and to recompense on the spot the amount (plus) the half of it, which makes 12 talents and ... 2500 drachmas (for the clothing) and all the rest according to the oath; as far as the penalty to the royal treasury is concerned, (I request) to treat the perjurer mercilessly.

(2<sup>nd</sup> hand): Year 38, 29 day of the month Pachôn (traces of the endorsement of the archons?)

Verso: Year 38, Pauni 6: Berenike against Demetrios.

The controversy between Berenike and Demetrios arose because of two agreements, connected with one another. The first concerned a sale of a slave-girl with her child;<sup>3</sup> the second, breast-feeding of the infant by a wet nurse hired for the purpose.<sup>4</sup> Berenike sold to Demetrios the slave-girl, named Rhome, “the Strong”, with her baby. Since the mother had no milk, Berenike let Demetrios a second slave-girl to breast-feed the child. A year has passed and Demetrios has not paid a penny, – or rather, not a single obol – neither for the purchased slave, nor for the rent of the wet nurse. The whole amount would be augmented by a penalty contractually due to the royal treasury for the breach of terms of the agreement. Berenike therefore applies to the tribunal of the archons of the *politeuma*, deriving very probably its jurisdictional powers from a royal delegation, to compel the debtor to fulfill his obligations. In her eyes he is a criminal who has transgressed “the law of the fathers”: παραβεβηκότος τὸν πατριὸν νόμον (ll. 29–30).

The fact that a party does not keep his promises is rather banal, be it in Ptolemaic Egypt, be it in modern France or in Israel. The difference is that in Egypt liability of the debtor does not arise from the non-fulfillment of the promise, but because of the damage (βλάβη) the creditor has suffered. This

<sup>3</sup> On sale of slaves, see STRAUS 2004.

<sup>4</sup> MANCA MASCIADRI & MONTEVECCHI 1984. Juridical analysis: HERRMANN 1959; more recently CHRÉTIEN-VERNICOS 1997.

was the Greek concept of contractual responsibility.<sup>5</sup> And yet how would that constitute a breach of the Jewish ancestral law? How to search for it in Moses' *Pentateuch*, which – as I have tried to show elsewhere<sup>6</sup> – the Ptolemaic Monarchy considered to be the “civic law” (πολιτικὸς νόμος) of the Hellenized Jews who had settled in Egypt? The writer of the documents which gave rise to the complaint of Berenike, who belonged, if we judge by her possession of slaves, to the local elite, found a way to subordinate the formally very Greek contracts to the ancestral law of the parties. The debtor's obligations are inscribed into Jewish law by “a letter of oath according to the ancestral law” (ἐπιστολὴ ὅρκου πατρίου).

Such an oath in conformity to the law of the fathers can be found in two more documents from Herakleopolis. The first one refers to commitments taken under oath in respect to the constitution of a dowry.<sup>7</sup> In the second one the oath is used on the occasion of a land lease.<sup>8</sup> It means that we are dealing here with a practice well-established in the Jewish community, as the oath would be applied to such different acts as sale, rent of a wet nurse or land lease. The Greeks, on the contrary, only rarely used oaths to strengthen obligations.<sup>9</sup> We can quote as example a papyrus of the end of the Ptolemaic period in which one Thaïs, daughter of Tarouthinos, swears to her partner by “Osiris, Isis, Horus, Zeus and all the gods and all the goddesses” to remain beside him throughout his life as his “lawful wife” on the condition of undergoing no wrong of his part.<sup>10</sup> Otherwise, the usual kind of oath was a promise in the royal name (βασιλικὸς ὅρκος). It assisted all types of services burdening the officials and duties of the lay people towards the omnipotent royal administration.

This oath, in its written form, συγγραφὴ βασιλικοῦ ὅρκου, may have served the contract-writers in Herakleopolis as a model. It was enough to replace the name of the king by the name of the evoked divinity, as in Alexandria, where a statute ordered to swear by Zeus, Hera and Poseidon, and forbade calling any other name.<sup>11</sup> In a Jewish oath, it could only be the name of the God

<sup>5</sup> See WOLFF 1957; 1966. Cf. MÉLÈZE-MODRZEJEWSKI 1994.

<sup>6</sup> See MÉLÈZE-MODRZEJEWSKI 2001, 183–199.

<sup>7</sup> P.Pol. Iud. 3 (140 B.C.E.), l. 6, 29–30.

<sup>8</sup> P.Pol. Iud. 12 (135 B.C.E.), l. 10.

<sup>9</sup> See HELMIS 1991, who renews the subject left uncultivated since the works, already ancient, of SEIDL 1929 and KUNKEL 1931.

<sup>10</sup> PSI I 64 (first cent. BCE?); see YIFTACH-FIRANKO 2003, 192f., who summarizes the discussions aroused by this document and pronounces in favor of the hypothesis that it deals with the conclusion of a marriage.

<sup>11</sup> P.Hal. 1, 214–218 (Alexandria, third cent. BCE): *The one who takes the oath, has to lend it in the agora, on the scene reserved for the oaths, and to make a libation in front of the altar; the one*

of the Jews. In other words, the “ancestral oath” of our documents probably was a promise in the name of God, such as was the one that strengthened the alliance of Abraham and Abimelech of which we read in the Book of Genesis.<sup>12</sup> Not keeping such a promise was a violation of the Third Commandment: *Thou shalt not take the Name of the Lord thy God in vain*.<sup>13</sup> It was to prevent a breach of the contract that it was sworn in the name of God. Thus, if someone promises by the Name of God to do something and then fails to do it, that would qualify as “having taken the Name of the God in vain”. In our document, a religious sanction for perjury was added to the usual one for the damage caused to the creditor. The skillful notary has “Judaized” Greek contracts.<sup>14</sup>

Neither the Bible nor the Greek law provides external legal sanctions for false oaths.<sup>15</sup> In Biblical law punishment is in the hands of God, who “will not hold him guiltless that taketh His Name in vain”.<sup>16</sup> The perjurer “profanes the Name of his God”;<sup>17</sup> he will not receive “the blessing from the Lord”.<sup>18</sup> In Greek tradition, Horkos, the deified oath, is in charge of punishing perjurers.<sup>19</sup> A Ptolemaic document of the third century B.C.E. states a “traditional oath” (πάτριος ὄρκος, as in our documents) “on the River”: the punishment of the perjurer belongs to the god Nile.<sup>20</sup> The perjurer is guilty of impiety (ἀσέβεια).<sup>21</sup> The moral blame he incurs could come along with similar prohibitions to those which refuse the access of holy places to persons being in a state of impurity.<sup>22</sup>

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*who called him to take the oath will supply the sacrificial animals. We shall swear by Zeus, Hera and Poseidon; nobody is allowed to take another oath, nor to provoke somebody to take it, nor to the descendants to attend.*

<sup>12</sup> Gen. 21:23: *Now therefore swear unto me here by God that thou wilt not deal falsely with me, nor with my son, nor with my son's son; but according to the kindness that I have done unto thee, thou shalt do unto me, and to the land wherein thou hast sojourned.*

<sup>13</sup> Ex. 20:7; Deut. 5:11. A good synthesis: COHN 1927.

<sup>14</sup> Ex. 20:7.

<sup>15</sup> See HELMIS 1986, vol. 1, 38-39; 1991, 142-144; 2008, 26.

<sup>16</sup> Ex. 20:7.

<sup>17</sup> Lev. 19:12.

<sup>18</sup> Ps. 24:4-5.

<sup>19</sup> SOMMERSTEIN & FLETCHER 2007.

<sup>20</sup> P.Petrie III 56d, 11-12 (Gurob, c. 270-258 B.C.E.): ὅμοσά σοι τὸν πάτριον ὄρκον ἐπὶ τοῦ ποταμοῦ. See BONNEAU 1964, 324; cf. HELMIS 1991, n. 16.

<sup>21</sup> See HELMIS 1986, 129.

<sup>22</sup> The inventory of these prohibitions is compiled by POULAIN 1982. See also MOULINIER 1952, 63-73 (purification rites) and 103-109 (purity of the sacred places).

In spite of the penalties which threatened it, the practice of the oath by God seems to have been widespread in the Diaspora. Its popularity is testified by the Wisdom of Sirach, translated into Greek in Egypt by the author's grandson: *Accustom not thy mouth to swearing; neither use thyself to the naming of the Holy One*, says Siracides.<sup>23</sup> Philo of Alexandria<sup>24</sup> and the Gospel of Matthew<sup>25</sup> confirm this testimony. According to Philo, if you absolutely wish to swear, you can swear by the Earth, the Sun, the Stars, the Heaven, and the Universal World instead of calls upon the divine Name.<sup>26</sup> Jesus of Nazareth in the Sermon on the Mount rebukes his brethren who take oaths on heavens, earth, Jerusalem or their own heads.<sup>27</sup> Both Philo and Jesus sound very much like Plato who bewails that *well-nigh half the citizens are perjurers, although they have no scruple in associating with one another at common meals and at other public and private gatherings*.<sup>28</sup> The Wise men of the Talmud follow the same way when they recommend not getting involved in oaths, whether you are right or wrong.<sup>29</sup>

We do not know whether the Ptolemaic Jews were more scrupulous with keeping their promises than the Athenians of Plato's era. We are only interested here in the cultural duality revealed by the papyri. A Greek contract, a biblical sanction: that is how one may be at the same time – even if it seems mighty difficult – a Greek and a Jew. And we have learnt this thanks to the Greek papyri from Egypt. Three centuries later, the Greek notaries in Egypt displayed similar inventiveness. After the universal extension of Roman citizenship by Caracalla (212) the agreements of the provincial population were not against the law, but had no legal efficacy. These in the light of Roman law were mere pacts (*nuda pacta*), whose execution could not be enforced in courts. The notaries overcame this obstacle providing a Greek contract with a Roman *stipulatio*, phrasing the promise being made in the deed as follows:

<sup>23</sup> Sir. 23:9: ὄρκῳ μὴ ἐθέσης τὸ στόμα σου καὶ ὀνομασίᾳ τοῦ ἁγίου μὴ συνεθισθῆς.

<sup>24</sup> Philo, *De specialibus legibus* 2:6-7. Cf. COWEY & MARESCH, 2001, 26 n. 87.

<sup>25</sup> Matt. 5:34-37.

<sup>26</sup> Philo, *De specialibus legibus* 1:5.

<sup>27</sup> Matt. 5:34 *But I say unto you, Swear not at all; neither by heaven; for it is God's throne: 35 – Nor by the earth; for it is his footstool: neither by Jerusalem; for it is the city of the great King. 36 – Neither shalt thou swear by thy head, because thou canst not make one hair white or black. 37 – But let your communication be, Yea, yea; Nay, nay: for whatsoever is more than these cometh of evil.* See DOLING 1991.

<sup>28</sup> *Laws* XII 948d-948e (transl. R. G. Bury): δεινὸν γάρ που, δικῶν γ' ἐν πόλει πολλῶν γενομένων, εἰ εἰδέναι σμαρτοῦ δεῖν τοὺς ἡμίσεις αὐτῶν ἐπωρκηκότας, ἐν συσσιτίῳ τε ἀλλήλοις εὐχερῶς συγγιγνομένους καὶ ἐν ἄλλαις συνουσίαις τε καὶ ἰδιωτικαῖς συγγενήσεσιν ἐκάστων.

<sup>29</sup> *Yer. Sheb.* 37b; *Bab. Git.* 35a.

“and being asked I have agreed” (καὶ ἐπερωτηθεὶς ὁμολόγησα, equivalent to the Latin *et stipulatus spopondi*). The stipulation converted a Greek agreement into a Roman verbal contract, which could easily be enforced by a provincial judge.<sup>30</sup> Greek contracts became Romanized.

A document like the one that we have just examined is an invaluable witness of the state of the *halacha* as it was followed in Jewish practice about four centuries before the redaction of the Mishnah. Just like the other papyri of the same dossier, it gives evidence of how well-anchored the Hellenized Diaspora was in Jewish law, being able to associate respect for the national tradition with recourse to Greek documents.<sup>31</sup> I have had the opportunity to stress the contribution of the Herakleopolis archive to Jewish legal history as far as marriage and divorce were concerned.<sup>32</sup> The present note corroborates the conclusions of this earlier study. The legal practice illustrated by the Herakleopolis documents enriches our knowledge of the way in which the Jews of Egypt took up the big challenge of their time: how to remain Jewish while being Greek?

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<sup>30</sup> See MÉLÈZE-MODRZEJEWSKI 1970, esp. p. 362.

<sup>31</sup> RITTER 2011 tries to demonstrate that the *politeuma* referred to in this dossier is not an organization of the Jews but the “civic body” of Herakleopolis, the nome capital being in his eyes a *polis* (city). This hypothesis will hardly find support among papyrologists, who know that the *metropoleis* of Egypt, in spite of their name containing the word *polis*, are big villages and not *poleis* in the institutional sense of the term. The importance of the Herakleopolis document for Jewish legal history remains intact.

<sup>32</sup> See MÉLÈZE-MODRZEJEWSKI 2005.

## BIBLIOGRAPHY

- BONNEAU 1964  
D. BONNEAU, *La crue du Nil, divinité égyptienne à travers mille ans d'histoire (332 av. – 641 ap. J.-C.)*, Paris 1964.
- CHRÉTIEN-VERNICOS 1997  
G. CHRÉTIEN-VERNICOS, "Le contrat de nourrice en droit hellénistique: une 'misthōsis' bien particulière", *RHD* 75, 1997, 587-615.
- COHN 1927  
M. COHN, "Eid", in: G. HERLITZ & B. KIRSCHNER, eds., *Jüdisches Lexikon*, vol. 2, Berlin 1927, 286-298.
- COWEY & MARESC 2001  
J.M.S. COWEY & K. MARESC, *Urkunden des Politeuma der Juden von Herakleopolis (144/3 - 133/2 v. Chr.) (P.Polit.Jud.)*. *Papyri aus den Sammlungen von Heidelberg, Köln, München und Wien*, Papyrologica Coloniensia XXIX, Wiesbaden 2001.
- COWEY & MARESC 2003  
J.M.S. COWEY & K. MARESC, "'A Recurrent Inclination to Isolate the Case of the Jews from their Ptolemaic Environment'? Eine Antwort auf Sylvie Honigman", *SCI* 22, 2003, 307-310.
- FALIVENE 2002  
M.R. FALIVENE, Review of COWEY & MARESC 2001, *BiOr* 59, 2002, 541-550.
- DOLING 1991  
D.C. DOLING, "[Do Not Swear ...] by Jerusalem because it is the City of the Great King' (Matt 5:35)", *JBL* 110 (2), 1991, 291-309.
- HELMIS 1986  
A. HELMIS, *Crime et châtement dans l'Égypte ptolémaïque. Recherches sur l'autonomie d'un modèle pénal*, Paris 1986.
- HELMIS 1991  
A. HELMIS, "Serment et pouvoir dans l'Égypte ptolémaïque," in: R. VERDIER (ed.), *Le Serment*, 1: *Signes et fonctions*, Paris 1991, 137-153.
- HELMIS 2008  
A. HELMIS, "Justice d'outre-tombe: divinités perses dans des imprécations funéraires grecques," *Droit et Cultures*, numéro spécial, 2008, 23-34.
- HERRMANN 1959  
J. HERRMANN, "Die Ammenverträge in den gräko-ägyptischen Papyri", *ZRG RA* 76, 1959, 490-499 = *Kleine Schriften zur Rechtsgeschichte (MB 83)*, Munich 1990, 194-203.
- HONIGMAN 2002  
S. HONIGMAN, "The Jewish politeuma at Heracleopolis," *SCI* 21, 2002, 251-266.
- HONIGMAN 2003  
S. HONIGMAN, "Politeumata and Ethnicity in Ptolemaic and Roman Egypt", *AncSoc* 33, 2003, 61-102.
- KRUSE 2008  
TH. KRUSE, "Das politeuma der Juden von Herakleopolis in Ägypten," in: M. KARRER & W. KRAUS (eds.), *Die Septuaginta. Texte, Kontexte, Lebenswelten*, Tübingen 2008, 166-176.
- KUGLER 2010  
R. KUGLER, "Dorotheos Petitions for the Return of Philippa (P. Polit. Jud. 7): A Case Study in the Jews and their Law in Ptolemaic Egypt", in: T. GAGOS & A. HYATT (eds.), *Proceedings of the 25<sup>th</sup> International Congress of Papyrology. Ann Arbor, July 29 - August 4, 2007, American Studies in Papyrology*, special edition, Ann Arbor 2010, 387-395.
- KUGLER 2011  
R. KUGLER, "Dispelling an Illusion of Otherness? A First Look at Juridical Practice in the Heracleopolis Papyri," in: D. HARLOW ET AL. (eds.), *The "Other" in Second Temple*

- Judaism*, Grand Rapids, 2011, 457-470.
- KUNKEL 1931  
W. Kunkel, "Griechische und Ägyptische Elemente im Eidesrecht der Ptolemäerzeit", *ZRG RA* 51, 1931, 229-276.
- MANCA MASCIADRI & MONTEVECCHI 1984  
M. MANCA MASCIADRI & O. MONTEVECCHI, *I contratti di baliatico*. Corpora Papyrorum Graecarum 1, Milan 1984.
- MÉLÈZE-MODRZEJEWSKI 1970  
J. MÉLÈZE-MODRZEJEWSKI, "La règle de droit dans l'Égypte romaine. État des questions et perspectives de recherches", in: D.H. SAMUEL (ed.), *Proceedings of the XII International Congress of Papyrology (Ann Arbor, Mich., August 1968)*, New Haven-Toronto 1970, 317-378.
- MÉLÈZE-MODRZEJEWSKI 1994  
J. MÉLÈZE-MODRZEJEWSKI, "L'Ordonnance sur les cultures". Droit grec et réalités égyptiennes en matière de bail forcé", *RHD* 72, 1994, 1-20, also published in: S. ALLAM (ed.), *Grund und Boden in Altägypten (Rechtliche und sozio-ökonomische Verhältnisse)*. Akten des internationalen Symposiums, Tübingen 18.-20. Juni 1990, Tübingen 1994. *Untersuchungen zum Rechtsleben im alten Ägypten* 2, 199-225 and in: J. MÉLÈZE-MODRZEJEWSKI, *Droit et justice dans le monde grec et hellénistique*, Warsaw 2011, 63-87.
- MÉLÈZE-MODRZEJEWSKI 2001  
J. MÉLÈZE-MODRZEJEWSKI, "The Septuagint as Nomos: How the Torah Became a 'Civic Law' for the Jews of Egypt", in: J.W. CAIRNS & O.F. ROBINSON (eds.), *Critical Studies in Ancient Law, Comparative Law and Legal History. Essays in honour of Alan Watson*, Oxford 2001, 183-199.
- MÉLÈZE-MODRZEJEWSKI 2003  
J. MÉLÈZE-MODRZEJEWSKI, "La diaspora juive d'Égypte", in: M.-TH. LE DINAHET (ed.), *L'Orient méditerranéen, de la mort d'Alexandre au I<sup>er</sup> siècle avant n. è.: Anatolie, Chypre, Égypte, Syrie*, Nantes 2003, 330-353.
- MÉLÈZE-MODRZEJEWSKI 2005  
J. MÉLÈZE-MODRZEJEWSKI, "La fiancée adultère. À propos de la pratique matrimoniale du judaïsme hellénisé à la lumière du dossier du politeuma juif d'Hérakléopolis (144/3 – 133/2 av. n.è.)", in: Z. SŁUZEWSKA & J. URBANIK (eds.), *Marriage : Ideal – Law – Practice. Proceedings of a Conference Held in Memory of Henryk Kupiszewski. JJP Supplements* 5, Warsaw 2005, 141-160, also published in: J.-CHR. COUVENHES & B. LEGRAS (eds.), *Transferts culturels et politique dans le monde hellénistique. Actes de la table ronde sur les identités collectives (Sorbonne, 7 février 2004)*, Paris 2006, 103-118.
- MOULINIER 1952  
L. MOULINIER, *Le pur et l'impur dans la pensée des Grecs, d'Homère à Aristote*, Paris 1952.
- POULAIN 1982  
C. POULAIN, *Les interdits religieux dans le monde grec*, Paris 1982.
- RITTER 2011  
B. RITTER, "On the 'πολίτευμα' in Heracleopolis", *SCI* 30, 2011, 9-37.
- SEIDL 1933-1935  
E. SEIDL, *Der Eid im römisch-ägyptischen Provinzialrecht*, Munich 1933-1935.
- SOMMERSTEIN & FLETCHER 2007  
A.H. SOMMERSTEIN & J. FLETCHER, (eds.), *Horkos. The Oath in Greek Society*, Bristol 2007.
- STRAUS 2004  
J.A. STRAUS, "L'achat et la vente des esclaves dans l'Égypte romaine: Contribution papyrologique à l'étude de l'esclavage dans une province orientale de l'Empire romain", *AFP Beiheft* 14, Munich 2004.
- WOLFF 1957  
H.J. WOLFF, "Die Grundlagen des griechischen Vertragsrechts", *ZRG RA* 74, 1957, 26-72, also published in: E. Berneker (ed.), *Zur griechischen Rechtsgeschichte*, Darmstadt 1968, 483-533.
- WOLFF 1966  
H.J. WOLFF, "La structure de l'obligation contractuelle en droit grec", *RHD* 44, 1966, 569-583.
- YIFTACH-FIRANKO 2003  
U. YIFTACH-FIRANKO, *Marriage and Marital Agreements*, Munich 2003.



# Hoda'ot ve-Halva'ot

AMIHAI RADZYNER

Dedicated to the honoree of this festschrift, who unknowingly also contributed to the arguments presented in this paper

## 1. INTRODUCTION

In four *sugyot* or discussions contained in the Babylonian Talmud, and there alone—i.e., Gittin 88b; Baba Kamma 84b; Sanhedrin 2b; *ibid.*, 32b—there appears a statement according to which the broad category referred to in the *Mishnah* as *dinei mamonot*—i.e., monetary law—ought to be subdivided into two groups, the more lenient of which, in terms of the judicial procedure required is referred to as *hoda'ot ve-halva'ot*—lit. “admissions of liability and loans.” As I have demonstrated elsewhere, this category first appears in the words of Rava in *Bab. Sanhedrin* 32b, where he proposes a distinction between two groups that together constitute monetary law: the one known as *dinei kenasot*, i.e., “laws of [monetary] penalties” (this is the common explanation, but later we will see that we have to define *dinei kenasot* in another manner), and the other known as *hoda'ot ve-halva'ot*, “admissions of liability and loans.” This distinction is presented by Rava in his remarks on the first *Mishnah* in *Sanhedrin* (3a), and it was accepted by the anonymous authors

of the Talmud, who utilized it in the three additional discussions mentioned above.<sup>1</sup> But what is meant by the term *hoda'ot ve-halva'ot*? It is important to clarify this subject, to which this paper is devoted, because every area of monetary law not included within this group falls under the rubric of *dinei kenasot*.

An examination of Rava's words in the two *sugyot* in which he explicates the term *dinei mamonot*—namely, *Sanhedrin* 3a and 32b—will enable us to construct the following definition:

According to Rava, the term *dinei kenasot* includes everything that is not *hoda'ot ve-halva'ot*, namely: robbery and [bodily] injury, [property] damage and half-[payment of] damage, double payment, etc.<sup>2</sup> In the category of *hoda'ot ve-halva'ot* laymen (*hedyotot*) may conduct the judicial procedure, whereas cases of *gezelot ve-ḥabalot*—i.e., “robbery and injury”—must be conducted by expert judges (*mumḥim*; *Sanhedrin* 3a) with stricter judicial procedures—i.e., the bringing of witnesses and their thorough examination (*derishah ve-ḥakirah*; *Sanhedrin* 32b).

We find that this understanding lies at the basis of Maimonides' words in his *Code*, at *Hilkhot Sanhedrin* 5.8:<sup>3</sup>

דיני קנסות כגון גזילות וחבלות ותשלומי כפל ותשלומי ארבעה וחמשה והאונס והמפתה וכיוצא בהן אין דנין אותם אלא שלשה מומחים והם הסמוכין בארץ ישראל, אבל שאר דיני ממונות כגון הודאות והלואות אינן צריכין מומחה אלא אפילו שלשה הדייטות ואפילו אחד מומחה דן אותן, לפיכך דנין בהודאות והלואות וכיוצא בהן בחוצה לארץ, אע"פ שאין בית דין של חוצה לארץ אלהים שליחות בית דין של ארץ ישראל עושים, ואין להן רשות לדון דיני קנסות בשליחותן.

Cases involving *kenasot*, such as robbery, injury, claims for twofold or fourfold or fivefold restitution, for rape or seduction, or claims of a similar nature, are adjudicated by three well-qualified judges, i.e., judges who received their ordination in Palestine. But cases that do not involve action in tort, such as *hoda'ot ve-halva'ot*, do not require for their adjudication three well-qualified judges. Three laymen or even one well-qualified judge may try them. Therefore cases of *hoda'ot ve-halva'ot* and the like may be tried even outside Palestine, for although no tribunal outside Palestine can be designated as *Elohim*, it acts merely as agent for the court of Palestine. It is denied, however, the power to act as agent for the court of Palestine in matters involving *kenasot*.

The definition of *dinei kenasot* proposed by Maimonides, following Rava, also serves him for the law regarding the examination of witnesses (*ibid.*, *Hilkhot Edut* 3.1-2):

<sup>1</sup> On the entire argument found in this section, see RADZYNER 2001a, 207-25, 289-91.

<sup>2</sup> See the novella attributed to Rabbenu Yonah on *b. Sanhedrin* 3a, s.v. *u-mah ta'am*.

<sup>3</sup> Note Maimonides' language, from which it follows that *dinei kenasot* are part of *dinei mamonot*, a view consistent with his approach elsewhere. See RADZYNER 2001a, 223 n. 201.

אחד דיני ממונות ואחד דיני נפשות בדרישה וחקירה, שנאמר משפט אחד יהיה לכם... במה דברים אמורים בהודאות והלואות מתנות ומכירות וכיוצא בהן, אבל בדיני קנסות צריך דרישה וחקירה...

The questioning and interrogation of witnesses is required with regard to cases involving both monetary law and capital punishment, as Leviticus 24:22 states: "You shall have one judgment."...

When does the above apply? With regard to *hoda'ot ve-halva'ot*, presents, sales, and the like. Cases involving *dinei kenasot*, by contrast, require the full process of questioning and interrogation.

This distinction is also reflected in the words of the Babylonian *gaon*, head of the yeshiva in Baghdad, a contemporary of Maimonides and his scholarly opponent, Rabbi Shmuel b. Ali:<sup>4</sup>

ועל כן נעתקה מדור לדור, מהם נשיאים ראשי ישיבות ומהם אבות בתי דינין, ולא ימשו ראשי הדורות, כל אחד ואחד מהם בוחר מי שהוא ראוי לשיבה וקוראו ומסכים עליו וסומכו. ואם יאמר האומר כי ימים רבים לישר' בלא סמיכה, בראותו האמור כי אין סמיכה בחוצה לארץ, יש לאל מלים להשיבו ולהרגיעו כי האמור אין סמיכה בחוצה לארץ —הני מילי לדון דיני קנסות, אבל לדיני הודאות והלואות יש סמיכה, יש על עיקר זה ראיות לא תכילם אגרת זו...

Therefore [a tradition] has been passed down from generation to generation, among them Exilarchs and heads of *yeshivot*, and among them heads of rabbinical courts, and the heads of the generations have not passed away: each one of them chooses one whom he finds suitable to sit [in judgment] and calls him and agrees to him and lays his hands on him [i.e., ordains him]. And if one were to say that for many days Israel has been without *semikhah*, seeing that there is no *semikhah* outside of the Land [of Israel], I have the power to answer his words and to reassure him, that those who say that there is no ordination outside of the Land refer by this to *dinei kenasot*, but regarding *hoda'ot ve-halva'ot* there is *semikhah*—and regarding this principle there are [many] proofs which this letter is too short to include.

## 2. THE COMPASS OF THE GROUP HODA'OT VE-HALVA'OT

To begin, one needs to understand the title chosen for this group. It seems to have been important to Rava to give this group a title composed of a pair of items. As mentioned, it seems quite clear that Rava set out to interpret the *Mishnah* at the beginning of *Sanhedrin* by claiming that *hoda'ot ve-halva'ot* is identical to the class of *dinei mamonot* mentioned at the beginning of the *Mishnah*. As this *Mishnah* is composed of various pairs: robbery and injury, [property] damage and half-[payment of] damage, double payments and four-fold and fivefold payments, rape and seduction<sup>5</sup> and spreading a bad name, it

<sup>4</sup> ASSAF 1930a, 69, cf. 16.

<sup>5</sup> *Ones u-mefateh* ("the rapist and the seducer") are a single unit throughout the *Mishnah* regarding their law, with the exception of *Mish. Ket.*, where it states the difference between the two. See *Mish.*

is clear why Rava was interested in finding a pair to appear at the beginning of this *Mishnah* as well.<sup>6</sup> Thus—notwithstanding, as I shall argue below, that “loans” are included within the rubric of “admissions of liability”—he had an interest in using a pair of words, specifically.

If we adhere to the explanation offered in the two *sugyot* in *Sanhedrin* mentioned above for a certain [judicial] leniency in “admissions and loans”—“so as not to close the door before borrowers”—then we must interpret this group in a narrow sense, saying that “both of them deal with matters of lending and borrowing,” as stated by Rashi at both 2b and 32b. However, most of the commentators argue that this group is far broader. Although some of them are willing to admit that initially “*hoda’ot* and *halva’ot* are concerned with matters of borrowing money”, the rule that the procedure may be conducted by lay judges also applies to other common areas involving possible loss of money, so that laymen are permitted to adjudicate them as representatives of the expert or “well-qualified” [i.e., ordained] judges of the Land of Israel.<sup>7</sup> This understanding seems self-evident. Would it occur to anyone that the *Mishnah* would not provide information regarding the possibility of adjudication in cases of sales, gifts and the like? Rava would also seem to have been troubled by this question and, by using the term *hoda’ot ve-halva’ot*, to have intended to refer to all those cases which do not fall under the rubric of those monetary obligations specified in the *Mishnah* which are included under the term *dinei mamonot*.<sup>8</sup>

We thus find that Maimonides argues that “admissions of liability and loans” are only an example of other *dinei mamonot*, such as “gifts and sales” and the like.<sup>9</sup> The Ramah states, regarding the exemption from thorough examination: “And one cannot say that these words apply to admissions of liability and loans

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*Shebi.* 10.2; *Yeb.* 7.5; 11.1; *’Ar.* 3.4

<sup>6</sup> On the editing of the *mishnayot*, emphasizing the [creation of] a fixed number of units, see MELAMED 1986, 215-25; and cf. WALFISH 1994, 126 and his sources there. If we relate here to the matter of the literary fashioning of the *Mishnah*, one might add an additional detail that will illuminate the choice of the formulation of the word-pair *hoda’ot ve-halva’ot*: namely, the similarity in sound of the two items chosen. The *Mishnah* itself, in a number of places, chose to formulate its words in similar-sounding pairs: see BRAVERMAN 1989, 72-3.

<sup>7</sup> For a sharp formulation of this idea, see LAZEBNIK 1972, 5: “And that we conclude here that one does not require experts regarding *hoda’ot ve-halva’ot*, including [adjudication of] a woman’s *ketubah*, inheritance, and damages of an ox against another ox, and all those others which we infer in Chapter *Ha-Hovel*, is because we act as emissaries [of the judges in the land of Israel] and may impose these monetary payments in Babylonia.” According to his words, certain kinds of damages are included under the rubric of *hoda’ot ve-halva’ot* despite the fact that the *mishnah* enumerates them separately from *dinei mamonot*, as “damage and half-damage.”

<sup>8</sup> Compare BENOVIITZ 2000, 39-40.

<sup>9</sup> *Hil. Sanhedrin* 5.8; *Edut* 3.2.

alone, but also to adjudication of matters of buying and selling, inheritance, and the like.”<sup>10</sup> Rabbi Menahem Hameiri who, like Rashi, interprets the phrase *hoda’ot ve-halva’ot* literally, states that in terms of the law, “Inheritances and gifts and sales and collecting of *ketubah* [marriage contract]—all these are included under the rubric of *hoda’ot ve-halva’ot*.”<sup>11</sup> The Ran, in connection with the requirement of thorough examination, rules that: “Matters of betrothal and *ketubot* are certainly included under the rule of *hoda’ot ve-halva’ot*.”<sup>12</sup> Finally, the Netziv comments: “So as not to close the door before borrowers, here everyone agrees that all kinds of lawsuits fall under the category of borrowers.”<sup>13</sup> And even some of the commentators on the Mishnah suggest that one is speaking here also of “*ketubot*, inheritance and gifts.”<sup>14</sup>

This entire group of commentators engaged in a down-to-earth, practical comparison of *hoda’ot ve-halva’ot* with other, similar laws, both in terms of the form of obligation and in terms of the rule of permitting adjudication to be conducted by laymen and the exemption from thorough examination of witnesses. Yet I have not found among the classical exegetes anyone who suggests that the term *hoda’ot* (admissions of liability) per se includes within itself all those laws suggested here: buying and selling, gifts, inheritance, and so forth. Rather, it is seen as only one example from the entire group. I would like to suggest that it was not for naught that Rava used the term *hoda’ot*. This term—to which the term *halva’ot* (loans) was added for stylistic reasons, as discussed earlier, notwithstanding that the term *hoda’ot* in itself includes cases of loans—included all of the obligations enumerated above, whose common denominator is that they are voluntary obligations or, to use modern terminology, contractual obligations: that is, obligations undertaken by a person with his own knowledge and of his own free will. This stands in contradistinction to payments for bodily or property damage, rape or seduction [of a virgin], etc., which are payments which a person is obligated to pay by virtue of the law.

An argument for a generalization of this type regarding the use of the term *dinei mamonot* (“monetary law”) in the opening *Mishnah* of *Sanhedrin* (which is glossed in the Talmud as *hoda’ot ve-halva’ot*) is proposed by Abraham Weiss.<sup>15</sup> In his words: “*dinei mamonot* [is understood] as a general category

<sup>10</sup> ABULAFIA [1999] on *Bab. Sanh.* 32b.

<sup>11</sup> MEIRI [1965] on *Sanh.* 3a, 6.

<sup>12</sup> GIRONDI [1978] on 32b, relying upon the *sugya* at *Bab. Yeb.* 122b.

<sup>13</sup> BERLIN [1955] on *Bab. Sanh.* 32a.

<sup>14</sup> LIPSCHÜTZ [1905] on *Mish. Sanh.* 1.1, §a. Cf. the commentaries of R. Ovadiah of BERTINORO [1905] and *Tosafot Yom Tov* (HELLER [1905]) to *Mish. B. K.* 8.1, s.v. *ro’in*.

<sup>15</sup> WEISS 1944, 133-4 (139-40).

including all kinds of lawsuits and disputes whose origin lies exclusively in monetary matters,” where “monetary matters” are explained by him as “business transactions.” Thus, according to his view, *gezelot ve-habbalot* (“robbery and bodily damages”) and “[property] damage and half-damage” are “monetary suits, but ones in which the source of the suit is not in a monetary agreement.” Samuel Krauss suggests something similar in his German-language commentary on *Mishnah Sanhedrin*, immediately at the beginning of our *Mishnah*:<sup>16</sup> “Rechtsstreitigkeiten oder Prozesse, die eine Geldangelegenheit (z. B. Darlehen, Geschenke, Erbschaften) betreffen” (i.e., Legal disputes or lawsuits regarding a money proposition [such as loans, gifts, inheritances]). That is, he also uses the term “monetary transactions,” which he exemplifies: “such as loans, gifts, inheritances.” Similarly, Hanoch Albeck, who comments that he explains the *Mishnah* according to the approach of Rava,<sup>17</sup> states in his interpretation of our *Mishnah* that it refers to: “Monetary law—such as matters of loans, inheritance and gifts.” Asher Gulak uses more elaborate language:<sup>18</sup> “From the context [of this *sugya*] it follows that they saw *hoda’ot ve-halva’ot* as a special group from an halachic perspective, as opposed to ‘robbery and bodily harm’; together with ‘loans,’ *hoda’ot* served as a term for a certain kind of business matter.” And Rabbi Herzog writes:<sup>19</sup> “The *gemara* defines *dinei mamonot* as laws of *hoda’ot ve-halva’ot*, but this category is quite extensive and also includes the adjudication of a woman’s *ketubah*, inheritance, wills, guardianship, and any other obligations arising from any connection created by negotiation.”

But the most comprehensive formulation is that of Gedaliah Alon:<sup>20</sup>

The classical tradition, as is known, withdrew the adjudication of ‘penalty cases’ (where the amounts to be paid are punitive and do not coincide with the value of the loss sustained) from the jurisdiction of non-ordained judges, as these cases require the authority to enforce the judgments, and this was withdrawn from those without ordination by order of the Patriarch or Sanhedrin. Yet it also happened that the fields denied to the non-expert were extended to cover even ‘robbery and assault suits,’ including damages (or certain classes thereof) and only the adjudication of money disputes arising from business relations (obligations between the parties) were left to the judicial authority of the non-ordained. Furthermore, in principle, the current Halakhic tradition even removed the right from these courts to try cases of ‘admissions and loans’, and only allowed them to judge these cases in practice on the general (assumption) that these judges were ‘acting as the agents’ of the ordained judges

<sup>16</sup> KRAUSS 1933, 56.

<sup>17</sup> ALBECK 1957-9, *Seder Nezikin*, 169, 441.

<sup>18</sup> GULAK 1994, 16 n. 23.

<sup>19</sup> HERZOG 1989, 296.

<sup>20</sup> ALON 1977, 419.

(that is to say, theirs was only a delegated authority granted by the highest body in law, the Sages or the Sanhedrin or Patriarch).

This passage already alludes to the direction which I wish to develop: namely, that there is a [basic] distinction between *dinei kenasot*, which refers to those laws that originate in the imposition of the law upon the one being judged, for which the *halacha* requires those with “the authority to enforce the judgments,” i.e., “expert judges,” and *hoda’ot ve-halva’ot*, which are described as “money disputes arising from business relations (obligations between the parties),” for which we allow adjudication to be conducted by laymen, as well as certain leniencies in the judicial procedure (i.e., no thorough examination), because the issue of evidence is less critical.

The root of these things is the distinction between an obligation which a person undertakes by himself, for which the term *hoda’ah*—“admission of liability”—is appropriate, as we shall explain below, and in which the function of the court is merely to *clarify* the existence of an obligation which was already created at the moment of undertaking the obligation, and a monetary obligation which is imposed upon a person and requires him to pay his fellow by the power of law, an obligation which is “decreed” upon him, one *created* by the law through its representative—namely, the court. An additional distinction, one which applies to a significant part of the group of *dinei kenasot*, is of course the manner of determining the amount of the obligation. The imposition of damages requires valuation on the part of the judges, whereas in the case of obligations created by agreement the amount of the payment is usually clear.

### 3. THE MEANING OF “ADMISSIONS OF LIABILITY”

The meaning of the term *hoda’ah* in the vocabulary of the Sages is an obligation that a person takes upon himself; in a legal procedure, *hoda’ah* may refer to a debt or obligation which the one being sued admits, based on the principle that “A person is believed regarding his own admission to a debt.”<sup>21</sup>

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<sup>21</sup> From the language of the definition in the *Encyclopaedia Talmudica* [Hebrew], VIII: 404, s.v. *hoda’at ba’al din*. Cf. below, n. 23 and cf. also LIEBHITZ 1988, 279. On the use of the term *hoda’ah* in the sense of finding in favor of the plaintiff—in this case, transferring ownership of a disputed inheritance to his hands—see *Bab. Baba Batra* 33a; and see the Palestinian responsum in ASSAF 1933, 94-5. This responsum was analyzed by LIEBERMAN 1991, 534-7, and on its basis and on that of sources from the Yerushalmi he arrived at the conclusion that, in the Land of Israel, *hoda’ah* also meant “accepting a legal ruling and its execution”.

The *Mishnah* around which the relevant discussion in the Talmud and the halachic literature revolves appears in *m. Sanh.* 3.6:

כיצד בודקים את העדים היו מכניסין אותן ומאיימין עליהן ומוציאין את כל האדם לחוץ ומשיירין את הגדול שבהן ואומרים לו אמור היאך אתה יודע שזה חייב לזה אם אמר הוא אמר לי שאני חייב לו איש פלוני אמר לי שהוא חייב לו לא אמר כלום עד שיאמר בפנינו הודה לו שהוא חייב לו מאתים זוז.

How does the court examine the witnesses? They bring them in and threaten them [i.e., regarding the gravity of false testimony], and remove every other person, and leave the greater of them and say to him, “Tell us how you know that this person owes that one?” If he says, “He said to me that ‘I owe him’”; [or] “Such-and-such a person said to me, ‘He owes him’”, he has said nothing, unless he says, “In our presence he admitted to him that he owes him two hundred *zuz*.”

This is not the place to discuss the nature of the obligation created by such an “admission” in the presence of witnesses or a court; the nature of the language of obligation, “I owe,” “I obligate myself” or “I admit” (*hayav ani*; *mithayev ani*; *modeh ani*); the rubric or definition of the general relations between debt and acquisition; and the place of admission in this system or the nature of the acquisition brought about by admission (*odita*).<sup>22</sup> In general, the significance of “admission” is, as mentioned, its confirmation of an obligation that a person has undertaken of his own accord, even if it occurs as the result of a prior claim. However, in our context, it is understood primarily as a means of creating the obligation itself. Rav Saadya Gaon draws a distinction between these two meanings of “admission”:<sup>23</sup>

וכת' רבי' סעדיה גאון ז"ל בנוסח שטר הודאה הכי במותב תלתא כחדא הוינא וקבענא דוכתא לדינא דפלוני ופלוני ושדרנא שליחא בתר פלוני ואיייתניה וטען עליה פלוני באלפא זוזי ואודי בהון וכו'... והדין נוסחא היא באודיתא דבי דינא... ואיכא נמי אודיתא שאינה מאלו העניינין והוא כגון ההוא דגרס בפר' מי שמת (ב"ב. קמט.) בענין איבעיא להו שכיב מרע שהודה מהו וכו' עד... ולקנינהו באודיתא ... נפק אודיתא מבי איסור...

Rabbenu Saadya Gaon, of blessed memory, wrote in his formulation of a document of admission of liability (*hoda'ah*) as follows: We were in an assembly of three men sitting together and fixed a place for the adjudication of so-and-so and so-and-so, and we send a messenger after so-and-so, and brought him, and so-and-so claimed against him [a debt of] one thousand *zuz*, and he admitted to it... And this is the formula for an admission (*odita*) of the court... And there is also an admission of liability (*odita*) that differs from these

<sup>22</sup> In all of the above cases, there exist numerous discussions among the *poskim* and the interpreters of the Talmud, from the Geonic period down to our own day, and the subject has been discussed and summarized extensively in the research literature. The Talmudic sources upon which the discussions have revolved are primarily the *sugyot* in *Bab. Ket.* 101b-102b, *Baba Batra* 40a and *Sanhedrin* 29a. And cf. GULAK 1922, vol. 2: 34, 44-7; HERZOG 1967, vol 1: 196-200; Vol 2: 42-7, 93-106; COHN 1975; and many others

<sup>23</sup> In his words cited by ALBARGELONI, 41-2. And cf. LIFSHITZ 1988, 265-6 and n. 322.

matters, such as that which appears in Chapter *Mi SheMet*, (*Bab. B.B. 149a*) “The question was asked: ‘one who was dying and admitted [liability], what is the law?’” etc., down to ... “and let him acquire it by admission’.... An admission was produced from Issur’s house.”

The document quoted by Rabbi Judah al-Bargeloni [Spain, 11<sup>th</sup>-12<sup>th</sup> century]<sup>24</sup> as a “document of admission of liability” represents the second meaning of *hoda’ah*, and deals specifically with the admission of a borrower; that is to say: the creation of the debt as a result of a loan confirmed by means of *hoda’ah*. The witnesses describe what was said in their presence as follows:

...מחמת שאני לי בפניכם הודאה גמורה... שיש לו אצלי כך וכך דינרין והם עלי בהלואה וברשו...

... As I have made before you a complete *hoda’ah* ... that I owe him so-and-so many *dinars* and I owe them as a loan and *Rashu*...<sup>25</sup>

But of particular interest to us is the beginning of the discussion as recorded in this document:

והשטר הכ”ב הוא שטר הודאה—והוא מענין הודאות והלואות ואע”פ שדינה כשטר חוב כי כל הודאה בקנין הרי כשטר חוב וגם ההודאה נמי בלא קנין אם אומ’ לעדים כתובו וחתימו דינה כשטר חוב כמו שפירשנו בהלכות הודאה וכפירה גם בהלכות הקנין ומשפטי ההלואה...

And the document herein written is a document of *hoda’ah*, and it concerns matters of *hoda’ot ve-halva’ot*. And even though it is like a document of indebtedness, because any admission of acquisition is like a document of indebtedness, and also the *hoda’ah* herein is without acquisition. If one says to the witnesses “Write it and sign it,” it is considered as a document of indebtedness, as we explained in the Laws of Admission and Denial and also in Laws of Acquisition and the Laws of Loans....

In any event, the use of the phrase *hoda’ot* as a generic term for *dinei mamonot* was chosen because there is no other phrase which incorporates all those obligations which a person undertakes or creates of his own free will, as opposed to those to which he is obligated by law. The Hebrew gerund *hithayvut* (“obligation”) is late and appears neither in Rabbinic nor in Geonic literature.<sup>26</sup> It follows that the most suitable or appropriate term for all the types of voluntary

<sup>24</sup> ALBARGELONI, 41-3; and cf. the “document of conditions of servitude,” ALBARGELONI, 125; for the use of the term *shetar hoda’ah* in the case of a document for the voluntary return of a gift by its recipient, see HARKAVY §313.

<sup>25</sup> רש, i.e., debt. See KOHUT 1878-92, 305-7, s.v. רש (5.4).

<sup>26</sup> BEN-YEHUDA 1945 s.v. enumerates sources from the period of the *rishonim* as the earliest of all. Cf. GULAK 1939, 1; 1922, vol. 2, 11-12: “... However, a general legal definition to indicate all business transactions, similar to the Roman *contractus*, is not found in the Talmudic period.” But it would seem that in the present paper we propose a “general legal definition” of this type.

obligations which a person may undertake is *hoda'ah*. Even if the Hebrew root יד"ה (YDH) does not appear explicitly to refer to obligation, it is clear that all obligations are based upon the admission of the one who is obligated to fulfill them or the right of the one entitled to them.<sup>27</sup> This is the case, for example, when the seller writes “My field is sold to you” (*Bab. Baba Batra* 51a); in the statement (or writing) of gift: “I have given such-and-such a field to so-and-so / it is given to so-and-so / it is his’—then it is his” (*Bab. Gittin* 40b); the declaration (or writing) by the slave-master, “I have made so-and-so my servant a free man / he has been made a free man / behold he is a free man’—then he is a free man” (*ibid.*); and in many cases.<sup>28</sup>

Given that admissions of liability were seen as tantamount to self-obligation since early times,<sup>29</sup> it is not surprising that the general term applicable to the totality of obligations, one which was available to Rava, was *hoda'ot*—admissions of liability. Moreover, from examination of a large number of legal documents (*sheṭarot*) concerning different kinds of business and from different periods, it follows that it was common to find therein the explicit use of the verb *hoda'ah*—admission. In order to emphasize the force of admission of liability, several of them explicitly state that it was done of the person’s free will.<sup>30</sup> Indeed, obligations using the specific form of admission are not unique to Jewish law.<sup>31</sup>

But notwithstanding that the use of the term *hoda'ah* does not refer to its use specifically in writing—as in the above-mentioned *Mishnah* in *Sanhedrin*, it follows from “the very fact that verbal admission of liability in their presence [i.e. that of the witnesses] was tantamount to full obligation”<sup>32</sup>—the best proof for the explicit use of verbs of the root YDH to refer to a wide range of

<sup>27</sup> FALK 1972, 136-43; and cf. LIFSHITZ 1988, 340-1.

<sup>28</sup> Cf. the proofs cited in the *sugya* at *Bab. Ketubot* 102a.

<sup>29</sup> See FALK 1972, 141, and cf. GULAK 1994, 12, who demonstrates that use of documents of admission of liability were widespread among Jews in the tannaitic period. As noted by Katzoff, *ibid.*, n. 11, Gulak’s sources for this statement are actually later; however, further on in his words he cites other tannaitic sources that confirm this statement, even if they do not explicitly use the phrase *hoda'ah*.

<sup>30</sup> See FALK 1972, 141-2; the document of *hoda'ah* cited by R. Judah al-Bargeloni mentioned above (and in his other documents of liability); a document of indebtedness in the form of admission in *Sefer ha-Ittur* (cited by GULAK 1926, §220); and many others.

<sup>31</sup> See the sources cited by FALK 1972, and cf. GULAK 1994, 12-16. This is not the place to elaborate upon the role of foreign influences on the Sages regarding this matter. Gulak of course draws comparisons to Hellenistic and Roman law, but it is worth noting as well that Persian law in the Parthian and Sassanian periods bases acquisition and the various kinds of contractual obligation on the admission of the two parties in the presence of witnesses, and on their affirming their commitment before a judge. See PERIKHANIAN 1983, 657, 670.

<sup>32</sup> The wording of GULAK 1994, 15.

obligations is found in the world of *sheṭarot* (business documents), for “the very use of bills is no more than the use of an admission out of court which can later on be proved in court.”<sup>33</sup> It would therefore appear that, following this survey, there no longer remains any doubt that the term *hoda’ot* is fitting to serve as the name for the entire gamut of voluntary undertakings,<sup>34</sup> and that the broad sense of the term *hoda’ot ve-halva’ot* as including numerous types of transactions and obligations derives from “the fact that those transactions were executed by means of admission, and therefore were referred to appropriately by this concluding formula. A similar practice is found in Greek law, in which the general rules of ὁμολογία<sup>35</sup>, obligation or undertaking of any kind, and particularly verbal obligation, was common.”<sup>36</sup> It was with good reason that the following was recently written in a study concerning business documents from the Judean Desert:<sup>37</sup>

It would appear that the gradation of transactions in documents from the Judean Desert in relation to monetary laws of various kinds is similar to what is referred to in the Talmud as *hoda’ot ve-halva’ot*, particularly when the contracts of sale mentioned here regularly included a section dealing with admission of having received payment. Apart from documents of sale, in “documents of admission” there is also mentioned, as expected, the “admission” testifying to the nature of these documents.

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<sup>33</sup> The wording of FALK 1972, 128.

<sup>34</sup> Compare the type of documents noted below to the words of the commentators and researchers mentioned above, regarding the extent of the category of *hoda’ot ve-halva’ot* (i.e., sales, gifts, inheritance, loans, marriage and *ketubah*). GULAK 1994, 16 elaborates as follows: “From all that has been said, it becomes clear that documents of loan, sale, gift and mortgage were formulated in an admission form of the lender, the seller, or the giver of the gift, making it possible to write them even in the absence of the second party to the contract. The fact that a case of this type is adduced without any additional explanation in the laws of the Mishnah or Tosefta that we have mentioned proves that documents of an admission form were accepted among the Jews during that period”.

<sup>35</sup> The term *homologia* appears in the Jerusalem Talmud, where its sense is, evidently, “receipt.” See SPERBER 1984, 33, and also *Aruch HaShalem* (KOHUT [1955]), 118: “Its meaning in the Greek language is a document of admission and agreement.” Cf. SEGAL 1991, 115: “We have seen how a ‘receipt’ is referred to in the Yerushalmi as *homologia*, because this is a document that the lender gives in acknowledgment of having received payment.” Cf.: LIEBERMAN 1962, 140-1 n. 11. Indeed, receipts were also formulated in the form of an Admission; see GULAK 1994, 175-7.

<sup>36</sup> The wording of GULAK 1994, 16. I will concentrate upon Hebrew and Aramaic documents in which it is possible to identify the root YDH. Of course, there are also extant Greek documents written by Jews which use a term parallel to *hoda’ah*; for example, P. Yadin 21 & 22, which are documents of sale or rental in which both sides acknowledge or agree to the existence of the transaction. See LEWIS, YADIN & GREENFIELD 1989, 94-101, 146-7, and see further RADZYNER 2005.

<sup>37</sup> SAR-AVI 2008, 30. Cf. his notes for the numerous sources for this statement.

#### 4. CLARIFYING THE USE OF THE TERM HODA'OT ON THE BASIS OF ITS USE IN LEGAL DOCUMENTS<sup>38</sup>

This quality of legal documents—namely, that they are written as the language that speaks for and as the words of the person who thereby obligates himself—is found in almost all Hebrew legal documents, from the most ancient period to our own time, almost without exception. Likewise, the fragments of such documents found in the *Mishnah* and the Talmud clearly prove that *sheṭarot* were written in their day using such language, as the speech of the person who obligated himself thereby.<sup>39</sup>

Nevertheless, I will exemplify here only the explicit use of the root YDH in the language of legal documents.

##### 4.1. BILLS OF SALE

###### 1. P. Dura 28—the bill of sale of a maidservant:<sup>40</sup>

This is a Syrian document from the year 243 CE from the city of Dura-Europus. The seller and her representative use the phrase *modina* [I admit / acknowledge]. That is, the former acknowledges that she has sold her maidservant and received the price that was determined, and the latter acknowledges that she drew up the document on her behalf.

The redactor, Jonathan A. Goldstein, observes that it is difficult to find parallels to this document (albeit we shall see that there are such), but the *sheṭarot* of Rav Hai Gaon are similar. Indeed, evidently, in Rav Hai Gaon, all documents of indebtedness or obligation are formulated as a declaration of the one obligating himself, using an explicit language of admission of liability. The redactor claims that this document is the earliest one among the Semitic documents of *homologia* (it would seem that this claim is incorrect), but the *Mishnah* accepts as self-evident the existence of such documents, and documents of conveyance from Rav Hai Gaon are all of this type. Such formulations of admission of liability first appear in Egypt in the first century BCE, and under Roman rule moved to other places as a unique form.

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<sup>38</sup> Alongside the more ancient documents, I shall present the documents formulated by Rav Hai Gaon, based upon ASSAF 1930b, because “it is the most ancient extant organized collection of business documents” (ibid., 5; however, one should note that today we know of fragments from an earlier collection by Rav Saadya Gaon).

<sup>39</sup> GULAK 1926, xxxiii-xxxvi.

<sup>40</sup> The bill was published in GOLDSTEIN 1966. On pp. 9-10 he relates to the document’s formula of admission, from which his words cited above are taken.

2. Rav Hai Gaon's *Sefer ha-Sheṭarot*—"6. A bill of sale land in the fields" (p. 26); "7. Bill of sale of servants" (p. 27):

שהדותא דהות באנפאנא וכו' קא מודינא קדמיכון דנסיבית וקבילית מיניה כן וכן וזבנית ליה  
בהון...

We state that there stood in our presence, etc. and I admit before you that I took and received from him so-and-so much and sold it to him for that (money) ...

#### 4.2. DOCUMENTS OF TENANCY AND RENTAL<sup>41</sup>

1. P. Hever (Yadin) 45—Bill of rental of a field:<sup>42</sup>

This is a Hebrew document of rental of a field located in Nahal Hever, dated "the third year of Shimon ben Kosiba Prince of Israel, in Ein Gedi," in which the lessor declares to the lessee:

אלעזר בן אלעזר בר חיטא מן עין גדי אמר לאליעזר בן שמואל משם: מודא אני לך היום שהחכרת  
לך תגנה שלנו...

Eleazar son of Eleazar, son of Hayyata, from Ein Gedi, stated to Eliezer, son of Shmuel from there: I acknowledge to you this day that I have leased to you our garden (plot) ...

2. *Sefer ha-Sheṭarot* of Rav Hai Gaon—"11. A bill of rental of a house" (p. 30):

שהדותא דהות וכו' קא מודינא קדמיכון דדרתא פלנית או חנותא פלנית ד[אית] לי... אוגרית יתיה  
לדיליה לפל'...

Testimony that was ... I admit before you that residence such-and-such or store such-and-such that I [have]... I have rented it to so-and-so.

#### 4.3. DOCUMENTS OF LOAN<sup>43</sup>

1. P. Mur 18—Document of indebtedness:<sup>44</sup>

This is an Aramaic document of indebtedness found in Wadi Murabba'at, dated "the second year of Emperor Nero" (i.e., 54/55 or 55/56 CE<sup>45</sup>). It begins with the declaration:

<sup>41</sup> Cf. GULAK 1926, 196.

<sup>42</sup> YADIN 2002, 58.

<sup>43</sup> Cf. GULAK 1926, 211-13.

<sup>44</sup> BENOIT ET AL. 1961, 101.

<sup>45</sup> See the discussion in LEHMANN 1982, 182-3.

איתודי אבשלום בר חנין מן צויה בנפי מניה עמי אנה זכריה בר יהוחנן... כסף זוזין עס[רי]ן...

I, Avshalom son of Hanin from Toyah, in the region ..... acknowledge that I [borrowed] from Zechariah bar Yehohanan... money in the sum of twenty silver *zuz*...

Scholars differ as to which party is the one making the admission here,<sup>46</sup> but the view of Ranon Katzoff make sense. He argues, on the basis of the *Mishnah*, that we are dealing here with an admission of the borrower, who obligates himself in this manner. It is interesting to note the words of Reuven Yaron:<sup>47</sup>

Text 18, a papyrus of the year 2 of Nero (55/56 C.E.) is the fragment of a recognizance of debt. Its main interest is in the use of the verb 'ytwdy (the Aramaic equivalent of ὁμολογέω), from which the Talmudic 'oditha' — 'admission (of indebtedness)' — is derived; until now it was known only from amoraic sources of considerably later date.

2. P. Hever /Se 49—a document of indebtedness from the time of Bar Kokhba:<sup>48</sup> this is a Hebrew document of indebtedness from “the second year of the redemption of Israel by Shimon ben Kosiba, Prince of Israel.” It begins with the declaration:

איתודי יהודה בן יהודה סרטא מן החרמת עמי אני יהוסף בן חנניה כסף זוזין ארבעה סלע אחת  
תסלע הזוא אנ מקבל המך שאפרך בכל זמן שת[ומ]ר לי ואשה את השטר הזה

I, Judah son of Judah SRTA from HHRMT acknowledge (the following declaration): I Joseph son of Hananiah have in my possession four silver *zuzim* which equal one *sela*. I receive from you this *sela* (on condition) that I shall pay it back whenever you tell me (to do so) and I shall demand this bill.

This is not the place to enter into the controversy as to whether this also includes a declaration of the lender, or whether perhaps the borrower alone is speaking here. Scholars disagree as to whether the document as such constitutes the admission of the borrower confirming the money he has received, thereby reaffirming his obligation to return the loan he has received and confirming the existence of this debt.

<sup>46</sup> For a summary of the various opinions, see Katzoff, in GULAK 1994, 15 n. 21 and 16 n. 23; to which one may add FALK 1972, 139.

<sup>47</sup> YARON 1960, 158.

<sup>48</sup> SEGAL 1991; BROSHI & QIMRON 1994. Katzoff, in GULAK 1994, 15 n. 21, has a different way of interpreting this document, one based upon the interpretation of *Mish. Sanhedrin* 3.6; and see below, §5.2.

### 3. Rav Hai Gaon's *Sefer ha-Sheṭarot*—"13. A document of loan" (p. 20):

סהדותא דהוה באנפנא... אמר לנא... מחמת דבצבו נפשי כדלא באונס ולא במרע ולא בשגו... קא מודינא קדמיכון דנסיבית וקבילית מיניה כן וכן זוזי דכספא...

Testimony that took place in our presence ... He said to us... that of his own free will, not under duress, and not in illness, and not by error... I admit before you that I took and have received from him so-and-so many *zuzim* of silver.

### 4.4. DOCUMENTS OF DEPOSIT

#### P. Yadin 17—Document of Deposit:<sup>49</sup>

This document, found in Nahal Ḥever, testifies to money that a woman deposited with her husband, in a place called Meḥoza at the southern end of the Dead Sea, on the 21<sup>st</sup> of February 128. The first and main part of the document is written in Greek and formulated in the third person, followed by an Aramaic passage in which the husband testifies to the deposit he has received and its conditions:

[י]הודה בר אלעז[ר] כ[ת]ושי[ן] מודיאנה די קבלת מן בבתא [אנ]תתי במנדע יעקוב אדונה בר ישוע לחשבן פקדון כסף דנרין תלתמאה ויתהום אתיהם לה בכל זמן די תצבא...

Yehudah son of Elazar Khthosion: I acknowledge that I have received from Babatha my wife, with the knowledge of Jacob her *kyrios* son of Yeshua', on account of deposit, three hundred silver denarii, and I will return them to her at any time that she wishes...

### 4.5. MARRIAGE DOCUMENTS

#### 1. P. Yadin 18—Marriage document (*ketubah*?):<sup>50</sup>

This is a document of marriage between two Jews from Ein Gedi, dated 5<sup>th</sup> of April 128, likewise found in Nahal Ḥever. The first and main part thereof is formulated in Greek and is written in the third person, followed

<sup>49</sup> LEWIS, YADIN & GREENFIELD 1989, 71-5, 141.

<sup>50</sup> LEWIS, YADIN & GREENFIELD 1989, 76-82, 142-3. There is a sharp debate concerning the nature of this document between Katzoff and Wasserstein, as to whether it reflects a Jewish marriage contract (*ketubah*) or is a non-Jewish marriage document. However, this debate has little bearing upon our discussion. See *ibid.*, esp. 247 and 250; WASSERSTEIN 1989; KATZOFF 1991. It may be that the language of admission was also used in receipts for *ketubah* monies, as in a suggested supplement to P. XHev/Se (formerly P. Hever) 13 in YARDENI & GREENFIELD 1996, 204. The document there in question has aroused sharp controversy as to its nature; however, it is quite clear that one is speaking there about a receipt for a *ketubah*. See the summary in SCHREMER 1996. In general, receipts were formulated as admissions; see above, n. 35.

by an Aramaic passage in which the father of the bride testifies that he has given his daughter as wife, and the bridegroom testifies to his financial obligations:

[יהודה ק]מבר ברן [חנני]יה ב>ר< שמלה מדי אנה בחובת כסף דנרין [חמ]ש מאה פרנ שלמציון  
אנתתי...

Yehudah Cimber son of Ḥananiah son of Somala: I acknowledge the debt of five hundred silver denarii, the dowry<sup>51</sup> of Shalamzion my wife...

2. Bodl. MS. Heb. d 65, fol. 30 (Cat. 2877)—*ketubah* from the Cairo *genizah*:<sup>52</sup>  
In this marriage document from Damascus, dated 956, the bridegroom uses the following language:

מודי אנא ישראל חתנה בר מ יצחק סט להתנסבה להדא עיתכה בתולתה כלתה במ נצר ננ ואהוי  
זאיין ומפרניס ומליש ומוקיר ומיקיר יתה כהלכת [גוב]רין יהודאין...

I, Israel, the groom, son of M(aster) Isaac, (may his) e(nd be) g(ood), acknowledge that I am marrying the virgin bride 'Atika, d(aughter of) M(aster) Naṣr, (may his) s(oul be at) r(est). And I shall nourish, provide for, clothe, esteem, and honor her, in the manner of Jewish [m]en...

Mordechai Akiva Friedman<sup>53</sup> claims that this is in fact the only *ketubah* found in the Genizah to use this wording, but notes that there are other *ketubot* in which language of “admission” (*hoda'ah*) also appears, albeit not in the sense of obligation. Thus, for example, in the *ketubah* of a Jew from Rome: “I, so-and-so the bridegroom... acknowledge (*modeh*) today in your presence that of my own knowledge and will and desire that I have taken to myself as wife so-and-so the virgin...”

#### 4.6. ADDITIONAL DOCUMENTS

In addition to the documents enumerated above, a document has been found in the Judaean Desert transferring rights to [a certain parcel of] land; the Aramaic portion of this document uses language of *hoda'ah*.<sup>54</sup> In Rav Hai Gaon's trea-

<sup>51</sup> On the significance in this document of the term *pherne* (φερνή), used in Rabbinic language to signify *mohar* or *ketubah*, see Katzoff in LEWIS, KATZOFF & GREENFIELD 1987, 239.

<sup>52</sup> FRIEDMAN 1980-1, vol. 2, 198, 202.

<sup>53</sup> FRIEDMAN 1980-1, vol I, 119 with n. 3, and cf. *ibid.*, 467 with n. 62. Add to this the document of “additions to the *ketubah*” from Berlin, cited by Gulak 1926, 45.

<sup>54</sup> See P. Yadin 20, in LEWIS, YADIN & GREENFIELD 1989, 88-93, 145: “I knowledge to you, you Shelamzion., [according to] what [is written] above, that I will act and clear the title <according to> all that is [written] above.”

tise other documents have been found which are formulated as admissions: a document of gift (p. 29), in which the one giving the gift declares before the witnesses: “You are witnesses that... I admit (*modina*) that I have given this to so-and-so”; a will (*diatheke*) in which the one making it orders “I admit before you that I give after my death such-and-such a residence...”;<sup>55</sup> a document of guarantee (p. 30), which the guarantor declares: “I admit before you that so-and-so many *zuzim* that so-and-so son of so-and-so has lent to so-and-so, and upon which he has written a document of indebtedness, I am his guarantor, and it is with knowledge of my guarantee that he has made the loan...”; as well as a document of authorization (p. 32), a document of partnership (p. 33), and a document of a business transaction (p. 35).<sup>56</sup>

It follows from this survey that the language of *hoda'ah* (“admission”) serves as a general term for all obligations based upon agreement, for it served in practice for their coming into existence, or at least to describe them. As we stated at the beginning of the chapter, the term *hoda'ot* referring to any obligation, is combined with the word *halva'ot* in order to create a pair, conforming to the structure of the *Mishnah* as stated above.

## 5. THE DIFFERENCES BETWEEN HODA'OT VE-HALVA'OT AND DINEI KENASOT

From this point on, we may offer a new definition of *dinei kenasot*. If monetary law as a whole is divided into *hoda'ot ve-halva'ot* and *dinei kenasot*, then if the former refers to obligations voluntarily undertaken or based upon mutual agreement, the latter refers to obligations based upon law, which are not dependent upon the will of the one so obligated. It is clear that this definition includes many individual items: damages to body and to property, the returning of stolen goods, and obligations imposed by the Torah resulting from various actions between people. The term covering all of these payments cannot be a “punishment” or “payment greater than the damage caused,” as in the conventional definition of *kenas* as “fine” or “penalty”,<sup>57</sup> but rather a payment imposed by force of law. But in a certain sense the distance between this definition and “punishment” is not that great, as we may easily understand.

<sup>55</sup> Cf. GULAK 1926, 123.

<sup>56</sup> Cf. the references cited above (n. 37); LIFSHITZ 1988, 265-6 n. 322.

<sup>57</sup> See, e.g., RADZYNER 2001a, 1-2, 194-5.. Nonetheless, the definition of *kenas* as punishment follows from the *Mishnah*, and particularly from the latter *sugyot* in the Babylonian Talmud. See *ibid.*, 116-23, 185-8.

These definitions, which divide monetary law into two groups—consensual obligations and obligations based upon law—involve a number of implications, involving both judicial arrangements and the monetary status of the obligation defined as *kenas*.<sup>58</sup> Here I wish to propose an explanation for the two requirements presented by Rava in *Sanhedrin* regarding the arrangements for adjudication of *dinei kenasot*: first, the requirement of “expert judges” (*mumḥim*; *Bab. Sanhedrin* 3a); second, the requirement of close and thorough examination of the witnesses (*derishah ve-ḥakirah*; *ibid.*, 32b). Or, to perhaps formulate it more accurately: why, according to Rava, does the *Mishnah* exempt *hoda’ot ve-halva’ot* from these requirements?

### 5.1. THE DISTINCTION BETWEEN OBLIGATIONS BASED UPON AGREEMENT AND OBLIGATIONS BASED UPON LAW

One first needs to pose the question whether Jewish Law in general recognizes a distinction between obligations by virtue of law, and obligations based upon mutual agreement with regard to the arrangements of adjudication or its results, as it would recognize with regard to the form of payment of the debt or obligation?<sup>59</sup> Many legal systems, both ancient and modern, draw such a distinction between contractual obligations and damages.<sup>60</sup> These matters were formulated as follows by the former President of Israel’s Supreme Court, Justice Meir Shamgar:<sup>61</sup>

<sup>58</sup> On the implications relating to his monetary status, see at length *ibid.* 2001a, 328-51.

<sup>59</sup> *Mish. Gittin* 5.1. GULAK 1922, vol. 2: 14-15, mentions this alone as the difference between “obligations of damages” and “contractual obligations,” to use his language.

<sup>60</sup> In the words of Gaius (*Institutiones* 3.88): *omnis enim obligatio vel ex contractu nascitur vel ex delicto*, “Every obligation is created [either] from a contract or from an offense”. In the *Aurea*, according to the *Digest* (44.7.1), Gaius added a further miscellaneous category of obligations: *Obligaciones aut ex contractu nascuntur aut ex maleficio aut proprio quodam iure ex variis causarum figuris*, “Obligations arise either from contract or from wrongdoing or, by some particular law, from various forms of causes.” This division of all obligations was developed further in Justinian *Institutiones* 3.13, and was a basic concept in Roman law. See, for example, JOLOWICZ 1972, 159-74, 271-304. We can find this fundamental division in many legal systems. See, for example, ZIMMERMANN 1996, 10-11: “This is the *summa divisio obligationum*, which Gaius—probably putting the old Aristotelian distinction between voluntary and involuntary transactions to systematical use—introduced in his *Institutes*. It has remained fundamental ever since and is a reflection of the fact that different rules are needed to govern the voluntary transfer of resources between two members of the legal community on the one hand, and possible collisions between their private spheres on the other: the one body of rules being concerned with the fulfillment of expectations engendered by a binding promise, the other with the protection of the status quo against wrongful harm”.

<sup>61</sup> Civil Appeal 407/89, Zuk Or vs. Car Security, PD 48 (5) 661, pp. 698-9.

Particular importance is attached to the imposition of personal responsibility for damages as opposed to personal obligation of a contractual nature. This distinction stems from the nature of the responsibility. A Contractual responsibility is based upon a voluntary undertaking. A contractual creditor is a voluntary creditor. No person is compelled, generally speaking, to enter into a contractual relationship with a corporation. Responsibility for damages is imposed upon the wrongdoer willy-nilly.<sup>62</sup> It is not based upon any willed or voluntary act of the one who suffered the damages. Thus, the subject of damages is not a voluntary one...

The question is whether Jewish Law likewise recognizes the fact that responsibility for damage, which is “imposed upon the wrongdoer willy-nilly”, can cause the wrongdoer to be exempt from some legal obligations, obligations which he would otherwise not be exempt from, had he accepted them upon himself of his own free will. If so, does this have any connection to the fact that an obligation that derives from the agreement of the parties, and not from the law, will lead to a leniency in the judicial procedure, to the detriment of the one who is obliged? In other words, would it be correct to say that, if the obligating factor is the law, then for the sake of its clarification or, perhaps more correctly, its use as an obligating factor in a specific case, a court of a higher level (*mumḥim*) is needed, as well as a deeper and more thorough examination of the testimony (*derishah ve-ḥakirah*), without which it is impossible to impose an obligation?

I will first relate to the former question. The only difference we have found explicitly in Talmudic literature relates to the quality of the land from which the debt of the wrongdoer may be collected.<sup>63</sup> This distinction is not liable to help significantly in our discussion, if only because the reason for this distinction is not at all clear.<sup>64</sup> However, in the writings of the *rishonim* (Rabbis who lived approximately during the 11<sup>th</sup> to 15<sup>th</sup> centuries) one finds a case in which an obligation undertaken by a person voluntarily would not be applicable in a case where a similar obligation came about by force of law. According to this view, the basis of this distinction follows from certain things stated explicitly

<sup>62</sup> Note that which is imposed upon a person is the *law* which holds him accountable for responsibility for his damages. Likewise the Torah, as the source of the law (and the source of this expression—“imposed upon him willy-nilly”—literally, “like a mountain held over him like an upturned vat”), was given via imposition, and not with the agreement of those accepting it (see *Bab. Shabbat* 88a, *Avodah Zarah* 2b).

<sup>63</sup> *Mish. Gittin* 1.5.

<sup>64</sup> The reason given in the Mishnah, “for the improvement of the world,” (*mipnei tikkun ha-olam*) does not appear after the opening phrase, with the exception of the Munich MS. of the Talmud. *Tosefta* at *Ketubot* 12.2, as well as both Talmuds, presents the root of the difference as lying in the intention of the wrongdoer, but it is not clear whether the root of this law is in the Torah or in a rabbinic edict, a subject that greatly exercised the scholars. See WEINBERG 1977, vol. 4: 32-9, 69-70; WEISS 1956, 265-8; ALBECK 1959, 51; URBACH 1986, 90; and others.

in the Talmud, although according to the reading of most of its manuscripts this distinction does not hold.

I allude to the approach of Rabbenu Tam regarding what is known as *kim leih bede-rabbah mineih* (lit.: “he is subject to a greater (punishment)” — that is, in a case where a person is subject to two punishments for the same act, or for two acts performed simultaneously, he is only subject to the stricter or more severe punishment of the two; below: the Rule of Greater Punishment). This approach does not appear in the words of Rabbenu Tam per se, nor in other Franco-German halachic sources; rather, it is known to us via three Provençal *rishonim*, and is quoted by *Shiṭah Mekubetzet* in the name of R. Solomon ben Adret (Rashba).<sup>65</sup> Berachyahu Lifshitz, in his study of this subject,<sup>66</sup> discussed this approach at length; my concern here is only to show its relevance to the subject at hand, as a proof that the *rishonim* indeed drew an explicit distinction between obligations based upon law and those that arose from agreement.

This approach attempts to explain three cases in which the Talmud states that a person may be put to death and also pay, or be subjected to corporal punishment and pay, notwithstanding the Rule of Greater Punishment. Two cases appear in *Bab. Baba Kamma* 70b and another one in *Bab. Baba Metzi’a* 91a; the above approach revolves around the words of Rava which appear in both these *sugyot*. One should note that this approach is difficult to square with most of the extant texts of the Talmud,<sup>67</sup> as a result of which the majority of *rishonim* rejected it, but there may be one textual variant which supports it, and this may have been the one which was known to the originator of this

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<sup>65</sup> MEIRI [1961] (*Baba Kamma* 214 with n. 183; *ibid.*, *Baba Metzi’a*, 334) refers to this view as the approach of “the French sages,” a term which he also uses to refer to Rashi and Rashbam. However, the author of *Sefer Hahashlamah* (MESHULLAM [1961]) mentions it explicitly in the name of Rabbenu Ya’akov (= Rabbenu Tam) in *Baba Metzi’a* 91a and as that of *Sefer ha-Yashar*, a book written by Rabbenu Tam, in *Baba Kamma* 70b. Rashba and Ra’abad, who are mentioned in *Shiṭah Mekubetzet* (ASHKENAZI [1997] *Baba Metzi’a* 91a), cite it in the name of “some commentators.” For similar use of this approach to similar purpose — “and the reason for the thing, is that they draw a distinction between *hoda’ot ve-halva’ot* and *gezeltot ve-ḥabalot*” — see SCHACHTER, 227n.

<sup>66</sup> LIFSHITZ 1979, 168-79. Cf. the discussion in SHOCHETMAN 1981, 122-5, 214-17. It should be noted that almost all of the *acharonim* (the rabbis living from roughly the 16th century to the present), who deal with this approach, who are surveyed by LIFSHITZ, loc. cit., leave it within the boundaries of the specific discussion of the Rule of Greatest Punishment, and do not derive therefrom broader conclusions regarding the relationship between the sources of obligation. Only Rabbi Shimon SKOPF, Section 5, Chapter 3, who draws a distinction in this matter between obligations that a person takes upon himself and those imposed by force of law, connects this matter with his general distinction, at the beginning of Section Five, between obligations deriving from “conclusion of the intellect and legal teachings,” and those obligations whose source lies in the law alone.

<sup>67</sup> I refer here to the formulations in *Baba Kamma* 70a, whose reading does not fit this approach. However, in the extant versions of *Baba Metzi’a* the section beginning with the words “If he sued” is missing, as noted by Ra’abad (in ASHKENAZI [1997] at *Baba Metzi’a* 91a, cited below). Cf. MEIRI [1961] at *Baba Kamma*, loc. cit.

view.<sup>68</sup> The reason given by the “French sages,” cited in the words of Meiri in *Baba Kamma*, to those same unusual cases, is as follows:

וחכמי הצרפתים מחדשים בזו שיטה אחרת, לומר שאף בית דין מחייבין ליתן אתנן אף בחייבי מיתות. ואין גורסין בבאן מי אמרינן ליה זיל שלים, אלא ודאי אמרינן ליה זיל שלים. וכן בלקוט בתאנים שבתאנתי ותקנה לי גנבתך בית דין מחייבין ליתן, וכן בחוסם את הפרה משלם בידי אדם. לא אמרו אין אדם מת ומשלם אלא בדבר הבא דרך נזקים, אבל בדבר שקבלו עליו דרך תנאי ומשא ומתן כגון אתנן וכגון חוסם פרה שקבל עליו שלא לחסום ואף אם לא קבל עליו מ”מ הרי הוא כמי שקבל הואיל ומן התורה הוא וכן מכר בשבת בלקיטת תאנה מכירה היא ומשתלם בבית דין. ומ”מ שיטת הסוגיא אינה מוכחת כדבריהם.

And the French sages innovated a different approach regarding this matter, saying that the court may require a person to pay an *etnan* [harlot’s fee] even in a case where he is subject to the death penalty. And the text here should read not “Do we say to him ‘go pay’?,” but rather “We certainly say to him ‘Go pay!’” Similarly, in the case of “Gather figs [on the Sabbath] from my fig tree, and [by that act] transfer to me what you have stolen,” the court requires him to pay; similarly one who muzzles an ox [he has rented] pays him in human law [that is, the payment is enforced by the court, as opposed to a requirement “in heavenly law” that the court would not enforce]. For we do not invoke [the rule] “A person is not put to death and also required to pay” except in a matter that comes about by way of damages, but in a matter that he took upon himself by way of condition or transaction, such as payment of *etnan* or one who muzzled an ox where he took upon himself not to muzzle it, [or] even if he did not take this upon himself, in any event it is as if he took it upon himself as this is a law of the Torah, or similarly one who sold on Shabbat in exchange for gathering figs, this is a valid sale and may be collected through the Court. But in any event, the logic of the *sugya* does not require us to understand it in accordance with their words.

This approach is likewise cited by R. Abraham b. David of Posquières (Ra’abad) in the *Shiṭṭah Mekubetzet* (ASHKENAZI [1997] *Baba Metzi’a* ad loc.):

... ואיכא דמחקי מההיא נוסחא כל ההוא לישנא ולא גרסי בה טפי מדאיכא הכא ומפרשי דבא על אמו אף על גב דקם ליה בדבריה מיניה אמרינן ליה זיל הב לה מאי טעמא משום דאיהו אתני אנפשיה למיתן לה אתנן ובי דינא לא מחייבי ליה אלא מאי דחייב איהו נפשיה. הילכך כי אמר לו עקוץ תאנתי בשבת ותקנה לך גנבתך קנו בעקיצת התאנה דהא איהו קביל על נפשיה הכי ואף על גב דקם ליה האיך בדבריה מיניה הוי מכירה.

... And some delete from that text all those words, and do not read in that place any more than there is here, and interpret that if someone has sexual relations with his mother, even

<sup>68</sup> This is the reading in *Teshuvot ha-Geonim min ha-Genizah*, which is noted by SHOCHETMAN 1981, 123 n. 91, and published by GINZBERG 1909, vol. 2, 248. According to this reading, Rava’s words do not relate to the right of suit in court. See also the reading in MS. Escorial to *Baba Kamma* 70b–71a, whose variants are emphasized: “Since when he gave it to him, and he did not sue for it by law, it is considered *etnan*, the same applies here, even though regarding the matter of payment, if he sued him previously by law, we do not say to him ‘Go pay.’ Here too, as he thereby acquired it, and did not sue him by law, it is considered as a sale.” Cf. LIFSHITZ 1979, 175. In any event, comparison of *Baba Kamma* to *Baba Metzi’a* enables us to separate Rava’s words from the later interpretations that followed, that appear only in *Baba Kamma*. See also below, n. 72. It is also fitting to examine, in connection with this approach, the *sugya* in *Yer. Terumot* 7.1 (44c-d).

though we invoke the Rule of Greater Punishment, we say to him, “Go, give her [her *etnan*].” What is the reason? Because it is a stipulation he took upon himself to give her an *etnan*, and it is not the court that obligates him to do so, but rather a matter where he has obligated himself”. Therefore, when he said to him, “Pluck my figs on Shabbat, and [by that act] transfer to me what you have stolen,” they have executed the transaction through the plucking of the figs, for he has taken it upon himself thus, and even though we invoke the Rule of Greater Punishment, this is a valid sale.

And in the words of the *Hashlamah* (MESHULLAM [1961] *Baba Metzi’a* ad loc.):

ורבינו יעקב ז”ל פי’ דאפי’ בדיני אדם מחייב דכי אמרין דאינו לוקה ומשלם הני מילי בתשלומי נזקין וכיוצא בהם אבל אתנן ושכירות פרה שברצונו קבל עליו לתת כך וכך מת ומשלם ולוקה ומשלם.

Rabbenu Jacob, of blessed memory, explained that he is obligated even in human law, for when we say that he cannot be subject to corporal punishment and also required to pay, these words apply to payment for damages and the like, but payment of *etnan* and the rent of an animal, where he voluntarily took upon himself to give so-and-so much money, he may [even] be subject to death and required to pay, or to corporal punishment and required to pay.

This approach is explained by Rabbi Joseph Saul ha-Levi Nathanson as follows:<sup>69</sup>

...דכל הטעם דאמרין קלב”מ הוא דאי אפשר לחייב רק משום רשעה אחת וזה כשאנו מחייבים משום רשעה לא נוכל לחייב רק משום רשעה אחת. אבל כאן המיתה היא בשביל רשעה אבל הממון ואתנן הוא משום דחייב עצמו ע”ד תנאי ומו”מ ולא שייד לומר משום רשעה אחת דכאן אין אנו מחייבים משום רשעה רק משום חיוב דבורו ותנאו. וזה ברור כשמש.

... For the entire reason why we say the Rule of Greater Punishment as that it is impossible to hold a person accountable for more than one “wickedness,” that is, when we hold him accountable for a wickedness we can only hold him accountable once. But here the death penalty is for his wickedness, but the money or *etnan* is because he obligated himself, by way of stipulation or transaction, and it is not relevant to say here “for one wickedness,” for in this case we are not holding him accountable because of a wickedness, but because of what he has undertaken by his words and his stipulation. And this is clear as the sun.

A similar approach was presented by R. David Bonfid, a disciple of the Ramban (Nahmanides).<sup>70</sup> In setting out to answer the question of the Tosaphists

<sup>69</sup> NATHANSON 1865-90 4.3 §39.

<sup>70</sup> Quoted in GIRONDI [1978] on *Bab. Sanhedrin* 72a, s.v. *ahadrinhu*. LIFSHITZ 1979, 177 and SHOCHETMAN 1981, 217 disagree regarding the question as to whether this approach is the same as that of the “French sages” (NATHANSON 1865-90, loc cit., and AUERBACH 1974, *Hoshen Mishpat*, §47, consider the two views identical). If so, then this approach got as far as Spain, or was practiced there independently.

(*b. Sanhedrin* 72a, s.v. *lo*) regarding the distinction that exists regarding the obligation to return in the case of *etnan* and that of theft, he explained that a thief is obligated to make payment as a result of the law, whereas *etnan* is something the person has obligated himself to pay:

גבי אתנן צריך האדם לעמוד בדבורו אע"פ שלא יתחייב מן הדין

Regarding *etnan* a person needs to fulfill *his word*, even though he is not obligated *by law*.

This approach of the French sages which, as we said, may have support in the Talmud itself, is rejected by those *rishonim* who mention it (although it was accepted by certain of the *aḥaronim*).<sup>71</sup> However, it shows us that there did exist an approach which acknowledged or recognized a distinction between obligations of damages and obligations arising from the person's own will. Again, this approach too is based upon the words of Rava!<sup>72</sup>

Primarily, it is important to reemphasize the formulation of these things in the Ra'abad: "Even though we invoke the Rule of Greater Punishment, we say to him, 'Go, give her her *etnan*.' What is the reason? Because it is a stipulation he took upon himself to give her an *etnan*, and it is not the court that obligates him to do so, but rather a matter where he has obligated himself!"

Hence, I wish to suggest the following: an obligation, which already exists as a result of the person's own free will and which was not imposed upon him by law, necessarily brings in its wake a lesser need for the court's intervention, for in this case the Court does not *create* the obligation, but only *imposes* the execution of an obligation already created by the person himself. In other words, the obligations of *hoda'ot ve-halva'ot* created by the person's will are substantially different from those included under the rubric of *dinei kenasot* —those monetary obligations between people whose origin lies in obligation imposed by law. Thus, if the source of the obligation is the law, rather than the individual's own will, the court dealing with the creation of the

<sup>71</sup> See n. 66, above, and add, e.g., KANIEVSKY 1988, *Ketubot* §30, who even answers the question of Ra'abad.

<sup>72</sup> It was Rava who drew the distinction between *dinei kenasot* and *hoda'ot ve-halva'ot*. According to LIFSHITZ 1979, 171, 174–175, it is the approach of the French sages that provides a consistent explanation of the approach of Rava in both *sugyot*. This approach explains the words of Rava, "which seems to be a saying which was not part of the original source, that was introduced in order to resolve the difficulty in our *sugya*, and is cited here by the redactor, who clearly intended it for some reason, but who did not explain it, in exactly the same way as it was cited in the *sugya* in *Baba Metzi'a* 91a. Because there is no authorized interpretation, various different explanations have been attached to it, such as this [i.e., the one cited in *Baba Kamma*]." For a discussion regarding another area, that likewise claims the existence of a distinction between different kinds of obligations on the part of the Sages, see BRAND 2008, esp. 41.

obligation must of necessity be a real court—that is to say, one composed of expert judges<sup>73</sup>—whose decision will be made after thorough questioning and examination of the witnesses. This may also be the key to understanding the law according to which a person cannot obligate himself (“admit”) to a *kenas* (מודה בקנס פטור).<sup>74</sup>

We should also note the following: that *dinei kenasot* in this sense include, as mentioned, all those obligations imposed upon a person by force of law, including those fixed or specified by the Torah. However, the decisive majority of *dinei kenasot* involve cases of damages or “robbery and bodily harm,” which are far more common than those of rape of a virgin or goring by an ox of a Canaanite servant.<sup>75</sup> In those cases, the court is called upon, not only to impose the amount of the obligation, but also to determine the amount of payment in a case where it is not fixed.

## 5.2. EXAMINATION OF THE WITNESSES IN HODA’OT VE-HALVA’OT AND IN DINEI KENASOT

From this point on, we may more easily understand Rava’s approach in explaining the *Mishnah* in *Sanhedrin* 3.6. This *Mishnah* which, in his view, concerns *hoda’ot ve-halva’ot*, satisfies itself with only one question to determine whether the witnesses had knowledge of the debt at issue: “Tell us how you know that this one owes [money] to that one... Unless he says, ‘In our presence he admitted that he owes that one two hundred *zuz*,’ he has said nothing.” By contrast, matters of *dinei kenasot*, which constitutes the subject if *Mishnah* 4.1, require intensive questioning and examination, similar to capital matters. The distinction is simple, for in any event when the obligation is based upon *hoda’ah*—that is, a consensual obligation which brings both sides of their own free will to an agreed time and place—we may conjecture that the witnesses were also there with the consent of the two parties and there is no reason to examine them regarding the time of the incident in order to confute them through possible contradictions or inconsistencies. Indeed, the discussion in the *Bavli* on *mish. Sanhedrin* 3.6 deals with laws of *hoda’ah* and

<sup>73</sup> See RADZYNER 2001a, 263–277.

<sup>74</sup> RADZYNER 2001a, 320–327.

<sup>75</sup> Cases of damage are already referred to as *kenas* in the earliest sources (see RADZYNER 2007); and cf. idem, 2001a, 223–226, concerning the approach of Rambam in *Hil. Sanhedrin* 5.8 and those of other *rishonim*.

cites relatively ancient sources indicating the non-coincidental presence of witnesses at the moment of creating the obligation.<sup>76</sup>

אם אמר הוא אמר לי כו' עד שיאמרו בפנינו הודה לו שהוא חייב לו מאתים זוז. מסייע ליה לרב יהודה, דאמר רב יהודה אמר רב: צריך שיאמר אתם עדיי.

If he said, “He said to me...” unless they say “In our presence he admitted that he owes him two hundred זוז.” This supports the view of Rav Yehudah, for Rav Yehudah said in the name of Rav: “He must say, ‘You are my witnesses.’”

These matters are summarized in a comprehensive way by Shalom Albeck:<sup>77</sup>

And Rava said (in *Sanhedrin* 32b), that this edict of the Sages, that one does not require intensive examination, was only instituted in the case of *hoda'ot ve-halva'ot*, and not for *dinei kenasot*: that is to say, in other monetary matters, which do require intensive examination... And why does one not require intensive examination of witnesses in the cases of *hoda'ot ve-halva'ot*, and we do not need to threaten them with a charge of fraudulent testimony so that they will tell the truth? Because witnesses of *hoda'ot ve-halva'ot* are not witnesses who happened by chance to come to the place of the occurrence and see the facts, without the litigants' telling them to come to the place in order to testify because they rely on them. Rather, [in our case] the litigants invited the witnesses to come and appointed them as witnesses, so that they might come thereafter and testify, because they know them and rely upon them, and everybody agrees that they were at the place and time of the act, and it is impossible to charge them with fraudulent testimony.<sup>78</sup> Hence there is no need to ask them questions concerning the time and place, which are [what is meant by] “intensive examination”.

<sup>76</sup> *Bab. Sanhedrin* 29a. The fact that the characteristic of *hoda'ot ve-halva'ot* is the presence of witnesses may be seen from Rashi's interpretation of this concept, cited in the next note. In the case of *gezelot ve-ḥabalot* he does not mention witnesses. Cf. BENOVIĆ 2000, 41-42; RADZYNER 2001b, 539-44, regarding the significance of this *mishnah* and an additional distinction of Rava derived from it.

<sup>77</sup> ALBECK 1987, 219, and cf. Rashi's comment at *Bab. Sanhedrin* 32b (and cf. also his words *ibid.* 2b and *Baba Kamma* 84b): “‘Rava said: ‘Both of these [opinions] are [describing the case] after the rabbinical decree, and our *mishnah* deals with *dinei kenasot*, where one need not be concerned about closing the door [to borrowers]; but in *hoda'ot ve-halva'ot* one does need to be concerned about closing the door [to borrowers] in *hoda'ot ve-halva'ot* in the laws of loans, where one party comes to court over witnesses of an admission of liability that he made in their presence, or witnesses of the loan [who saw] that he borrowed in their presence, where one must be concerned about closing the door [to borrowers].’”

<sup>78</sup> The charge of “fraudulent testimony” (*ḥazamah*) in Jewish Law applies only to witnesses who are demonstrated not to have been present at the time and place of the action.

## 6. SUMMARY

In the Babylonian Talmud Rava proposes a division of the broad tannaitic term *dinei mamonot*—monetary law—into two subgroups: *dinei kenasot* and *hoda'ot ve-halva'ot*.

The interpretation of the second term as the sum total of all consensual or agreed obligations, obligations which an individual takes upon himself, enables us to understand the former term. We may infer from this that *dinei kenasot* is the term referring to the totality of obligations whose root lies in the law, which are thus distinguished from the former group also in terms of bringing in their wake stricter judicial arrangements.

## BIBLIOGRAPHY

- ABULAFIA [1999]  
R. MEIR BEN TODROS ABULAFIA  
(THE RAMAH, 1170-1244), *Yad Ramah* ed. Y. ZILBER, Jerusalem 1999.
- ALBARGELONI [1898]  
R. JUDAH BEN BARZILAI  
ALBARGELONI (end of 11<sup>th</sup>-beginning of twelfth century), *Sefer Ha-Shetarot*, ed. S. Z. HALBERSTAM, Berlin 1898.
- ALBECK 1957-9  
H. ALBECK, *Shisha Sidrei Mishna*, Jerusalem-Tel Aviv 1957-9 (in Hebrew).
- ALBECK 1959  
H. ALBECK, *Introduction to the Mishna*, (Jerusalem 1959) (in Hebrew).
- ALBECK 1987  
S. ALBECK, *Evidence in Talmudic Law* (Ramat Gan 1987) (in Hebrew).
- ALON 1977  
G. ALON, "Those Appointed for Money", in idem, *Jews, Judaism and the Classical World*, Jerusalem 1977, 374-435.
- ASHKENAZI [1997]  
R. BEZALEL BEN ABRAHAM ASHEKNAZI (ca. 1520-ca. 1592), *Shiṭaḥ Mekubetzet*, ed. Z. METSGER, Jerusalem 1997-.
- ASSAF 1930a  
S. ASSAF (ed.), *Kovetz shel Iggerot R. Shmuel ben Ali uv'nei doro*, Jerusalem 1930 (in Hebrew).
- ASSAF 1930b  
S. ASSAF (ed.), *Sefer ha-Shetarot le-Rav Hai Gaon (Mussaf le-Tarbitz 1 [3])*, Jerusalem 1930 (in Hebrew).
- ASSAF 1933  
S. ASSAF, *MiSifrut Ha-Geonim*, Jerusalem 1933 (in Hebrew).
- AUERBACH 1974  
M. AUERBACH, *Imrei Binah*, Jerusalem 1974 (in Hebrew).
- BEN-YEHUDA 1945  
E. BEN-YEHUDA, *Dictionary of the Ancient and Modern Hebrew Language (Thesaurus totius Hebraicitatis et veteris et recentioris)*, Jerusalem 1945.
- BENOIT 1961  
P. BENOIT, J.T. MILIK & R. DE VAUX, *Les grottes de Murabba'at*, (DJD 2), Oxford 1961.
- BENOVITZ 2000  
M. BENOVITZ, "Witnesses in Civil Cases", in: D. BOYARIN et al., eds., *Atara l'Haim: Studies in the Talmud and Medieval Rabbinic Literature in Honor of Professor Haim Zalman Dimitrovsky*, Jerusalem 2000, 28-49 (in Hebrew).
- BERLIN [1955]  
R. NAFTALI ZVI JUDAH BERLIN (THE NETZIV, 1817-93), *Meromei Sadeh*, Jerusalem 1955.
- BERTINORO [1905]  
R. OBADIAH BEN ABRAHAM OF BERTINORO (d. ca. 1515), *Commentary on the Mishnah*, Vilna 1905.
- BRAND 2008  
Y. BRAND, "'Ha-Nose Vehanoten B'Devarim': Between Obligation and Reliance", *Bar-Ilan Law Studies* 24 (2008), 5-57 (in Hebrew).
- BRAVERMAN 1989  
N. BRAVERMAN, "Euphony and Rhythm in the Mishna and in the Tosefta", *Proceedings of the Ninth World Congress of Jewish Studies, Division D*, vol. 1, Jerusalem 1989, 69-76 (in Hebrew).
- BROSHI & QIMRON 1994  
M. BROSHI & E. QIMRON, "A Hebrew I. O. U. Note from the Second Year of the Bar Kokhba Revolt", *JJS* (1994) 45, 286-294.
- COHN 1975  
H.H. COHN, "Admission" in M. ELON (ed.), *The Principles of Jewish Law*, Jerusalem 1975, 612-614.

- FALK 1972  
Z.W. FALK, *Introduction to Jewish law of the Second Commonwealth*, vol. 1, Leiden 1972.
- FRIEDMAN 1980-1  
M.A. FRIEDMAN, *Jewish Marriage in Palestine* (Tel-Aviv and New-York 1980-1).
- GINZBERG 1909  
L. GINZBERG, *Geonica*, New York 1909.
- GIRONDI [1978]  
R. NISSIM BEN REUBEN GIRONDI (THE RAN, d. 1376), *Novellae*, ed. Y. ZAKSH, Jerusalem 1978.
- GOLDSTEIN 1966  
J.A. GOLDSTEIN, "The Syriac Bill of Sale from Dura-Europos", *Journal of Near Eastern Studies* 25 (1966), 1-16.
- GULAK 1922  
A. GULAK, *Yesodei ha-Mishpat ha-Ivri*, Berlin 1922 (in Hebrew).
- GULAK 1926  
A. GULAK, *Otsar ha-shetarot ha-nehugim be-Israel*, Jerusalem 1926 (in Hebrew).
- GULAK 1939  
A. GULAK, *History of Jewish law, Talmudic period: Law of Obligation and its Guaranties*, Jerusalem: Hebrew Univ. Press, 1939 (in Hebrew).
- GULAK 1994  
A. GULAK, *Legal Documents in the Talmud in Light of Greek Papyri and Greek and Roman Law*, edited and supplemented by Ranon Katzoff, Jerusalem 1994 (in Hebrew).
- HARKAVY 1887  
A.E. HARKAVY (ed.), *Teshuvot Ha-Geonim*, Berlin 1887.
- HELLER [1905]  
R. YOM TOV LIPMANN HELLER (1579-1654), *Tosafot Yom Tov*, Vilna 1905.
- HERZOG 1967  
I. HERZOG, *The Main Institutions of Jewish Law*, London and New York 1967.
- HERZOG 1989  
I. HERZOG, "Courts of Law in Israel", in: idem, *Constitution and Law in a Jewish State According to the Halacha*, Jerusalem 1989, vol. 3, 282-300 (in Hebrew).
- JOLOWICZ 1972  
H.F. JOLOWICZ, *Historical Introduction to the Study of Roman Law*, Cambridge 1972.
- KANIEVSKY 1988  
Y.Y. KANIEVSKY, *Kehillat Ya'akov*, Bnei Brak 1988.
- KATZOFF 1991  
R. KATZOFF, "Papyrus Yadin 18 Again: A Rejoinder", *JQR* 82 (1991), 171-176.
- KOHUT [1955]  
A. KOHUT, *Aruch HaShalem*, New-York 1955.
- KRAUSS 1933  
S. KRAUSS, *Sanhedrin (hoher Rat); Makkot (Prügelstrafe)* in: *Die Mishna: Text, Übersetzung und ausführliche Erklärung*, Sanhedrin-Makkot, Giessen 1933.
- LAZEBNIK 1972  
G. LAZEBNIK (ed.), *Perush Talmid ha-Ramban*, Jerusalem 1972 (in Hebrew).
- LEHMANN 1982  
M.R. LEHMANN, *Essays and Journeys* Jerusalem 1982 (in Hebrew).
- LEWIS, KATZOFF & GREENFIELD 1987  
N. LEWIS, R. KATZOFF & J.C. GREENFIELD, "Papyrus Yadin 18", *IEJ* 37 (1987), 229-250.
- LEWIS, YADIN & GREENFIELD 1989  
N. LEWIS, Y. YADIN & J.C. GREENFIELD, *The Documents from the Bar-Kokhba Period in the Cave of Letters: Greek Papyri*, Jerusalem 1989.
- LIEBERMAN 1962  
S. LIEBERMAN, *Hellenism in Jewish Palestine: studies in the literary transmission, beliefs and manners of Palestine in the I century B.C.E.-IV century C.E.*, New York 1962.
- LIEBERMAN 1991  
S. LIEBERMAN, *Studies in Palestinian Talmudic Literature*, Jerusalem 1991 (in Hebrew).
- LIFSHITZ 1979  
B. LIFSHITZ, *Kam leh be'de'rabba mineh*, PhD diss., Hebrew University of Jerusalem, Jerusalem 1979 (in Hebrew).
- LIFSHITZ 1988  
B. LIFSHITZ, *Asmakhta*, Jerusalem 1988 (in Hebrew).
- LIPSCHÜTZ [1905]  
R. ISRAEL LIPSCHÜTZ (1782-1860), *Tiferet Yisrael*, ed. Vilna 1905.
- MEIRI [1961, 1965]  
R. MENACHEM BEN SOLOMON MEIRI (1249-1315), *Beit HaBehirah on Baba Kamma*, ed. K. SCHLESINGER, Jerusalem 1961; on *Baba Metzia*, ed. K. SCHLESINGER, Jerusalem 1961; on *Sanhedrin*, ed. A. SOFER, Jerusalem 1965.
- MELAMED 1986  
E.Z. MELAMED, *Essays in Talmudic Literature*, Jerusalem 1986 (in Hebrew).
- MESHULLAM [1961]  
R. MESHULLAM B. JACOB OF LUNEL (1170-?), *Sefer HaHashlama*, ed. A. HAPUTA, Tel-Aviv 1961.
- NATHANSON 1865-90  
R. JOSEPH SAUL HA-LEVI NATHANSON (1810-75), *Shoel U-Meishiv*, Lemberg 1865-1890.
- PERIKHANIAN 1983  
A.G. PERIKHANIAN, "Iranian Society and Law", in E. YARSHATER (ed.), *The Cambridge History of Iran*, vol. 3 (2): *The Seleucid, Parthian and Sasanian periods*, Cambridge 1983, 627-680.

- RADZYNER 2001a  
A. RADZYNER, *Foundations of 'Dine Qenasot' in Talmudic Law*, Ph.D. diss., Bar-Ilan University, Ramat-Gan 2001 (in Hebrew).
- RADZYNER 2001b  
A. RADZYNER, "Witnesses' Hatra'ah (Warning) and the Beginning of Their Testimony", *Dine Israel* 20-21, 2001, 515-551 (in Hebrew).
- RADZYNER 2005  
A. RADZYNER, (2005), "P. Yadin 21-22: Sale or Lease?" in R. KATZOFF and D. SCHAPS (eds.), *Law in the Documents of the Judean Desert*, Leiden 2005, 145-163.
- RADZYNER 2007  
A. RADZYNER, "'Qenasot' as Tortious Payments in Tannaitic Literature", *Annual of Jewish Law* 24 (2007), 287-358 (in Hebrew).
- SAR-AVI 2008  
D. SAR-AVI, *Life in Judaea from the late Second Temple period to the Bar Kokhba revolt in light of the documents discovered in the Judean Desert*, PhD diss., Bar-Ilan University, Ramat-Gan 2008 (in Hebrew).
- SCHACHTER 2002  
Z. SCHACHTER, *Eretz Ha-Tzvi* (Jerusalem, 2002).
- SCHREMER 1996  
A. SCHREMER, "Divorce in Papyrus Se'elim 13 once again: a reply to Tal Ilan", *HTR* 89 (1996), 195-202.
- SEGAL 1991  
P. SEGAL, "The Hebrew IOU note from the time of the Bar-Kochba period", *Tarbiz* 60 (1991), 113-118 (in Hebrew).
- SHOCHETMAN 1981  
E. SHOCHETMAN, *Ma'aseh ha-ba ba-'averah*, Jerusalem 1981 (in Hebrew).
- SKOPF 1959  
R. SHIMON SKOPF, *Sha'arei Yosher*, New-York 1959.
- SPERBER 1984  
D. SPERBER, *A Dictionary of Greek and Latin Terms in Rabbinic Literature*, Ramat-Gan 1984.
- URBACH 1986  
E.E. URBACH, *The Halakhah, its Sources and Development*, translated from the Hebrew by Raphael Posner, Ramat Gan 1986.
- WALFISH 1994  
A. WALFISH, *Tofa'ot sifrutiyot ba-Mishnah u-mashma'utan ha-'arikhatit yeha-ra'yonit*, M.A. Thesis, (Jerusalem 1994) (in Hebrew).
- WASSERSTEIN 1989  
A. WASSERSTEIN, "A Marriage Contract from the Province of Arabia Nova: Notes on P. Yadin 18", *JQR* 80 (1989), 93-130.
- WEINBERG 1977  
Y.J. WEINBERG, *Seride esh*, Jerusalem 1977 (in Hebrew).
- WEISS 1944  
A. WEISS, "LeHeker Ha-Mishnah Veba-Talmud", in: A. WEISS & L. GINZBERG, *Kovetz Mada'i Le-Zecher Moshe Schorr*, New York 1944, 127-48, repr. in: A. WEISS (ed.), *Al Ha-Mishnah*, Ramat-Gan 1969, 133-54 (in Hebrew).
- WEISS 1956  
A. WEISS, "Hatza'at Ha-Homer Be-Masechet Kiddushin", *Horeb* 12 (1956), 70-148, repr. in: idem, *Al Ha-Mishnah*, Ramat-Gan 1969, 197-275 (in Hebrew).
- YADIN 2002  
Y. YADIN et al., *The Documents from the Bar Kokhba period in the Cave of Letters: Hebrew, Aramaic and Nabatean-Aramaic Papyri*, Jerusalem 2002.
- YARDENI & GREENFIELD 1996  
A. YARDENI & J.C. GREENFIELD, "A Receipt for a Ketuba", in A. OPPENHEIMER, Y. GAFNI & D. SCHWARTZ, *The Jews in the Hellenistic-Roman World: studies in memory of Menahem Stern*, Jerusalem 1996, 197-208 (in Hebrew).
- YARON 1960  
R. YARON, "The Murabba'at Documents", *JJS* 11 (1960), 157-171.
- ZIMMERMANN 1996  
R. Zimmermann, *The Law of Obligations: Roman Foundations of the Civilian Tradition*, Oxford 1996.



# The Romans Look at Foreigners



# Graeco-Roman Popular Perception of Africa. The Proverbial Aspect\*

DANIELA DUECK

Almost all we know of Classical antiquity is inherently predisposed towards the life of intellectual male elites. Even if natural elements and human criticism were more sparing, so that more textual and material remains could outlive them, we could not expect to discover what other sectors of the population thought, felt, planned, did. Literacy prevailed among a limited number of people. Theoretical education and then the production and reading of written texts involved, in both Greek and Roman societies, free upper-class males. Women, slaves, and the poor either could not afford the leisure and funding needed to acquire impractical knowledge, or were not considered suitable, worthy, or in need of such knowledge. Indeed, some non-elite persons could probably recognize letters and perhaps even read words and sentences. But literary texts were available to them neither physically nor intellectually.<sup>1</sup>

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\* I congratulate Ranon Katzoff on his jubilee: (משלי, ג:ב). I would like to thank the anonymous readers of an earlier version of this article as well as David Schaps for their helpful comments.

<sup>1</sup> There is an abundant literature on Greek and Roman education, literacy and orality; I therefore refer the reader only to studies from the last decade: WATSON 2001; YUNIS 2003; COOPER 2007; MACKAY 2008; JOHNSON & PARKER 2009. On illiteracy specifically see HANSON 1991.

The knowledge and thoughts of Greek and Roman illiterate crowds are thus seemingly beyond modern reach. However, hints and clues to some notions held by non-readers may still be cautiously drawn. Most obviously, information presented orally or visually was accessible to all sectors of the population, sometimes including even children and foreigners. Oral transmissions such as public speeches delivered at assemblies of citizens (both in Athens and in Rome) or in popular law courts included details that could, at least in theory, reach all the various groups in the audience. The same premise is valid for ideas and facts included in dramas. Likewise, visual representations, whether on public monuments (temples, sculptures, triumphal arches) or on private artifacts (vases) had the potential of indiscriminately impressing their viewers.<sup>2</sup> What was absorbed naturally depended on the personality, interest and mental abilities of each individual observer, but the important point for us is that a large resource of information was available outside the realm of letters.<sup>3</sup>

In the category of non-written sources, a significant place should be kept for proverbs and proverbial expressions which are frequently originally oral and popular or, if their origin is literary, eventually become part of the daily speech of the crowds. It seems thus safe to assume that proverbs, when they function as proverbs,<sup>4</sup> reflect what common people thought or knew. Such idioms transmit facts and notions to future generations and in this sense reinforce and promote real or erroneous knowledge and ideas.<sup>5</sup> That being the case, from texts that, although now written, document expressions that were originally oral, we might glean some idea of what non-reading social strata assumed, be they solid facts or mere stereotypes.

For considerations of scope appropriate to a short, self-contained contribution, the present study proposes to learn what illiterate people knew about Africa according to Greek and Latin proverbs and proverbial expressions concerning the continent. As one might expect, there are other “geographical” proverbs<sup>6</sup> referring to various sites and I hope to discuss them elsewhere. But the methodology, the insights and the cautious conclusions which I attempt at offering here, even if relying on but few examples, may serve as a guideline and represent a wider linguistic and social phenomenon.

Naturally, geographical places within the immediate environs of the people who attended them are more likely to invade common talk. Therefore, names

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<sup>2</sup> See CLARKE 2003.

<sup>3</sup> Most importantly HORSFALL 1996, 103-109; 2003, 48-63.

<sup>4</sup> Meaning short sentences or phrases, independent of any context and regardless of their origin.

<sup>5</sup> HORSFALL 1996, 110; LARDINOIS 2001; DUECK 2004.

<sup>6</sup> Definition in DUECK 2004, 42.

of sites in Greece, on the Aegean islands and in Asia Minor which are included in proverbs seem to reflect the living space of the Greeks, and proverbial expressions including sites in the western Mediterranean mirror the regions in which the Romans were more active. It seems therefore more intriguing to investigate what people could know about remote places which were less likely to be visited by a relatively wide public such as merchants and soldiers. Thus – Africa.<sup>7</sup>

Another reason for choosing Africa is social. Proverbs often refer to ethnic groups and are most probably based on acquaintance of foreign peoples. However, foreigners occasionally arrived at the cultural centres of Greece and, even more so, of Rome, and therefore people could almost stay at home and meet them. In other words, in the ethnic sphere the world reached Graeco-Roman society, but what is at issue presently is how Greeks and Romans mentally reached the world, or what ordinary people knew about the world without leaving their backyard. Let us then focus on Africa rather than on a specific ethnic group.

The following examples derive mainly from relatively late collections of Greek proverbs. Zenobius, a sophist at the time of Hadrian (117-138 CE), based his compilation on the Hellenistic collections of Didymus and Lucillus of Tarrha and arranged it in sets of hundreds (*centuriae*) and within them in alphabetical order according to the first word of the proverb. Diogenianus, a lexicographer of the same time as Zenobius, is perhaps the author of another compilation of popular proverbs also arranged alphabetically for scholastic purposes. Later medieval compilations of the 13<sup>th</sup>-15<sup>th</sup> centuries copied and preserved parts of these earlier collections.<sup>8</sup> Although late, these corpora often include very early—even 600-year-old—proverbs as far as their origin may be traced according to their written occurrences. Therefore, the chronological span of the present discussion may seem wide, but it should be kept in mind that the collections are merely the final written end of their consequences while their oral and popular origin may be much earlier. The apparent chronological disorder in the evidence for the textual occurrences of the proverbs in this article derives from the nature of such idioms. Because their birth

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<sup>7</sup> Merchants, especially at times of Roman dominance, reached Africa, and, as we shall see, commerce is a significant source for proverbs on Africa. As is well-known Rome also had several military campaigns on African soil. In this sense the continent was not totally unknown to sectors of the population which may have been illiterate. However, the point here is that because Africa was more exotic in the primary sense of “non-native”, it seems more revealing to study its occurrence in the proverbs.

<sup>8</sup> For a short survey, see *OCD*<sup>3</sup> (1996) s.v. paroemiographers. The most comprehensive modern collection of Greek proverbs is *CPG* and the recent edition of Zenobius: *BUHLER* 1987-99. Latin proverbial expressions appear in the collection and edition of *OTTO* 1890.

and their consequences are often inseparable from oral agents, it is hard to identify the exact circumstances of creation of proverbs. Therefore we depend on their occasional literary occurrences. A chronological order of presentation would be almost impossible and in any case inaccurate. The order chosen here thus aspires to be thematic.

1. ἀεὶ φέρει τι ἡ Λιβύη καινόν  
 (“AFRICA ALWAYS BRINGS SOMETHING NEW”)<sup>9</sup>

This proverb first appears in writing in Aristotle’s zoological works (*HA* 8.28, 606b19-24; *GA* 2.7, 746b7-12).<sup>10</sup> The zoological context in Aristotle connects with the content of the proverb: the discussion is of African fauna and the proverb relates to Africa. Aristotle explains hybridization, i.e. the mixture of different animal species, through the geographical conditions in Africa: numerous animals gather near few water resources where they meet and mate. Then he adds this expression which in all likelihood he has not coined himself for this specific discussion: Aristotle defines it as *τις παροιμία* (*HA*) or *το παροιμαζόμενον* (*GA*), meaning that it was already circulating as an expression independent of the specific zoological context and earlier than the time of the Aristotelian composition. The generalizing *semper* (ἀεὶ) in the proverb seems indeed to reflect the proverbial, popular, non-scientific, language.

At about the same time (mid. 4<sup>th</sup> century BCE) Anaxilas, an Attic writer of comedies, used this expression in a different context for its proverbial meaning. Two verses in his lost comedy *Hyacinthus* claimed that “music is like Libya which... brings forth some new creature every year”.<sup>11</sup> Anaxilas’ use of the expression is less straightforward than Aristotle’s use. Anaxilas associates the proverb with an idea about a different field, about music.

<sup>9</sup> *CPG*, vol. 1, p. 45; p. 192; vol. 2.1, p. 96. *Libyē* translates throughout, already by Latin authors, into *Africa*. The Greek *Libyē* first referred to the entire continent in Pindar (*Pyth.* 9.8). The inhabitants of North Africa (excluding Egyptians) were named *Libyes* already in the work of Hecataeus of Miletus c. 500 BCE; the term is probably of Egyptian origin. See *Brill’s New Pauly* s.v. Libyes, Libye; ZIMMERMAN 1999. *Africa* as a toponym parallel to *Libyē* and applied to the entire continent appeared in Latin texts only at the latter half of the 3<sup>rd</sup> century BCE. Its etymology was probably based on the name of the local tribe of the Afri. See *Brill’s New Pauly* s.v. Africa (1); (3); VYČIHL 1975; LACROIX 1998, 283-285. Josephus, after Alexander Polyhistor (*AJ* 1.239-241), attributes the name ‘Africa’ to עִפְרָא, a descendant of Abraham (*Gen.* 25:4). Both *Africa* and *Libya* appear interchangeably in Latin proverbs.

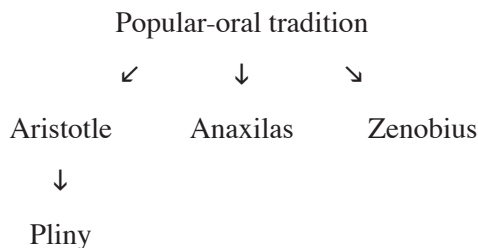
<sup>10</sup> The form quoted is that of *HA*; in *GA* it has a slight variation: ἀεὶ τι τῆς Λιβύης τρεφούσης καινόν.

<sup>11</sup> *PCG* F 27 = Athen. 14.623F. Unless otherwise specified, translations throughout this article are slightly modified versions of the *LCL* editions.

The same proverb in Latin - *semper aliquid novi Africa adfert*<sup>12</sup> - first appears in Pliny (*HN* 8.42) when he mentions hybridization in African animals and specifically defines this sentence as a popular Greek saying (*vulgare Graeciae dictum*). Pliny probably took the entire section from Aristotle since it includes the zoological explanation, the proverb and its definition as *vulgatus*.

The proverb appears as such in the Hadrianic collection of Zenobius and this may prove, even if Zenobius based his work on earlier collections, that it perhaps circulated as a popular saying for several centuries. Zenobius, however, added a slight variation: “Libya always brings something new *and bad* (ἀεὶ φέγει τι Λιβύη καὶνὸν κακόν)” (Zen. II 51, *CPG* p. 45). This might be either a confusion and miscopy of καὶνόν and κακόν, or, what seems more likely, a popular addition deriving from the association of bad or horrible things with remote and unknown places.<sup>13</sup>

We have then four literary occurrences of the proverb in Aristotle, Anaxilas, Pliny and Zenobius, but no proven direct link of literary transmission between each chronological consecutive authors. Since the aim of attention is presently geographical notions of illiterate sectors of ancient society, it seems probable to assume oral transmission in some or in every stage of this literary tradition. The only less likely oral stage may be between Aristotle and Pliny since the latter uses the entire zoological context just like the earlier Greek authority. This might be illustrated in the following diagram:



The Greek proverb diffused into Latin, became available to the crowds without the scientific broader context, and with it notions about Africa were available in common use. Africa was thus associated with new things and, like other new things in antiquity it was paired with bad things at least in Zenobius.<sup>14</sup>

<sup>12</sup> OTTO 1890, 8, and recently VAN STEKELENBURG 1988 and RONCA 1994.

<sup>13</sup> For which see ROMM 1992.

<sup>14</sup> For the idea that new is bad, see the use of the term *novus* to mean “seditious” (*OLD* s.v. *novus* 10).

## 2. Λιβυκὸν θηρίον ("AFRICAN BEAST")<sup>15</sup>

This proverbial expression refers to something which is rare and strange. Diogenianus explains that it derived from the large variety of beasts and creatures living together in Africa. This exact expression does not appear in writing in the Greek texts, however in Aristophanes' *Birds* we find the following variation: Euelpides and Peisetaerus introduce themselves to a slave. Peisetaerus introduces himself as "the Fearflow, a Libyan bird (Λιβυκὸν ὄρνεον)" (65), and Euelpides as "a Shitterling, from the land of Phasis (Φασιανικός)" (68). Both characters do not resemble any known bird and therefore claim that they are of species native to distant regions – Africa and the Phasis at the eastern end of the Black Sea (modern Georgia). The association with the river Phasis derives from its remoteness and perhaps also from its specific relevance to birds because it has given its name to the pheasant.<sup>16</sup> Therefore it seems that Aristophanes chose it specifically for his ornithological needs. But the association with Libya-Africa simply denotes rareness, and that may derive from already circulating popular notions about that region of the world.

Similarly to the first proverb discussed here, the basis for this popular notion of Africa as a bearer of strange natural phenomena, is the otherness of the nature, and specifically of the fauna, in comparison to what was known in the Greek world. This caused astonishment as well as fear and affixed such notions in the collective consciousness of the Graeco-Roman societies.

## 3. FRUMENTI QUANTUM METIT AFRICA ("AS MUCH CORN AS AFRICA REAPS")<sup>17</sup>

This proverbial expression appears in slight variations in Horace, Statius and Martial. In all contexts it expresses an excessively and exaggerated large amount, specifically of wealth. In one of his satires Horace demonstrates avarice through the example of the perverted values of a certain Staberius, who ordered his heirs to record after his death his exact financial status because he thought the more one was rich the better he was:

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<sup>15</sup> CPG, vol. 1, p. 271; vol. 2.1, p. 78.

<sup>16</sup> Translation and some comments are those of SOMMERSTEIN 1987 ad loc.

<sup>17</sup> OTTO 1890, 8.

Staberius' heirs had to carve his wealth on his tomb,  
if not they'd to entertain the masses with a hundred  
paired gladiators, at a funeral feast to be planned  
by Arrius, plus all of Africa's corn (Horace, *Satires*, 2.3.84-87).

The clearly exaggerated amount of corn is specifically associated with Africa and is based on the real dependence of Rome on specifically Egyptian corn.<sup>18</sup> This idea is parallel to (and probably independent from) the biblical depiction of Egypt as the granary of neighbouring nations (*Gen.* 41:54-57) and similar to the proverbial expression associated with this agricultural fact to denote an extreme amount: "And Joseph gathered corn as the sand of the sea, very much, until he left numbering; for *it was* without number<sup>19</sup>" (*Gen.* 41:49).

The numismatic symbols of Africa on Roman Republican and Imperial coins personify the province as a woman with emblematic configurations of specific animals as well as stalks of wheat symbolizing the fertility of the country.<sup>20</sup> In the present context of geographical images among illiterate crowds, it seems worth emphasizing that coins were naturally widely available and figurative representations on them could be absorbed by anyone regardless of any social criterion. In this way the reputation of Africa as a fruitful land which produces an abundance of corn was reinforced as a mental image among the illiterate.

An expression similar to the one in Horace (...*quod messibus Afris verri-tur*...) and perhaps deliberately alluding to this literary precedent,<sup>21</sup> appears in Statius when he describes the tasks of the secretary *a rationibus* of the father of Claudius Etruscus who had to handle:

... All that Iberia ejects from her gold mines,  
that shines in Dalmatian mountains, that is swept up in Africa's  
harvest ... (Statius, *Silvae* 3.3.89-91).

The exaggerated description deliberately and explicitly aspires to denote "riches garnered among all peoples, the outgoings of the great world" (87-88) and Africa is lined up together with Iberia, Dalmatia and other regions. But the Horatian precedent and other similar proverbial expressions (see next example) show that Africa was hyperbolic for extreme riches.

<sup>18</sup> RICKMAN 1980, esp. 232-235 and cp. the situation in the late Empire: TENGSTROEM 1974.

<sup>19</sup> King James Bible.

<sup>20</sup> See GRUEBER 1910, vol. 2, 573-574; vol. 3, pl. 121 nos. 5-7; ROBERTSON 1971, 116, no. 298, pl. 26; 157, no. 573, pl. 40; 166, no. 638, pl. 44 (Hadrian); 423, no. 67, pl. 115; 448, no. 189, pl. 122 (Commodus).

<sup>21</sup> HARDIE 1983, 155-156.

Finally, Martial in another variation when he clarifies that wine and icy water are preferable to any riches one may get, depicts wealth as a curse if it follows having to drink mere warm water:

*Possideat Libycas messis Hermumque Tagumque,  
et potet caldam, qui mihi liuet, aquam.*

Let one that wishes me ill own Libyan<sup>22</sup> harvests and Hermus and Tagus,  
and drink warm water (Martial, 6.86.5-6).<sup>23</sup>

#### 4. QUIDQUID DE LIBYCIS VERRITUR AREIS ("EVERY GRAIN THAT IS SWEEPED FROM THE THRESHING FLOORS OF LIBYA")<sup>24</sup>

Similarly to the previous proverb, this one is also first cited by Horace and is meant to express a large amount by stressing the abundance of grain in Africa. In the well-known first ode Horace demonstrates the variety in men's options for joy and delight:

...another [man is delighted] if he has stored in his own barn every grain that is swept from the threshing floors of Libya... (*Carm.* 1.9-10).

Using this expression, Horace shows how certain people delight in extreme wealth, here demonstrated through the acquisition of enormous amounts of grain. Seneca applies a similar expression in the description of the traits of a real king in his *Thyestes* (348-357):

A king is one... that no willful ambition or the ever shifting favour of the hasty mob can affect, nor all that is mined in the West or that the golden-flowing Tagus carries down in its bright bed, nor all that is threshed from Libyan harvests on scorching floors (*non quidquid Libycis terit fervens area messibus*).

Africa is thus once again associated with extreme abundance, specifically of grain.

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<sup>22</sup> In this proverbial expression some versions use *Africa* and a derived adjective (*Afer* in Statius) or a Latinized adjective derived from the Greek toponym (*Libycus* in Martial). See n. 9 above.

<sup>23</sup> The river Hermus (modern Gediz) in Lydia and the river Tagus (modern Tago) on the Iberian peninsula are also proverbial for extreme wealth: *Hermus... auro madidae* (Claudian *de Raptu Proserpinae* 2.68-69); *aurifer Tagus* (OTTO 1890, 340).

<sup>24</sup> OTTO 1890, 8.

## 5. PULVERIS AFRICI ... NUMERUM ("AS GREAT A NUMBER AS THE DUST OF AFRICA")<sup>25</sup>

In poem 61 Catullus wishes to describe the enormous joy of the recently married bride and groom:

Let him first count up the number of the dust of Africa and of the glittering stars, who would number the many thousands of your joys (61.202-206).

This metaphor is paired with the number of stars to form a literary *topos*. The comparison to the infinite number of sand grains or stars is surely well-known from *Gen.* 22:17 (and elsewhere): "in multiplying I will multiply thy seed as the stars of the heaven, and as the sand which is upon the sea shore" there specifically referring to the sand by the sea. In earlier Greek sources these metaphors appear separately or, more rarely, together.<sup>26</sup> In all these contexts the expression relates to non-specific sands and stars, but Catullus refers specifically to African sand. This might be so because to a Roman mind the sands of Africa, i.e. the Sahara, appeared limitless, while the sands of the sea, even if numerous, were still defined on both sides by the land and the sea.

## 6. QUAM MAGNUS NUMERUS LIBYSSAE HARENAE ("AS GREAT AS IS THE NUMBER OF LYBIAN SAND")<sup>27</sup>

Lesbia asks how many of her kisses will satisfy Catullus and he answers:

As great as is the number of Libyan sand that lies on silphium-bearing Cyrene, between the oracle of sultry Jove and the sacred tomb of old Battus (7.3-6).

The common expression uses, similarly to the previous one, the idiomatic great number of (specifically African) sand grains. But while Catullus departs from this popular proverb he, as a *doctus poeta*, demonstrates his wider acquaintance with African scenery and alludes to Cyrene, the oracle of Zeus-Amon and the tomb of Battus (the founder of Cyrene). These academic allusions are probably meant to pay homage to Callimachus as suited the so-called 'Alexandrian' circle of Roman poets.<sup>28</sup> The result, however, as should be stressed

<sup>25</sup> Ibid.

<sup>26</sup> Sands – Hom. *Il.* 2.800; 9.385; Pind. *O.* 2.98; Ov. *Met.* 11.615; stars: Hom. *Il.* 8.554-556; Call. *Hymn* 4.175; both: Plat. *Euth.* 294b.

<sup>27</sup> OTTO 1890, 8.

<sup>28</sup> GODWIN 1999, ad loc. and NEWMAN 1990.

in the present discussion, is that the common *topos* is associated with Africa and adds to the mental concept of the sandy continent for non-travelling and uneducated Romans, even if Catullus probably did not consider illiterate Romans as his audience.

When Virgil wishes to demonstrate the innumerable number of vine names he also mentions the number of Libyan grains of sand (*Libyci harenae*) (*G.* 2.105-6). And, later, Claudian (2<sup>nd</sup> cent. CE) says:

Can you count the waves of the sea, the grains of Africa's sands (*Libyae harenas*)? If so you can number Eutropius' masters (*Against Eutropius*, 1.32-33).

Although all the examples derive from strictly literary texts, some of them specifically addressed to connoisseurs, the fact that the expression is used in different contexts proves that it became a proverbial expression to denote excessive amounts of anything. The nature of proverbs as independent linguistic idioms may allow a cautious, yet probable, assumption that it was also orally widespread.

## CONCLUDING REMARKS

The Greeks and Romans did not know the entire continent of Africa. Circumnavigations of Africa were attempted (and rarely succeeded) as early as the Carthaginian expeditions of the 5<sup>th</sup> century BCE, but there is no evidence for actual knowledge below an imaginary line between Zanzibar in the east and Guinea in the west. No solid information exists of real visits south of these points.<sup>29</sup>

For Classical antiquity we depend heavily on written sources, and these guide us even in detecting originally oral traditions. As was shown here, proverbs and proverbial expressions were often preserved in literary texts, and occasionally in "higher" literature such as philosophical treatises or learned poetry. This fact, however, does not preclude these idioms from having been popular in certain stages of their circulation. When Aristotle, for instance, incorporates such an expression in his scientific and taxonomic discussions, it is likely that he absorbed it himself in a colloquial sphere of images. Even if such an idiom is the result of an author's own experience or intellect, the fact that we find it in later texts as well as in later collections of proverbs proves that the expression has long left its original context and became autonomous and independent of any specific connotation. Therefore, the earliest documented occurrence of a specific expression is in fact, from the point of view of those who are interested in proverbs, a sort of fixed point which helps to track down

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<sup>29</sup> DUECK 2012, 51-67.

its history. It may have been popular before it became integrated in the literary texts and it may have become popular after it appeared in a text, but in any case it carried through generations facts, notions and stereotypes.

Africa is not a common component of Greek and Roman proverbs, but the idioms listed above seem sufficient to demonstrate how the popular mind and common images work and how proverbs are preserved and transmitted through the eternal interplay between written and oral traditions. Exaggerations (“always”, “most”) are a sign of simplicity, particularly when compared with scientific and intellectual aspirations to accuracy.

The literary usage of such proverbial expressions is various and depends on the character of the author and his work. Evidently a proverb within a scientific context (Aristotle) or in intellectual poetry (Catullus) has a slightly different role than a proverbial expression in Attic old comedy (Aristophanes and Anaxilas) or an epigram of Martial. The former genres probably insert them partially as part of a literary correspondence with earlier texts and partially in order to bring subjects closer to a wider audience. The more popular genres in their turn both absorb and dictate vulgar speech. Thus, in some cases it is difficult to separate elite concepts from popular ones, but the assertion this article wishes to offer is that because these idioms appear in collections of proverbs, even their occurrences in literature of higher scholarly stature reflects oral and most probably common origins.

What is the relationship between stereotypes and facts as reflected in these proverbs? Clearly Africa was colloquially associated with large amounts of sand, extreme abundance of corn, strangeness and unusual (“new”) phenomena. As usual in popular, unscientific, notions and even stereotypes, the details were based on certain truths: the scenery of north Africa and the northern regions of the Sahara may understandably produce an image of endless sands; Africa, and specifically Egypt, was one of the major sources of corn for the Roman state; and as far as strangeness is concerned, natural phenomena of zoology, botany and even anthropology were very different from what the average Greek and Roman knew. This fact connects with the psychological phenomenon in which any foreign country is, to a certain extent, strange in the eyes of outsiders. Thus, as is typical for popular expressions, extreme and exaggerated elements have a leading role in the image of remote places.<sup>30</sup>

Last but not least, the very toponym of Africa / Libya became a colloquial expression even if most people had no accurate idea where this region was. May we cautiously take these hints as reflecting some illiterate ideas of Africa?

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<sup>30</sup> ROMM 1992. Already in Herodotus Egypt in particular represented the strangest country in the world, where everything was the opposite of regular Greek nature and custom (Hdt. 2.35).

## BIBLIOGRAPHY

- BÜHLER 1987-99  
W. BÜHLER, *Zenobii Athoi Proverbia*, Göttingen 1987-99.
- CLARKE 2003  
J. R. CLARKE, *Art in the Lives of Ordinary Romans. Visual Representation and Non-Elite Viewers in Italy, 100 B.C. – A.D. 315*, Berkeley 2003.
- COOPER 2007  
C.R. COOPER (ed.), *Politics of Orality*, Leiden 2007.
- DUECK 2004  
D. DUECK, “Bird’s Milk in Samos: Strabo’s Use of Geographical Proverbs and Proverbial Expressions”, *SCI* 23, 2004, 41-56.
- DUECK 2012  
D. DUECK, *Geography in Classical Antiquity*, Cambridge 2012.
- GODWIN 1999  
J. GODWIN, *Catullus: The Shorter Poems*, Warminster 1999.
- GRUEBER 1910  
H.A. GRUEBER, *Coins of the Roman Republic in the British Museum*, London 1910.
- HANSON 1991  
A.E. HANSON, “Ancient Illiteracy”, in: J.H. HUMPHREY (ed.), *Literacy in the Roman World. (Journal of Roman Archaeology Suppl. 3)*, Ann Arbor 1991, 159-198.
- HARDIE 1983  
A. HARDIE, *Statius and the Silvae: Poets, Patrons and Epideixis in the Graeco-Roman World*, Liverpool 1983.
- HORSFALL 1996  
N. HORSFALL, “The Cultural Horizons of the Plebs Romana”, *Memoirs of the American Academy in Rome* 41, 1996, 101-102.
- HORSFALL 2003  
N. HORSFALL, *The Culture of the Roman Plebs*, London 2003.
- JOHNSON & PARKER 2009  
W.A. JOHNSON & H.N. PARKER, (eds.), *Ancient Literacies: the Culture of Reading in Greece and Rome*, Oxford 2009.
- LACROIX 1998  
W.F.G. LACROIX, *Africa in Antiquity: A Linguistic and Toponymic Analysis of Ptolemy’s Map of Africa*, Saarbrücken 1998.
- LARDINOIS 2001  
A. LARDINOIS, “The Wisdom and Wit of Many: the Orality of Greek Proverbial Expressions”, in: WATSON 2001, 93-107.
- MACKAY 2008  
E.A. MACKAY, *Orality, Literacy, Memory in the Ancient Greek and Roman World*, Leiden 2008.
- NEWMAN 1990  
J.K. NEWMAN, *Roman Catullus and the Modification of the Alexandrian Sensibility*, Hildesheim 1990.
- OTTO 1890  
A. OTTO, *Die Sprichwörter und sprichwörtlichen Redensarten der Römer*, Leipzig 1890.
- RICKMAN 1980  
G. RICKMAN, *The Corn Supply of Ancient Rome*, Oxford 1980.
- ROBERTSON 1971  
A.S. ROBERTSON, *Roman Imperial Coins in the Hunter Coin Cabinet, University of Glasgow. Vol. 2: Trajan to Commodus*, London 1971.
- ROMM 1992  
J.S. ROMM, *The Edges of the World in Ancient Thought*, Princeton 1992.
- RONCA 1994  
I. RONCA, “Ex Africa semper aliquid noui: the ever surprising vicissitudes of a pre-Aristotelian proverb”, *Latomus* 53, 1994, 570-593.
- SOMMERSTEIN 1987  
A.H. SOMMERSTEIN, *Aristophanes: Birds*, Warminster 1987.

TENGSTROEM 1974

E. TENGSTROEM, *Bread for the People: Studies of the Corn Supply of Rome During the Late Empire*, Stockholm 1974.

VAN STEKELENBURG 1988

A. V. VAN STEKELENBURG, "Ex Africa semper aliquid novi: a proverb's pedigree", *Akroterion* 33, 1988, 114-120.

VYCICHL 1975

W. VYCICHL, "La peuplade berbère des Afri et l'origine du nom d'Afrique," *Onomastica* 19, 1975, 486-488.

WATSON 2001

J. WATSON (ed.), *Speaking Volumes: Orality and Literacy in the Greek and Roman World*, Leiden 2001.

YUNIS 2003

H. YUNIS (ed.), *Written Texts and the Rise of Literate Culture in Ancient Greece*, Cambridge and New York 2003.

ZIMMERMAN 1999

K. ZIMMERMAN, *Libyen: Das Land südlich des Mittelmeers im Weltbild der Griechen*, Munich 1999.



# A Problematic Sentence in Justin-Pompeius Trogus’ *Historiae Philippicae*\*

STÉPHANIE E. BINDER, BEZALEL BAR-KOCHVA

The reference to the Dead Sea (Justin 36.3.6-7) at the end of Pompeius Trogus’ excursus on the Jewish people, its origins and its customs contains odd statements. The present paper will not elaborate on them, or on other aspects of the passage.<sup>1</sup> We will be content with addressing a textual-philological difficulty that has occupied scholars since the first editions of Justin’s epitome of Trogus’ work. We both are happy to dedicate this paper to Professor Ranon Katzoff, from whom Stéphanie learned so much throughout the years.

A few words on Pompeius Trogus and his historiographical work are required. Pompeius Trogus, a writer of Gallic origin, whose grandfather was granted Roman citizenship by Pompey, wrote forty-four books in Latin entitled *Historiae Philippicae*, a generic title probably inspired by the work of Theopompus on the times of Philip II of Macedon. Trogus’ work was written toward the end of the Augustan era, during the first decade C.E., and was the first endeavor in Latin literature to produce a “universal history” (excluding Roman history, which was already written in Latin). However, it was not an

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\* This paper is a snippet of a research project named “Augustan authors on the origin of the Jews, their customs, their history and their land”. The project is supported by the Israel Science Foundation (no. 825/10).

<sup>1</sup> On these questions see BAR-KOCHVA & BINDER 2015.

original composition. The introduction to the first book, written by the epitomizer Justin, indicates that the work is a translation of accounts by Greek authors on the history of Greece and of the rest of the world (§6). Trogus' work was lost, and has reached us only through Justin's epitome. Justin is otherwise unknown and probably wrote the summary during the second century C.E.<sup>2</sup> The *prologi* to Trogus' work are also still extant. They constitute summaries of the forty-four books, but their dating and authorship is disputed. In his introduction Justin declares that he omitted sections of Trogus' work which did not teach moral lessons or could not give pleasure to the reader. From a comparison between the *prologi* and the epitome, it appears that he omitted, *inter alia*, ethnographic and geographical descriptions that were of no interest to him. Here is the passage on the Dead Sea, text and translation:

**3.6** *In ea regione latus lacus est, qui propter magnitudinem aquae et immobilitatem Mortuum Mare dicitur. 3.7 Nam neque uentis mouetur resistente turbinibus bitumine, quo aqua omnis stagnatur, neque nauigationis patiens est, quoniam omnia uita carentia in profundum merguntur; nec materiam ullam sustinet, nisi quae lumine illustratur.*

**3.6** In the same region there is a wide lake, which is called, because of the magnitude and immobility of its water, the Dead Sea. **3.7** Indeed, it is neither agitated by the winds, for the bitumen which resists the whirlwinds keeps all the water still, nor does it allow navigation, since all that is deprived of life sinks to the bottom; nor does it sustain any material unless it glitters in the light.<sup>3</sup>

The transmission of the text does not present particular difficulties, except for the last two words. The reading of almost all the MSS., *lumine illustratur* ("glittering from the light"), was rejected by all the editors, who suggested various readings. Two of them, *alumine illustratur* ("glittering from the alum") and *alumine illinatur* ("coated with alum"),<sup>4</sup> do not make sense. Alum is a crystallized salt which naturally dissolves in water. It served in antiquity for the preparation of medicines and in the process of dyeing cloth (Pliny, *HN*, 35.52). This is probably why another correction, *bitumine illinatur* ("coated with asphalt"),<sup>5</sup> has been suggested. However, this emendation, adopted by most scholars, editors, philologists and translators, does not accord with the context: the sentence follows the explanation why navigating in the Dead Sea

<sup>2</sup> Proposed dates for Justin range from the second century (YARDLEY & HECKEL 1997 10-15; CAMERON 2011 755, 757-758) to the end of the fourth/beginning of the fifth century C.E. (SYME 1988 358-371; SYME 1992). The earlier dating is by far more convincing.

<sup>3</sup> As the sentence refers to metals in the light, "glittering" (or shining) for *illustratur* is more accurate than "lightening" or "glowing".

<sup>4</sup> See ARNAUD-LINET 2003, XXXVI.6, note 12.

<sup>5</sup> RUEHL 1884, p. 207.

is impossible – “since all that is deprived of life sinks to the bottom”. But asphalt was the common coating material used in the industry to prevent ships and boats from sinking. Another emendation – *incrustatur* (“incrusted”), is even more unacceptable.<sup>6</sup>

First of all, let us have a look at the reading of the manuscripts. The dozens of manuscripts at our disposal were divided by editors into three or four families. All the MSS. read *illustratur* (“glittering”); in three MSS. of the second family, we find the plural (*illustrantur*).<sup>7</sup> The reading *lumine* (“in light”) appears in all of them, save for one of the two sub-groups of the first family that reads *alumine* (“with alum”). The evidence of the manuscripts is thus unequivocal, and there is no justification for preferring the reading *alumine*. Both *lumine* and *alumine* are equally impossible. Accepting the reading *alumine* would mean that the water of the Dead Sea ‘sustains’ only materials “glittering from alum”. However, alum cannot affect the buoyancy of materials. As for the reading *lumine*, the text indicates that glittering materials do not sink at all in the Dead Sea, in contrast to other materials that do not glitter. But gold, for instance, the most famous of the glittering materials, carries an especially high density, and is therefore bound to sink in the Dead Sea.

As all the corrections suggested so far do not make sense, the next necessary step would be to try to trace Trogus’ source(s). It appears to us that it originated in a Greek adaptation of a passage by Hieronymus of Cardia on the Dead Sea. Hieronymus, who had been appointed by Antigonus Monophthalmus to organise the production of the asphalt in the Dead Sea (in his time, still called by Greeks the “Asphalt Lake”), wrote about the place as an eyewitness in the framework of his historical work on the Diadochi. Hieronymus’ work is lost, but his account of the Dead Sea has been partially preserved by Diodorus.<sup>8</sup> Here is the relevant sentence (19.99.3):

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<sup>6</sup> LEEP 1858 ad. loc.

<sup>7</sup> See surveys of the manuscripts: Seel 1972, pp. I–XVII, taken into account in the more recent ARNAUD-LINDET 2003, Introduction.

<sup>8</sup> There is no reason to doubt that Hieronymus was the only source for Diodorus Siculus’ two versions: Diodorus reports immediately after his account on the “Asphalt Lake” (100.1–2), that Antigonus Monophthalmus appointed Hieronymus as responsible for the region of the Asphalt Sea, for the preparation of proper watercraft, and for the collection of the asphalt. The “one source” theory that rightly prevails concerning the Diodorian accounts thus points to Hieronymus, who was also Diodorus’ sole source for the history of the successors in books 17–20 of the Historical Library, as his only source for the report on the “Asphalt Lake”. Moreover, one sentence from Hieronymus’ description of the lake survived through Florentinus, the second century C.E. Roman doxographer, in his book *De Aquis Mirabilibus* (see the fragment in GLAJJ, vol. I, no. 10). The wording is not exactly identical in Florentinus and Diodorus, but the contents are much the same and some expressions are common to both. Florentinus transmitted a compressed version while Diodorus preserved a rather detailed one. Finally, both Florentinus and Diodorus (according to the first version: 2.48.1) placed

This liquid (the heavy water of the Asphalt Lake) by its nature supports the weight of [every body] that has the power of growth or of breath, except for solids that have<sup>9</sup> a density close to that of silver and gold and lead, and the like; and even they (καὶ ταῦτα μὲν) sink much more slowly than [they do] when being cast into other lakes.<sup>10</sup>

A lacuna in the Diodorian version can easily be discerned: nothing is said about sinking in the lake or floating abilities of bodies that do not breathe or do not grow, or of materials that do not have a high density. It would be rather difficult to believe that Hieronymus of Cardia, the man in charge of the lake, whose main interest was in effectively exploiting its resources, passed over such important practical data. Diodorus is known to omit sentences and passages of decisive significance for understanding the narrative. To mention only one example from his report on the Dead Sea: a rather long passage is dedicated to asphalt production and related data in his version in book 19 of the *Historical Library* (19.99.1-2), whereas it is entirely absent in the parallel account in the second book (2.48.6-9). The elaborate sentence about silver, gold, etc. and their density indicates by itself that Hieronymus also referred in detail to other materials.

It stands to reason that Hieronymus referred to the buoyancy of other materials in the lake, immediately after mentioning “[every body] that has the power of growth or breath”. The word ἔξω (“except for”) preceded the detailed reference to the sinking materials. One would imagine that Hieronymus distinguished between wood-planks and metals, heavy and light materials, and there are also other possible differentiations. Be that as it may, the surviving sentence about the dense materials came at the end. Of these materials it was said that they all sink in the Dead Sea, in contrast to living beings and plants. At the end of the passage, after mentioning silver, gold etc., the reservation is made that even such high density materials sink in the Dead Sea more slowly than in other lakes.<sup>11</sup>

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the Asphalt Lake in the land of the Nabateans. In the days of Diodorus, the Dead Sea was included in the realm of Judaea, while at the period of the successors it had been within the borders of the Nabataeans.

<sup>9</sup> That is the right way to translate δοκεῖ...ἔχειν; there is no need for the comma that appears after στερεῶν in the Loeb edition.

<sup>10</sup> φύσει γὰρ τοῦτο τὸ ὑγρὸν παραδέχεται βάρος ὃ συμβαίνει μετέχειν αὐξήσεως ἢ πνεύματος, ἔξω τῶν στερεῶν ἃ τὴν πυκνότητα δοκεῖ παραπλησίαν ἔχειν ἀργύρῳ καὶ χρυσῷ καὶ μολύβδῳ καὶ τοῖς ὁμοίοις· καὶ ταῦτα μὲν πολὺ βραδύτερον καταφέρεται τῶν ἐν ταῖς ἄλλαις λίμναις ῥιπτουμένων.

<sup>11</sup> Here is a possible reconstruction: [...] ἢ πνεύματος, ἔξω τῶν [materials with a low density/weight and examples] [καὶ] τῶν στερεῶν ἃ τὴν πυκνότητα δοκεῖ παραπλησίαν ἔχειν ἀργύρῳ καὶ χρυσῷ καὶ μολύβδῳ καὶ τοῖς ὁμοίοις· καὶ ταῦτα μὲν πολὺ βραδύτερον κτλ.

It appears that the direct or indirect Greek source used by Pompeius Trogus had seen Hieronymus' full report, and his adaptation was translated by Trogus in the words *omnia vita carentia in profundum merguntur, nec materiam ullam sustinet, nisi quae lumine illustratur*—“all that is deprived of life sinks to the bottom (of the lake) and it (the lake) does not sustain any material unless it glitters”. *Omnia vita carentia* (“all that is deprived of life”) and *materiam ullam* (“not any material”) refer to all the materials that sink to the bottom of the lake mentioned by Hieronymus. The category “glittering in the light” refers to silver and gold, etc., that appeared separately in Diodorus' transmission of Hieronymus' passage.

According to Pompeius Trogus/Justin, the water thus “sustains” only materials glittering in the light. However it is hard to believe that reasonable authors, even if they were not gifted with a technical or scientific approach, meant to say that high density materials such as gold do not sink in the Dead Sea. It therefore appears that the word *sustinet* should be understood in the given context as “delays”, one of its other connotations. That is to say: glittering materials sink relatively slowly in the Dead Sea. The Greek source of Trogus probably used some form of the multivalent verb ἐρείδω.

The statement of the Greek source, as translated by Pompeius Trogus, would thus indicate that all materials (except for animals, human beings and growing plants) that do not glitter sink in the Dead Sea quicker than glittering materials (like silver and gold). This is still a mistake, but not so embarrassing as saying that gold and the like do not sink at all. And one has to remember that the author never visited the Dead Sea (as is evident from his other mistakes, especially the statement that there was no navigation on the Dead Sea). This is certainly a forgivable mistake in comparison to the statement of Josephus, who lived three years in the Dead Sea region, that humans float in the Asphalt Lake because the water is light (*BJ* 4.476). The mistake of Trogus' Greek source resulted from mere carelessness (cf. the phrasing of the delayed sinking),<sup>12</sup> temporary “blackout”, or from the absence of one of the particles or the like in the manuscript of Hieronymus used by the adaptor. Thus an omission of the καί (in this case “even”), that usually was abbreviated in the MSS., could have caused misunderstanding.

<sup>12</sup> The reader may find references to numerous examples of similar careless readings of previous research literature by a contemporary academic author in BAR-KOCHVA 1994. Modern scholars, when faced with sentences and internal contradictions in classical literature which do not make sense but which cannot be compared to their lost source, sometimes forget to draw the necessary conclusions from the low quality of reading and phrasing of certain contemporary writers to that of ancient historians. The occurrence of such statements in ancient literature seems to be by far more frequent than in modern scholarship because of the state of the manuscripts, the absence of research tools (e.g. indices) and other obvious obstacles.

Examination of the writings of the Greek source of Trogus exposes a similar, and even more astonishing mistake. In another paper we have shown that Timagenes of Alexandria was the only source of Trogus' Jewish ethnographic excursus, including the geographical accounts.<sup>13</sup> Now Strabo, in his survey of the wonders of India (15.1.57) says:

What is said by Timagenes is also a myth, that metal<sup>14</sup> drips (from the sky) in drops of metal, and (then) is swept away (by the rivers). However Megasthenes says something more trustworthy, (that) the rivers carry away gold-dust [...]<sup>15</sup>

Timagenes was certainly mistaken in understanding a statement by Megasthenes, the ambassador of Seleucus I at the Indian court, who was an inexhaustible source for Hellenistic authors. It would be a bit speculative to reconstruct the original text and thus to understand the reason for this ridiculous mistake; Strabo's testimony is delivered in indirect speech and presumably phrased in his own vocabulary. However, the mistake of Timagenes may well have originated in another statement by Megasthenes. Be that as it may, no wonder Timagenes of Alexandria interpreted the statement of Hieronymus as he did.

Conclusions and explanations concerning the wonders of the Dead Sea which raise eyebrows are to be found more than once in Greek and Roman literature. We have already mentioned Josephus' explanation for peoples' floating in the lake;<sup>16</sup> Pausanias (5.7.4) said that fish (coming from the Jordan) recoiled from entering the lake because living-beings did not sink but float on it; Pliny the Elder and Josephus, his contemporary, stated that the only way to cut bulks of asphalt was by pouring menstrual blood on them.<sup>17</sup> We would note that Timagenes' inclination to tell miracles and wonders is attested by Pseudo-Plutarch, *On Rivers* 6.1-3 (if the testimony indeed refers to Timagenes of Alexandria).

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<sup>13</sup> See BAR-KOCHVA 2015, ch. 6.

<sup>14</sup> The word *χαλκός* in this context seems to designate metals in general. The word, first applied to copper, was used for bronze and iron, and afterwards for metals by and large.

<sup>15</sup> μῦθος δὲ καὶ τὸ ὑπὸ Τιμαγένους λεχθὲν, [ὥς] ὅτι χαλκὸς ὕοιτο σταλαγμοῖς χαλκοῖς καὶ σύροιο. ἐγγυτέρω δὲ πιστεῶς φησιν ὁ Μεγασθένης, ὅτι οἱ ποταμοὶ καταφέρουσιν ψήγμα χρυσοῦ [...]

<sup>16</sup> Galen attributes this opinion to "the ancient sophists" and rejects it; see *GLAJJ*, vol.2, no. 381, ll .14-15.

<sup>17</sup> Pliny, *HN* 7.65; Josephus, *BJ* 4.480. Cf. Tacitus, *Hist.* 5.6.3, who actually does not accept it.

## BIBLIOGRAPHY

- ARNAUD-LINDET 2003  
M.-P. ARNAUD-LINDET, *Abrégé des Histoires Philippiques de Troge Pompée*, <http://www.forumromanum.org/literature/justin/trad36.html#3>, 2003, republished in 2004, *Bibliotheca Augustana*, [http://www.hs-augsburg.de/~harsch/Chronologia/Lspost04/Iustinus/ius\\_sige.html](http://www.hs-augsburg.de/~harsch/Chronologia/Lspost04/Iustinus/ius_sige.html) (site accessed on 9 July, 2014).
- BAR-KOCHVA 1994  
B. BAR-KOCHVA, "Judaism and Hellenism; Between Scholarship and Journalism" (Hebrew), *Tarbiz* 63 (1994), 451-480.
- BAR-KOCHVA 2015  
B. BAR-KOCHVA (with the participation of S. BINDER), *A Gallic-Roman Author on Jewish Origin, Customs and History* (Hebrew), *Tarbiz* 83 (2015), 337-400.
- BAR-KOCHVA & BINDER 2015  
B. BAR-KOCHVA & S. BINDER, "The Weird Information on the Dead Sea in the 'Philippic Histories' by Pompeius Trogus-Justinus" (Hebrew), *Cathedra* 158 (2015), 7-26.
- CAMERON 2011  
A. CAMERON, *The Last Pagans of Rome*, Oxford 2011.
- LEEP 1858  
JUSTUS LEEP, *Marcus Junianus Justinus, Gnaeus Pompeius Trogus*, Leipzig 1858.
- RUEHL 1884  
F. RUEHL, *M. Iuniani Iustini Epitoma historiarum Philippicarum Pompei Trogi*, Leipzig, 1884.
- SEEL 1972  
O. SEEL, *M. Iuniani Iustini Epitoma Historiarum Philippicarum Pompei Trogi*, Stuttgart 1972.
- SYME 1988  
R. SYME, "The Date of Justin and the Discovery of Trogus", *Historia* 37 (1988), 358-371.
- SYME 1992  
R. SYME, "Trogus in the *Historia Augusta*, Some Consequences", in: M. CHRISTOL, C. DEMOUGIN ET AL. (eds.), *Institutions, société et vie politique dans l'Empire romain au IV<sup>e</sup> Siècle ap. J-C*, Roma 1992, 11-20.
- YARDLEY & HECKEL 1997  
J.C. YARDLEY & W. HECKEL (eds.), *Justin, Epitome of the Philippic History of Pompeius Trogus, vol. 1, books XI-XII: Alexander the Great*, Oxford 1997.



# The Egyptians and the Greco-Romans



# Der Menschenraub im kaiserzeitlichen Ägypten\*

ANDREA JÖRDENS

Menschenraub oder gar “illegale(r) Menschenhandel”<sup>1</sup> zählten in der Kaiserzeit zu den am schwersten gewichteten Verbrechen, gegen die vorzugehen nach Ulpian zu den ersten Pflichten jedes *bonus et gravis praeses* gehörte.<sup>2</sup> So erscheint nur folgerichtig, daß die *πλαγιαρία* hinter Mord, Straßenraub und Giftmord gleich an vierter Stelle der Straftatbestände rangiert, die einer wohl auf Hadrian zurückgehenden Konstitution zufolge dem Statthalter zur Aburteilung vorbehalten blieben.<sup>3</sup> Aus dem kaiserzeitlichen Ägypten

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\* Für die Einladung zu dieser Festschrift, zu der beizutragen mir eine große Freude und Ehre ist, bin ich den Herausgebern zu größtem Dank verpflichtet. Rudolf Haensch habe ich für die kritische Durchsicht einer früheren Fassung zu danken. Die im folgenden erörterten Papyri stammen sämtlich, sofern nicht ausdrücklich anders angegeben, aus nachchristlicher Zeit und werden zitiert nach J. D. SOSIN u.a., *Checklist of Greek, Latin, Demotic and Coptic Papyri, Ostraca and Tablets* <<http://papyri.info/docs/checklist>>.

<sup>1</sup> So KRAUSE 2004, bes. 71 sowie eingehend 172 ff.

<sup>2</sup> Vgl. nur *Dig. 1.18.13pr.* (Ulp. 7 *de off. proc.*) *Congruit bono et gravi praesidi curare, ut pacata atque quieta provincia sit quam regit. Quod non difficile optinebit, si sollicitè agat, ut malis hominibus provincia careat eosque conquirat: nam et sacrilegos latrones plagiarios fures conquirere debet et prout quisque deliquerit, in eum animadvertere, receptoresque eorum coercere, sine quibus latro diutius latere non potest*; hierzu jetzt bes. NOGRADY 2006, 24 ff.

<sup>3</sup> So nach *SB XII 10929* (133-137), bes. Z. 11-26 Ὁ ἡγεμὼν διαγνώσεται· περὶ φόνου - περὶ ληστειῶν - περὶ φαρμακείας - περὶ πλῆγιαρίας - περὶ ἀπελατῶν - περὶ βίας σὺν ὄπλοις

lassen sich auf den ersten Blick hierfür indessen so gut wie keine Belege finden, wenn man den einschlägigen Nachschlagewerken traut. In ihrer grundlegenden Arbeit zur Sklaverei im griechisch-römischen Ägypten hatte etwa noch Iza Biezuńska-Małowist bemerkt: “L’Égypte romaine ne nous a même pas laissé de traces, ne serait-ce qu’aussi infimes que celles de la période ptolémaïque, de l’enlèvement de gens.”<sup>4</sup> Dies scheint nicht zuletzt der oft unscharfen Begrifflichkeit geschuldet, da das Griechische für derartige Verbrechen offenbar nie eine einheitliche Terminologie entwickelte, wie denn auch die erwähnte *πλαγιαρία* bislang ein *hapax legomenon* blieb.<sup>5</sup> Rafael Taubenschlag wiederum beließ es bei dem – mehrfach bekräftigten – Hinweis, daß das griechische und römische Konzept des Menschenraubs, genauer der attische *ἀνδραποδισμός* und die von Mommsen rekonstruierte “Anmassung des Herrenrechts (*plagium*)”,<sup>6</sup> zwar verwandt, aber keineswegs identisch seien.<sup>7</sup> Für die römischrechtliche Behandlung dieses Delikts ist jetzt immerhin auf die zusammenfassende Erörterung im *Corpus der römischen Rechtsquellen zur antiken Sklaverei* zu verweisen.<sup>8</sup> Da das Zeugnis der Papyri dabei notgedrungen ausgeblendet blieb, bietet es sich an, dieser Frage hier nochmals systematisch nachzugehen. Dies eröffnet zugleich die Gelegenheit,

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γεγεννημένης - (περὶ) πλαστογραφίας καὶ ῥαδιουργίας - [(περὶ) ἀ]γνησμένων [δι]αθηκῶν - (περὶ) ὕβρεως ἀνηκέστου - (περὶ) ὧν ἔαν μέμφονται οἱ ἐλευθερώσαντες ἀπελευθέρους ἢ γονεῖς παῖδ(ας) ‘Der Statthalter hat zu entscheiden: bei Mord - bei Straßenraub - bei Giftmord - bei Menschenraub - bei Viehdiebstahl - bei Gewaltdelikten, die mit Waffen geschehen sind - bei Fälschungen und Falschaussagen - bei (vorzeitigen) Öffnungen von Testamenten - bei schweren Persönlichkeitsverletzungen - bei Klagen von Freilassern über die Freigelassenen bzw. von Eltern über ihre Kinder’, mit der eingehenden Neuinterpretation von JÖRDENS 2011.

<sup>4</sup> BIEZUŃSKA-MAŁOWIST 1977, 14.

<sup>5</sup> Zu dem weiterhin nur in *SB* XII 10929.15 belegten Begriff eingehend LEWIS 1972, bes. 159 f. in der Ed. pr.

<sup>6</sup> So die Überschrift des entsprechenden Abschnitts bei MOMMSEN 1899, 780-783, bes. 780.

<sup>7</sup> So erstmals TAUBENSCHLAG 1930, 143 Anm. 1 = 1959, II 226 Anm. 21; entsprechend auch DERS. 1955, 72 Anm. 24 “analogous but non identical”; Vorbehalte gegen eine solche Gleichsetzung auch noch bei BIEZUŃSKA-MAŁOWIST 1977, 14 ff., bes. 15 mit Anm. 8; vgl. zudem auch noch die getrennte Behandlung im *Neuen Pauly* durch G. THÜR, DNP I (1996) 686 s.v. Andrapodistes bzw. Z. VÉGH, DNP 9 (2000) 1062 f. s.v. Plagium.

<sup>8</sup> So aus Anlaß einer neuen Zusammenstellung der Quellen in Original und Übersetzung HARKE 2013, zum hier in Rede stehenden Sachverhalt bes. 21 f. Daraus erweist sich zugleich, daß die Darstellung bei MOMMSEN 1899, 780, wonach “die Anmassung des Herrenrechts über den freien Peregrinen einschliesslich des Latiners oder den Sklaven eines Peregrinen nicht unter das Gesetz fiel”, bestenfalls für die Frühzeit anzunehmen, vor allem aber seine Folgerung “Den Menschenraub in den Provinzen wollte also das Gesetz nicht hindern, und also wurde es noch im 3. Jahrh. n. Chr. gehandhabt” (ebda. Anm. 7), durch nichts gerechtfertigt ist; hiernach aber offenbar auch noch Z. VÉGH, DNP 9 (2000) 1062 s.v. Plagium, wo es statt “Als Täter kommen röm. Bürger und Sklaven in Betracht” vielmehr “Freie und Sklaven” heißen sollte; vgl. im übrigen schon BELLEN 1971, 45 Anm. 319; zum kaiserzeitlichen Konzept auch NOGRADY 2006, 297. 299 ff.

das Phänomen des Aufeinandertreffens unterschiedlicher Rechtsvorstellungen in Ost und West, das dem Jubilar stets so sehr am Herzen lag, an diesem Gegenstand konkreter zu fassen.

Unabhängig von der Frage möglicher Diskrepanzen wird sich der Statthalter bei den vor ihm verhandelten Verfahren *περὶ πλαγιαρίας* an die Bestimmungen der römischen *lex Fabia de plagio* bzw. *de plagiaribus*<sup>9</sup> gehalten haben. Nach der jetzt maßgeblichen Darstellung durch Jan Dirk Harke bildete dieses noch auf republikanische Zeit zurückgehende Gesetz “das kriminalrechtliche Pendant zu den Privatklagen wegen Diebstahls und Sklavenkorruption ... Sein Tatbestand schließt ursprünglich den Kauf, das Verbergen oder die Fesselung eines freien Menschen oder eines fremden Sklaven ohne Einverständnis seines Eigentümers sowie in diesem zweiten Fall auch noch die Überredung des Sklaven zur Flucht ein ... Später wird der Anwendungsbereich dieses Gesetzes auch auf den Verkauf eines flüchtigen Sklaven ausgedehnt”.<sup>10</sup>

Von all dem sah Rafael Taubenschlag in den Papyri lediglich die “widerrechtliche Wegnahme von Sklaven” belegt, die ihm zufolge ein bloßer Sonderfall der βία sei.<sup>11</sup> Als Kronzeuge dafür diente ihm die zu Beginn des III. Jhdts. von einer Witwe beklagte, reichlich mysteriöse Entführung ihrer Sklavin, deren nähere Begleitumstände allerdings nur schwer zu fassen sind.<sup>12</sup>

<sup>9</sup> Zum Titel bes. BELLEN 1971, 45 mit Anm. 320.

<sup>10</sup> HARKE 2013, 21, bes. mit Bezug auf *Dig.* 48.15.16.2 (Call. 6 *de cogn.*, Text 281); *Coll.* 14. 3.5 (Ulp. 9 *de off. proc.*, Text 303); *PS* 5.30b, 1 (Text 294).

<sup>11</sup> So TAUBENSCHLAG 1916, 85 Anm. 3, mit dem ausdrücklichen Hinweis “für d. röm. Strafrecht, wo dieser Fall unter das *plagium* fiel, vgl. Mommsen a.a.O. S. 780”, zur βία allgem. 84-87; so auch noch DERS. 1955, 446 f. “The following fall under the heading of βία: ... (e) unlawful seizure of slaves”, mit Anm. 85 “for Roman imperial law which considers this case as *plagium* cf. Mommsen, *l.c.* 780; A. Berger, *Dictionary* 632 ff.” (= BERGER 1953, 632).

<sup>12</sup> So der zweite Klagepunkt in der nur als Entwurf vorliegenden Eingabe *P.Oxy.* VIII 1120 (frühes III. Jhd.), bes. Z. 13-20 Θώνις γὰρ ὢν κουράτωρ Σεύθου εἰσεπήδησεν εἰς τὴν οἰκίαν μου καὶ ἐτόλμησεν ἀποσπάσαι δούλην μου Θεοδόραν μὴ ἔχων κατ’ αὐτῆς ἐξουσίαν, ὥς ἐν παντὶ σθένει βίαν με σχεῖν ‘Denn Thonis, der *curator* des Seuthes, drang in mein Haus ein und wagte, obwohl er kein Recht über sie hat, meine Sklavin Theodora zu entziehen, so daß ich in voller Stärke Gewalt erleide’, wörtlich zitiert auch bei TAUBENSCHLAG 1916, 85 Anm. 3 sowie DERS. 1955, 447 Anm. 85; als *plagium* ebenso gewertet von RIESS 2001, bes. 390 Nr. 111. Opfer der βία ist hier unzweifelhaft die Herrin selbst, wobei die Gewalt in dem durch die Entziehung der Sklavin bewirkten widerrechtlichen Eingriff in ihre Eigentumsrechte bestand; irrig insofern KELLY 2011, demzufolge diese Petition wie auch der gleich zu besprechende *SB* XIV 11904 unter die wenigen Fälle zu rechnen sei, in denen “the person who suffered the wrong was a slave” (214, mit Anm. 24). Daß der Angreifer ausdrücklich als *curator* eines Seuthes bezeichnet wird, läßt darauf schließen, daß der Übergriff in Angelegenheiten des Mündels erfolgte, was zugleich die Verwendung des lateinischen *terminus technicus* erklären dürfte. In der frühen Kaiserzeit sonst vornehmlich in militärischem Kontext belegt, begegnet er gelegentlich doch auch andernorts wie etwa in *SB* XXIV 16256, 34 (117/18, mit Abschrift eines Vertrages vom 24. 7. 109), so daß allein hieraus noch kein Datierungskriterium – etwa in die Zeit nach 212 – abzuleiten ist.

Auch die sonst noch von ihm hierzu aufgeführten Belege haben mit diesem Text die Beschwerde über ein als unrechtmäßig empfundenes ἀποσπᾶν – das ‘Entziehen’ eines Lebewesens und den daraus folgenden Verlust der Verfügungsgewalt – gemein, so daß die Annahme berechtigt erscheint, daß die Einordnung sich aus dem Vorkommen dieses Wortes ergab.<sup>13</sup> Folgt man dieser Auffassung, ließen sich hierher inzwischen noch einige weitere Papyri stellen, wobei zwei dieser Texte aufgrund ihres fragmentarischen Zustandes kaum mehr Genaueres erkennen lassen. So geht aus der Verwaltungskorrespondenz unter Strategen lediglich hervor, daß mehrere Personen aus dem oxyrhynchitischen Koma im III. Jhdt. die Entführung und Verbringung der Nemesus in einen anderen Gau gemeldet hatten.<sup>14</sup> In dem Bruchstück eines Verhandlungsprotokolls aus der zweiten Hälfte des II. Jhdts. scheint neben anderen Straftatbeständen ebenfalls der Vorwurf einer ἀπόσπασις erhoben worden zu sein.<sup>15</sup>

Etwas klarer sehen wir immerhin im Fall der verwitweten Eudaimonis, Tochter des Zoilos, die sich um das Jahr 184 bei einem *centurio* über die Dorfältesten von Tebtynis wegen der Drangsalierung und Entführung ihrer Sklavin beschwert.<sup>16</sup> Wie sie selbst erklärt, hatten die Dorfältesten damit auf ihre Weigerung der Übernahme fremder Steuerschulden reagiert.<sup>17</sup> Daß sie

<sup>13</sup> Vgl. nur die vier in TAUBENSCHLAG 1955, 447 Anm. 85 genannten Belege. Im Gegensatz zu *P.Oxy.* VIII 1120 (frühes III. Jhdt.; dazu schon die vorige Anm.) und *P.Fam.Tebt.* 37 (4. oder 16. 3. 167, mit BL XII 113; dazu unten Anm. 18 mit Text) können allerdings weder die zur Feldarbeit eingesetzte Ziege aus *P.Stras.* II 118 (12. 11. 22, vgl. auch unten Anm. 21) noch *P.Ryl.* III 302 descr. (III. Jhdt.), der nach der Beschreibung “deals with wrongful seizure of property”, also wohl Immobilien, insoweit als einschlägig gelten.

<sup>14</sup> So offenbar *P.Oslo* III 82 (III. Jhdt.), vgl. bes. Z. 16 ἀπεσπ[α]κέναι Νεμεσο[ύ]ν μητέρα τοῦ [‘entführt zu haben Nemesus, die Mutter des ...’ sowie Z. 19 αὐ(?)τὴν ἀποσπασθεῖσαν ὑπὸ ‘daß sie entführt wurde von ...’. Über den Rechtsstatus der Nemesus ist in dem schmalen Bruchstück allerdings nichts weiter zu erfahren, so daß eine andere, etwa vertragliche Bindung zwar wenig wahrscheinlich, aber nicht grundsätzlich auszuschließen ist. Daß unter den Anzeigerstatern auch die gleichnamige Tochter des Papetebendes firmiert, dürfte hingegen bloßer Zufall sein.

<sup>15</sup> Vgl. nur *P.Stras.* IV 234.9 ὄντας τῷ ἀποσπασθέντι, wobei die sonst noch in Rede stehenden Straftatbestände – nach Z. 3 ἀπ[ο]σπᾶντες λε[ι], 4 ] . . . τὸν τὸν φονε[ι] offenbar Mord, dies nach Z. 7 ]υς ἀφῆρπασε [ möglicherweise in Tateinheit mit Raub – sicherlich schwerer wogen und deswegen wohl vorrangig behandelt wurden.

<sup>16</sup> Vgl. nur *SB* XIV 11904.11-15 ἀποσπάσαντες δούλην μου Σαραπιάδα, ἃ εἶχεν περίξ αὐτὴν ἱμάτια ἐβάσταξαν καὶ βίαν αὐτῇ πλεῖστην ἐποιήσαντο ‘indem sie meine Sklavin Sarapias entführten, die Kleider wegnahmen, die sie um sich herum hatte, und ihr massive Gewalt antaten’ (um 184). Ob die auffällig umständliche Formulierung zu den Kleidern nur die Dramatik erhöhen sollte oder an eine Mitnahme auch weiterer Kleidung aus dem Raum der Sklavin zu denken ist, bleibt unklar.

<sup>17</sup> So nach *SB* XIV 11904 (um 184), bes. Z. 3-8 sowie bes. Z. 10 f. μὴ ἀνεχ[ο]μένης δ’ ἐμοῦ ἐργολαβῆθαι ‘da ich mich aber nicht in die Pflicht nehmen ließ’. Zu dem im Sprachgebrauch der Papyri, namentlich im Petitionswesen häufig negativ konnotierten ἐργολαβία, das geradezu den Sinn von ‘Erpressung’ annehmen konnte, zuletzt P. SÄNGER, Einl. zu *P.Vet.Aelii* 9, bes. Anm. 6.

sich auf diese Weise gleichsam eine Art Pfand zu sichern suchten, um so den Druck auf ihre zahlungsunwillige Herrin zu erhöhen, legt auch der Vergleich mit einem fast 20 Jahre früheren Fall aus Tebtynis nahe, der insoweit besonders illustrativ erscheint. Hier hatten sich die beiden Söhne des Herakleios alias Valerius gleich an den Epistrategen gewandt, als zwei Brüder aufgrund von Forderungen gegen einen weiteren Sohn ihre Hand auf die von der Mutter ererbte Sklavin legten.<sup>18</sup> Die Wahl der Instanz dürfte sich vor allem daraus erklären, daß sie als Antinoiten das *privilegium fori* genossen und daher die Gegner vor das Gericht des Epistrategen ziehen konnten, wovon allein sie sich wohl erheblichen Vorteil versprochen. Wie sich später herausstellte, befanden sich freilich beide Seiten in einem Rechtsirrtum, da der dritte Sohn mit der gemeinsam ererbten Sklavin seine eigenen Geschäfte gemacht und sie letztlich allesamt hinters Licht geführt hatte.<sup>19</sup> Demnach spricht jedoch manches dafür, daß ein solcher, vielleicht auch nur temporärer Entzug der Verfügungsgewalt für die Sicherung von Ansprüchen eingesetzt werden konnte und dies womöglich sogar im Einklang mit den geltenden Regeln stand, sofern jedenfalls der korrekte Weg über den Strategen eingehalten wurde.<sup>20</sup>

Insofern steht eher in Zweifel, ob das von Taubenschlag als einschlägig betrachtete ἀποσπᾶν ‘wegholen’, ‘an sich nehmen’, ‘(aus einem bestehenden Rechtsverhältnis) entziehen’ tatsächlich die von ihm beanspruchte strafrechtliche Konnotation besaß. Zumal dieser vielfach verwendete Begriff in ganz verschiedenen Zusammenhängen begegnet, wird man ihn insgesamt für eher unspezifisch halten; klarer Aufschluß über den Charakter des Rechtsverhältnisses ist allein hieraus jedenfalls kaum zu erlangen.<sup>21</sup> Sachlich

<sup>18</sup> So *P.Fam.Tebt.* 37 (4. oder 16. 3. 167, mit BL XII 113), bes. Z. 12 f. βία ἀποσπάσαντες δίχα στρατηγού συνέσχον π[α]ρ[ε]ῖ αὐτοῖς ‘die sie mit Gewalt entführt hatten ohne (vorherige Genehmigung des) Strategen und bei sich festhalten’ sowie bes. Z. 18-21 mit der Bitte, ἀναπέμψαι αὐτοὺς ἔνθα εἰς τὴν Ἀντινόου πόλιν ἐπὶ τὴν σὴν τοῦ κυρίου διάγνωσιν περὶ ἧς ἐποιήσαντο βίας καὶ ἀπο[σ]πασμοῦ τῆς δούλης ‘sie (d.h. die Brüder) hierher nach Antinopolis zu senden vor dein, des Herrn, Gericht, wegen der von ihnen verübten Gewalttat und Entführung der Sklavin’; auch schon angeführt von TAUBENSCHLAG 1955, 447 Anm. 85, vgl. oben Anm. 13. Wie schon in den zuvor erörterten Fällen ist das Entführungsoffer eine Sklavin, womit die βία *pace* KELLY 2011, 230 f. Anm. 93 erneut ihren Herren geschehen ist, die entsprechend gemeinsam die Petition einreichen.

<sup>19</sup> Zu den Verwicklungen B. A. VAN GRONINGEN, Einl. zu *P.Fam.Tebt.* 40. Anders dagegen BIEZUŃSKA-MALOWIST 1977, 129 f., die diese Texte vor allem im Zusammenhang mit dem Gemeinschaftseigentum an Sklaven erörtert und – wohl kaum zu Recht – keine engeren Verbindungen zwischen den verschiedenen Sachverhalten gegeben sieht.

<sup>20</sup> In diese Richtung könnte immerhin das ausdrückliche δίχα στρατηγού in *P.Fam.Tebt.* 37.12 weisen, vgl. bereits die vorvorige Anm.

<sup>21</sup> Vgl. nur die regelmäßig in Ausbildungsverträgen begegnende Verpflichtung des Gewalthabers, den Lehrling nicht innerhalb der vertraglich vereinbarten Zeit vom Lehrherrn ‘abzuziehen’, mit BERGAMASCO 1995, bes. 117 f. Anm. 66; ebenso in Ammenverträgen hinsichtlich des davon betroffenen Kindes, mit M. MANCA MASCIADRI – O. MONTEVECCHI, Einl. zu *CPGr* I, bes. 25; vgl. zudem auch die

sehr viel besser begründet erschiene demgegenüber eine Berücksichtigung der Zeugnisse, die Taubenschlag im Zusammenhang mit den verschiedenen zu Unfreiheit führenden Faktoren erwähnt. Denn wie er vermerkt, bilde zwar “den normalen Entstehungsgrund der Sklaverei ... die Geburt von einer Sklavin”, doch könne durch das gewaltsame Handeln Dritter auch ein freigeborener Mensch in den Sklavenstatus geraten: “Der hauptsächlichste und wohl älteste Entstehungsgrund der Sklaverei ist die Kriegsgefangenschaft ... Auf Gewalt beruht auch die widerrechtliche Versklavung eines Freien, der aus den attischen Quellen bekannte ἀνδραποδισμός. Solche Versklavungen kommen schon in der ptolemäischen Epoche vor, werden aber auch später bis tief in die byzantinische Zeit gehandhabt.”<sup>22</sup>

Im Fall der widerrechtlichen Versklavung, der stets auch strafrechtliche Komponenten innewohnten, greift die von Taubenschlag vorgenommene Einordnung allein unter dem “Private Law”<sup>23</sup> freilich zu kurz. Durch die bloße Abstellung auf den – ggf. veränderten – Rechtsstatus drohen überdies so wichtige Momente wie die Frage der Täterschaft, aber auch möglicher daraus folgender Strafverfahren aus dem Blick zu geraten. Die Sicht der Römer, die bekanntlich jedwede Veränderung eines Rechtsstatus mit großer Anteilnahme, wenn nicht gar Argwohn verfolgten, wird mit hoher Wahrscheinlichkeit eine andere gewesen sein. Um so bemerkenswerter, daß Taubenschlag aus den ersten drei Jahrhunderten römischer Herrschaft über Ägypten kein einziges Beispiel dafür zu benennen wußte, ja die meisten der von ihm angeführten Belege erst aus dem VI. oder gar VII. Jhdt. datieren.<sup>24</sup> Noch unter den

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Selbstverpflichtung der leiblichen Eltern in dem unten in Anm. 32 erörterten Adoptionsvertrag *P.Oxy.* IX 1206 = *Sel.Pap.* I 10 = *FIRA* III 16 = *Jur.Pap.* 10 (3./4. 335), bes. Z. 12-14 ὥστερ οὐδὲ καὶ ἡμῖν τῷ τε Ἡρακλείῳ καὶ τῇ γυνεὶ Εἰσαρίῃ ἐξέστε (l. ἐξέσται) τὸν παῖδα ἀποσπᾶν ἀπὸ σοῦ τοῦ Ὁρίωνος διὰ τὸ ἀπαξιαπλῶς εἰς ὑποθεσίαν ἐκδεδωκέναι [σοὶ αὐτόν] ‘wie es auch uns, sowohl dem Herakleios wie auch seiner Frau Isarion, nicht möglich ist, das Kind abzuziehen von dir, dem Horion, da es dir ein für allemal zur Adoption herausgegeben worden ist’. Wie zudem aus *P.Stras.* II 118 (12. 11. 22) erhellt, können neben freien wie unfreien Menschen durchaus auch andere Lebewesen von einem solchen widerrechtlichen Entzug betroffen sein, vgl. nur Z. 8-13 ἀπέσπακεν ἐκ τῶν ἡμετέρων βοϊκῶν κτηνῶν αἰγα θήλειαν ... καὶ ἠνάγκασεν ἐργάσασθαι ἐν οἷς γεωργεῖ ἐδάφει ‘er entführte aus unserer Rinderherde eine weibliche Ziege ... und zwang sie, auf den von ihm bebauten Feldern zu arbeiten’.

<sup>22</sup> TAUBENSCHLAG 1930, 142 f. = 1959, II 225 ff., das letzte, ausführliche Zitat bes. 143 bzw. 226 f. Dabei sind die beiden zuletzt genannten Bedingungen dort als erste aufgeführt, während der Selbstverkauf, der Verkauf von Kindern, die Aufhebung vom Kehrthaus usw. noch folgen. Vgl. mit einer stärkeren chronologischen Differenzierung auch DERS. 1955, 72. 75; allgem. auch STRAUS 1988, 853 ff.; unter eingehender Erörterung des gesamten einschlägigen Quellenmaterials BIEZUŃSKA-MAŁOWIST 1974, 10-58 bzw. 1977, 13-42.

<sup>23</sup> So im ersten Abschn. A *The Law of Persons* (§§ 1-2) innerhalb von Kap. II *Private Law* in TAUBENSCHLAG 1955, 57-428 (§§ 1-50).

<sup>24</sup> Noch aus ptolemäischer Zeit, genauer vom Spätherbst 164 v. Chr. datieren die beiden Petitionsentwürfe *UPZ* I 3 und 4 = *C.Ptol.Sklav.* 83, deren Einordnung allerdings umstritten ist, vgl.

Tetrarchen sind indessen drei Texte entstanden, die diesbezüglich nähere Betrachtung verdienen.

Das früheste von Taubenschlag aufgelistete Zeugnis aus nachptolemäischer Zeit unterrichtet dabei gleich über den vielleicht eklatantesten Fall von Menschenraub in den Papyri. In seiner bei dem *praeses Thebaidos* Satrius Arrianus eingereichten Petition führt Syros, Sohn des Petechon aus Kysis im Frühjahr 307 beredete Klage gegen eine benachbarte Familie, die er der Entführung und Versklavung seiner Frau und Kinder beschuldigt; eindringlich hebt er dabei ihren Status als Freie hervor.<sup>25</sup> Lange Zeit war dies der einzige Beleg in den Papyri geblieben, in dem das Delikt als ἀνδραποδισμός gekennzeichnet wurde.<sup>26</sup> Der Begriff kehrt nunmehr jedoch in der knapp 20 Jahre späteren Anzeige eines hermopolitischen Rats Herrn wieder, der im Jahr 326 bei den beiden σύνδικοι πόλεως den seinem Sklaven gebotenen Unterschlupf anzeigt.<sup>27</sup> Danach hatte Hermes, Sohn des Isidoros, den bereits mehrfach geflüchteten Sklaven nicht nur wiederholt bei sich aufgenommen, sondern ihn zuletzt auch noch zu einem nächtlichen Raubzug angestiftet, weswegen die Sache jetzt endgültig dem Statthalter – hier dem *praeses*

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nur R. SCHOLL ebda. im Komm. Bereits unter den Tetrarchen entstand der sogleich zu erörternde *P.Grenf.* II 78 = *MChr* 63 = *P.Lond.* III 718 descr. (2./3. 307), während der inzwischen als *SB XVIII* 13274 wiederabgedruckte *P.Cair.Masp.* I 67089 = III 67294 in das erste Drittel, *P.Oxy.* XVI 1837 in das frühe VI. Jhdt. gesetzt werden; keine nähere Angabe findet sich zu der an einen alexandrinischen Bischof gerichteten Rechtsschutzbitte *SB III* 6097 (byz. Zeit), doch dürfte eine Datierung noch in das IV./V. Jhdt. wohl auch aus stilistischen Gründen ausscheiden. So auch schon notiert von BIEZUŃSKA-MALOWIST 1977, 14 ff., die insoweit jegliche Kontinuität verneint; vgl. auch DIES., 1984, 67 f.; STRAUS 1988, 856.

<sup>25</sup> *P.Grenf.* II 78 = *MChr* 63 = *P.Lond.* III 718 descr. (2./3. 307), vgl. bes. Z. 9-13 καὶ τοὺς προκειμένους σύμβιον [τ]ε καὶ παῖδας ἐμοὺς εἰς τ]ήν ἐαυτῶν ἐσ[τ]ίαν καθείρξαν, δοῦλοι[ν] ζυγὸν ἔλευ[θ]έροις προσάπτοντες, ὧν ἅπαν μὲν [πέφυκεν ἐλ]εύθερον, ἐλεύθεροι δὲ νῦν περίεσι συγγε[νεῖς ἀ]δελφοί ‘und sie sperrten meine vorgenannte Frau und die Kinder an ihrem Herd ein, indem sie Freien ein Sklavenjoch auferlegten, wovon doch ein jeder als Freier geboren war, dazu auch jetzt verwandte Brüder als Freie leben’; auszugsweise zitiert auch bei TAUBENSCHLAG 1930, 143 Anm. 4 = 1959, II 227 Anm. 24; knapp hierzu auch BIEZUŃSKA-MALOWIST 1977, 15, die sich allerdings gegen eine Einbeziehung dieses Textes wendet, da “il semble qu’il s’agit non pas de l’enlèvement d’hommes libres aux fins de leur vente, mais d’une tentative de démontrer que les victimes du rapt ont le statut d’esclaves”.

<sup>26</sup> So nach *P.Grenf.* II 78 = *MChr* 63 (2./3. 307), bes. Z. 24-28 mit dem Ergänzungsvorschlag von U. WILCKEN zu *MChr* 63, 27 f. τ]ῆς ἐπὶ τοῦ ἀρχάντου σου [δικαστ]ηρίου κρ[ι]άσεως . . . . .] ἡ τὴν καταφυγὴν ποι[ο]ύμενος ἀποδείξω [τοὺς ἐξ ἐν]αντίας τήν τε κατ’ ἐμοῦ [ἐπ]ήριαν] καὶ τοῦ γέν[ους] τὸν παρὰ νομον ἀνδραποδισμὸν ‘indem ich zur ... Entscheidung vor deinem unverletzlichen Gericht Zuflucht nehme, werde ich aufzeigen die (oder besser: das Verhalten?) auf der Gegenseite, sowohl mir gegenüber den Übergreif wie auch meiner Familie (gegenüber) den widerrechtlichen Menschenraub’; vgl. auch schon TAUBENSCHLAG 1930, 143 Anm. 2 = 1959, II 227 Anm. 22; KRAMER 1987, 145, bes. Anm. 6.

<sup>27</sup> *SB XVIII* 14056 = *P.Stras.* IV 296 recto (19. 11. 326), bes. Z. 9. 15. 18 sowie verso, 6 (29. 11. 326), die genauen Zitate in den beiden folgenden Anm.; hierzu auch die ausführliche Erörterung in der Ed. pr. von KRAMER 1987.

*Thebaidos* Valerius Victorianus – zur Kenntnis zu bringen sei.<sup>28</sup> Wie das auf der Rückseite erhaltene Schreiben belegt, sind die Adressaten dieser Bitte zehn Tage später auch nachgekommen.<sup>29</sup>

Daß die Aufnahme eines fremden Sklaven schon im hochkaiserzeitlichen Ägypten als Straftat gewertet wurde, geht aus den Bemühungen des oxyrhynchitischen Strategen um die Auffindung eines Mannes hervor, der um das Jahr 128 aus diesem Grund festgesetzt, unterdessen aber verschwunden war. Wie der gynaikopolitische Amtskollege in seiner knappen Antwort auf die Bitte um Unterstützung erkennen läßt, hatte sich der Strategie dabei auf das Allernötigste, nämlich den konkreten Schuldvorwurf der *ὑποδοχὴ δούλου* beschränkt, ohne auf sonstige Details einzugehen oder gar eine strafrechtliche Bewertung vorzunehmen.<sup>30</sup> In jedem Fall ordnet sich die diesbezügliche Korrespondenz bestens in die Verfahrenswege ein, die für gauübergreifende Fahndungen nach geflüchteten Liturgen und Straftätern entwickelt wurden.<sup>31</sup>

Als Beleg für die “widerrechtliche Versklavung eines Freien” führt Taubenschlag schließlich noch die im Frühjahr 335 geschlossene Übereinkunft der leiblichen Eltern des Patermuthis mit Aurelius Horion über die Adoption ihres zweijährigen Sohnes an. Genauer geht es darin vielmehr um die Abgrenzung von einem solchen Verhalten, da sich Horion ausdrücklich

<sup>28</sup> Vgl. nur *SB XVIII* 14056 = *P.Stras.* IV 296 recto, 5-7 *ὑπάρχει μοι δοῦ[λος Εὐ]τύχι[ος] ὄν[ομα], ὃς πολλάκις ἠνδραποδίσθη ὑπὸ Ἑρμοῦ Ἰσιδώ[ρου] ‘Es gehört mir ein Sklave namens Eutychios, der häufig durch Hermes, Sohn des Isidoros zum Opfer von Menschenraub wurde’; Z. 9 οὐτὲ (l. οὐδὲ) βούληθεις ἀπ[ὸ τοῦ] ἀνδραποδισμοῦ ἐνκλημα αὐτῷ ἐπάγειν ‘aber ohne den Wunsch, Klage wegen Menschenraubs gegen ihn zu erheben’, und bes. das Petitum in Z. 14-17 *ὑπὲρ τοῦ μὴ ἀνεκδίχῃτον γενέσθαι τὸν ἀνδραποδισμὸν καὶ τὴν σύλησιν ἐπιδίδωμι τάδε τὰ βιβλία αἱξίων διὰ τῆς ὑμῶν πί[στι]σεως εἰς γνώσιν τοῦ κυρίου μου τοῦ διασημο[τάτου] ἡγεμόνος Οὐαλερίου Οὐικτωριανοῦ ἀνενεχθῆναι ‘damit der Menschenraub und die Plünderung nicht ungeahndet bleibe, reiche ich diese Eingabe ein und ersuche darum, sie durch eure Treue zur Kenntnis meines Herrn, des Statthalters Valerius Victorianus, vir perfectissimus, zu bringen’ (19. 11. 326).**

<sup>29</sup> So der Begleitbrief in *P.Stras.* IV 296 verso (29. 11. 326), vgl. bes. Z. 4-6 *τῶν δοθέντων ἡμῖν βιβλίων* *ὑπὸ Διδύμου Ἑρμίνου βου(λεντοῦ) τῆς ἡμετέρας πόλεως κατὰ Ἑρμοῦ Ἰσιδώρου ... ὡς ἀνδραποδίσαντος νυκτὸς τῆς κβ τοῦ ὄντος μην(νὸς) Ἀθὺρ δούλον ὄνο(μα) Εὐτύχιον ‘von der uns von Didymos, Sohn des Herminos, einem Ratsherrn unserer Stadt, eingereichten Eingabe gegen Hermes, Sohn des Isidoros ..., da er in der Nacht des 22. des gegenwärtigen Monats Hathyr einen Sklaven namens Eutychios zum Opfer von Menschenraub gemacht hat’.* Obwohl die zahlreichen Streichungen hier an einen bloßen Entwurf denken lassen könnten, dürfte die Eingabe nach dem Registrierungsvermerk in Z. 18 f. tatsächlich einem *officialis* des Statthalterbüros in Antinoupolis ausgehändigt worden sein.

<sup>30</sup> Vgl. nur *P.Oxy.* XII 1422 (um 128) mit der Antwort des gynaikopolitischen Strategen, die die entsprechende Bitte um Unterstützung bei der landesweiten Suche wohl wörtlich zitiert, in Z. 6-8 *Ἀχιλλεὺς ὃν ἐδήλωσας [ἐγκεκλήσθαι] ὑπὲρ ὑποδοχῆς δούλου ‘Achilleus, den du wegen der Aufnahme eines Sklaven als eingekerkert bekanntgegeben hast’.* Die bloße Angabe von Schuldvorwurf und Namen war dabei das Übliche, wie auch die große Akte mit Suchanfragen *P.Oxy.* LX 4060 (6./7. 161) zeigt.

<sup>31</sup> Hierzu jetzt JORDENS 2010, bes. 349.

verpflichtet, das Kind zu seinem Erben zu machen und es vor allem weder zu verstoßen noch in die Sklaverei zu führen.<sup>32</sup> Der hierfür verwendete Terminus δουλᾱγωγία ‘Führung (eines Freien) in die Sklaverei’ hätte Taubenschlag allerdings aufhorchen lassen müssen. Denn er begegnet auch in einem der berühmtesten Fälle der juristischen Papyrologie, dem Rechtsstreit des Webers Tryphon und seiner Frau Saraeus mit ihrem ehemaligen Dienstherrn Pesuris bzw. Syros aus Oxyrhynchos, von dem wir aus einem Verhandlungsprotokoll vor dem Strategen wie einer Eingabe Tryphons an den Präфекten Cn. Vergilius Capito wissen.<sup>33</sup>

Danach hatte Pesuris mit Saraeus einen Ammenvertrag geschlossen, um einen ausgesetzten Säugling als Sklaven aufzuziehen,<sup>34</sup> nach dessen Tod das gemeinsame Kind der beiden als Ersatz gefordert<sup>35</sup> und sich bereits des Kindes

<sup>32</sup> So im Rahmen der Strafklausel *P.Oxy.* IX 1206 = *Sel.Pap.* I 10 = *FIRA* III 16 = *Jur.Pap.* 10 (3 J4. 335), bes. Z. 10-12 καὶ οὐκ ἐξέστε (l. ἐξέσται) μοι τοῦτον ἀπώσασθαι οὔτε εἰς δουλᾱγωγείαν ἄγειν διὰ τὸ εὐγενὴ αὐτὸν εἶν[α] καὶ ἔξ εὐγενῶν γονέων ἐλευθέρων ‘und weder wird es mir möglich sein, diesen zu verstoßen noch in die Versklavung zu führen, da er von guter Abkunft ist und von freien Eltern von guter Abkunft’, mit TAUBENSCHLAG 1930, 143 Anm. 4 = 1959, II 227 Anm. 24; zu der umgekehrten Verpflichtung der Eltern, das Kind ihrerseits nicht ‘abzuziehen’, schon oben Anm. 21. Hierzu auch BIEZUŃSKA-MAŁOWIST 1977, 16, die sich mit guten Gründen gegen die These eines Verkaufs ausspricht.

<sup>33</sup> Vgl. nur *P.Oxy.* I 37 = *CPGr* I 19 = *MChr* 79 = *Sel.Pap.* II 257 = *FIRA* III 170 = *Jur.Pap.* 90 = *P.Lond.* III 746 descr. (29. 3. 49) sowie *P.Oxy.* I 38 = *MChr* 58 (49/50) mit BISCOTTINI 1966, wo auch die sonstigen Texte dieses ‘Archivs’ zusammengestellt sind; hier bes. 233 ff. Nr. 23 bzw. 237 f. Nr. 24, ein Doppel des letzteren jetzt auch in dem fragmentarischen *P.Oxy.* LXXVIII 5175. Zu Tryphon zuletzt auch KELLY 2011, 131 ff. 312 ff., zu der hier in Rede stehenden Angelegenheit – wiewohl unter anderem Aspekt – bes. 314 ff.

<sup>34</sup> Zu der in Ägypten üblichen Praxis, wonach “als Sklave ... auch das vom Kehrlichthausen aufgehobene Kind behandelt (wird)”, TAUBENSCHLAG 1930, 146 = 1959, II 230 f., vgl. auch DERS. 1955, 74. Die hierauf folgende Feststellung “Den Bestimmungen des Gnom(on des Idios logos) entspricht dies freilich nicht” (146 bzw. 231) trifft allerdings nicht zu, da die von ihm dazu angeführten § 41 und 107 (*BGU* V 1210.115 f. bzw. 239 f.; nach 149) nichts zur Frage des Rechtsstatus des Kindes beitragen, sondern lediglich festlegen, daß von dem Vermögen dessen, der ein ausgesetztes männliches Kind an sich nimmt – ob Ägypter, wie nach § 41, oder nach § 107 offenbar allgemein –, nach seinem Tod ein Viertel eingezogen wird. Zumal in § 41 ausdrücklich von Adoptionen die Rede ist (ἐὰν ... ἐκ κοπρίας [ἀν]έλῃται παῖδα καὶ τοῦτον υἱοποιήσῃται, Z. 115), dürfte dies vielmehr gerade als Freie aufgezogene Findelkinder und nur diese betreffen; so auch bereits W. Graf UXKULL-GYLLENBAND, Komm. zu *BGU* V, Teil II 54 ff., demzufolge die – üblichere – Aufzucht als Sklave davon unberührt bleibt, da dies keinerlei erb- und vermögensrechtliche Auswirkungen zeitige; ebenso auch BIEZUŃSKA-MAŁOWIST 1977, 22 f. Anm. 31, zu der Praxis der Kindesaussetzung allgem. 21 ff., wonach die einschlägigen Dokumente aber eben “témoignent plutôt que les enfants trouvés ... étaient promis à l’esclavage et non à une existence libre” (23).

<sup>35</sup> So nach der offenbar auch hier in den Ammenvertrag aufgenommenen sog. Unsterblichkeitsklausel, die für den Todesfall die Gestellung eines gleichwertigen Säuglings durch die Amme vorsah; hierzu grundlegend weiterhin HERRMANN 1959, bes. 494 ff. Seine Behauptung “Diese Beschaffung stellte die Amme keineswegs vor eine besonders schwierige Aufgabe” (497) wird man allerdings als allzu optimistisch ansehen dürfen, da, wie gerade auch der vorliegende Fall hinreichend deutlich macht, daraus durchaus gravierende Probleme für die Amme erwachsen konnten, sofern der Gewalthaber des Sklavenkindes sich an dem leiblichen Kind der Amme schadlos zu halten gewillt war.

versichert. Saraeus war es indessen gelungen, ihren Sohn in einer beherzten Aktion wieder an sich zu bringen, woraufhin Pesuris vor dem Strategen Klage auf Erfüllung des Ammenvertrags erhob. Obwohl Pesuris immer wieder auf die vorliegenden Dokumente pocht,<sup>36</sup> fiel die Entscheidung nicht in seinem Sinne aus. Ohne mit nur einem Wort auf das Vorbringen der Parteien oder auch ihr bisheriges Verhalten in dem Streitfall einzugehen, spricht der Stratege das Kind aufgrund seiner Ähnlichkeit mit Saraeus der Amme zu, verurteilt sie allerdings zur Rückgabe des dafür empfangenen Ammenlohns.<sup>37</sup>

Daß der Frage der Ähnlichkeit derart ausschlaggebende Bedeutung zukam, ist nicht etwa auf besondere Sympathien für den Familienzusammenhalt zurückzuführen,<sup>38</sup> sondern auf die dadurch zugleich getroffene Aussage über den Status des Kindes, insofern nämlich das mutmaßlich leibliche Kind einer freien Amme ebenfalls freigebohren war.<sup>39</sup> Sollte sich in einem

<sup>36</sup> Vgl. nur *P.Oxy.* I 37, wobei außer Pesuris' Anwalt Aristokles (Z. 4-21) auch ein sonst nicht weiter bezeichneter Theon auftritt (Z. 27 f.). Namentlich in Hinblick auf die in jedem Fall erklärungsbedürftige Formulierung in Z. 8 f. ἐγένετο ἐνθάδε ἡ τροφεὶς εἰς υἱὸν τοῦ Πεσοῦριος 'es ist hier der Ammenvertrag gegenüber dem Sohn des Pesuris erfolgt' war zuletzt eine lebhaft diskutierte Frage, wer dieser sonst nirgends erwähnte Sohn des Pesuris sei, vor allem aber, ob etwa auch der Vertrag als solcher in seine Hand gelangt sei. Was letzteres betrifft, hat HAGEDORN 1998 entgegen der von WÖRSTL 1996 zustimmend referierten Meinung, daß sich dies "to physical possession of the document in question" beziehe (69), inzwischen schlüssig darlegen können, daß diese Wendung lediglich diejenige Vertragspartei beschreibt, die in den zumeist einseitig formulierten Vertragstexten der erklärenden gegenübersteht und hiermit ggf. ihre Zustimmung signalisiert. Nach wie vor rätselhaft erscheint jedoch der Bezug auf den so unmittelbar auftretenden Sohn, weswegen VAN MINNEN 1996, 119 Nr. (8) ihn in eben dem fraglichen Theon hatte erkennen wollen, während die früheren Identifikationsversuche ihn zumeist auf der Seite der Saraeus verorteten; so etwa – wiewohl unter Zurückweisung der Annahme, daß es sich dabei, wie anfangs häufiger vermeint, um den Mann der Saraeus handeln könne – P.M. MEYER, Einl. zu *Jur.Pap.* 90, aber auch noch erwogen von M. MANCA MASCADRI – O. MONTEVECCHI, Komm. zu *CPGr* I 19.27.

<sup>37</sup> Vgl. nur die in *P.Oxy.* I 37.29-36 wiedergegebene Entscheidung des Strategen Ἐπεὶ ἐκ τῆς ὁψεως φαίνεται τῆς Σαραεύτος εἶναι τὸ παιδίον, ἐὰν χειρογραφῇσιν αὐτῇ τε καὶ ὁ ἀνὴρ αὐτῆς ἐκείνο τὸ ἐνχειρισθὲν αὐτῇ σωματίον ὑπὸ τοῦ Πεσοῦριος τετελευτηκέναι, φαίνεται μοι κατὰ τὰ ὑπὸ τοῦ κυρίου ἡγεμόνος κριθέντα ἀποδοῦσαν αὐτὴν ὃ εἰληφεν ἀργύριον ἔχειν τὸ ἴδιον τέκνον 'Da vom Aussehen her das Kind das der Saraeus zu sein scheint – wenn sie und ihr Mann beschwören, daß jenes ihr von Pesuris übergebene Sklavenkind gestorben sei, dann scheint mir nach den Entscheidungen unseres Herrn Statthalters (richtig), daß sie, indem sie das Geld, das sie empfangen hat, zurückgibt, ihr eigenes Kind behalten kann'. Die Frage, wie weit das Vorgehen der Saraeus vom Recht gedeckt war, wurde dem offenbar untergeordnet und bleibt letztlich ungeklärt; entgegen TAUBENSCHLAG 1959, II 138, vgl. auch 148 ist allein hieraus jedenfalls nicht auf ein elterliches Recht zur Selbsthilfe zu schließen, wonach "they can namely take away a child, wherever it is, with them".

<sup>38</sup> So möglicherweise aber angenommen von BISCOTTINI 1966, 234 in der Einl. zu dem von ihr wiederabgedruckten *P.Oxy.* I 37, vgl. auch oben Anm. 33.

<sup>39</sup> Insofern zutreffend mit der Einordnung als "Statussache" bereits SEIDL 1965, 325; vgl. etwa auch ROWLANDSON 1998, 112-118, bes. 117 in der Einl. zu Nr. 91. Ohne Berücksichtigung der statusrechtlichen Problematik dagegen ANAGNOSTOU-CANAS 1991, die von einem "dilemme quasi-salomonien" (28) spricht und die Lösung lediglich als "transaction opérée dans l'intérêt des deux

solchen Fall der Gewalthaber durchsetzen, drohte ein freigeborenes Kind zum Sklaven zu werden, weswegen sein Anspruch ohne jede weitere Prüfung zwingend abzuweisen war. Man wird kaum fehlgehen in der Annahme, daß eben dies auch der Tenor der statthalterlichen Gerichtsurteile war, auf die sich der Strategie ausdrücklich beruft und die ihm als Präzedenzfall dienten.<sup>40</sup> Damit haben wir es, anders als von der Partei des Pesuris und auch noch von Teilen der modernen Forschung vermeint, freilich nicht mehr mit einer rein privatrechtlichen Angelegenheit zu tun.<sup>41</sup> Tryphon hatte dagegen sogleich begriffen, welche Chance sich hiermit bot, da er bei den neuerlichen Aktivitäten des Pesuris gleich direkt den Präfekten angeht und, ob zu recht oder nicht, dabei die versuchte δουλαγωγία ins Zentrum der Eingabe stellt.<sup>42</sup>

Ein durchaus vergleichbarer Fall ist nach der überzeugenden Interpretation von Orsolina Montevicchi bereits in dem aus augusteischer Zeit datierenden Entwurf einer Eingabe zu greifen, mit der sich ein lykopolitisches Ehepaar im Jahr 5 v. Chr. in verzweifelter Lage an den Präfekten C. Turranius

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parties" (29) beschreibt.

<sup>40</sup> So nach in *P.Oxy.* I 37.33 f. κατὰ τὰ ὑπὸ τοῦ κυρίου ἡγεμόνος κριθέντα, woraus schon SEIDL 1965, 325 f. auf ein "Präjudiz des Präfekten in einer gleichartigen Sache" schloß (= DERS. 1968, 209 f.); vgl. auch zuletzt KELLY 2011, 314 Anm. 127, der sich allerdings der von GRADENWITZ 1900, 13 f. begründeten und seither herrschenden Meinung anschließt, wonach dies "auf die formelähnliche Instruktion des Präfekten an den Judex pedaneus" (so L. MITTEIS, Einl. zu *MChr* 79) zu beziehen sei; vgl. außer der eingehenden Erörterung durch BOULARD 1906, 58-70 etwa auch P. M. MEYER, Einl. zu *Jur.Pap.* 90 (hier auch die ältere Lit.) sowie in neuerer Zeit nochmals ANAGNOSTOU-CANAS 1991, 27 ff., bes. 29 mit einer im Anschluß an GRADENWITZ 1900, 14 rekonstruierten statthalterlichen *subscriptio* in Übersetzung, vgl. auch 174. Auf das damit berührte, sehr viel allgemeinere Problem der jurisdiktionellen Kompetenzen des Gaustrategen ist an dieser Stelle freilich nicht einzugehen. Hingewiesen sei lediglich darauf, daß abgesehen davon, daß von einer solchen früheren Behandlung seitens des Statthalters in den sorgfältig gesammelten und offensichtlich vollständigen Unterlagen Tryphons nirgends die Rede ist, das Verfahren demnach in Abwesenheit der Betroffenen hätte geführt sein müssen, wofür sich im gesamten Quellenmaterial keinerlei Anhaltspunkte finden. Auch Tryphons Bezug auf das ἀκολούθως τοῖς ὑπὸ σοῦ τοῦ εὐεργέτου προστεταγμένους 'entsprechend den von dir, dem Wohltäter, [getroffenen] Verfügungen' ergangene Urteil des Strategen, den er in seine Petition an Cn. Vergilius Capito *P.Oxy.* I 38.13 f. einbaut, reicht insoweit nicht aus, da dies vielmehr auf eine allgemeine Anordnung des Präfekten zu derlei Fällen verweist. Dabei läßt die gleich zu besprechende Parallele des lykopolitischen Ehepaars aus *BGU* IV 1139 (nach dem 28. 10. 5 v. Chr.) erkennen, daß solche Auseinandersetzungen keineswegs selten waren.

<sup>41</sup> So zuletzt noch ANAGNOSTOU-CANAS 1991, 27 ff., bes. 28 f.; wohl aus diesem Grund ist der Fall in TAUBENSCHLAG 1916 denn auch übergangen (bei dem Verweis auf 93 Anm. 3 liegt offenkundig ein Druckfehler vor).

<sup>42</sup> Zu den – teilweise diffusen – Vorwürfen bes. *P.Oxy.* I 38.9 f. τοῦ Σύρου ἐπαχειρηκότος ἀποσπάσαι εἰς δουλαγωγία[v] τὸν ἀφήλικά μου υἱὸν Ἀπίωνα, ἀλλὰ καὶ καταργούντος με χειροτέχων ὄντα 'da Syros versuchte, meinen unmündigen Sohn Apion in die Sklaverei zu entführen, aber mich auch außer Wirksamkeit setzte, der ich Handwerker bin'; vgl. jedoch auch Z. 15-17 τοῦ δὲ Σύρου μὴ βουλομένου ἐνμείναι τοῖς κεκριμένοις 'da Syros sich nicht an die Entscheidung (sc. des Strategen, ὅφ' οὗ καὶ ἀποκατεστάθην μοι ὁ υἱὸς Ἀπίων 'von welchem mir mein Sohn Apion überlassen wurde' [Z. 12 f.]) zu halten gedenkt'.

wendet.<sup>43</sup> Soweit sich der Sachverhalt aus den sehr emotional geprägten Ausführungen rekonstruieren läßt, hatten sich Spinther und Apollonion wohl aus wirtschaftlicher Not nach Alexandria begeben und dort zum Abschluß eines Ammenvertrags bewegen lassen, durch den ihre kleine Tochter zumindest zeitweilig in die Obhut eines alexandrinischen Haushalts kam. Ob ihnen erst später klar wurde, daß sie damit eine Aufzucht als Sklavin riskierten, oder ob sie von der Vereinbarung zurückgetreten waren, weil sich ihre Situation inzwischen fühlbar verbessert hatte,<sup>44</sup> bleibt unklar, doch hatten sie vor dem alexandrinischen Gerichtsnotariat eine Auflösung des Vertrages erlangt. Allerdings hatte es die Gegenpartei verstanden, sich sowohl der hierüber ausgefertigten Urkunde wie auch ihrer Tochter zu bemächtigen, die nunmehr schon fünf Monate weggesperrt sei, so daß sie sich jetzt zu einem Gerichtsverfahren genötigt sähen.<sup>45</sup>

Während sich die Situation von Tryphon und Saraeus alles in allem trotz der drohenden Wiederaufrollung des Verfahrens verhältnismäßig komfortabel darstellte, befand sich das lykopolitische Ehepaar in einer ungleich bedrückenderen Lage, so zumal nach dem Verlust des Auflösungsvertrags. Ähnliches galt offenbar für Thaisis, Tochter des Horos, aus der Kleinen Oase, die Mitte der 40er Jahre mitsamt ihrem älteren Sohn von mehreren Kindern eines Seuthes in die Sklaverei geführt worden war. Zwar ist von ihrer diesbezüglichen Eingabe nurmehr der Eingangssatz erhalten, doch ist daraus zu erfahren, daß sie bereits den früheren Präfekten M. Heius deswegen angegangen war und jetzt noch einmal C. Iulius Postumus um Hilfe bittet.<sup>46</sup> Daß es Thaisis in ihrer Lage überhaupt gelingen konnte, sich an zwei

<sup>43</sup> Vgl. zu dem "document très obscur" – so noch BIEZUŃSKA-MAŁOWIST 1977, 138 – BGU IV 1139 (nach dem 28. 10. 5 v. Chr.) jetzt MONTEVECCHI 1985.

<sup>44</sup> Parallelen hierfür ließen sich vor allem im arsinoitischen Tebtynis beobachten, vgl. nur MANCA MASCIADRI – MONTEVECCHI 1982 sowie knapp auch DIES., Einl. zu *CPGr* I, bes. 13 ff.; grundsätzlich skeptisch allerdings BAGNALL 1997, bes. 137 f. App. II, vgl. auch RUPPRECHT 2011, bes. 37 ff.

<sup>45</sup> BGU IV 1139 (nach dem 28. 10. 5 v. Chr.), bes. Z. 13-16 ἐτόλμησε ... τήν τε οἰκονομίαν ἀποστρεῖν, ἀπαγαγεῖν <δὲ> τὴν θυγατέρα ἡμῶν Ταθρεῖφιν καὶ τὴν (I. τὴν καὶ) Πρίμα(ν) καὶ ἔχειν παρ' ἑαυτῶι ἐν εἰρη[τ]ῇ ἐπὶ μῆγας ε 'wagte er ..., den Vertrag zu rauben, dazu unsere Tochter Tathriphis alias Prima zu entführen und sie bei sich eingeschlossen zu halten für fünf Monate'; zu Z. 17 f. τὸν ἀγῶνα ποιοῦμενοι 'indem wir (ihm) den Prozeß machen' vgl. etwa auch *P.Oxy.* II 237.8.17 τὸν μείζονα ἀγῶνα ἐ[ῖ]σελεύσεται '(wenn er) den Weg des größeren (da kapitalen) Prozesses beschreitet' (18. 7. 142).

<sup>46</sup> *P.Oxy.* XLII 3033.1-7 Γαίωι Ἰουλίω Ποστόμωι [ - - - ] παρὰ Θάησιος τῆς Ὠρου τῶν ἀπὸ τῇ[ς] Μικρᾶς Ὀάσεως. Ἀγομένης μου σὺν τῶι [πρεσ]βυτέρῳ μου υἱῶι Φιλαδέλφωι εἰς δουλαγωγίαν ὑπὸ [ . . . ] τοῦ Σεύθου καὶ τῶν τούτου ἀδελφῶν ἐ[ν]τευ[χ]ον Μάρκωι Εἰῶι τῷ ἡγεμονεύ[σαντι] ἐπὶ διαλογισμοῦ τοῦ νομοῦ 'An C. Iulius Postumus ... von Thaisis, Tochter des Horos, aus der Kleinen Oase. Da ich zusammen mit meinem älteren Sohn Philadelphos von ..., dem Sohn des Seuthes, und dessen Brüdern in die Sklaverei geführt worden war, habe ich bei Marcus Heius, dem ehemaligen Präfekten, auf dem Gaukonvent eine Eingabe gemacht ...' (um 45-47).

Statthalter zu wenden, läßt indessen darauf schließen, daß sie durchaus gewisse Unterstützung genoß. Insofern wird es kaum Zufall sein, daß wir hier erneut auf den strafrechtlich relevanten Begriff der δουλαγωγία treffen. Wie schon bei Tryphon dürfte dies auf professionellen Beistand deuten, wenn nicht gar staatliche Stellen hierbei helfend im Hintergrund standen, was man angesichts des bekannten römischen Interesses an all diesen Fragen keineswegs völlig ausschließen will.<sup>47</sup>

Daß die Römer tatsächlich allen mit dem Rechtsstatus verbundenen Belangen und namentlich der wiederholt berührten Frage der freien Geburt übergeordnete Bedeutung zumaßen, geht nicht zuletzt aus der regelmäßigen Beteiligung der obersten Instanzen hervor. Zumindest mittelbar ist dies auch der vor dem Archidikastes geschlossenen Vereinbarung zwischen Herakleides, Sohn des Sarapion, und seinen ehemaligen Schwiegereltern zu entnehmen, mit der der zwischen beiden Parteien entbrannte Streit um einen inzwischen verstorbenen Säugling beigelegt wird. Letzteren hatte Herakleides als Sohn und mutmaßlichen Erben präsentiert, während nach Darstellung der Schwiegereltern Mutter und Kind bei oder kurz nach der Geburt verstorben waren. Daß der Stratege den vor ihn gebrachten Fall an eine höhere Instanz verwiesen hatte,<sup>48</sup> wird weniger allein den – wiewohl bedeutenden – erbrechtlichen Implikationen zuzuschreiben sein als vielmehr dem Umstand, daß damit zugleich Statusfragen berührt waren, was sich mit dem Tod des Kindes allerdings ebenfalls erledigt hatte.

<sup>47</sup> Solange wir keine weiteren Informationen haben, muß dieser Erklärungsversuch notgedrungen hypothetisch bleiben. Dies gilt freilich ebenso für alle anderen Rekonstruktionen, wenn etwa mit Hinweis darauf, daß dies offenbar nur zwei Familienmitglieder betraf und demnach wohl “the *status libertatis* of the whole family was not in question” – so P. PARSONS, Komm. zu *P.Oxy.* XLII 3033.4 –, vielmehr das Institut der Schuldknechtschaft in Erwägung gezogen wird; in diese Richtung jedenfalls BIEZUŃSKA-MAŁOWIST 1977, 18 (“je pense qu’il s’agit plutôt de recouvrement d’une dette”), wobei sich die 40er Jahre allerdings entgegen ihrer Darstellung inzwischen durchaus als Krisenzeit erwiesen haben, vgl. nur JÖRDENS 2009, bes. 305 ff.

<sup>48</sup> Vgl. nur *P.Fam.Tebt.* 20 = *SB* III 6611 (120/21), bes. Z. 23-25 ὡς οἱ γενόμενοι ἐπὶ τοῦ στρατηγοῦ, καθὼς προφέροντε, ἐπὶ τοῦ τετάρτου ἔτους Ἀδριανοῦ τοῦ κυρίου Ἐπιφύπομηματισμοὶ περιέχουσιν, δι’ ὧντις ἐργάματα ὑπερτεθέντος εἰς τὴν μίζονα ἐξουσίαν ‘wie es die vor dem Strategen – so ihre Darstellung – im vierten Jahr Hadrians, des Herrn, Epeiph (5./6. 120), erstellten Amtstagebücher enthalten, wonach die Angelegenheit an eine höhere Instanz verwiesen worden sei, ...’; hierzu auch TAUBENSCHLAG 1959, II 643; DERS. 1955, 85 mit Anm. 91; ANAGNOSTOU-CANAS 1991, 121, freilich erneut rein deskriptiv und ohne weitergehende Überlegungen zu möglichen Hintergründen. In der μετῴων ἐξουσία wird man in jedem Fall einen prokuratorischen Amtsträger, vielleicht sogar den Präфекten selbst zu sehen haben, wobei das Verfahren mit dem Tod des Kindes seinen natürlichen Abschluß fand. Der Archidikastes kam dagegen unabhängig davon und erst im Nachhinein ins Spiel, da beiden Parteien auch an einer formalen Beendigung des Streites gelegen war. In der vor ihm aufgesetzten gemeinsamen Erklärung sichern sie sich nunmehr gegenseitig zu, keine Ansprüche mehr gegeneinander zu haben und fernerhin keine weiteren Schritte in der Sache mehr zu unternehmen.

Gerade dieses Beispiel lenkt noch einmal den Blick darauf, daß wir auf den sonst in Gerichtssachen so überaus präsenten Strategen nur ungewöhnlich selten stoßen, während oberste Instanzen und namentlich der Statthalter um so häufiger anzutreffen sind. Denn läßt man die noch im Vorfeld veranstaltete Suche nach einem flüchtigen *plagiator* beiseite, ist der Strategie lediglich in dem ersten Prozeß von Tryphon und Saraeus aktiv. Hier ging es freilich zunächst um die Ansprüche des Pesuris auf Erfüllung des Ammenvertrags, was, wie schon immer gesehen, eine rein privatrechtliche Angelegenheit war und also in seine Zuständigkeit fiel. Mit seinem Urteilsspruch, der Saraeus zur Rückgewähr der erhaltenen Ammenlöhne verpflichtete, war jedoch ein für allemal, ob explizit oder implizit, das Kind als freies anerkannt. Damit wäre jedes weitere Verfahren in dieser Angelegenheit zu einer Statussache geworden und als solche vor den Präfekten gelangt. Dies machte sich Tryphon bei dem neuerlichen Vorgehen des Pesuris zunutze, das womöglich ganz anderen Fragen galt. Mit dem Vorwurf der δουλαγωγία ließ sich das Droh- und Einschüchterungspotential seiner Replik jedenfalls deutlich erhöhen, und zwar erfolgreich. Folgerichtig hören wir danach von Pesuris nichts mehr, obwohl Tryphons Papiere noch sehr viel länger reichen.

Rückhalt erhält diese Rekonstruktion dadurch, daß das Iykopolitische Ehepaar wie auch Thaeis aus der Kleinen Oase ihre Rechtsschutzbitten ebenfalls und sogar unmittelbar an den Präfekten richten, wenngleich der Begriff der δουλαγωγία nur in letzterer fällt. Eine besondere Zuständigkeit des Statthalters für derartige Fälle ist demnach zumindest für Ägypten schon in iulisch-claudischer Zeit und keineswegs erst mit Hadrian anzusetzen, unter dem dies für alle Provinzstatthalter verbindlich wurde. Den hieran ablesbaren hohen Rang des Anliegens bestätigen endlich die Belege aus der Tetrarchenzeit, in denen sich die Petenten – ggf. über eine zwischengeschaltete Instanz wie die σύνδικοι πόλεως – erneut an den *praeses provinciae* wenden.

Als Bezeichnung für das Delikt kehrt hier wieder das altvertraute ἀνδραποδισμός zurück, das als *terminus technicus* demnach auf lange Sicht die Oberhand behielt. Ob dies als klassizistisches Phänomen zu deuten ist oder nicht, klang das fremdartige πλαγιαρία wohl allzu künstlich, um sich außerhalb des offiziellen Sprachgebrauchs zu behaupten. Vielleicht war dies aber ohnehin nur eine anlaßbezogene Neuschöpfung der kaiserlichen oder statthalterlichen Kanzlei, die in der Bevölkerung nicht auf Akzeptanz (oder Verständnis?) stieß und daher bald durch einen geläufigeren Terminus ersetzt wurde. In diese Richtung könnte immerhin ein weiterer – fragmentarischer – Beleg für diese Konstitution aus Tebtynis weisen, für dessen Kenntnisnahme ich Todd M. Hickey zu größtem Dank verpflichtet bin und der an dieser Stelle

tatsächlich π[ε]ρὶ ἀνδραποδισμ[οῦ] bietet.<sup>49</sup> Hatte der bisher einzige Zeuge aus Yale von der äußeren Erscheinung her die Vermutung geweckt, daß er zu den in Ägypten verbreiteten Exemplaren der hadrianischen Verlautbarung gehörte,<sup>50</sup> erhält dies dadurch nunmehr weitere Nahrung.

Nach alldem ist jedenfalls kaum mehr in Abrede zu stellen, daß es im kaiserzeitlichen Ägypten doch einige, wenn auch wenige Fälle von Menschenraub gab. Begrifflich wurde dieses Delikt im Römischen als *plagium*, im Griechischen als π[λ]αγιαρία, δουλαγωγία oder ἀνδραποδισμός gefaßt; im Falle der ὑποδοχή δούλου war vermutlich zunächst zu prüfen, wie weit das Einverständnis des Eigentümers vorlag, womöglich auch noch eine gutwillige Rückgabe zu erwirken war. Die Gleichsetzung von griechischem und römischem Konzept ist insofern mit Bärbel Kramer nicht mehr in Zweifel zu ziehen,<sup>51</sup> dies allerdings nicht erst, wie noch von ihr vertreten, für die nachdiokletianische Zeit.

Angesichts dieses Ergebnisses bleibt freilich zu fragen, wieso man trotz mancher gut bekannter Beispiele so sehr darauf beharrte, daß Menschenraub und -handel im kaiserzeitlichen Ägypten unbekannt seien, und alle Indizien, die etwa in diese Richtung wiesen, zu relativieren oder gar zu leugnen suchte. Der Anteil der Rechtshistoriker hieran ist kaum zu überschätzen, insbesondere durch die wenig glücklichen Trennlinien, die sie zwischen statusrechtlichen und strafrechtlichen Belangen und – entschiedener noch – zwischen griechischem ἀνδραποδισμός und römischem *plagium* zogen. Damit erscheint das Problem freilich nur verschoben, wird man doch erneut nach den Gründen für diese ebenso folgenschwere wie willkürliche Einschätzung fragen müssen.

Die Antwort findet sich an unerwartetem Ort, nämlich in dem um die letzte Jahrhundertwende so virulenten Interesse am Echten und Ursprünglichen, worüber man sich aus der griechischen Antike im allgemeinen und der

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<sup>49</sup> Der Text beginnt erst am Ende einer zweiten Kolumne und ist überdies fortlaufend nebeneinander und nicht in Spalten aufgeführt; der Zusammenhang ist unklar. Zwar ist kaum mehr als ein Dutzend Wörter erhalten, doch stellt das dreimalige περὶ die Zuordnung außer Zweifel. Zu erkennen ist nur noch: Ὁ ἡ[γε]μὼν δια[γνώσ]ε[ται] | π[ε]ρὶ φόνου - περὶ [ - - ] | π[ε]ρὶ ἀνδραποδισμ[οῦ] - - - περὶ | β[ί]α[ς] [ἐν] 'σὺν ὁπ[λ]οῖς γεγενημ[ένης] 'Der Statthalter hat zu entscheiden: bei Mord - bei ... bei Menschenraub ... bei Gewaltdelikten, die mit Waffen geschehen sind ...'. Die Verwendung des griechischen ἀνδραποδισμός statt des lateinischen Begriffs π[λ]αγιαρία könnte möglicherweise auch auf eine spätere Überarbeitung deuten. Dies muß jedoch ebenso offen bleiben wie die genaue Abfolge der Delikte, da aufgrund des fehlenden Spaltensatzes letzte Sicherheit hierüber nicht zu gewinnen ist. Todd M. Hickey habe ich nicht nur für die Bekanntgabe dieses Textes, sondern auch für die freundliche Übermittlung eines Scans herzlichs zu danken.

<sup>50</sup> So vor allem aus formalen Gründen, namentlich dem Layout erschlossen von JÖRDENS 2011, bes. 355.

<sup>51</sup> Vgl. nur Kramer 1987, bes. 145; hierzu auch die übernächste Anm.

neuentdeckten Etymologie im besonderen substantielle Auskunft versprach. Im Falle des von ἄνδρας ἀποδίδοσθαι abgeleiteten ἀνδραποδισμός hieß dies, daß “der Zweck des Verkaufs dabei wesentlich war”.<sup>52</sup> Jegliche Zweifel waren folglich fehl am Platze und wurden brüsk beiseitegeschoben: “Es ist auch nicht glaublich, dass jedes ungerechtfertigte ἄγειν εἰς δουλείαν als ἀνδραποδισμός betrachtet worden sei, wenngleich bei Plato Leg. XII 955a. IX 879a dieser Begriff einen weiteren Umfang hat.”<sup>53</sup> Schon die Platonstelle hätte freilich Warnung genug sein müssen, die reine Lehre über historische Wirklichkeiten zu setzen. Noch nie haben Rechtsvorstellungen an ihren einstmaligen Anfängen Halt gemacht, sondern pflegen sich erfahrungsgemäß kontinuierlich weiterzuentwickeln, insbesondere wenn es gilt – damals wie heute –, mit den wachsenden Anforderungen einer zunehmend globalisierten Wirtschaft Schritt zu halten. So ist spätestens in der Kaiserzeit mit einer mehr oder weniger vollständigen Angleichung der Konzepte zu rechnen, zumal die Rechtsprechungsorgane auf Reichsebene höchstens in wenigen begründeten Einzelfällen bereit gewesen sein dürften, Rücksicht auf etwaige lokale Befindlichkeiten zu nehmen.

In all den Fällen, die die Entführung und Versklavung Freigeborener wie auch die Aufnahme geflüchteter Sklaven betrafen, haben wir es danach jedenfalls mit strafrechtlichen Delikten zu tun, die vorzugsweise, spätestens seit Hadrian sogar ausschließlich vor dem Statthalter zu verhandeln waren. Der unter der Bezeichnung πλαγιαγία, δουλαγωγία oder ἀνδραποδισμός geführte Straftatbestand war offenkundig dem römischen *plagium* gleichgestellt und bildete insoweit dessen griechische Entsprechung. Anderes galt dagegen für die eingangs behandelte ἀπόσπασις, die im Gegensatz dazu offenbar keine Statusveränderung betraf, sondern häufig Teil anderweitiger privatrechtlicher Auseinandersetzungen war. Nur folgerichtig stellte sie, wie schon von Taubenschlag notiert, nicht mehr als einen Sonderfall der βία dar, weswegen solche Fälle in der Regel vom Strategen entschieden worden sein dürften. Stets aufs neue zu prüfen war dabei, ob manche Petenten nicht bewußt den tatsächlichen Sachverhalt verschleierte und kurzerhand beide Phänomene in eins setzten, weil sie sich dadurch Vorteile bei der Behandlung des Falles versprachen. Noch weniger ist über die Verwendung dieser Termini

<sup>52</sup> So Th. THALHEIM, RE I 2 (1894) 2134 s.v. Ἀνδραποδιστής.

<sup>53</sup> So erneut THALHEIM (wie vorige Anm.), der erste Halbsatz auch zitiert von BIEŻUŃSKA-MAŁOWIST 1977, 15 Anm. 8 mit der daraus folgenden Definition “individus enlevant des hommes libres ou des esclaves afin de les vendre”. Anders dagegen KRAMER 1987, 144 f., die im Vergleich der – vollständig zitierten – zweiten Platonstelle mit Dig. 48.15.6 zu der Auffassung gelangt, “daß *plagium* die genaue Entsprechung von ἀνδραποδισμός ist” (145), womit die von TAUBENSCHLAG 1959, II 226 Anm. 21 vertretene Darstellung (vgl. auch oben Anm. 7 mit Text) “widerlegt” sei (so ausdrücklich Anm. 11).

im allgemeinen Sprachgebrauch zu sagen.<sup>54</sup> Von dem hier untersuchten, vor dem Statthalter zu verhandelnden und mit hohen Strafen belegten Phänomen des Menschenraubs wird man die ἀπόσπαισις in jedem Fall *pace* Taubenschlag gänzlich fernzuhalten haben.

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<sup>54</sup> So ist durchaus unklar, ob die Aussage in dem Brief *P.Lond.* VI 1916.17 f. ὅτι τὰ τέκνα αὐτοῦ εἰς δουλίαν ἤρπασαν οἱ δανισταί ‘da die Darlehensgeber seine Kinder in die Sklaverei raubten’ (um 330-340) tatsächlich in streng rechtlichem Sinne zu nehmen ist. Als Zeugnis für eine mögliche Schuldknechtschaft, wie von TAUBENSCHLAG 1930, 147 = 1959, II 232 erwogen, schiene es jedenfalls nach wie vor isoliert; vgl. auch STRAUS 1988, 856, zu den Belegen aus ptolemäischer Zeit auch BIEZUŃSKA-MAŁOWIST 1974, 29 ff.; DIES. 1984, 33 ff.

- ANAGNOSTOU-CAÑAS 1991  
B. ANAGNOSTOU-CAÑAS, *Juge et sentence dans l'Égypte romaine*, Paris 1991.
- BAGNALL 1997  
R. S. BAGNALL, "Missing Females in Roman Egypt", *SCI* 16, 1997, 121-138 = DERS., *Later Roman Egypt: Society, Religion, Economy and Administration*, Aldershot 2003, Nr. III.
- BELLEN 1971  
H. BELLEN, *Studien zur Sklavenflucht im römischen Kaiserreich*, Wiesbaden 1971.
- BERGAMASCO 1995  
M. BERGAMASCO, "Le διδασκαλικαί nella ricerca attuale", *Aegyptus* 75, 1995, 95-167.
- BERGER 1953  
A. BERGER, *Encyclopedic Dictionary of Roman Law*, Philadelphia 1953.
- BIEZUŃSKA-MAŁOWIST 1974  
I. BIEZUŃSKA-MAŁOWIST, *L'esclavage dans l'Égypte gréco-romaine, I: Période ptolémaïque*, Wrocław u.a. 1974.
- BIEZUŃSKA-MAŁOWIST 1977  
I. BIEZUŃSKA-MAŁOWIST, *L'esclavage dans l'Égypte gréco-romaine, II: Période romaine*, Wrocław u.a. 1977.
- BIEZUŃSKA-MAŁOWIST 1984  
I. BIEZUŃSKA-MAŁOWIST, *La schiavitù nell'Egitto greco-romano*, Roma 1984.
- BISCOTTINI 1966  
M. V. BISCOTTINI, "L'archivio di Tryphon tessitore di Oxyrhynchos", *Aegyptus* 46, 1966, 60-90. 186-292.
- BOULARD 1906  
L. BOULARD, *Les instructions écrites du magistrat au juge-commissaire dans l'Égypte romaine*, Paris 1906.
- GRADENWITZ 1900  
O. GRADENWITZ, *Einführung in die Papyruskunde*, Leipzig 1900.
- HAGEDORN 1998  
D. HAGEDORN, "Noch einmal: Who Got the Contract?", *ZPE* 123, 1998, 177-180.
- HARKE 2013  
J. D. HARKE, *Ansprüche aus Delikten am Sklaven* (CRRS III 2), Stuttgart 2013.
- HERRMANN 1959  
J. HERRMANN, "Die Ammenverträge in den gräko-ägyptischen Papyri", *ZRG R.A.* 76, 1959, 490-499.
- JÖRDENS 2009  
A. JÖRDENS, *Statthalterliche Verwaltung in der römischen Kaiserzeit. Studien zum praefectus Aegypti* (Historia Einzelschriften 175), Stuttgart 2009.
- JÖRDENS 2010  
A. JÖRDENS, "Zur Flucht von Liturgen", *Proc. XXV Intern. Congr. Pap.* (Ann Arbor, 29. 7. – 4. 8. 2007), hrsg. v. T. Gagos, Ann Arbor 2010, 345-354.
- JÖRDENS 2011  
A. JÖRDENS, "Eine kaiserliche Konstitution zu den Rechtsprechungskompetenzen der Statthalter", *Chiron* 41, 2011, 327-356.
- KELLY 2011  
B. KELLY, *Petitions, Litigation, and Social Control in Roman Egypt*, Oxford 2011.
- KRAMER 1987  
B. KRAMER, "P. Strasb. inv. 1265 + P. Strasb. 296 recto: Eingabe wegen ἀνδραποδισμός (= *plagium*) und σύλησις (= *furtum*)", *ZPE* 69, 1987, 143-161 (= Ed. pr. von SB XVIII 14056).
- KRAUSE 2004  
J.-U. KRAUSE, *Kriminalgeschichte der Antike*, München 2004.

- LEWIS 1972  
N. LEWIS, "Un nouveau texte sur la juridiction du préfet d'Égypte", *RHDFE* 50, 1972, 5-12 = *On Government and Law in Roman Egypt. Collected Papers of Naphtali Lewis* (ASP 33), Atlanta 1995, 157-164.
- MANCA MASCIADRI – MONTEVECCHI 1982  
M. MANCA MASCIADRI – O. MONTEVECCHI, "Contratti di baliatico e vendite fiduciarie a Tebtynis", *Aegyptus* 62, 1982, 148-161.
- MOMMSEN 1899  
Th. MOMMSEN, *Römisches Strafrecht*, Leipzig 1899.
- MONTEVECCHI 1985  
O. MONTEVECCHI, "BGU IV 1139: *paramone* e *trophitis*", *BASP* 22, 1985, 231-241 = DIES., *Scripta selecta*, hrsg. v. S. Daris, Milano 1998, 345-354.
- NOGRADY 2006  
A. NOGRADY, *Römisches Strafrecht nach Ulpian. Buch 7 bis 9 De officio proconsulis*, Berlin 2006.
- RIESS 2001  
W. RIESS, *Apuleius und die Räuber. Ein Beitrag zur historischen Kriminalitätsforschung* (HABES 35), Stuttgart 2001.
- ROWLANDSON 1998  
J. ROWLANDSON, *Women & Society in Greek & Roman Egypt. A Sourcebook*, Cambridge 1998.
- RUPPRECHT 2011  
H.-A. RUPPRECHT, *Recht und Rechtsleben im ptolemäischen und römischen Ägypten. An der Schnittstelle griechischen und ägyptischen Rechts 332 a.C. – 212 p.C.* (Abh. Akad. Mainz 8/2011), Stuttgart 2011.
- SEIDL 1965  
E. SEIDL, "Zur Gerichtsverfassung in der Provinz Ägypten bis ca. 250 n. Chr.", *Labeo* 11, 1965, 316-328.
- SEIDL 1968  
E. SEIDL, "Il processo cognitorio nella provincia romana d'Egitto", *Antologia giuridica romanistica ed antiquaria* I, Milano 1968, 199-210.
- STRAUS 1988  
J. A. STRAUS, "L'esclavage dans l'Égypte romaine", *ANRW* II 10.1, Berlin-New York 1988, 841-911.
- TAUBENSCHLAG 1916  
R. TAUBENSCHLAG, *Das Strafrecht im Rechte der Papyri*, Leipzig 1916 (Ndr. Aalen 1972).
- TAUBENSCHLAG 1930  
R. TAUBENSCHLAG, "Das Sklavenrecht im Rechte der Papyri", *ZRG R.A.* 50, 1930, 140-169 = 1959 II, 223-257 Nr. 31.
- TAUBENSCHLAG 1955  
R. TAUBENSCHLAG, *The Law of Greco-Roman Egypt in the Light of the Papyri 332 B.C. – 640 A.D.*, Warszawa <sup>2</sup>1955.
- TAUBENSCHLAG 1959  
R. TAUBENSCHLAG, *Opera Minora I: Allgemeiner Teil; II: Spezieller Teil*, Warszawa-Paris 1959.
- VAN MINNEN 1996  
P. VAN MINNEN, "Notes on Texts from Graeco-Roman Egypt", *ZPE* 93, 1996, 117-122.
- WORP 1996  
K. A. WORP, "P. Oxy. I 37.8-9: Who Got the Contract?", *BASP* 33, 1996, 69-72.



# Τῶν Αἰγυπτίων νόμοι

HANS-ALBERT RUPPRECHT

Besonderes Interesse hat der Jubilar in seinem Werk an der Anwendung einheimischen Rechts und römischen Rechts in den Provinzen unter römischer Herrschaft gezeigt. Das ist Anlaß genug, sich noch einmal der Frage zuzuwenden, inwieweit in der römischen Provinz Ägypten durch römische Funktionäre ägyptisches Recht berücksichtigt wurde.<sup>1</sup>

## I.

Die Ägypter agierten nach der römischen Eroberung weiterhin in den Formen des ägyptischen Rechts, wenngleich die Verwendung demotischer Urkunden für den allgemeinen Geschäftsverkehr stetig zurückging, bislang sind demotische Urkunden insoweit nur bis in das 1. Jh. belegt.<sup>2</sup> Das gilt auch für den

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<sup>1</sup> Der Artikel geht zurück auf eine Abhandlung „Recht und Rechtsleben im ptolemäischen und römischen Ägypten - An der Schnittstelle griechischen und ägyptischen Rechts - 332 a.C. - 212 p.C.“, Akademie der Wissenschaften und der Literatur Mainz, Abh. der geistes- und sozialwiss. Klasse, 2011 Nr. 8, Mainz-Stuttgart 2011. Die dort gegebene notwendigerweise knappe Darstellung kann nun etwas erweitert werden. Ich benutze die Gelegenheit, etliche Schreibfehler zu berichtigen.

<sup>2</sup> Im internen Bereich z.B. der Tempel wurden weiterhin bis zum Ende des 2. Jh. p.C. demotische Verträge geschlossen.

mehr traditionsgebundenen Bereich der Eheurkunden, die nach dem derzeitigen Stand der Editionen nur bis in die Mitte des 1. Jh. p.C. begegnen, danach werden Abreden in Zusammenhang mit der Ehe durch die indigene Bevölkerung nur noch in griechischer Form dokumentiert.

Festzuhalten ist, daß die Wahl der griechischen Form auch die Wahl des griechischen Rechts bedeutet. Besondere Schwierigkeiten sind bislang nicht ersichtlich. In welcher Form griechisches oder ägyptisches Recht anerkannt wurde, ist hier nicht zu diskutieren.<sup>3</sup>

Besondere Beachtung verdient die griechische Übersetzung von Teilen eines demotischen Regelwerks, wohl des Rechtsbuchs von Hermopolis, in P. Oxy. XLVI 3285 (nicht vor 149 p.C.).<sup>4</sup> Das bedeutet zum einen, daß diese Regelungen im 2. Jh. noch von Interesse gewesen sein müssen und wohl von der römischen Verwaltung akzeptiert wurden. Zum anderen wäre noch zu hinterfragen, wieso hier nur die Teile erhalten sind, die sich auf den Streit um Grundstückseigentum oder Nachbarstreitigkeiten beziehen, Regelungen aber z.B. zum Erbrecht, Unterhalt und Kauf oder vertraglichen Verhältnissen nicht erscheinen, die im demotischen Text des RB enthalten sind.

Zwei Edikte haben seit jeher besondere Beachtung gefunden, die auch unter unserer Fragestellung interessant sind, nämlich die Edikte der Präфекten Mettius Rufus und Sulpicius Similis: P. Oxy. II 237 VIII 27-43 (89 p.C.) und *ibid.* 21-27 (109 p.C.).

Das Edikt des Mettius Rufus vom Jahre 89 p.C. (P. Oxy. II 237 VIII 27-43)<sup>5</sup> ordnet die Neuanlegung des „Grundbuchs“ an unter Beifügung der Eheverträge der ägyptischen Frauen – der jeweiligen συγγραφή τροφίτις – wegen der darin vereinbarten κατοχή am Vermögen des Mannes aufgrund eines gewissen ἐπυχώριος νόμος. Diese Regelung wird im Edikt des Sulpicius Similis vom Jahr 109 p.C. wieder aufgegriffen (*ibid.* VIII 21-27)<sup>6</sup>, da es Streitigkeiten mit Dritten gebe wegen der Rechte der Frauen aufgrund der κατοχή nach Eheverträgen gem. ἐνχώρια νόμματα. Die Wendungen κατὰ ἐνχώριον νόμον und κατὰ τινα ἐπυχώριον νόμον sind offensichtlich gleichbedeutend. Damit werden die in demotischen Eheverträgen üblichen Abreden über die Verfangenschaft des Vermögens des Mannes zugunsten der Frau und/oder der Kinder<sup>7</sup> anerkannt. In den dann von Ägyptern abgeschlossenen Eheverträgen in griechischer Form

<sup>3</sup> Vgl. WOLFF 2002, 116 ff. S. zu dieser Diskussion auch PRINGSHEIM 1961, II 240 ff.

<sup>4</sup> Die Datierung von 3285 ergibt sich aus einem Vermerk auf der Rückseite: 13. J. des Antoninus Pius = 149/50. S. auch PESTMAN 1985, 116 ff.; LIPPERT 2004, 158.

<sup>5</sup> = MChr 192 = JP 59 = SP II 219 = GIRARD 1977, S. 53.

<sup>6</sup> + P. Mert. III 101 = GIRARD 1977, S. 385.

<sup>7</sup> S. nur PESTMAN 1961.

finden sich solche Abreden nicht. Angesichts der Datierung der Edikte (89 und 109 p.C.) sollten wir also noch Belege für die ägyptische συγγραφή τροφίτης über das Jahr 46 p.C.<sup>8</sup> hinaus erwarten dürfen. Oder haben diese Regelungen nur noch Bedeutung für „Altfälle“?

## II.

Das alles ist nicht neu. Eine seit Beginn des 20. Jh. lebhaft diskutierte Problematik soll hier noch einmal aufgegriffen werden: In verschiedenen Entscheidungen oder Protokollen von Verhandlungen vor dem Präfekten oder vor delegierten Richtern ist die Rede von τῶν Αἰγυπτίων νόμοι oder nur von νόμοι. Danach können wir davon ausgehen, daß die römische Verwaltung auch in einzelnen Streitfällen ägyptisches Recht anwandte, oder vielleicht besser: Das, was sie für ägyptisches Recht hielt. Bezeichnenderweise wurden mitunter zur Auskunft darüber νομοῖ herangezogen (so in CPR I 18; P. Oxy. XXXVI 2757, XLII 3025).<sup>9</sup> Diese Nomikoi sind für die ptolemäische Zeit nicht belegt.

In der Literatur wird darüber gestritten, was denn unter νόμοι τῶν Αἰγυπτίων zu verstehen sei: national-ägyptisches Recht, das Recht des Landes allgemein oder auch griechisches Recht.<sup>10</sup>

Einerseits wird die Meinung vertreten, daß die ptolemäischen νόμοι τῆς χώρας in römischer Zeit gleichzusetzen seien mit den νόμοι τῶν Αἰγυπτίων und daß diese daher inhaltlich ägyptisches Recht seien.<sup>11</sup> Modrzejewski andererseits ist nach anfänglichem Zögern<sup>12</sup> der Meinung, daß es sich nur um griechisches Recht handele.<sup>13</sup> Er lehnt daher konsequent eine Gleichsetzung mit den νόμοι τῆς χώρας ab.<sup>14</sup>

<sup>8</sup> Belege sind für die Registrierung zuletzt P. Mich. V 238 (46 p.C.), als Vertragstext P. Dime III 41 (43 oder 53 p.C.)

<sup>9</sup> Das können Urkundsschreiber sein, vgl. SEIDL 1973, 83; WOLFF 1978, 173 Anm. 19. Zu dieser Zeit sind es wohl keine im römischen Recht geschulten Juristen.

<sup>10</sup> Zur Problematik in neuerer Zeit allgem.: WOLFF 1953, 41f. und WOLFF 1979, 268 ff.; MONTEVECCHI 1985, 339 ff.; MODRZEJEWSKI 1970, 317 ff.; MODRZEJEWSKI 1988.

<sup>11</sup> MEYER JP, Nr. 89 Anm. Z.10 (= CPR I 18), Nr. 75 Anm. zu Z. 217 (= P. Tebt. I 5); L. MITTEIS, MChr 86, zu Z. 3 (= BGU I 136); WOLFF 1979, WOLFF 2002, 74 Anm. 14; LIPPERT 2008, 88, die im Einzelfall auch Regeln des griechischen Rechts nicht ausschließen will. S. auch u. Anm. 18.

<sup>12</sup> MODRZEJEWSKI 1970, 317 ff.

<sup>13</sup> MODRZEJEWSKI 1988. Nun auch MODRZEJEWSKI 2012, 23 und 84 ff. Skeptisch gegenüber dieser Ansicht PURPURA 2000, 202 f.

<sup>14</sup> MODRZEJEWSKI 2012, 84 ff.

In diesem Zusammenhang ist noch darauf hinzuweisen, daß die römische Verwaltung die Bewohner des Landes nun einteilte in Römer, Griechen der Poleis und Ägypter, worunter alle Bewohner der Chora verstanden wurden, also unter Einschluß auch der Griechen.<sup>15</sup> Auf diese Feststellung stützt sich die zweite Meinung, daß damit entspr. dieser Bezeichnung der Bevölkerung der Chora im Ganzen als Αἰγύπτιοι auch oder nur griechisches Recht gemeint sein könnte.

Eine seinerzeit von Taubenschlag<sup>16</sup> aufgrund des Personalitätsprinzips vertretene These, daß die νόμοι τῶν Αἰγυπτίων in Fortführung einer ptolemäischen Kodifikation dann eine römische Kodifikation einheimischen Rechts für die Bewohner Ägyptens, wie gesagt unter Einschluß der Griechen in der Chora, darstellten, findet heute so keine Unterstützung mehr. Neuerdings hält Yiftach eine römische Neuregelung unter Verwendung von Teilen griechischen wie auch ägyptischen Rechts zur Unterstützung der römischen Funktionäre für wahrscheinlich.<sup>17</sup>

1. Vor der Erörterung der Texte römischer Zeit erscheint es angebracht, zunächst einmal auf die ptolemäischen Belege für demotische Rechtsregeln und auf die νόμοι τῆς χώρας u.ä. kurz einzugehen.

Da ist zunächst das demotische sog. Rechtsbuch von Hermopolis, von dessen vor einigen Jahren publizierter griechischer Teilübersetzung (P. Oxy. XLVI 3285) schon die Rede war. Das RB selbst wird als frühptolemäisch, ev. noch als pharaonisch angesehen. Als Benutzerkreis des RB werden das Gericht der Chrematisten und die Verwaltung angenommen. Sein Charakter wird noch diskutiert, ob es sich um einen Kodex, eine offizielle Sammlung von Fallbeispielen verbunden mit Handlungsanweisungen oder auch nur um ein privates Handbuch mit hypothetischen Beispielsfällen handele.<sup>18</sup> Mir scheint ein offizieller Charakter anzunehmen zu sein, schon aufgrund des weit gespannten sachlichen Bereichs, der wohl über den Rahmen einer privaten Sammlung hinausgeht.

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<sup>15</sup> S. MONTEVECCHI 2001, 983 ff.

<sup>16</sup> TAUBENSCHLAG 1955, 6 ff.

<sup>17</sup> YIFTACH-FIRANKO 2009, 550 ff.

<sup>18</sup> Edition: MATTHA & HUGHES 1975; eine übersichtliche Edition bei: DONKER VAN HEEL 1990. Zur Datierung: WOLFF 1979, 268 f.: wenigstens frühptolemäisch, wenn nicht sogar pharaonisch; SEIDL 1979, 18 f. neigt dem 3. Jh. a.C. zu. S. nun auch LIPPERT 2004, 156 ff, 168 f. WOLFF 2002, 49 Anm. 60 sieht die Übersetzung als amtlich an und damit als offiziell anerkannt. Vgl. auch PESTMAN 1984, 33 ff.; ALLAM 1986, 50 ff.

Von κατὰ τοὺς τῆς χώρας νόμους wird gesprochen im bekannten P. Tebt. I 5, 217 f. Der Philanthropa-Erlass des Ptolemaios Euergetes II. aus dem Jahre 118 a.C., eine allgemeine Amnestie nach inneren Wirren, bringt u.a. eine Regelung der gerichtlichen Zuständigkeit bei Streitigkeiten zwischen Griechen und Ägyptern (P. Tebt. I 5 Z. 207-220 = SP II 210 = COP 53). Entscheidend ist danach die Sprache der Urkunde.<sup>19</sup> Es sollen Ägypter, die mit Griechen griechische Verträge schließen, vor den - königlichen - Chrematisten prozessieren (Z. 211-214), dagegen die Griechen, die ägyptische Verträge schließen, vor den - einheimischen - Laokriten gemäß den Gesetzen des Landes (Z. 214-217), der Streit wird dann also nach ägyptischem Recht entschieden; weiter sollen die Prozesse unter Ägyptern nicht von den Chrematisten an sich gezogen werden, sondern nach dem Landesrecht durchgeführt werden (Z. 217-220).<sup>20</sup>

Von ἐκ τοῦ τῆς χώρας νόμου μέρη ist im Protokoll des Hermiasprozeß die Rede (UPZ II 162 IV 18 f. = P. Tor. Choach. 12 ; Theben, 125 - 117 a.C.). Es geht um einen Streit des griechischen Offiziers Hermias gegen Choachyten, Angehörige einer niederen ägyptischen Priestergruppe, über ehemals väterlichen Besitz, den Hermias nun einklagt. Da die Gegner ihren Erwerb auf Kauf stützen, wendet Hermias sich gegen die Wirksamkeit der angeführten Kaufverträge. Seine Argumentation ist einfach: Er macht geltend, daß den Verträgen die Styrosis<sup>21</sup> gemäß dem Landesrecht fehle, stützt sich also auf ägyptisches Recht.<sup>22</sup>

Der Sprachgebrauch ist für die ptolemäische Zeit eindeutig: νόμοι τῆς χώρας bezeichnen Regeln des einheimischen, ägyptischen Rechts.

<sup>19</sup> WOLFF 1970, 87. f. und WOLFF 2002, 85 f. S. auch MODRZEJEWSKI 1974, 375 ff = 1975, 699 ff.

<sup>20</sup> Z. 207ff.: προστετάχαι δὲ καὶ περὶ τῶν κρινομένων Αἰγυπτίων ἢ πρὸς Ἕλληνας καὶ περὶ τῶν Ἑλλήνων τῶν [πρὸς τοὺς Ἰ Αἰγυπτίους ἢ Αἰγυπτίων] πρὸς <Αἰγυπτίους καὶ Ἑλλήνων πρὸς> Ἕλληνας γενῶν πάντων ἢ πλὴν τῶν γεω(ργούντων) βα(σιλικήν) γῆν καὶ τῶν ὑποτελῶν καὶ τῶν ἄλλων τῶν ἐπιτε/πλεγμένων ταῖς προσόδοις τοὺς ἢ μὲν καθ' Ἑλληνικὰ σύμβολα συνηλαχότας ἢ Ἑλλήσιν Αἰγυπτίους ὑπέχειν καὶ λαμβάνειν ἢ τὸ δίκαιον ἐπὶ τῶν χρηματιστῶν. ὅσοι δὲ Ἕλληνες ἢ ὄντες συγγράφονται κατ' αἰγύ(πτια) συναλλάγματα ἢ ὑπέχειν τὸ δίκαιον ἐπὶ τῶν λαοκριτῶν κατὰ τοὺς ἢ τῆς χώρας νόμους. τὰς δὲ τῶν Αἰγυ(πτίων) πρὸς τοὺς ἢ αὐτοὺς Αἰγυ(πτίους) κρίσεις μὴ ἐπισπᾶσθαι τοὺς χρημα(τιστὰς) ἢ ἀλλ' ἐάν ἢ κριν ἢ διεξάγεσθαι ἐπὶ τῶν λαοκριτῶν κατὰ τοὺς ἢ τῆς χώρας νόμους.

<sup>21</sup> Deren Natur ist unklar. Ev. betrifft sie die Notwendigkeit von Zeugen; vgl. PESTMAN 1992, S. 186 Anm. e.

<sup>22</sup> WOLFF 2002, 74 und 49 Anm. 60: Teile einer amtlichen griechischen Version demotischer Rechtssätze.

## 2. Nun zu den Texten römischer Zeit:

Für eine Stellungnahme ist angebracht die Überprüfung, welche Wendung verwendet wird, welche Sachverhalte behandelt werden und aus welcher Zeit die entsprechende Entscheidung stammt.

Es wird von νόμοι τῶν Αἰγυπτίων oder nur schlicht von νόμοι gesprochen in Zusammenhang mit der Testierfreiheit des Erblassers, der Erbfolge und in Zusammenhang mit der Befugnis des Vaters, die Tochter aus einer Ehe zu nehmen; außerdem bei einer Freilassung und bei Streitigkeiten unter Nachbarn wegen eines Baus.

Zu den einzelnen Fällen.

- a) Von νόμοι τῶν Αἰγυπτίων ist die Rede in einem Fall der Freilassung (P. Oxy. IV 706 = MChr 81, 73 oder 113-117 p.C.), wo festgestellt wird, daß das ägyptische Recht keine Regelung zu den Dienstpflichten des Freigelassenen trifft, es wird deshalb auf die ἀστικοὶ νόμοι zurückgegriffen. Die Natur dieser Gesetze ist allerdings streitig; man diskutiert die Einordnung als alexandrinisches Stadtrecht<sup>23</sup> oder als die Gesetze *urbis romanae*, d.h. also römisches Recht.<sup>24</sup>

Weiter ist ein Fall der Testierfreiheit (P. Oxy. XLII 3015, Z. 2 - I - , nach 117 p.C.) zu nennen: Danach räumen die νόμοι τῶν Αἰγυπτίων dem Erblasser die Freiheit ein, nach seinem Willen ein Testament zu ändern (zu dieser Urkunde s. noch u.).

Auch in CPR I 18 = Stud.Pal. XX 4 = MChr 84 = JP 89 (124 p.C.) geht eine Entscheidung davon aus, daß nach den νόμοι τῶν Αἰγυπτίων jedermann frei testieren könne. Die Entscheidung, gefällt nach Rücksprache mit dem Nomikos, stellt ab auf die Unwirksamkeit des Testaments eines Sohnes aus ἄγραφος γάμος zu Lebzeiten des Vaters.<sup>25</sup> Die Literatur diskutiert diesen Fall fast ausschließlich unter dem Gesichtspunkt des ἄγραφος γάμος.

Im berühmten Verfahren der Dionysia gegen ihren Vater geht es um dessen Versuch, seine Tochter aus der Ehe mit Chairemon herauszunehmen (P. Oxy. II 237 insbes. col. VI ff., 186 p.C.).

<sup>23</sup> Mitteis, MChr. 81 Einl. STURM 2000, 307 ff.: Alexandrinisches Recht. S. nun auch eingehend: PURPURA 2000, der Sturm zu folgen scheint.

<sup>24</sup> WOLFF 1953, 38 ff. MODRZEJEWSKI 1988, 386 ff.: röm. Recht.

<sup>25</sup> S. KRELLER 1919, 167 f. zum Fall; S. 198 Anm. 48 hält er die νόμοι τῶν Αἰγυπτίων hier nicht für enchorisches Rechts, sondern für das allgem. Recht der Chora. SEIDL 1974, 99 ff.: ägyptisches Recht. LIPPERT 2008, 125: nicht aus den ägypt. Quellen bekannt. MODRZEJEWSKI 1988, 390 f.: griechisches Recht. Ägyptisches Recht: WOLFF 1939, 60 f.; HÄGE 1968, 23 Anm.1; Zu dem Fall auch PURPURA 2004, 269 ff.; er geht hier von „national“-ägyptischem Recht aus. Ansonsten wird der Fall unter dem Aspekt der Prozeßtaktik erörtert. YIFTACH-FIRANKO 2003, 84 scheint für diesen Fall mehr zur Annahme einer griechischen Tradition zu neigen.

Die Vermutung erscheint nicht unbegründet, daß dem Vater vor allem am Zugriff auf das Vermögen der Tochter gelegen war. Zur Begründung seines Verlangens verweist der Vater auf Regelungen in einem νόμος (Col. VI 17 f., s. auch VII 12), der dann als νόμος τῶν Αἰγυπτίων bezeichnet wird, der dies gestatte (Col. VII 33).<sup>26</sup> An anderen Stellen des langen Textes wird insoweit nur von νόμος gesprochen (Col. VII 27, 34 f., 41). Eine angeführte Entscheidung des Epistrategen Pakonius Felix (133 p.C.) geht dahin, daß gemäß einem Spruch des Praefekten Titianus (128 p.C.) der τοῦ νόμου ἀπανθρωπία nicht gefolgt werden könne, sondern daß es auf den Willen der Frau ankomme.<sup>27, 28</sup>

Von einem νόμος τῶν Αἰγυπτίων ist weiter die Rede in dem Fragment P. Tebt. II 488 – descr.– (121 p.C.), wohl in Zusammenhang mit der Verjährung von Ansprüchen beim Bau unter Verletzung nachbarrechtlicher Bestimmungen. Der Fall fügt sich ein in den Kontext ägyptischen Rechts (s. P. Oxy. XLVI 3285, Z. 1 ff. – nicht vor 149 p.C.).<sup>29</sup>

- b) Schlicht von νόμοι wird in vergleichbaren Fällen gesprochen. So in P. Oxy. XXXVI 2757 II (79 p.C.): Gemäß den Gesetzen kann nach Auskunft des Nomikos der Vater Kinder enterben.<sup>30</sup>

<sup>26</sup> Verblüffend ist, daß Dionysias Vater als Exgymnasiarch von Oxyrhynchos, also ein Angehöriger der griechischen Oberschicht, auf mögliche ägyptische Bräuche zurückgreift. Das mag der Situation im Prozeß geschuldet sein, kann aber auch als Indiz für die Assimilierung wenigstens in Teilbereichen gewertet werden. Als Argument für die Einordnung dieser Regel als griechisches Recht ist das wohl nicht verwendbar. MONTEVECCHI 1985, 339 ff. weist zu Recht auf den eindeutig ägyptischen Charakter der als Αἰγύπτιοι bezeichneten Personen hin, die auch z.T. durch Dolmetscher angehört wurden (VII 29-38); sie schließt daher auf einen in sich schlüssigen Sprachgebrauch in dieser Urkunde. Zu einer Besonderheit s. noch u. Anm. 41.

<sup>27</sup> MODRZEJEWSKI 1988, 392 ff: Griechisches Recht – wenn auch von αἰγύπτια πρόσωπα gesprochen wird, so handle es sich doch – entgegen MONTEVECCHI 1985 – um Griechen. Die Wegnahme entspreche griechischem Recht.

<sup>28</sup> Vgl. auch die Entwicklung im römischen Recht bei der gewaltfreien Ehe: Wenn der *pater familias* der Ehe zugestimmt habe und die Frau mit dem Manne harmoniere, dürfe er die Tochter aus der Ehe nur aus besonders schwerwiegenden Gründen herausverlangen. So eine Regelung in Diocl. C. 5, 17, 5 pr.: *divus Marcus* (Marc Aurel 161 –180) *constituit: ... cum marito concordante uxore filia familias* ... Zu der Problematik in einem weiteren Zusammenhang nun KREUZSALER & URBANIK 2008, 130 ff.

<sup>29</sup> So zutreffend J.R. REA, Einl. zu P.Oxy. 3285 (S. 30). Auch PARTSCH 1920, 49, bezieht die Urkunde auf ägyptisches Recht. MODRZEJEWSKI 1988, 394 f. sieht hier einen Fall der Anwendung römischen Rechts. S. WOLFF 2002, 77: nichts näheres zu entnehmen.

<sup>30</sup> Z. 5 ff.; WOLFF 2002, 185 Anm. 168: Befragung des Nomikos nach dem traditionellen ägyptischen Recht. SEIDL 1974, 99 ff. zu dieser Urkunde: es gibt im ägyptischen Recht keine Testamente, wohl aber die griechisch als δόσις bezeichnete Zuwendung. SEIDL erwägt (1974, 109 f.) vielmehr die Annahme eines römischen Soldatentestaments. Dagegen wieder WOLFF 2003, 76 Anm. 23. MODRZEJEWSKI 1988, 389 f: sicher nicht römisches Recht, gleichfalls gegen SEIDL 1974; vielmehr Lösung nach peregrinem, griechischem Recht wie in 3015.

In P. Oxy. XLII 3015 (nach 117 p.C.) (Z. 6 ff. - II -) erkennt der Präfekt nach Konsultierung des Sachverständigen wieder die Testierfreiheit der Ägypter an.<sup>31</sup> Die Parteien tragen hier griechische Namen. Im dritten Fall dieser Urkunde (Z. 13 ff.) spielt die ehevertragliche Bindung des Mannes eine entscheidende Rolle. Auch hier bestätigt der Präfekt die Testierfreiheit nach Beratung mit dem Nomikos, allerdings wohl eingeschränkt auf die Auswahl unter den Kindern, wenn der Erblasser eine πανπρασία – also eine Verfangenschaft seines Vermögens mit der Ehefrau zugunsten seiner Kinder – vereinbart hatte.<sup>32</sup>

P. Meyer 8, Z. 5 (151 p.C.) erwähnt das Erbrecht nach – nicht spezifizierten – Gesetzen.<sup>33</sup>

P. Mil. Vogl. IV 229, Z. 20 (140 p.C.) nennt die väterliche Befugnis, die Ehe der Tochter aufzulösen.

3. Die Übersicht legt zunächst die Vermutung nahe, daß auch bei der schlichten Anführung von νόμοι die νόμοι τῶν Αἰγυπτίων gemeint sein können, das folgt aus dem Wechsel in einzelnen Urkunden beim Zitat mehrerer Fälle, so inbes. in P. Oxy. XLII 3015, Z. 2 und Z. 13 ff., wenn im Zusammenhang mit κατοχή und πανπρασία nur von νόμοι die Rede ist.<sup>34</sup>

Während für die ptolemäische Zeit die νόμοι τῆς χώρας ohne Probleme als ägyptisches Recht einzuordnen sind, ist dies in römischer Zeit für die fraglichen νόμοι τῶν Αἰγυπτίων nicht so ohne weiteres möglich. Der Wechsel im offiziellen Sprachgebrauch, wie er in der bereits genannten Einbeziehung der Griechen der Chora in die Gruppe der Αἰγύπτιοι zum Ausdruck kommt, verbietet die zunächst als selbstverständlich erscheinende Charakterisierung der νόμοι τῶν Αἰγυπτίων als (national-)ägyptisches Recht ohne weitere Prüfung.

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<sup>31</sup> Vgl. WOLFF 2002, 74 Anm. 14, 76, 185 Anm. 168.

<sup>32</sup> WOLFF 2002, 76 und 185 Anm. 168: ägyptisches Landesrecht. MODRZEJEWSKI 1988, 390 führt den Text zwar für peregrines, also nicht römisches, Recht an, problematisiert aber weder die πανπρασία noch die κατοχή, s. dort die Anm. 30.

<sup>33</sup> Hier ist für die Erbfolge nach griechischem Recht auszugehen. Die Kinder machen ein gesetzliches Erbrecht nach der Mutter geltend. Der Vater, ein Katöke aus der Gruppe der ἐν τῷ Ἀρσινόῃ ἀνδρῶν Ἑλλήνων 6475, hatte offensichtlich das Vermögen der verstorbenen Frau an sich genommen und es „auf den Namen seiner zweiten Frau überschreiben lassen“ (Z.12 f.: πάντα καταγραφῆναι κτλ.). Damit könnte eine dem ägyptischen Eherecht entsprechende Übertragung des Mannesvermögens (hier unter mißbräuchlicher Verwendung von Kindesvermögen) auf die zweite Frau gemeint sein. Ein Erbrecht des überlebenden Ehegatten *ab intestato* ist nicht gegeben, vgl. RUPPRECHT 1985, 1987.

<sup>34</sup> Vgl. auch den bereits angeführten Wechsel im Ausdruck in P. Oxy. II 237 VIII.

So ist letztlich eine Zuordnung der einzelnen Regel zu dem einen oder anderen Recht aufgrund des materiellen Gehalts erforderlich. Ein pauschaler, abstrakter Ansatz aufgrund der Bezeichnung führt nicht weiter. Die Zuordnung wird erleichtert, wenn sich im Einzelfall eine entspr. positive Regelung oder eine tatsächliche spezifische Übung nachweisen läßt.

a) Der in Tebt. II 488 genannte νόμος τῶν Αἰγυπτίων ist ohne weiteres dem ägyptischen Recht zuzuweisen, wie sich aus den entspr. Bestimmungen zum Nachbarrecht ergibt (s.o. Anm. 29). Ebenso entspricht die Nennung von νόμοι in BGU I 136 im Zusammenhang mit dem erhöhten Erbteil des ältesten Sohnes ägyptischem Recht.<sup>35</sup> Andererseits ergibt sich die Erbfolge der Kinder nach der Mutter κατὰ τοὺς νόμους in P. Meyer 8 aus griechischem Recht (s. Anm. 33).

b) Normen über die Testierfreiheit sind weder aus dem ägyptischen noch aus dem griechischen Recht erhalten.

Die Testierfreiheit allgemein entspricht aber griechischer Übung.<sup>36</sup>

Für den ägyptischen Bereich ist noch als tatsächliche Schwierigkeit zu berücksichtigen, daß die bereits genannte übliche vertragliche Bindung des Ehemannes und seines Vermögens<sup>37</sup> zugunsten der Frau und/oder der Kinder die Bedeutung einer Testamentserrichtung deutlich reduziert haben wird. Daß aber hier auch die Testierfreiheit vom Präfekten anerkannt wurde, wenn auch z.T. nur in beschränktem Umfang, zeigt P. Oxy. XLII 3015 3. Fall (Z. 13 ff.). Diese übliche Vereinbarung von πανπρασία und κατοχή in den demotischen Eheverträgen, die in den griechisch gefaßten Eheverträgen nicht begegnet (s.o. I), ist als für Beleg für die Einordnung als ägyptisches Recht zu werten.<sup>38</sup> Insgesamt wird man den gesamten Text von 3015 als Beleg für die Testierfreiheit nach ägyptischem Recht ansehen dürfen, auch dann wenn dann nur von νόμοι die Rede ist.

c) Schwierig ist jedoch eine Antwort auf die Frage einer Rücknahme der Tochter aus der Ehe durch den Vater der Frau schon aus tatsächlichen Gründen. Außer den genannten Fällen ist für Ägypten der Vorgang sonst nicht

<sup>35</sup> BGU I 136 = MChr. 86 (135 p.C.): Inanspruchnahme eines erhöhten Erbteils κατὰ τοὺς νόμους durch den ältesten Sohn, wie es ägyptischer Übung entspricht, vgl PESTMAN 1969, 66.

<sup>36</sup> Zur Testierfreiheit im griechischen Recht vgl. nur MODRZEJEWSKI 1988, 385. Hier ist auch die in den griechischen Urkunden öfter belegte Möglichkeit des Testamentswiderrufs ohne inhaltliche Beschränkungen mit in Betracht zu ziehen.

<sup>37</sup> S. allgem. SEIDL 1964, 32 ff. und PESTMAN 1969, 58 ff., 62 ff., 67 f. DEPAUW 1997, 144 f.

<sup>38</sup> Vgl. auch den Komm. zu Z. 13 ff.

belegt, weder in griechischen noch in demotischen Texten. Die Seltenheit des Vorgangs dürfte nicht nur dem Zufall der Überlieferung zuzuschreiben sein. Die Möglichkeit der Wegnahme der Tochter durch den Vater aus der Ehe ist im ägyptischen Recht bislang nicht bezeugt. Man hat deshalb versucht, eine Verbindung zur griechischen ἀφαίρεσις zu knüpfen;<sup>39</sup> das begegnet aber angesichts des zeitlichen Abstands (5. Jh. a.C. – 1./2. Jh. p.C.) ohne irgendeinen Hinweis<sup>40</sup> auf diese Übung in den Papyri gleichfalls Bedenken. Die Frage muß also offenbleiben.

Insgesamt läßt sich daher einerseits festhalten, daß νόμοι sowohl griechisches wie auch ägyptisches Recht bezeichnen können.

Andererseits ist aber auch die Einordnung der νόμοι τῶν Αἰγυπτίων als Regeln des ägyptischen Rechts nicht von vorneherein ausgeschlossen; die Diskussion der Testierfreiheit im Zusammenhang mit ἄγραφος γάμος, πανπρασία und κατοχή spricht wenigstens für diesen Bereich eher für ägyptisches als für griechisches Recht (s. nur CPR I 18 und P. Oxy. XLII 3015).

Die νόμοι τῶν Αἰγυπτίων bezeichnen also im Einzelfall nachweisbar spezifisch ägyptische Regeln. Daß mitunter auch Regeln griechischen Rechts darunter fallen können, ist nicht auszuschließen, aber bislang jedenfalls nicht nachzuweisen.<sup>41</sup>

Wolff und Yiftach weisen darauf hin,<sup>42</sup> daß in P. Oxy. II 237 VII 33 und 35 davon gesprochen wird, daß der νόμος τῶν Αἰγυπτίων verlesen wird und schließen daraus, daß eine schriftliche Fassung vorgelegen habe. Yiftach sieht sie als römische Niederlegung, als Kodifikation an, die zur Unterrichtung der Funktionäre über rechtliche Vorstellungen in der Provinz geschaffen wurde.<sup>43</sup> Es bleibt dann allerdings noch die Frage, wieso zur Erläuterung dieser römisch veranlaßten Fassung Nomikoi herangezogen werden, warum die

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<sup>39</sup> LEWIS 1982 und MODRZEJEWSKI 1988, 392 ff.

<sup>40</sup> MODRZEJEWSKIS Verweis auf eine Nachricht in I Mac. 11, 8-12 über die Wegnahme der Kleopatra Thea aus der Ehe mit Alexander Balas durch Ptol. IV Philometor, um sie Demetrios II zur Ehefrau zu geben (MODRZEJEWSKI 1981, 259 Anm. 112.), erscheint mir angesichts der sehr unterschiedlichen Umstände nicht zwingend.

<sup>41</sup> Insofern ist dem Ansatz MODRZEJEWSKIS (s.o. Anm. 13) nicht zu folgen. Ob man deshalb aber schon von einer Annäherung des griechischen Rechts an das ägyptische sprechen kann, wie dies PURPURA (2004, 278) anzunehmen scheint, ist mir sehr zweifelhaft. Es ist jedenfalls nicht ohne Interesse, daß die Verwendung ägyptischer Regeln durch Griechen noch im ausgehenden 2. Jh. p.C. gerade in Fällen geschieht, die auf eine ausgeprägte Mißbrauchsabsicht schließen lassen. So im Falle der Dionysia (P. Oxy. II 237, 186 p.C.) und im Fall des P. Meyer 8 (151 p.C.) (s. o. Anm. 33).

<sup>42</sup> WOLFF 2002, 75 Anm. 18; YIFTACH-FIRANKO 2009, 551 f.

<sup>43</sup> Gegen diese Erwägung schon MONTEVECCHI 1985, 340 (zu Taubenschlag).

Funktionäre den Text nicht selbst erfassen konnten. Es ist nicht die Rede davon, daß es sich nicht um einen griechischen Text handelt.

Im Ergebnis kann insgesamt festgehalten werden, daß die römischen Präfekten und die römische Verwaltung neben dem griechischen Recht auch ägyptisches Recht anerkannten und anwandten, daß sie zudem überkommene ägyptische Übungen im Rechtsverkehr respektierten. Daß die römische Verwaltung damit keine Schwierigkeiten hatte, mag sich auch daraus erklären, daß sowohl das überkommene ägyptische wie auch das griechische Recht nun für die Römer wohl nur im Range bloßer lokaler Übungen standen.<sup>44</sup>

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<sup>44</sup> S.o. Anm. 3.

## BIBLIOGRAPHIE

- ALLAM 1986  
S. ALLAM, "Réflexions sur le 'Code légal' de Hermopolis dans l'Égypte ancienne", *CdÉ* 61 (1986), 50-75.
- DEPAUW 1997  
M. DEPAUW, *A Companion to Demotic Studies* (Pap. Brux. 28), Brüssel 1997.
- DONKER VAN HEEL 1990  
K. DONKER VAN HEEL, *The Legal Manual of Hermopolis* (P. Mattha), Leiden 1990.
- GIRARD 1977  
P.H. GIRARD, *Les lois des Romains*, Camerino 1977.
- HÄGE 1968  
G. HÄGE, *Ehegüterrechtliche Verhältnisse in den griechischen Papyri Ägyptens bis Diokletian*, Cologne-Graz 1968.
- KRELLER 1919  
H. KRELLER, *Erbrechtliche Untersuchungen auf Grund der graeco-ägyptischen Papyrusurkunden*, Leipzig 1919.
- KREUZSALER & URBANIK 2008  
C. KREUZSALER & J. URBANIK, "Humanity and Inhumanity of the Law: The case of Dionysia", *JJP* 38, 2008, 119-156.
- LEWIS 1982  
N. LEWIS, "Aphaireisis in Athenian law and custom", in: J. MODRZEJEWSKI & D. LIEBS (eds.), *Symposion 1977. Vorträge zur griechischen und hellenistischen Rechtsgeschichte* (Chantilly, 1.-4. Juni 1977), Cologne 1982, 161-178.
- LIPPERT 2004  
S.L. LIPPERT, *Ein demotisches juristisches Lehrbuch: Untersuchungen zu Papyrus Berlin P 23575 rto*, Wiesbaden 2004.
- LIPPERT 2008  
S.L. LIPPERT, *Einführung in die altägyptische Rechtsgeschichte*, Berlin 2008.
- MATTHA & HUGHES 1975  
G. MATTHA & G.R. HUGHES, *The Demotic Legal Code of Hermopolis*, Cairo 1975.
- MODRZEJEWSKI 1970  
J. MODRZEJEWSKI, "La règle de droit dans l'Égypte romaine", in: D.H. SAMUEL (ed.), *Proceedings of the Twelfth International Congress of Papyrology, Ann Arbor, 13-17 August 1968*, Toronto 1970, 317-377.
- MODRZEJEWSKI 1979  
J. MODRZEJEWSKI, "Chrematistes et Laocrites", in: A. BISCARDI (ed.), *Symposion 1974. Vorträge zur griechischen und hellenistischen Rechtsgeschichte* (Gargano am Gardasee, 5.-8. Juni 1974), Cologne 1979, 375-388, also published in: J. BINGEN, G. CAMBIER & G. NACHTERGAEEL (eds.), *Le monde grec. Pensée, littérature, histoire, documents. Hommages à Claire Préaux*, Brussels 1975, 699-708.
- MODRZEJEWSKI 1981  
J. MODRZEJEWSKI, "La structure juridique de mariage grec", in: E. BRESCIANI, G. GERACI, S. PERNIGOTTI & G. SUSINI (eds.), *Scritti in onore di Orsolina Montevocchi*, Bologna 1981, 231-268.
- MODRZEJEWSKI 1988  
J. MODRZEJEWSKI, "La loi des Égyptiens: le droit grec dans l'Égypte romaine", in: B. MANDILARAS (ed.), *Proceedings of the XVIII International Congress of Papyrology, Athens, 25-31 May 1986*, Athens 1988, vol. 2, 383-390 = *Droit impérial et traditions locales dans l'Égypte romaine IX*.
- MODRZEJEWSKI 2012  
J. MODRZEJEWSKI, *Le droit grec après Alexandre*, Paris 2012.
- MONTEVECCHI 1985  
O. MONTEVECCHI, "Aigyptios-Hellen in età romana", in: S.F.

- BONDI et al. (eds.), *Studi in onore di Edda Bresciani*, Pisa 1985, 339-353, also in: S. DARIS (ed.), *O. Montevecchi, Scripta Selecta*, Milan 1998, 329-344.
- MONTEVECCHI 2001  
O. MONTEVECCHI, “‘Ioni nati in Egitto’: La parabola della grecità nella valle del Nilo”, in: I. ANDORLINI et al. (eds.), *Atti del XXII Congresso Internazionale di Papirologia: Firenze, 23-29 agosto 1998*, Florence 2001, vol. 2, 983-984.
- PARTSCH 1920  
J. PARTSCH, “Die Alexandrinischen Dikaiomata”, *AFP* 6 (1920), 34-76.
- PESTMAN 1961  
P.W. PESTMAN, *Marriage and Matrimonial Property in Ancient Egypt. A Contribution to Establishing the Legal Position*, Leiden 1961.
- PESTMAN 1969  
P.W. PESTMAN, “The law of succession in ancient Egypt”, in: J. BRUGMAN et al. (eds.), *Essays on Oriental Laws of Succession*, Leiden 1969, 58-77.
- PESTMAN 1984  
P.W. PESTMAN, “Remarks on the legal manual of Hermopolis”, *Enchoria* 12 (1984), 33-42.
- PESTMAN 1985  
P.W. PESTMAN, “Le manuel de droit égyptien de Hermoupolis: Les passages transmis en demotique et en grec”, in: P.W. PESTMAN (ed.), *Textes et études de papyrologie grecque, démotique et copte* (P. L. Bat. 23), Leiden 1985, 116-143.
- PESTMAN 1992  
P.W. PESTMAN, *Il processo di Hermias e altri documenti dell'archivio dei choachiti (P. Tor. Choachiti): papiri greci e demotici conservati a Torino e in altre collezioni d'Italia*, Torino 1992.
- PRINGSHEIM 1961  
F. PRINGSHEIM, *Gesammelte Abhandlungen*, vol. 2, Heidelberg 1961.
- PURPURA 2000  
G. PURPURA, “Diritti di patronato e ἀστυκοὶ νόμοι in P.Oxy. IV 706”, in: S. RUSSO (ed.), *Atti del V Convegno Nazionale di Egittologia e Papirologia, Firenze, 10-12 dicembre 1999*, Firenze 2000, 199-212.
- PURPURA 2004  
G. PURPURA, “Il giurista e l'avvocato – nomikoi e rhetores in CPR I, 18”, *Minima epigraphica et papyrologica* 7-8, 2004-2005, fasc. 9-10, 269-278.
- RUPPRECHT 1985  
H.-A. RUPPRECHT, “Zum Ehegattenerbrecht nach den Papyri”, *BASP* 22 (1985), 291-295.
- RUPPRECHT 1987  
H.-A. RUPPRECHT, “Ehevertrag und Erbrecht”, in: SEBASTIÀ JANERAS (ed.), *Miscellània Papirologica: Ramon Roca-Puig en el seu vuitantè aniversari*, Barcelona 1987, 307-311.
- SEIDL 1964  
E. SEIDL, “Altägyptisches Recht”, in: B. SPULER (ed.), *Handbuch der Orientalistik, Erste Abteilung, Der Nahe und Der Mittlere Osten*, Ergänzungsband 3, Orientalisches Recht, Leiden 1964, 1-48.
- SEIDL 1973  
E. SEIDL, *Rechtsgeschichte Ägyptens als römische Provinz: Die Behauptung des ägyptischen Rechts neben dem römischen*, Sankt Augustin 1973.
- SEIDL 1974  
E. SEIDL, “Nachgiebiges oder zwingendes Erbrecht in Ägypten”, *SDHI* 40 (1974), 99-110.
- SEIDL 1979  
E. SEIDL, „Eine demotische Juristenarbeit“, *ZRG RA* 96 (1979), 17-30.
- STURM 2000  
F. STURM, “Droit supplétif en cas d'éviction de la règle normalement applicable: Nouvelle analyse du P. Oxy. 706”, in: J. VELISSAROPOULOS (ed.), *Timai Ioannou Triantaphyllopoulou*, Athens 2000, 307-315.
- TAUBENSCHLAG 1955  
R. TAUBENSCHLAG, *The Law of Greco-Roman Egypt in the Light of the Papyri, 332 B.C.-640 A.D.*, second ed., Warsaw 1955.
- WOLFF 1939  
H.J. WOLFF, *Written and Unwritten Marriages in Hellenistic and post-classical Roman Law*, Haverford 1939.
- WOLFF 1953  
H.J. WOLFF, “Faktoren der Rechtsbildung im hellenistisch-römischen Ägypten”, *ZRG RA* 70, 1 (1953), 20-57.
- WOLFF 1970  
H.J. WOLFF, *Das Justizwesen der Ptolemäer*, 2<sup>nd</sup> ed., Munich 1970.
- WOLFF 1978  
H.J. WOLFF, *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemäer und des Prinzipats, Zweiter Band, Organisation und Kontrolle des privaten Rechtsverkehrs*, Munich 1978.
- WOLFF 1979  
H.J. WOLFF, “Neue juristische Urkunden V, Eine neue Quelle zum Eindringen römischen Rechts in Ägypten”, *ZRG RA* 96 (1979), 258-271.
- WOLFF 2002  
H.J. WOLFF, *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemäer und des Prinzipats, Erster Band*,

- Bedingungen und Triebkräfte der Rechtsentwicklung*, H.-A. RUPPRECHT, (ed.), Munich 2002.
- YIFTACH-FIRANKO 2003  
U. YIFTACH-FIRANKO, *Marriage and Marital Agreements: A History of the Greek Marriage Document in Egypt. 4<sup>th</sup> century BCE-4<sup>th</sup> century CE*, Munich 2003.
- YIFTACH-FIRANKO 2009  
U. YIFTACH-FIRANKO, "Law in Graeco-Roman Egypt: Hellenization, Fusion, Romanization", in: R.S. BAGNALL (ed.), *The Oxford Handbook of Papyrology*, Oxford 2009, 541-560.

# Quantifying Literacy in the Early Roman Arsinoitês: the Case of the *Grapheion* Document<sup>1,2</sup>

URI YIFTACH

In Ptolemaic, Roman and Byzantine Egypt, parties to transactions documented by a written contract were often required to authenticate in their own hand the terms of the contract. The section in the document in which they did so

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<sup>1</sup> The present paper was written in connection with the project *Synopsis: Data Processing and State Management in Early Roman Egypt* (31 BCE-284 CE), held in collaboration with Professor Andrea Jördens of the *Institut für Papyrologie* at the University of Heidelberg and sponsored by the *German-Israeli Foundation for Scientific Research and Development*. It was originally presented in the 27<sup>th</sup> Congress of Papyrologists, Warsaw 29.7.-3.8.2013. A modified version was held in a lecture delivered on 4.8.2014 at Tel Aviv University. I thank the two anonymous readers for their diligent work and highly enriching comments.

<sup>2</sup> Drawing evidence from documentary papyri about levels of literacy among Greeks and Romans in eastern Mediterranean lands began to occupy historians at about the time that papyri themselves were first being unearthed in Egypt. The early study by Ernst MAJER-LEONHARD in 1913 did not stimulate much interest, nor did a second discussion by Rita CALDERINI in 1950. It was only with a series of publications by H.C. YOUTIE between 1966 and 1975 (1966, 1971a, 1971b, 1975a, 1975b, 1975c), that the study of literacy as evidenced in the papyri from Roman Egypt became more sophisticated and began to interest a wider audience. Finally, the publication of *Ancient Literacy* by HARRIS (1989), an Italian resumé of which was published in 1988, aroused heated debate as to what the likely levels of literacy were in antiquity; what preconditions were necessary for literacy; what factors were likely to have influenced its enhancement or decline; how reading and writing were taught to children. Detailed and useful discussion of scholarship on literacy published since the appearance of Harris' book, is provided by WERNER 2009, especially at 343 [bilingualism], 345 [Egypt], 347 [literacy/illiteracy], 349 [Oxyrhynchus].

was termed *hypographê*.<sup>3</sup> Since not all contracting parties were literate, the authentication could be written by another, provided that the document explicitly noted that this was the reason for inserting an additional individual into the transaction.<sup>4</sup> The number of contracts recording the *hypographê*—no less than 1350 legal documents with this clause are currently registered in the databank *synallagma*—is adequate to sustain an investigation into literacy levels among those inhabitants of Ptolemaic, Roman and Byzantine Egypt who habitually made use of writing for their contractual agreements, whether they themselves were literate, or were illiterate and of necessity employed a literate scribe.<sup>5</sup> The object of this paper, then, is to canvass the 316 *hypographai* written to authenticate provisions of contracts during the first three centuries CE of Roman rule at the public office for written records called the *grapheion*.<sup>6</sup>

The practice of inserting *hypographai* into contracts is already attested early in the Ptolemaic period. From the early second century BCE onward, parties to contracts recorded as double documents customarily confirmed in their own hand the contract's terms.<sup>7</sup> The text of the *hypographê* was short in these days, about 10 to 15 words of a very simple sentence, and the intended users of the contract, Greek men, were expected to qualify.<sup>8</sup> This is frequently the case, although by no means always so: in roughly half the cases—eight out of a total of nineteen—the parties to the contract require another person to write their *hypographê*.<sup>9</sup> As early as the Ptolemaic period, then, the double

<sup>3</sup> WOLFF 1978, 164-166; DEPAUW 2003, 89-105.

<sup>4</sup> Cf., e.g., P.Tebt. I 104 = MChr 285 (92 BCE—Kerkeosiris) ll. 38-43: Φιλίσκ[ος] Ἀπολλωνίου Πέρσης τῆς ἐπιγονῆς | <sup>39</sup> ὁμολογῶ ἔχειν τὴν φερνὴν τὰ δύο τάλαντ[α] | <sup>40</sup> καὶ τὰς τετρακισχίλιας δραχμὰς τοῦ χαλκοῦ καθότι προέγραπται καὶ τέθεμαι | <sup>41</sup> [τὴν συγγρα]φὴν κυ[ρίαν] παρὰ Διο[νυ]σίωι. ἔγραψεν ὑπὲρ αὐτοῦ Διονύσιος Ἑρμαίσκ[ου] | <sup>42</sup> [ὁ προεγραμμένος διὰ τοῦ αὐτὸν μὴ ἐπίστασθαι γράμματα.

<sup>5</sup> [http://synallagma.tau.ac.il/ArtLogon.aspx?project=GLRT&username=u\\_hypographe+general-2&password=UQVVDQUABGSHOSMWIYKL](http://synallagma.tau.ac.il/ArtLogon.aspx?project=GLRT&username=u_hypographe+general-2&password=UQVVDQUABGSHOSMWIYKL)

<sup>6</sup> On the *grapheion* in general, cf. WOLFF 1978, 86-91; YIFTACH-FIRANKO 2014, 41-43; CLAYTOR 2013, 78-81.

<sup>7</sup> The autograph confirmation is already inserted into some third century documents (P.Sorb. I 17, scr. ex. 21-25, 257 BCE, Mermertha) and perhaps even earlier (Athens, fourth cent. BCE, [Dem.] 35.15.3), but seems to become a regular component of the double document around 170 BCE at the latest. Cf. P.Tebt. III.1 818 (174 BCE, Trikómia), and also P.Mich. III 183 which is the *hypographê* of no. 182 (183 BCE, Arsinoitês).

<sup>8</sup> This assumption is based largely on the text of BGU XIV 2367 (III BCE, Alexandria), a regulation regarding, *inter alia*, the nomenclature for parties to contracts recorded in double documents: all except citizens of Alexandria were required to supply the name of their *patris*, that is, a *polis* or region in the Hellenistic Greek world from which they originated. I study the phenomenon in detail in YIFTACH-FIRANKO 2014a. On literacy and Greek *paideia* in Ptolemaic Egypt, cf., e.g., THOMPSON 1994, 75-78; P.Count., 124-133.

<sup>9</sup> Autograph *hypographê*: BGU VI 1271 (180-145 BCE, Philadelphia or Theadelphia); XIV 2390

document could be employed by an illiterate with the assistance of someone else able to write.

Once we approach the early Roman *grapheion* the data become sufficiently abundant to provide a statistically more reliable picture. As shown in Chart 1 below, illiteracy is not merely an option; it is now the rule. This proved to be true for almost every type of document I surveyed, both Roman and Byzantine.<sup>10</sup> Almost three-quarters of the extant *hypographai* written up at a *grapheion*, that is, 235 out of a total of 316, were not composed by the contracting party him- or herself, but by another individual who was able to write. Expressed another way, from the total of 316 no more than 81 individuals were literate and wrote the *hypographê* in their own hand. The chart also draws attention to one probable cause of the apparent dip in the level of literacy: women are now more in evidence and they comprise no less than about one-third of the authors of *hypographai*, yet few indeed are capable of authenticating *hypographai* with their own hand—only seven out of 104. Among men the ratio is 1 out of 3.

The levels of literacy also vary depending on the community in which the document was drawn up—metropolis or village, large village or small: see Chart 2 below. Among the 19 men who incorporate their own *hypographê* into documents written up at the *grapheion* in Ptolemais Euergetis, capital of the Arsinoite nome, as many as eight are authored by the contracting party. This is not sufficient evidence for statistical purposes, but evidentiary material from Tebtynis is, and with its remarkably similar literacy rate, gives us a larger number—29 out of 66 are able to write the authenticating *hypographê* for themselves.<sup>11</sup> Quite a different picture is provided by source material from So-

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(160/59 BCE, Hérakleopolitês); 2395 (221 BCE, Takona); P.Bad. II 2 (130 BCE, Hermônthis); P.Dion. 13 (112 00, Akôris) [the same person also in nos. 14–21]; P.Oslo III 140 = C.Ptol.Sklav. I 20 (112 BCE, Tebtynis); P.Tebt. I 105 (103 BCE, Kerkeosiris); III.1 819 (171 BCE, Oxyrhyncha); SB XVI 12372 (161 or 153 BCE, Arsinoitês); XX 14108 (early II BCE, prov. unknown); UPZ I 125 (89 BCE, Memphis). Allograph *hypographê*: BGU VI 1271 [for both parties] (180–145 BCE, Theadelphia/Philadelphia); P.Dion. 16 [for one of the borrowers] (109 BCE, Akôris); P.Erasm. 14 (mid II BCE, Arsinoitês); P.Hamb. I 58 (83 BCE, prov. unknown); P.Tebt. I 104 = MChr 285 = Sel.Pap. I 2 (92 BCE, Kerkeosiris); P.Würz. 6 (102 BCE, Theadelphia); SB VIII 9679 (after 146 BCE, Euhêmeria?); XX 14108 (early II BCE, prov. unknown).

<sup>10</sup> Thus, for example, in Byzantine contracts of sale, all of which are dated after the beginning of the fourth century, all nine women vendors are illiterate; this is also the case in eleven contemporary contracts of loan with female borrowers. Compare also HARRIS 1988, 15, 21. An instructive introduction is provided by COLE 1981, corroborating this picture of widespread illiteracy among women; cf. also CALDERINI 1950. A key source for assessing literacy among women is, of course, letters authored by them. Cf., in particular, CRIBIÖRE 2002; ILAN 2005, 177–180; BAGNALL & CRIBIÖRE 2006, 48–55. A more optimistic view as to the diffusion of literacy among women, based on literary sources, inscriptions, and graffiti from the Roman West, is expressed by MANO 2008, 208.

<sup>11</sup> The singularity of Tebtynis' high levels of literacy is also reflected in the quantity and quality

knopaiou Nêsos, for in that village women and men alike are overwhelmingly illiterate: just one male out of the 28 who were contracting parties recorded in a *grapheion* document at Soknopaiou Nêsos writes his own *hypographê* in person.<sup>12</sup> Similar figures can be given in the case of women.

Another key factor is the length of the *hypographê* being written: see below, Chart 3. As indicated earlier, the text of a Ptolemaic *hypographê* tends to be short, measuring some two lines with ca. 10-15 letters of text.<sup>13</sup> Such *hypographai* are also well attested among documents composed at *grapheia* in the Roman period, and the literacy rate exhibited in them, insofar as men are concerned, is even higher than the Ptolemaic results. One of every two short *hypographai* written by a man was drafted by the contracting party himself.<sup>14</sup> But in the Roman *grapheion*, short *hypographai* account for no more than one-third of the total. When we approach a subsequent length-group in which the *hypographai* consist of four to six lines, the literacy rate drops to slightly above 25%. This is also the case when the *hypographê* becomes even longer: 27% in *hypographai* measuring seven to nine lines, and slightly less than one-quarter in contracts measuring 10 lines or more. According to this analysis, while 50% of all men were able to draft a modest-size *hypographê* on their own, only one-quarter were capable of doing so once the amount of text became significantly longer. We are no doubt looking at the slow writers (βραδέως γράφων/γράφουσα), a group studied by H.C. Youtie forty years ago, making use of particular test cases.<sup>15</sup>

The above figures are surprisingly high. Were we to rely on D. Rathbone's figures for the Ptolemaic period, 36,500 adult males,<sup>16</sup> as indicative of the size of the population in the Roman period as well, we could postulate the availability of as many as 8,500 'real' literates, that is persons who were able to draft a Greek text of considerable size. This high figure is of far reaching cultural ramifications, for example for a study of the breadth and depth of Helleniza-

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of literary papyri, both Egyptian and Greek, unearthed from Tebtynis, when compared with other Fayum villages, especially Soknopaiou Nêsos: see VAN MINNEN 1998. The question of literacy within a particular locality should likewise focus on individual archives, some of which provide the finest samples of autograph *hypographai*. Cf., e.g., P.Fam.Tebt. 22.20-30 (122 CE, Tebtynis). Cf. <http://www.trismegistos.org/arch/archives/pdf/192.pdf>.

<sup>12</sup> Cf. SAMUEL 1981, 396-397; JORDENS 2005, 48 with n. 25. Methodologically important is HANSON 1991, 178-179.

<sup>13</sup> Cf. *supra*, p. 260.

<sup>14</sup> Remarkably similar results were reached by STEINMANN 1971, in particular 357.

<sup>15</sup> E.g. YOUTIE 1971b, with an account of the contractual parties designated as slow writers in the documents, as well as those who can be assigned to that same category on palaeographic grounds. Cf. also, more recently, KRAUS 1999, 89-90.

<sup>16</sup> RATHBONE 1990, 113.

tion in the Arsinoite nome during the early Roman period. A high number of literates could also be significant for the study of provincial bureaucracy at various levels. Smooth functioning of the provincial government was based on the continuous circulation of information, in particular, the myriad reports about population, property, and revenue that flowed from one bureau to another throughout the nome.<sup>17</sup> Those who crafted the various reports needed to be in possession of basic arithmetical and measuring skills, to be competent in tachygraphy, as well as to be acquainted with the highly diversified terms used for the categorization of land, revenues and population in the early Roman period. If the above 8,500 literates were competent, or at least could be made competent within reasonable time to issue these reports, then it is perhaps possible to arrive at an approximation of the pool from which scribes and other skilled personnel could be drawn.<sup>18</sup>

This would however be the case only if we could establish: (a) that data provided by the *grapheion* documents accurately represent the population of the nome under scrutiny and (b) that all those who were able to write a long passage also possessed the requisite skills to produce a legible text of reasonable quality. I shall start with the first question: to what extent are the data provided by the *grapheion hypographai* representative of literacy levels in the population of the Arsinoite nome in general? A useful comparandum comes from the *hypomnêma*, an application for lease, commonly of land, addressed by the lessee to the lessor, which became the default instrument for the documentation of land leases in the first century Arsinoitês and remained popular through late antiquity.<sup>19</sup> Into these documents, the lessor, and at times the lessee, inserted his *hypographê*. What they wrote was quite short, about the same size as the texts written out in their own hand by more than half of the

<sup>17</sup> A useful tool for the study of offices attested in a given village during the Roman period is provided by CALDERINI & DARIS 1935-, e.g., IV 381-382 (Tebtynis) as well as, more recently, BENAÏSSA 2012, e.g., 93-100 (Thôlthis).

<sup>18</sup> How many scribes were required for the operation of state bureaucracy in the Roman period? Take, for instance, one routine functionary, the *sitologos*. *Sitologoi* are attested in the Roman period in as many as 72 Arsinoite villages, and their number was probably many times larger, perhaps twice as many. Assuming a total of four *sitologoi* per village, and their accompanying scribes (cf. OERTEL 1917, 251-252), the number of literates required for the maintenance of that office in the villages of the nome may well rise as high as 600. If similar numbers are assumed in the case of the *praktoreia*, the *kômogrammateia*, as well as those engaged in other permanent, nome-wide bureaux, special committees, offices of the *stratêgoi*, *basilikoi grammateis*, the various archives, as well in the city administration, the total may even be greater than 3,000, to which should be added those active in the management of the private estates (cf., most recently, KRUSE 2012). Evidence on the number of scribes occupied by different officials is scattered in publications of their archives. Cf., e.g., P.Petaus, p. 22-39. On the importance of writing for the functioning of Roman bureaucracy cf., e.g., KELLY 1994, 164-165.

<sup>19</sup> WOLFF 1978, 114-122; YIFTACH-FIRANKO 2007.

men in the *grapheion* documents. Yet *hypomnēmata* convey different literacy rates. As one might expect, male lessors are overwhelmingly literate, and even among women lessors the literacy rate surpasses what we see in *grapheion* documents.<sup>20</sup> In the case of the lessees the picture is reversed, as only one-third wrote out for themselves their own *hypographê*. Among the users of the *grapheion* document, we recall, the rate seems to be 1:2.<sup>21</sup>

I am not convinced that data provided by the *hypomnēmata* are any more representative than those derived from the *grapheion* documents. In the case of *hypomnēmata*, the lessees and the lessors belong, for the most part, to two different socio-economic groups, and this easily accounts for the difference in their rates of literacy: that is, the lessee is a farmer, a member of the rural population in the nome, while the lessor is frequently a land owner, commonly a member of the municipal elite or another privileged population group.<sup>22</sup> That being the case, the *hypomnēmata* do not offer a more accurate picture of the general level of literacy than that provided by the *grapheion* document. But taking this dataset into consideration is methodologically important, for it shows that a closer analysis of the social standing of parties to *grapheion* documents is needed before those data can be treated as representative of the nome's population as a whole.<sup>23</sup>

<sup>20</sup> In *hypomnēmata* of leases during the first three centuries CE, a woman lessor adds the *hypographê* in 19 cases, of which 13 penned their own *hypographê* in person. Only in six instances is a woman said to be illiterate. Among men the rate was 28:1.

<sup>21</sup> Unique to this group, and symptomatic of the high level of illiteracy among its members, is the writing up of the tenant's scars, moles, and other identifying features. The physical description identifies the person and functions as a substitute for the *hypographê*; the formula εἰκονίσθησαν φάμενοι μὴ εἰδέναι γράμματα, appended to the description only occasionally, is an overt attestation of its function. Cf., e.g., P.Mich. XII 631.18 (185 CE, prov. unknown). Literacy rates similar to those of lessees in the *hypomnēmata* are in evidence in documents relating to δημόσιοι γεωργοί. Cf., e.g., P.Berl.Leihg. 29 (164 CE, Lagis).

<sup>22</sup> In P.Mil.Vogl. VI 288 (155 CE, Tebtynis), the lessor, Pasigenês son of Sabinus alias Nonnus, a *kosmêtês*, perhaps in the city of Ptolemais Euergetis, leases out 13 arouras of land to Παῶπισ and Orseus, both sons of Kroniôn and grandchildren of Orsephouphis, residents of Tebtynis: the lessor and his male ancestor bear Greek names, the lessees, native names, some of which, like the Greekish Kroniôn, have equivalents in Egyptian (Pakebkis). While one should resist generalizations, this example from Tebtynis can, I think, be treated as paradigmatic, both with regard to the names of the parties involved, as well as their domicile, and socio-economic status. Cf., cautiously, HERRMANN 1958, 59; ROWLANDSON 1996, 266-272.

<sup>23</sup> Villages in which *grapheia* evolved tended to be bi- or even multicultural, cf., e.g., P.Dime, pp. 114-115. I am unfamiliar with attempts to probe the socio-economic profiles of transacting parties, but it would be useful. Such a study naturally begins with the value of the transactions, as recorded, for example, in the *anagraphê* lists from the *grapheion* in early first-century Tebtynis, published in the second and fifth volume of the Michigan papyri. A survey of some of these lists (P.Mich. II 123-128, V 238-240, 45-49 CE), highlights some 460 entries spelling out the value of the transaction, among which in 259 the value of the transaction exceeds 100 drachmas, 347 in which it exceeds 50, and 385 in which it exceeds 30 drachms. The wealth represented by these three *grapheion* records

The second question relates to the ability of the 25% of the male users of the *grapheion* documents who draft their own *hypographai* to qualify as authors of texts such as the abovementioned reports, that require a more advanced degree of expertise. To answer this question we need to address not only the length of the *hypographê*, but also its quality and legibility, as I did in the case of twenty-two documents whose *hypographai* extend over six lines of text or more. Among these twenty-two *hypographai*, in the case of nine the text is not only long, but also written flawlessly from an orthographic point of view.<sup>24</sup> In these cases, the parties also tend to exhibit Greek names and patronyms so that one can assume that they had enjoyed at least some degree of Hellenic *paideia*. Yet seven long *hypographai* do have some mistakes, and five are heavily freighted with error.<sup>25</sup> The writers of these texts, who tend to have Egyptian names, were probably exposed to some minimal education, and acquired most of their Greek as a spoken language.<sup>26</sup> I do not think that members of this latter group would qualify as skillful scribes and authors of reports, or for that matter, of any other type of sophisticated documentation

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seems to give evidence of a local bourgeoisie, rather than of a multi-layered society.

<sup>24</sup> Flawless text in the following examples: P.Athen. 14 (22 CE, Philadelphia); P.Corn. 6 (17 CE, Oxyrhyncha); P.Mil.Vogl. II 78 (138/9 CE, Tebtynis); P.Ryl. IV 601 (26 BCE, Ptolemais Euergetis); SB VI 9109 (31 CE, Tebtynis); VIII 9642<sup>4</sup> (117-137 CE, Tebtynis). Minor mistakes in CPR I 223 (117-137 CE, Ptolemais Euergetis); P.Fam.Tebt. 22 (122 CE, Tebtynis); P.Gen. I 8 (141 CE, Dionysias); P.Mich. X 583 (78 CE, Bacchias); P.Tebt.Tait. 49 (89 CE, Ptolemais Euergetis); PSI VIII 908 (42/3, Tebtynis); SB VIII 9642<sup>5</sup> (139-161 CE, Tebtynis); XXII 15613 = P.Sel.Warga 7 = P.Tebt. II 529 descr. (111 CE, Tebtynis).

<sup>25</sup> Texts written with infelicities and some mistakes: P.Mich. V 263 (35/6 CE, Tebtynis); V 339 (46 CE, Tebtynis); P.Tebt. II 390 = MChr 251 (167 CE, Tebtynis), and to a lesser degree P.Mich. V 254 (29/30 CE, Arsinoitês) with a copy in no. 255; P.Mich. V 258 (32-4 CE, Arsinoitês); P.Mich. V 305 (I CE, Arsinoitês); P.Mich. V 331 (41 CE, Arsinoitês); P.Mich. V 341 = PSI VIII 904 (46/7 CE, Tebtynis) with a copy in no. 340<sup>v</sup>. The text of P.Mich. V 263.24-39 illustrates the type of morphological idiosyncrasies being listed here; many are likely to be caused by the scribe's faulty pronunciation of the Greek: interchange of omikron and omega (e.g., l. 29: χῶμα for χώμαλ. 24: ὠμωλογῶ for ὀμολογῶ), upsilon for omicron (e.g., l. 35: παντυς for παντός), or for οι (e.g., l. 33: ὕκου for οἴκου), interchange of epsilon and αι (e.g., l. 29: χεϊτε for χεῖται; l. 28: αἰᾶν for ἐάν), the ει and iota (l. 26: εἰεᾶν for ἱεῶν; l. 34: βεβεῶσι for βεβαιώσει) λ for ρ (l. 27: ἡμαλουργίου for ἡμαρουρίου), τ for δ (l. 37: ἡτωτικῶν for ἰδιωτικῶν) and δ for τ (ll. 34-35: εἰδιοδικῶν for ἰδιωτικῶν). Interchange of cases: nominative for dative (l. 24: Πνευτυνις for Πνεβτύναι), or for genitive: (l. 26: Σεκνεβτυνις for Σεκνεβτύνιος), genitive singular for nominative plural (l. 28: γείτονος for γείτονες), or singular (ll. 28, 30: διωρυκος for διώρυξ); genitive singular for genitive plural (l. 35: χρόνου for χρόνων), dative for accusative (l. 26: Τεβτυνι for Τεβτύνιν), employment of -ιος instead of εως for genitive ending of nouns in -ις (l. 30, 32: Πνευτύνεος for Πνεβτύνεως; l. 38: l. 38 ἐνπιήσεος for ἐμποιήσεως), accusative for dative (l. 28: σφραγετιν for σφαγίδι). For an analysis of the social and cultural implications of idiosyncratic morphology, cf., e.g., BUCKING 2007; KEENAN 1988, 163-164. Note also a caveat by CURCHIN 1995, 467.

<sup>26</sup> The said phenomenon is discussed, in a different context, by HOZ 2006.

requiring texts of high quality, such as, to take another outstanding example, petitions.<sup>27</sup>

But the *hypographai* seem to tell a different story. As indicated at the beginning of this paper, the *hypographê* was first required in double documents in the Ptolemaic period. Yet it was also acknowledged even then that some contracting parties might not be able to write the *hypographê* in person, so they were allowed to have the document composed by another individual, provided that illiteracy was explicitly stated as the reason why another party was introduced into the transaction. The same rule applied to the Roman *grapheia*, where the position of the literate bystander was institutionalized: in the specialized context of the *grapheion* document, the literate bystander was now officially installed; he was called *hypographeus* and was carefully identified alongside the other parties at the end of the contract.<sup>28</sup>

Another way to alleviate the problem of illiteracy was to redefine literacy itself, so it would apply to as many potential parties to contracts as possible. One way of reaching this goal was to allow parties to compose the *hypographê* in any language they wished: this is in fact the case in the documents from the Judean desert during the early second-century CE, where parties compose the *hypographê* in their mother tongue, adding the *hypographê* in Aramaic or Nabatean directly to the Greek body of the document.<sup>29</sup> In Egypt, however, the rule was different: the language of the *hypographê* had to be Greek,<sup>30</sup> but any type of Greek text would do, regardless of its morphological quality or legibility, and the author of virtually any text, even one barely understandable and riddled with errors, was accepted as someone who knew letters, γράμματα εἰδώς/εἰδυῖα. Thus, with the number of literates stretched to the maximum

<sup>27</sup> BAGNALL & CRIBIORE 2006, 42: "... a study of scribal hands according to provenance, destination, and type of document is still a desideratum." A complete list of available petitions is now available the databank *Synallagma: Greek Contract in Context* (<http://synallagma.tau.ac.il/?project=glrt&user name=guest&password=guest>). Cf. also BUCKING 2007.

<sup>28</sup> The earliest safely identifiable document with a *hypographeus* is P.Mich. V 251 (19 CE, Talei). The term was applied in the context of the *grapheion* only. Cf., primarily, YOUTIE 1975b; HANSON 1991, 164; KRAUS 2000, 325-328.

<sup>29</sup> Cf., e.g. P.Yadin 17 and COTTON 2003.

<sup>30</sup> Cf. primarily, YOUTIE 1975a, 104; 1971a, 162-163; 1971b. The use of the Demotic *hypographê* is attested long after Demotic ceased to be a routine vehicle for documenting contracts, replaced by Greek. Cf., e.g., BGU III 910, col. 1.11 = P.Dime III 31 GH and 2.44 = P.Dime III 31 GD (70 CE, Soknopaiou Nêsos); CPR XVIIb 13.7-16 l. 16 (217/8 CE, Panopolis); P.Ryl. II 161.22 (81 CE, Soknopaiou Nêsos); P.Vind.Tand. 26. 21 (143 CE, Soknopaiou Nêsos); P.Vind.Worp. 10.18-19 (143/4 CE, Soknopaiou Nêsos ?); SB XVI 12954.16 = P.Ryl. II 329 descr. (116 CE, Arsinoitês); 12957 = P.Lond. II 292 descr. (103-114 CE, Soknopaiou Nêsos). On the expectation that the *hypographê* would be drafted in Greek, cf., in particular, SB I 5117.6 = P.Dime III 29 (55 CE, Soknopaiou Nêsos): διὰ τὸ μὴ εἰδέναι αὐτὸν γράμματα [Ἑλληνικά, ἀλλὰ Αἰγύπτια γράφει. Cf. also YOUTIE 1975a; HANSON 1991, 164.

and an inclusive definition of literacy squeezed to the minimum, in the society in which an incompetent writer lived he was nonetheless classified among the literates, able to assist others in writing their own *hypographai*. Should the text being written have a different purpose, however, as one to be sent to a high government official capable of redressing some grievances suffered, those with limited experience and skill in writing with reed pen and papyrus were forced to find a flawless writer.

To sum up: *hypographai* to legal documents were meant, in Ptolemaic, Roman and Byzantine Egypt, to be written by the contracting parties themselves. If they were not, this fact would be stated in the text of the *hypographê*. Counting the autographs and allographs among the more than 1300 *hypographai* of legal documents that have come down to us thus accords us a unique means of assessing the level of literacy in Greco-Roman Egypt. The figures I discussed here relate to *hypographai* from *grapheion* documents from the first three centuries CE. An analysis of these figures has shown that the level of literacy of a given party was affected by his gender, place of residence, and the length of the required text. Two figures of interest that were mentioned in the foregoing discussion are that 50% of the male users of the document were able to write some text, and 25% were able to write a longer text.

Both features are significant for the question of the extent of Greek education in the Egyptian *chora*. Especially the latter figure, the one quarter of the users who are able to write long texts, agrees with the abovementioned research focusing on the structure and contents of reports from late Ptolemaic and Roman Egypt. Such a high number of literates could be used as an inexhaustible pool from which potential scribes would be recruited who could serve the local administration by continuously producing these reports. The actual pool, however, was probably considerably smaller. It is questionable whether the data provided by the *grapheion* documents is representative of the population in general, and even if it is, the number of those who could write long Greek texts flawlessly was considerably smaller, amounting to no more than 10% of the male population of the nome. A detailed analysis of the social background and standing, and, in the bureaucratic context, training process of this manpower is now to be desired.

## CHARTS

### 1. LITERACY RATE IN THE EARLY ROMAN GRAPHEION (I-III CE):

	Literate	Illiterate	Total	Literacy Rate
<b>Men</b>	74	138	212	34%
<b>Women</b>	7	97	104	6.7%
<b>Total</b>	81	235	316	25%

### 2. LITERACY RATE IN THE EARLY ROMAN GRAPHEION (I-III CE), BY LOCATION:

Location	Literate	Illiterate	Total	Literacy Rate
<b>Ptolemais Euergetis</b>	8	11	19	42%
<b>Tebtynis</b>	29	37	66	43%
<b>Soknopaiou Nêsos</b>	1	27	28	3.5%

### 3. LITERACY RATE IN THE EARLY ROMAN GRAPHEION (I-III CE), BY LENGTH OF THE HYPOGRAPHÊ (MEN ONLY):

Number of lines	Literate	Illiterate	Total	Literacy rate
<b>1 to 3</b>	36	34	70	51%
<b>4 to 6</b>	19	47	66	29%
<b>7 to 9</b>	10	27	37	29%
<b>10 or more</b>	9	30	39	23%
<b>3 or more</b>	38	104	142	27%
<b>Total</b>	74	138	212	35%

### 4. LITERACY RATE IN THE ARSINOITE LEASE HYPOMNÊMATA (I-III CE):

	Literate	Illiterate	Total	Literacy Rate
<b>Lessees, Men</b>	25	52	77	32%
<b>Lessors, Women</b>	13	6	19	68.5%
<b>Lessors, Men</b>	28	1	29	96%

## BIBLIOGRAPHY

- BAGNALL & CRIBIORE 2006  
R.S. BAGNALL, R. CRIBIORE, *Women's Letters from Ancient Egypt, 300 BC-800 AD*, Ann Arbor 2006. <http://quod.lib.umich.edu/cgi/t/text/text-idx?c=acls;idno=heb90014>.
- BENAÏSSA 2012  
A. BENAÏSSA, *Rural Settlements of the Oxyrhynchite Nome, A papyrological survey*, Trismegistos Online Publications 4, Cologne-Leuven 2012.
- BOWMAN & WOOLF 1994  
A.K. BOWMAN, G. WOOLF (eds.), *Literacy and Power in the Ancient World*, Cambridge 1994.
- BUCKING 2007  
S. BUCKING, "On the Training of Documentary Scribes in Roman, Byzantine, and Early Islamic Egypt: A Contextualized Assessment of the Greek Evidence", *ZPE* 159, 2007, 229-247.
- CALDERINI & DARIS 1935-  
A. CALDERINI, S. DARIS, *Dizionario dei nomi geografici e topografici dell'Egitto greco-romano*, Milan 1935-.
- CALDERINI 1950  
R. CALDERINI, "Gli Ἀγρόγραμματτοι nell'Egitto greco-romano", *Aegyptus* 30, 1950, 14-41.
- CLAYTOR 2013  
W.G. CLAYTOR, "A Schedule of Contracts and a Private Letter: P.Fay. 344", *BASP* 50, 2013, 77-121.
- COLE 1981  
S.G. COLE, "Could Greek Women Read and Write?" in: H.P. FOLEY (ed.), *Reflections of Women in Antiquity*, New York 1981, 219-245.
- COTTON 2003  
H.M. COTTON, "'Diplomatics' or External Aspects of the Legal Documents from the Judaean Desert: Prolegomena", in: C. HEZSER, *Rabbinic Law in its Roman and Near Eastern Context*, Tübingen 2003, 49-62.
- CRIBIORE 2002  
R. CRIBIORE, "The Women in the Apollonios Archive and their Use of Literacy", in: H. MELAERTS, L. MOOREN (EDS.), *La rôle et le statut de la femme en Égypte hellénistique, romaine et byzantine, Actes du colloque international, Bruxelles-Leuven, 27-29 novembre 1997*, Leuven 2002, 149-166.
- CURCHIN 1995  
L.A. CURCHIN, "Literacy in the Roman Provinces: Qualitative and Quantitative Data from Central Spain", *AJP* 116, 1995, 461-476.
- DEPAUW 2003  
M. DEPAUW, "Autograph Confirmation in Demotic Private Contracts", *CdÉ* 78, 2003, 66-111.
- HARRIS 1988  
W.V. HARRIS, "L'analfabetismo e le funzioni della parola scritta nel mondo romano", *Quaderni di storia* 14 (27), 1988, 5-26.
- HARRIS 1989  
W.V. HARRIS, *Ancient Literacy*, Cambridge 1989.
- HANSON 1991  
A.E. HANSON, "Ancient Illiteracy", in: M. BEARD et al. (eds.), *Literacy in the Roman World*, Ann Arbor 1991, 159-198.
- HERRMANN 1958  
J. HERRMANN, *Studien zur Bodenpacht im Recht der graeco-aegyptischen Papyri*, (MBRG 41), Munich 1958.
- HOZ 2006  
M.P. DE HOZ, "Literacy in Rural Anatolia: the Testimony of the Confession Inscriptions", *ZPE* 155, 2006, 139-144.
- ILAN 2005  
T. ILAN, "Learned Jewish

- Women in Antiquity”, in: H. MERKEL, B. EGO, *Religiöses Lernen in der biblischen, frühjüdischen und frühchristlichen Überlieferung*, Tübingen 2005, 175-190.
- JÖRDENS 2005  
A. JÖRDENS, “Griechische Papyri in Soknopaiou Nesos”, in S. LIPPERT, M. SCHENTULEIT (eds.), *Tebtynis und Soknopaiou Nesos. Leben im römerzeitlichen Fajum*, Wiesbaden 2005, 41-56.
- KEENAN 1988  
J. KEENAN, “On Languages and Literacy in Byzantine Aphroditon”, in: B. MANDILARAS et al. (eds.), *Proceedings of the XVIII International Congress of Papyrology: Athens, 25-31 May 1986*, Athens 1988, vol. II, 161-167.
- KELLY 1994  
C.M. KELLY, “Later Roman Bureaucracy: going through the Files”, in: A.K. BOWMAN, G. WOOLF (eds.), *Literacy and Power in the Ancient World*, Cambridge 1994, 161-176.
- KRAUS 1999  
T.J. KRAUS, “‘Slow writers’, βραδέως γράφοντες: What, How Much, and How did They Write?” *Eranos* 97.1-2, 1999, 86-97.
- KRAUS 2000  
T.J. KRAUS, “(Il)literacy in Non-Literary Papyri from Graeco-Roman Egypt: Further Aspects of the Educational Ideal in Ancient Literary Sources and Modern Times”, *Mnemosyne* 53, 3, 2000, 322-342.
- KRUSE 2012  
T. KRUSE, “Die Bedeutung des administrativen Hilfspersonals in der enchorischen Verwaltung des kaiserzeitlichen Ägyptens für die administrative Kontinuität”, in: P. SCHUBERT (ed.), *Actes du 26<sup>e</sup> Congrès international de papyrologie*. Genève, 16-21 août 2010 (Recherches et rencontres. Publications de la faculté des lettres de Genève), Geneva 2012, 417-423.
- MAJER-LEONHARD 1913  
E. MAJER-LEONHARD, *ΑΓΓΑΜΜΑΤΟΙ: in Aegypto qui Litteras Sciverint Qui Nesciverint Ex Papyris Graecis Quantum Fieri Potest Exploratur Pars Prima Seorsum Expressa*, Frankfurt 1913 (*non vidi*).
- MANO 2008  
S. MANO, “Femmes et ‘lettres’: alphabétisation féminine et professions intellectuelles dans les villes de l’Occident romain sous le Haut-Empire”, *Pallas* 76, 2008, 203-215.
- OERTEL 1917  
F. OERTEL, *Die Liturgie. Studien zur ptolemäischen und kaiserlichen Verwaltung Ägyptens*, Leipzig 1917 (repr. 1965).
- RATHBONE 1990  
D.W. RATHBONE, “Villages, Land, and Population in Graeco-Roman Egypt”, *Proceedings of the Cambridge Philological Society* 36, 1990, 103-142.
- ROWLANDSON 1996  
J. ROWLANDSON, *Landowners and Tenants in Roman Egypt. The Social Relations of Agriculture in the Oxyrhynchite Nome*, Oxford 1996.
- SAMUEL 1981  
D. H. SAMUEL, “Greeks and Romans at Soknopaiou Nesos”, in: R.S. BAGNALL et al., *Proceedings of the XVI International Congress of Papyrology*, Chico 1981, 389-403.
- STEINMANN 1971  
F. STEINMANN, “Wie groß war die Zahl der Schreibkundigen Kopten? Eine Untersuchung auf Grund der Djeme-Urkunden”, *Klio* 53, 1971, 353-360.
- THOMPSON 1994  
D. THOMPSON, “Literacy and Power in Ptolemaic Egypt”, in: A.K. BOWMAN & G. WOOLF (eds.), *Literacy and Power in the Ancient World*, Cambridge 1994, 67-83.
- VAN MINNEN 1998  
P. VAN MINNEN, “Boorish or Bookish: Literature in Egyptian Villages of the Fayum in the Greco-Roman Period”, *JJP* 28, 1998, 99-184.
- WERNER 2009  
S. WERNER, “Literacy Studies in Classics: The Last Twenty Years”, in: W.A. JOHNSON, H.N. PARKER (eds.), *Ancient Literacies: the Culture of Reading in Greece and Rome*, Oxford 2009, 333-382.
- WOLFF 1978  
H.J. WOLFF, *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemäer und des Prinzipats, 2: Organisation und Kontrolle des privaten Rechtsverkehrs*, Munich 1978.
- YIFTACH-FIRANKO 2007  
U. YIFTACH-FIRANKO, “The Rise of the *Hypomnēma* as a Lease Contract in the First Century Arsinoites”, in: J. FRÖSEN, T. PUROLA, E. SALMENKIVI (eds.), *Proceedings of the 24<sup>th</sup> International Congress of Papyrology, Helsinki, 1-7 August 2004*, Helsinki 2007, 1051-1061.
- YIFTACH-FIRANKO 2014a  
U. YIFTACH-FIRANKO, “Did BGU XIV 2367 Work?” in M. DEPAUW (ed.), *Legal Documents in Ancient Societies III: Identifiers and Identification Methods in the Ancient World, Leuven-Brussels, 23-25 September 2010*, Leuven 2014, 103-118.
- YIFTACH-FIRANKO 2014b  
U. YIFTACH-FIRANKO, “Evolution of Forms of Greek Documents of the Ptolemaic, Roman

- and Byzantine Periods”, in  
J. KEENAN, J. MANNING, U.  
YIFTACH-FIRANKO (eds.),  
*Law and Legal Practice in  
Egypt from Alexander to the  
Arab Conquest. A Selection  
of Papyrological Sources in  
Translation, with Introduction  
and Commentary*, Cambridge  
2014, 35-53.
- YOUTIE 1966  
H. C. YOUTIE, “Pétaus, Fils de  
Pétaus, ou le scribe qui ne savait  
pas écrire”, *CdÉ* 41, 1966,  
127-143.
- YOUTIE 1971a  
H. C. YOUTIE, “Ἀγράμματος,  
an Aspect of Greek Society  
in Egypt”, *HSCPh* 75, 1971,  
161-176.
- YOUTIE 1971b  
H. C. YOUTIE, “Βραδέως  
Γράφων. Between Literacy  
and Illiteracy”, *GRBS* 12, 1971,  
239-261.
- YOUTIE 1975a  
H. C. YOUTIE, “Because They  
Do Not Know Letters”, *ZPE* 19,  
1975, 101-108.
- YOUTIE 1975b  
H. C. YOUTIE, “Ὑπογραφεὺς.  
The Social Impact of Illiteracy  
in Graeco-Roman Egypt”, *ZPE*  
17, 1975, 201-221.
- YOUTIE 1975c  
H. C. YOUTIE, “Hypographeis  
and Witnesses of 2<sup>nd</sup> Century  
Tebtunis”, *ZPE* 19, 1975,  
191-201.



The Modern World  
Looks at the  
Ancient West and East



# The Hellenization of the East and the Orientalization of the West: The Paradox of Philo of Byblos<sup>1</sup>

ALBERT I. BAUMGARTEN

Into Joseph's view of the world more and more of the clear and skeptical spirit of these Eastern Greeks was insinuating itself. He no longer understood how he could once have felt disgust for all that was not Jewish. The heroes of Greek myth and the prophets of the Bible did not exclude each other... Joseph began to hate the limitations which once had meant for him election and privilege. What mattered was to let the goodness in him flow out to others and draw unto himself the goodness of others.

He was the first man to live deliberately in accordance with this conception. He was a new kind of man, no longer a Jew, nor a Greek, nor a Roman, but a citizen of the world.

—L. Feuchtwanger, *Josephus: A Historical Romance*,  
translated from the German by W. and E. Muir (1932) 303.

The theme of this volume is when “West Met East.” The article below addresses this theme indirectly. The discussion begins with a consideration of the contributions of several outstanding scholars of the twentieth century who first pondered the meaning of the meeting of Western empires with the East in light of the extensive papyrological, epigraphic, and archaeological evidence

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<sup>1</sup> This article owes much to the cordial cooperation and assistance of Corinne Bonnet of the University of Toulouse. Our common interests – both in the history of scholarship and in Philo of Byblos – have been a source of much enlightenment and pleasure. Nevertheless, as always, the sole responsibility for the contents, argument, and conclusions is mine.

that came to light during their careers – much of it as a result of their own research. In most cases, their concern was not on the first Western empire to meet the East, but on its later successors. Nevertheless, these scholars were the pioneers in the investigation of the larger questions concerning the meaning of the meeting of West and East in antiquity.

Questions arising from the history of scholarship have their fullest implication when their results are then applied to the analysis of sources and they can yield new understandings of the texts with which we have been wrestling for generations. For that reason, this article continues with a discussion of the paradoxes associated with Philo of Byblos. He is one of the prime examples of the meeting of East and West, but he often appears to us as a *testis unus*, a unique piece of evidence. The insights garnered from the investigation of the history of scholarship in the first parts of the article help reduce the sense we have of Philo as floating in a void and put him and his work in a wider context.

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Just what was life like in the Near East in the centuries after the mass Greek immigration that followed the conquests of Alexander the Great? Greeks and various oriental peoples were in touch with each other, learned from each other, but also sometimes talked back to each other, even before the conquests of Alexander the Great; but how could one get a feel for life as it was lived, in all its variety and complexity in the Hellenistic era, during the centuries after numerous Greeks came to live in so many places in the East? These questions fascinated Michael I. Rostovtzeff (1870-1952), whose great ability was “his uncanny gift of calling things ancient to life.”<sup>2</sup> Rostovtzeff’s last great work, *The Social and Economic History of the Hellenistic World* (below, *SEHW*), which appeared in 1941, very close to the end of his active career as a scholar, was intended as a major contribution to answering these questions.<sup>3</sup>

Rostovtzeff did not need anyone to teach him that only the most comprehensive approach to these questions, based on the broadest possible foundation of evidence, would yield answers worthy of serious consideration. Hav-

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<sup>2</sup> See MOMIGLIANO 1994 for an insightful, sensitive, yet critical evaluation of Rostovtzeff’s contributions to scholarship. The quote is from MOMIGLIANO 1994, 32.

<sup>3</sup> These questions were an ongoing topic in the extensive correspondence between Rostovtzeff and Franz Cumont (1868-1947). See, for example, the discussion of “Les enjeux historiographiques majeurs: Doura-Europos entre Orient et Occident,” in BONGARD-LEVINE ET AL. 2007, 15-23, or # 90, from Cumont to Rostovtzeff of March 5, 1932, BONGARD-LEVINE ET AL. 2007, 173-175, excerpts cited below, 290.

ing begun as a specialist in Latin literature, Rostovtzeff devoted years to the study of the archaeological remains of Greco-Roman antiquity uncovered in profusion during his lifetime. As any visitor to the Pergamon Museum in Berlin can still attest, the impact of this evidence on popular imagination and on scholarship was immense, but one needed vast erudition and genius to marshal this new mass of material (often mute and without the benefit of illumination by written testimony) into a coherent narrative that would tell the story of the interactions of cultures in the Hellenistic and Roman worlds. Even when the data was written, one needed a special kind of insight to take all of the individual pieces of testimony to civil, legal, and religious life and reconstruct the institutions that stood behind them, the principles on which they operated, and how they shaped peoples' lives. Nevertheless, for all their challenges and difficulties, these were the routes to direct contact with life as lived at the points of intersection of ancient cultures. The reader of *SEHHW* was to share that experience through the numerous plates included in the book.

One foundation of this grand synthesis was Rostovtzeff's leading role in the excavations of Dura Europus. In a preliminary report on the findings, presented to the Archaeological Society in Berlin in the summer of 1929, and delivered while work was still in progress at Dura (in fact, relatively early in Rostovtzeff's personal direct involvement in the excavations),<sup>4</sup> Rostovtzeff expressed the hope that the Dura finds would allow a deeper understanding of Syrian Hellenism and open a window into offering answers to the questions posed above.<sup>5</sup>

A little more than decade later, with the last season of field work completed in 1937 and therefore behind him, Rostovtzeff summarized the

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<sup>4</sup> HOPKINS 1979, 29-32, provides a humorous description of the travails in the field at the excavation of Dura, the Rostovtzeffs' in particular. This was Prof. Rostovtzeff's first real experience at field archaeology, with the attendant discomforts of working with the "natives" and "roughing it." There was no water at the camp, and that drawn from the Euphrates was the color of weak coffee. There was no decent food, and Mrs. Rostovtzeff was "tall and large with an imperious manner and a very keen mind, determined to take charge whenever household arrangements for her husband were at stake, and with a predilection to say exactly what she thought." No preparations had been made for toilet facilities, which was a special hardship for her, as in order to be sure that no harm befell the wife of Yale's representative there was a soldier assigned as her bodyguard, with orders never to let her out of sight. Mrs. Rostovtzeff did not speak Arabic, so her protests to be left alone for toilet functions did no good. She complained of her plight in no uncertain terms. For a more conventional account of the difficulties on site at Dura see Cumont's letter to Rostovtzeff of October 26, 1926, BONGARD-LEVINE ET AL. 2007, #10, 69.

<sup>5</sup> See ROSTOVITZEFF 1929. The occasion was the hundredth anniversary of the Berlin Institute of Archaeology. Franz Cumont was originally invited to offer a report on the excavations at Dura, but he suggested that it would be more appropriate to invite Rostovtzeff, since Yale University now led the excavations there; BONGARD-LEVINE ET AL. 2007, September 16, 1928, #25, 88; Rostovtzeff to Cumont, undated, #26, 91; Cumont to Rostovtzeff, October 21, 1928, #28, 94.

main implications of what he had found at Dura for understanding life in the Near East in an article submitted to *Renaissance*, the principal organ of the École Libre des Hautes Études, the French language university in exile in New York.<sup>6</sup> According to Rostovtzeff, Dura allowed scholars an insight into:

*le grand problème, le problème éternel, celui de la symbiose et de l'interpénétration de la civilisation occidentale, c'est-à-dire grecque, et de la culture orientale dans le Proche Orient...le problème de l'occidentalisation, ou si l'on veut de l'hellénisation de l'Orient et de l'orientalisation des conquérants venus de l'Ouest.*<sup>7</sup>

Prior to the discovery of extensive archaeological remains from the East, it was difficult to appreciate the interpenetration and symbiosis of civilizations in the Hellenistic world. Much of the emphasis was on the hellenization of the Orient. But now, thanks to finds such as those at Dura, one could see that a more complex two-way process was at work. In addition to the “old” focus on the ways in which the peoples of the East were Hellenized, the archaeological remains showed the orientalizing of the new Greek cities founded in the East. Life in these cities was “oriental,” even for residents who were originally Macedonian or Greek. Roman Dura, according to Rostovtzeff:

*garde en quelque sorte son squelette grec. Mais son corps, sa chair, sa vie appartiennent à l'Orient...la cité de Doura-Europus et la vie quotidienne de son aristocratie macédonienne et grecque s'orientalisa fortement, sinon complètement. La même évolution se marque dans la vie religieuse des Macédoniens et des Grecs de Doura-Europus. Nombre de temples ont été fouillés à Doura...Il est frappant de voir qu'aucun de ces temples n'a été construit pour des divinités grecques.*<sup>8</sup>

Turning to the more complex question of the cultural identity of individuals, Rostovtzeff noted that if we were to ask about the orientalized Macedonians and Greeks, or of the Hellenized orientals at Dura and elsewhere in the Near East, we would have to conclude that:

*C'était des hommes sui generis, ni des Grecs proprement dits, ni un type spécial d'Orientaux. C'est un mélange organique, un amalgame qui s'opéra à Doura. Un nouveau*

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<sup>6</sup> ROSTOVITZEFF 1943. The ideas summarized in this article were ones that had long dominated Rostovtzeff's thinking and writing on the topic. In a certain sense, the article was not so much a statement of new insights or conclusions but its publication in *Renaissance* was intended as an expression of personal support for the work of the École Libre, as the École Libre had offered sanctuary to many of Rostovtzeff's friends from the horrors of WWII. This article allowed *Renaissance* to benefit from Rostovtzeff's prestige and stature in the American scholarly world: *Renaissance* did not only publish the work of relatively unknown refugee foreigners.

<sup>7</sup> ROSTOVITZEFF 1943, 44-45.

<sup>8</sup> ROSTOVITZEFF 1943, 46-47.

*type d'humanité se forma. Dans leur mentalité mixte et leur manière de voir complexe et composite, il y avait des éléments grecs et orientaux qui se fondirent en un tout organique qui ne peut être soumis à une analyse chimique...Le phénomène que nous avons analysé à Doura, naturellement, n'était pas particulier à cette ville. Des processus pareils eurent lieu en Syrie, en Palestine, en Arabie, dans l'Inde, en Perse, en Egypte et en Asie Mineure.*<sup>9</sup>

This new type of humanity, this amalgam or symbiosis of East and West, with its complex and composite way of seeing the world, was now better documented and understood. It helped provide an answer to the question Rostovtzeff had identified at the beginning of his article as *le grand problème*.

It would be naïve to imagine that Rostovtzeff did not have his critics, both at the time and since. Franz Cumont (1868-1947) was co-director with Rostovtzeff of the excavations at Dura. He shared Rostovtzeff's interest in the religious and intellectual life of the Hellenized Near East, and was one of the people who encouraged Rostovtzeff repeatedly to write and complete his grand synthesis, *SEHWW* (see further below). Cumont agreed with Rostovtzeff that Dura was an example of “*îlots européens perdus dans un océan asiatique*,” lost islands which were then contaminated by the oriental cultures.<sup>10</sup> He elaborated on the fate of the Greek colonists who tried to maintain their native culture, but maintained that the ultimate result was that while these Greek settlers were

*Propagatrices de la langue et de la culture occidentales, initiatrices des peuples étrangers à l'éducation hellénique, elle subirent cependant elles-même l'influence du milieu où elles vivaient et leur population promptement orientalisée adopta en partie les coutumes, les croyances, l'art même des “barbares” qui les entouraient.*<sup>11</sup>

Nevertheless, Cumont felt that Rostovtzeff had gone too far and expressed some doubts concerning Rostovtzeff's synthesis. In his letter of March 5, 1932, cited above (n. 3), Cumont wrote:

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<sup>9</sup> ROSTOVITZEFF 1943, 54.

<sup>10</sup> CUMONT 1926, i, xlv. For a persuasive critique of the pervasive “oceanic” metaphors utilized by Cumont and others to describe the relationship of cultures in the Hellenized Near East (e.g. the Asiatic ocean that ended up submerging these European islands, despite the dikes erected by Seleucid kings, etc.) see BRIANT 1982, 273-274. As Briant notes, European imperialist conceptions of the nineteenth and twentieth centuries, often based on racist foundations, played a large part in the way scholars of an earlier generation understood the relationship of colonists and natives in antiquity. The hydraulic metaphor Briant prefers for describing the Greek population of the Near East in the first centuries of the Hellenistic era is one proposed by Louis Robert: the Hellenistic kings “irrigated” the new foundations with fresh populations of Greek men and women, thus maintaining the domination of the Greco-Macedonian elite (BRIANT 1982, 275).

<sup>11</sup> CUMONT 1926, i, xlv-xlvi.

*Votre article sur l'hellénisme oriental m'a vivement intéressé. J'y ai retrouvé votre pénétration et votre don de synthèse habituels. Pour le fonds, j'inclinerais à accorder à l'hellénisme une part plus large que celle dont vous le laissez maître. Vous le réduisez trop, le pauvre, à la portion congrue.<sup>12</sup> Il me paraît que dans les colonies des Séleucides les institutions et les lois sont restées grecques jusqu'à la domination des Sassanides. La loi sur les successions de Doura est macédonienne ou hellénique, non sémitique, et l'ensemble de la constitution de la ville a dû le demeurer aussi. Il en a été de même à Suse... On constate aussi que la chancellerie royale correspondait en grec, et même en grec fleuri avec les colonies helléniques – même sous Artaban III<sup>13</sup> qui ne prit pas le titre de « philhellène ».*

More recently, Millar has offered serious criticisms of the work of Rostovtzeff and Cumont at Dura.

I have tried to stress...that the involvement of Cumont and Rostovtzeff in the excavations was fundamentally a matter of conception and interpretation. Pre-conception, one might say... The work, conducted under difficult and dangerous conditions, was carried out by an evolving team of quite young and in many cases inexperienced archaeologists, under the distant guidance of two great figures.<sup>14</sup>

However, as the editors of the Rostovtzeff-Cumont correspondence stress, this criticism is excessive: this correspondence shows the extent to which the excavators were not dilettantes, but were involved personally in the work on the site, and their direction was not “long-distance” or purely conceptual.<sup>15</sup>

In more general terms, Millar has challenged Rostovtzeff's grand thesis of the orientalization of the West alongside the hellenization of the East in numerous detailed studies that argue the near submersion of native cultures in confrontation with Greco-Roman civilization. As summarized by Tessa Rajak, according to Millar,

cultural traffic ... went almost exclusively one way, and that was eastwards.... By the end of the second century AD, a fair number of once significant cultures were profoundly attenuated.... A major discovery in the book is the absence of any general Syrian cultural identity.<sup>16</sup>

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<sup>12</sup> *La portion congrue* was the minimal distribution the higher clergy made to the lower ranks out of their tax revenues.

<sup>13</sup> A rival for the kingship of Parthia, who reigned 80-81 CE. Cumont devoted substantial efforts to studying the letter of Artabanus III to the city of Susa. See BONGARD-LEVINE ET AL., 2007, Cumont to Rostovtzeff, February 17, 1932, #89, 172, and Cumont to Rostovtzeff, April 14, 1932, #92, 177.

<sup>14</sup> MILLAR 1998, 474.

<sup>15</sup> BONGARD-LEVINE ET AL. 2007, 12. On the field experience of the excavators prior to the years at Dura, see BONGARD-LEVINE ET AL 2007, 28-29. Cf., however, above, n. 4, for an account of the Rostovtzeffs' difficulties on site at Dura.

<sup>16</sup> RAJAK 2002, 505-506.

Millar thus stated in even stronger terms Cumont's reservations above – that Rostovtzeff was allowing Hellenization too small a place in his synthesis – and that Rostovtzeff reduced the significance of the Hellenization of the East far too much, to a mere pittance.

However, specifically on the nature of the cultural interactions at Dura, Millar concluded that “while our evidence is wholly inadequate, what we have (at Dura) is compatible with the gradual and partial adjustment of a Hellenistic settlement to its local environment.”<sup>17</sup> If one were inclined to be generous, even according to Millar, how far was Rostovtzeff off the mark when he wrote of the orientalization of the West, at least for Dura?

Finally, in response to Millar's skepticism, I prefer the approach proposed by Maurice Sartre, who wrote:

Millar's text constitutes an excellent presentation of the available documentation on the Syrian region ... but it leaves the somewhat discouraging impression that we possess only a few pieces of a puzzle that is impossible to reconstruct. To be sure, there is a great deal that we do not know. But is it not the job of the historian of antiquity to persevere in trying to reconstruct the past, taking into account each new discovery (and they keep on appearing), even though we know how many elements we lack – and will continue to lack? Otherwise, why not devote ourselves to other tasks?<sup>18</sup>

In his own assessment of the evidence, Sartre offered a picture more balanced than that of Rostovtzeff or Millar, but perhaps closer to that of the former. Sartre insisted on looking at the language of official texts, but also at the onomasticon, at mosaics<sup>19</sup> and paintings, and at the duration of religious cults and gods. As he summarized,

Rather than seeing cultures that coexisted in Roman Syria as rivals, it would be more helpful to recognize the extent to which their interpenetration helped give each social or ethnic group, and sometimes each individual, a composite appearance; all were more or less marked by Hellenism or by some variant of the Semitic cultures, and no group or individual could be considered free of the influence of the others.<sup>20</sup>

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<sup>17</sup> MILLAR 1993, 445-452 and 467-471, esp. 445-446, quote 446.

<sup>18</sup> SARTRE 2007, 375-376, n. 6.

<sup>19</sup> On what one can learn from mosaics about the cultural climate and the interpenetration of cultures, particularly for the period after the chronological limits Sartre set for his study, see BOWERSOCK 2006.

<sup>20</sup> SARTRE 2007, 295.

One of Rostovtzeff's principal collaborators in the grand project to understand the encounter of East and West in antiquity was his fellow Russian émigré and former student from St. Petersburg, Elias Bickerman (1897-1981). Already in 1930, at the beginning of his career as a faculty member in Berlin, Bickerman had indicated what he considered to be *the* great problem in the history of western thought, as it had been formulated by Tertullian: "*quid Athenis et Hierosolymis, quid Academiae et Ecclesiae?*"<sup>21</sup>

The two men were in constant academic touch throughout Rostovtzeff's life, and Rostovtzeff played a key role at crucial moments in Bickerman's career, first during the latter's years as a young scholar in Berlin, next helping obtain Rockefeller Foundation subvention for his position in Paris in 1933, when Bickerman lost his job in Berlin, and then especially in organizing Bickerman's escape to the USA (again, with the help of funding from the Rockefeller Foundation) after the German conquest of France in 1940. When Rostovtzeff died in October 1952, the American Russian émigré community organized a memorial meeting to honor him in New York six weeks later, on December 7, 1952. The invitation to this event praised Rostovtzeff as one of the intellectual and academic leading lights of Russia and a source of great national pride throughout the world, going back to his election to the Royal Russian Academy of Sciences. Bickerman, who then had just been appointed at Columbia University, was one of three principal speakers.<sup>22</sup>

Throughout his life, Bickerman was proud to present himself as a follower of Rostovtzeff's method. Thus, in Berlin, the New School, and at Columbia University he always ended historical lectures with slides illustrating the events, people, and places discussed in the lecture. He traveled widely, visiting sites all around the ancient Mediterranean. In an application to the Bollingen Foundation, from 1957, preserved in the Goodenough Archive at Yale University, he noted these practices as an explicit continuation of the approach learned from Rostovtzeff, his teacher.<sup>23</sup> Accordingly, Bickerman's remarks in

<sup>21</sup> BICKERMAN 1930, 133.

<sup>22</sup> BAUMGARTEN 2010, 112-114, 120-142, 164. For a discussion of this event see also WES 1990, 91.

<sup>23</sup> BAUMGARTEN 2010, 150, 162-163. Rostovtzeff also loved to travel and to escape New Haven for Europe as often as possible. See BONGARD-LEVINE ET AL. 2007, 48. In a letter to Cumont of March 26, 1936 he explained that the "real reason" he travelled so much was his wife, who was "*un voyageur enragé et s'ennuie quand elle reste sans voyager pour quelque temps*," BONGARD-LEVINE ET AL. 2007, #115, 208. Bickerman tried to lift Rostovtzeff's spirits in a note to him of April 30, 1944 (the last communication I found between the two; on Rostovtzeff's health see below, 294-295) talking about the first day of Spring, hoping that the sunshine had reached New Haven, and expressing the hope (despite the fact that the war in Europe was not yet over!) that Rostovtzeff would soon be able to

memory of Rostovtzeff in December 1952 – in Russian and for a Russian audience that would have fully appreciated the cultural background of the two men, as well as the significance of their lives as Russian anti-communists in the trials and tribulations of the 20th century – should have been of great interest, but they have not survived.

Nevertheless, one important reflection by Bickerman on the import of Rostovtzeff's *SEHHW* does exist in a little known essay published in the fascicle of *Renaissance* that followed the one in which Rostovtzeff's essay discussed above appeared. In this review, Bickerman responded extremely favorably to Rostovtzeff's work and discussed its wider importance.<sup>24</sup>

Before the review appeared in print, Bickerman sent a copy to Mrs. Rostovtzeff,<sup>25</sup> expressing the hope that it would interest her husband.<sup>26</sup> There were at least two reasons Bickerman wrote to Mrs. Rostovtzeff and not to her husband. First, Mrs. Rostovtzeff and Franz Cumont had played a central role in encouraging Prof. Rostovtzeff to write *SEHHW*. Rostovtzeff himself had doubts of the merits of his efforts. The difficulties of preparing a synthesis troubled Rostovtzeff greatly, as he wrote to Cumont:

*Je ne suis pas content de mon livre. Un livre de synthèse est toujours une torture, surtout quand il s'occupe d'une période si peu connue et si peu compréhensible. Écrire un livre sur l'histoire politique c'est simple. Mais sociale et économique !...Comment j'envie les personnes qui sont plus sages que moi et se limitent à un sujet seul et se contentent d'écrire des articles bien fouillés en y consacrant tout le temps nécessaire.*<sup>27</sup>

Or again, in another letter to Cumont, from July 1939: "*Vous attendez de mon livre plus que je suis capable de donner. Je crains qu'après lecture Vous me direz: essai sénile d'une synthèse impossible.*"<sup>28</sup> However, Cumont and Mrs.

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live in retirement in Paris or Rome, and that he (Bickerman) would visit Europe and tour there in the summer of 1945, BONGARD-LEVIN 1997 #33, 340.

<sup>24</sup> BICKERMAN 1944.

<sup>25</sup> In addition to the reasons discussed below, Bickerman had the highest estimation for Mrs. Rostovtzeff. See BAUMGARTEN 2010, 56, n. 30.

<sup>26</sup> Undated letter to Mrs. Rostovtzeff – likely from 1944/5, considering the date of the publication of the review in *Renaissance* 2-3 – found in the Michael Ivanovitch Rostovtzeff Papers, David M. Rubenstein Rare Book & Manuscript Library, Duke University. Durham, NC [cited below as Rostovtzeff Papers], Box 3, Correspondence: Language Subseries, Russian: 1920-1945, 1940s, undated. This letter is not one of the thirty-six Bickerman-Rostovtzeff documents in BONGARD-LEVIN 1997, 329-345.

<sup>27</sup> BONGARD-LEVIN ET AL. 2007, Rostovtzeff to Cumont, October 24, 1937, #126, 222. In his letter of reply, of November 9, 1937, BONGARD-LEVIN ET AL. 2007, #127, 224 Cumont tried to convince Rostovtzeff of the need for synthesis and that Rostovtzeff alone was capable of making that indispensable contribution at the highest level, which would bring him the highest honors.

<sup>28</sup> BONGARD-LEVIN ET AL. 2007, Rostovtzeff to Cumont, July 7, 1939, #150, 259.

Rostovtzeff continually encouraged Prof. Rostovtzeff to complete the work. As he wrote to Cumont, in September 1937:

*Vous, avec ma femme, m'avez attelé à un char qui est trop lourd pour moi. Mon volume hellénistique devient plus grand chaque jour et demande de moi une concentration complète. Même avec cela, il sera un livre, je le crains, bien médiocre.*<sup>29</sup>

The role of Mrs. Rostovtzeff and of Franz Cumont in inspiring the author was then acknowledged in the dedication of *SEHHW* to them: "This book is dedicated to my wife and to my friend Franz Cumont. Without their encouragement and warm support in dark moments of doubts it would never have been written. M.R. August, 1940."<sup>30</sup> In light of her role in encouraging her husband to complete the work, Mrs. Rostovtzeff needed Bickerman's reassurance that the effort had been worthwhile.

A second reason Bickerman wrote to Mrs. Rostovtzeff was Prof. Rostovtzeff's declining health and his increasing inability to work effectively as a scholar. In several letters to Cumont from 1936 and 1937, Rostovtzeff complained of irritability, nervousness, and being tired.<sup>31</sup> Matters were even worse during the war years, for Rostovtzeff the fourth great war of his lifetime,<sup>32</sup> and one that led him to untiring efforts to help refugee scholars.<sup>33</sup> Bickerman was well aware of Rostovtzeff's condition: Rostovtzeff wrote to Bickerman,

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<sup>29</sup> BONGARD-LEVINE ET AL. 2007, Rostovtzeff to Cumont, September 3, 1937, #124, 218-219. On this same theme see also Rostovtzeff to Cumont, October 24, 1937, #126, 222, on the need Rostovtzeff felt for constant revision in order to take account of new publications. See also the summary discussion of this point by the editors of BONGARD-LEVINE ET AL. 2007, 50-51.

<sup>30</sup> *SEHHW* vol. I, 15. See also Rostovtzeff's letter to Cumont of October 1, 1940, BONGARD-LEVINE ET AL. 2007, #163, 276: "*Mon livre – dédié à Vous et à ma femme qui en sont responsables.*"

<sup>31</sup> BONGARD-LEVINE ET AL. 2007, Rostovtzeff to Cumont, March 24, 1936, #115, 208; Rostovtzeff to Cumont, September 9, 1937, #125, 220; Rostovtzeff to Cumont, December 9, 1937, #128, 226.

<sup>32</sup> BONGARD-LEVINE ET AL. 2007, Rostovtzeff to Cumont, September 8, 1939, #155, 265. As Rostovtzeff counted them, they were the Russo-Turkish War of 1877, the Russo-Japanese War, WWI, and now WWII.

<sup>33</sup> The obligation Rostovtzeff felt to help refugee scholars was overwhelming. As he wrote to Cumont, BONGARD-LEVINE ET AL. 2007, #143, 247, on December 11, 1938: *chaque jour je reçois des lettres de personnes que je connais et que je ne connais pas. Tous demandent des places dans nos Universités et tous sont des personnes de valeur...Que puis-je faire ? Trop des candidats et pas des places.* See further, WES 1990, 84-87 and BAUMGARTEN 2010, 141, n. 114. W.L. Westermann (1873-1954) of Columbia University also had an active role in helping refugee scholars and was the address for many appeals. See BAUMGARTEN 2010, 119, n. 6 and 195.

To cite only one example of the obstacles Rostovtzeff faced, he was unable to help Leonie Zuntz (1908-1942), the specialist in Hittite with whom Bickerman had been romantically involved in Berlin (BAUMGARTEN 2010, 20). As Rostovtzeff explained to W. Schubart of Berlin (1873-1960), there were visa difficulties, and positions in Hittite were non-existent in America. Rostovtzeff to Schubart, February 3, 1937, Rostovtzeff Papers, Box 1, Correspondence, Individuals, Schubart, Wilhelm, 1933, Jan.-1960, Aug. n.d.

on October 13, 1943, after discussion of academic matters: “I am now back from Hot Springs, I hope having improved my health although I do not feel exactly that way.”<sup>34</sup> Rostovtzeff was even more explicit in a letter to C.B. Welles, written on October 8, 1946, from the Institute of Living, a psychiatric hospital, in Hartford: “I am afraid that waiting for my recovery ... will mean indulging in optimism. Shock in my case, is unfortunately not justified (i.e. had not helped)<sup>35</sup> – I have not advanced in the restoration of my intellectual and physical (hearing, sight) capacities since McLean.”<sup>36</sup>

As these were the only two issues of *Renaissance*, Bickerman’s review is virtually unknown, to the extent that Fergus Millar wrote that while Bickerman reviewed many of his teacher’s works he never reviewed *SEHHW*. Millar explained this supposed omission by suggesting that “Rostovtzeff, who was 71 in 1941, suffered from depression in his later years,<sup>37</sup> and it may be (as a pure speculation) that Bickerman, perhaps the best-qualified of all scholars at that time, did not want to take on such a review.”<sup>38</sup>

Bickerman’s review of *SEHHW* in *Renaissance* 2-3 has recently been discussed at length by Pierre Briant of the Collège de France in his Rostovtzeff Lecture at Yale in November 2011, entitled “Michael Rostovtzeff, Elias J. Bickerman and the ‘Hellenization of Asia’: From Alexander the Great to World War II”; Briant’s lecture should soon appear in print.<sup>39</sup> My interest in these articles from the 1940s differs somewhat from that of Briant: Rostovtzeff’s article in *Renaissance* 1 and Bickerman’s review from *Renaissance* 2-3 will form the context for the discussion of Philo of Byblos in the third part of this paper.

<sup>34</sup> Rostovtzeff Papers, Box 1, Correspondence Individuals, B-C, 1937, Apr.-1947, July; BONGARD-LEVIN 1997, #31, 340. I cite the English original.

<sup>35</sup> Sophie Rostovtzeff wrote to Welles on April 4, 1946 that her husband had shock treatments earlier that year – Rostovtzeff Papers, Box 1, Correspondence: Individuals, Rostovtzeff, Sophie to C. Bradford Welles, 1944, Oct.-1954, June. According to FEARS 1990, 408, Rostovtzeff underwent a lobotomy, but there is no mention of a lobotomy in the correspondence I reviewed in the Rostovtzeff archive.

<sup>36</sup> McLean is a psychiatric hospital in Belmont, MA, affiliated with Harvard Medical School. BONGARD-LEVINE ET AL. 2007, Rostovtzeff to Welles, October 8, 1946, Appendice, #22, 340-341.

<sup>37</sup> As the discussion above indicates, Millar’s estimation of Rostovtzeff’s health was accurate. On Rostovtzeff’s health see further BAUMGARTEN, 2010, 140-141, n. 113.

<sup>38</sup> MILLAR 2011, 182b. I should note, however, that Bickerman’s review of *SEHHW* in *Renaissance* 2-3 is #170 in F. Parente’s bibliography of Bickerman’s writings, in BICKERMAN 1985, ix-xxxvii, elsewhere praised by MILLAR 2011, 182a.

<sup>39</sup> This lecture will appear in a volume of *Oriens et Occidens*, to be edited by J.G. Manning, together with other papers discussing Rostovtzeff’s contributions to the study of the ancient world. My paper in that volume will be on “Rostovtzeff and Bickerman on Hellenization: A Comparison and Contrast”. It will explore further the issues discussed in this article. For the moment, Briant’s lecture can be heard on the web, at <https://soundcloud.com/yaleuniversity/michael-rostovtzeff-elias-j>.

Like Rostovtzeff, Bickerman recognized the two-way nature of the dynamics taking place in the Hellenistic East. It was just as appropriate to focus on the orientalizing of the Greeks in the East as it was to concentrate on the ways in which easterners became hellenized. As Bickerman insisted in his review of *SEHHW*, the Greeks who came to the East intended to settle there, not make a quick profit and return home. These intentions created a reality which prevailed for generations. As Bickerman told his then student Nina Garsoïan, when she expressed an interest in Armenian history:

*Hellenization in the Seleucid East, Armenia included, was shallow and uneven, far from the universal force some imagined. People thought that Alexander's conquest transformed the East and made it Greek, but that was not the case. The men who appear in Egyptian papyri worked as Greeks and had Greek names, but their wives had native names.<sup>40</sup> When these men came home they shed their Greek identity.<sup>41</sup>*

Or, as he wrote in a new preface prepared for the Russian translation of his *Institutions des Séleucides*, but never completed or published due to his death:

*les Séleucides n'étaient pas des maîtres lointains séparés par les mers ou même par les océans de leurs peuples. Ils vivaient parmi ceux-ci, et déjà Antiochus III était né en Asie séleucide. Les richesses que les rois obtenaient soit par impôts et corvées soit par les guerres furent essentiellement dépensées en dedans de l'empire.<sup>42</sup>*

As a result, echoing Rostovtzeff's conclusions discussed above, the Greeks in the East became as much orientalized as they hellenized the Near Easterners with whom they came into contact. A hybrid culture arose, in which Hellenism no longer threatened local traditions and in which the peoples of the Near East no longer despised Greek culture. In fact, Bickerman asserted, citing the example of Porphyry, some Hellenized orientals became its most learned and ardent defenders. In a clear nod to the contemporary context of WWII exiles in New York, at the École Libre, Bickerman noted with pride a contemporary analogy: one of General de Gaulle's first supporters was Felix Éboué (1884-1944) – the Governor General of Chad, a black Frenchman born in French Guiana, a grandson of slaves, who studied law in Paris at the *École nationale de la France d'Outre-mer*. Éboué joined de Gaulle's movement on June 18, 1940.<sup>43</sup>

<sup>40</sup> Cf. BRIANT 1982, 275-276, who expressed serious reservations about the prevalence of "mixed marriages" between Greeks and natives in the East.

<sup>41</sup> BAUMGARTEN 2010, 244. As this is oral testimony, learned in conversation with Prof. Garsoïan, I follow the practice adopted in the biography of Bickerman and set this material in italics.

<sup>42</sup> BAUMGARTEN 2010, 245.

<sup>43</sup> BICKERMAN 1944, 392.

This discussion of the interpenetration of East and West — what Rostovtzeff called the new type of humanity that arose as a result of the mutual encounter of Greeks and Orientals in the Hellenized regions of the East — is extremely helpful for understanding the paradoxes posed by Philo of Byblos. I first encountered Philo of Byblos about forty-five years ago when Prof. Elias Bickerman suggested that I write my MA thesis on his fragments. At the time, Bickerman explained that Felix Jacoby had edited the fragments in one of the concluding volumes of his *FGrH* but had not written the commentary. The MA thesis became the basis for a doctoral dissertation, then a book,<sup>44</sup> and I have returned to write on Philo occasionally since then.<sup>45</sup>

That Philo is a source of unending paradoxes is a particularly apt fate for an author who himself wrote a work entitled *The Paradoxical* (or *Unconventional*) *History* (F 1.28, F13).<sup>46</sup> Almost no piece of information concerning the author or his work fits together with the others in a way we would consider expected or coherent. To take a few simple examples, at the outset, we know him as Philo of Byblos, yet it is not clear if he ever lived at Byblos. Hermippos of Beirut was one of his disciples (T2a),<sup>47</sup> while the orator Paul of Tyre (T2b) and the scholar Herodian of Alexandria (T2c) were both noted by the Suda as his contemporaries. The Suda also noted that Herennius Severus was consul when Philo was seventy-eight years old, in the 220<sup>th</sup> Olympiad (101-104 CE),<sup>48</sup> but Philo had an apparently more important connection with the Roman consular Herennius Severus, as he took his name, so that his full formal name was Herennius Philo of Byblos (see e.g. F9 and F14). Perhaps Herennius Severus was Philo's patron. This seems likely, based on the statement that Philo introduced his disciple Hermippos of Beirut to Herennius Severus during Hadrian's reign. Perhaps Philo's Herennius Severus was the same as T. Herennius Severus, whom Pliny called a most learned man, and who wanted portraits of C. Ne-

<sup>44</sup> BAUMGARTEN, 1981.

<sup>45</sup> See especially BAUMGARTEN, 1996.

<sup>46</sup> Greek *paradoxos* does not only mean paradoxical in our sense of the word, but also unexpected, surprising, or unconventional. See for example Jos., *AJ* 2. 347, on the "paradoxical" nature of the splitting of the Red Sea at the time of the Exodus from Egypt.

<sup>47</sup> On Beirut in Roman times, see further MILLAR 1993, 279-285. In accordance with the general thesis of his work (above, 290), MILLAR 1993, 285, concluded that "it remains highly uncertain what, if anything, remained of the Phoenician culture of Berytus and its hinterland." Accordingly, if one followed Millar, Hermippos should have known little about his Beirut heritage.

<sup>48</sup> Other sources tell us nothing about the year of the consulship of Herennius Severus, so there is no external confirmation just when in the 220<sup>th</sup> Olympiad it fell, or if Herennius Severus was consul at some other time. See also the following note.

pos and T. Catus for his library (*Nat. Hist.* 4.28). If so, perhaps this circle of learned men and their patron gathered in Rome. However, this conjecture far from eliminates the possibility that Philo lived in or near Byblos, or elsewhere in the Near East. In sum, our sources – the *Suda* in particular – enveloped Philo of Byblos in a geographical haze.<sup>49</sup>

Did Philo know some Phoenician?<sup>50</sup> Yes; on the whole his translations of Semitic names and titles were correct,<sup>51</sup> and he preserved a cosmogony that seems to have been written in parallelism, the technique of Biblical and Ugaritic poetry. Yet, that very same cosmogony is very far from any ancient Near Eastern cosmogonic text. No deities are found there, and the process of forming the world unfolds in a “rational” or “scientific” manner, as a result of the natural interactions of light, darkness, chaos, *pneuma*, and moisture. A “scientific” meteorology, explaining meteorological phenomena as a result of natural processes (“the clouds and not Zeus”) dominates. Philo’s cosmogony, for all its outward “Semitic” features, seems conceptually more at home in the world of the Pre-Socratics or of the Epicureans. Arguments that it was “not influenced by Greek thought,” as once put forward, inevitably founder on the details of the text.<sup>52</sup>

Philo is also well known for his anti-Greek comments. The Greeks were intellectual thieves, who misappropriated the treasures of other nations and claimed them for their own. One of Philo’s goals was to teach his readers the truth and make them familiar with the “real” Phoenician originals (F1.27, 2.40-41). As such, Philo was part of the oriental reaction against Greek cul-

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<sup>49</sup> Philo’s dates are also confusing: the geographical haze has a chronological analogue. If Philo was seventy eight in the 220th Olympiad (above), this would establish his birth in 23-26 CE. Yet, we are also informed that Philo wrote on the reign of Hadrian (T1) and introduced Hermippos of Beirut to Herennius Severus during the reign of Hadrian (T2a). A man born in 23-26 CE would have been over ninety years old at the beginning of Hadrian’s reign (117-138). From another vantage point, the *Suda* also informed us (T1) that Philo was born around the time of Nero (Emperor from 54 to 68 CE). This would make Philo’s surviving to write about Hadrian and introduce a disciple to Herennius Severus during Hadrian’s reign more plausible.

<sup>50</sup> I pass over the long-standing (never ending?) discussion of whether his better known namesake, Philo of Alexandria, knew Hebrew and if so, how much.

<sup>51</sup> According to RIBICHINI 1999, 154-155, the main thrust of Philo’s work was to argue that the Phoenicians knew the correct divine names, which were then transformed, misunderstood, or mystified by the Greeks. If one accepts Ribichini’s argument this would create a presumption that Philo knew some Phoenician and that at least some Phoenician practices were still alive in Philo’s time. Nevertheless, as Ribichini himself conceded, on the basis of the work of Bonnet and others, these Phoenician traditions had undergone substantial modification by Philo’s time. For example, solar gods had become more important as a result of Roman imperial solar pantheism, so that divinities who previously had few if any solar associations now acquired them, RIBICHINI 1999, 158-159.

<sup>52</sup> BAUMGARTEN 1981, 94-139. The cosmogony at the beginning of the fragments indicates that Philo conceived his task as much more than just a “Phoenician” history, indeed as a universal history. See RIBICHINI 1999, 152.

ture, brilliantly analyzed by Bickerman in his article on *Origines Gentium*.<sup>53</sup> At the same time, Philo was a polymath, writing *Concerning the Acquisition and Selection of Books* (T1). Were these books only Semitic? If Philo's Herennius Severus was the same as the T. Herennius Severus, discussed above, it is tempting to conclude that Philo, as the author of *Concerning the Acquisition and Selection of Books*, advised T. Herennius Severus about acquisitions for his library. But T. Herennius Severus, if his preferences were those of the Roman upper classes, would have wanted Greek books, as evidence of his good taste and belonging to the world of higher culture, not Phoenician ones. Furthermore, even if Philo knew some Phoenician, it is virtually certain that T. Herennius Severus did not. Would he want these "barbaric" works in his library? Another encyclopedic effort was *Concerning Cities and the Famous Men each of them Produced* (T1, 4; F 15-18). Even the few fragments preserved from *Concerning the Acquisition and Selection of Books*, and the larger number of fragments from *Concerning Cities and the Famous Men each of them Produced*, make it clear that these works covered the larger Greco-Roman world, and were not exclusively focused on Phoenicia and/or the Middle East. And all that from a man who insisted that the Greek accounts of the past were full of contradictions and composed by authors more concerned with polemics than with the truth.

This brief introduction to the paradoxes presented by Philo helps explain the long and convoluted course of the history of scholarship on his writings over the centuries. To begin with an example from antiquity, how is it that Philo was so highly regarded both by Porphyry and Eusebius that Eusebius introduced Philo (for his own evangelical purposes) by quoting Porphyry's praise of Philo and Sanchuniathon (F1.21)? Yet, Porphyry and Eusebius were two authors with starkly opposing confessional loyalties! How could Porphyry and Eusebius, a "pagan" and a Christian, both value Philo so highly? We would imagine that if Philo was good for either one he must have been anathema to the other.

However, things were not that simple. Philo, as I have been arguing, was much more complex and paradoxical. For Eusebius, as a Christian, Porphyry was "the author of the intrigue against us." Nevertheless, Eusebius could then use Porphyry's endorsement of Philo as a club to beat over the head of "pagans," since Philo was a Euhemerist and Euhemerism was taken by ancient Jews and Christians as a sign that the "pagans" themselves did not believe in

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<sup>53</sup> BICKERMAN 1952. As I suggested, (BAUMGARTEN 2010, 287-290), Bickerman's article should be read as post-colonialist *avant la lettre*. See also FROMENTIN & GOTTELAND 2001.

the reality of their gods, that the “pagans” were really atheists.<sup>54</sup> Furthermore, the stories Philo told of the actions of his divinized humans were morally reprehensible. For Eusebius, this proved that the “pagan” gods were “not worthy of approval for their virtue... but were involved in the evil of depravity and complete wickedness (F 1.22).”<sup>55</sup>

Porphyry, I suggest, focused on a different aspect of Philo’s work, one that is relatively minor in the fragments as we know them, but attested nonetheless – his opposition to the Jews (F9).<sup>56</sup> Perhaps what mattered to Porphyry was Philo’s disparaging narrative of Jewish History which went back to Sanchuniathon and even further back to Hierombalos, priest of Ieuo, whose work was accepted as correct by Abibalos king of Beirut (F1.21), all of these living at times before the Trojan War and approaching those of Moses. In offering an ancient, alternative, and unfriendly version of Jewish History, Philo would have served Porphyry’s anti-Christian purposes well, since attacks against the Jews and critiques of their tradition were part of the anti-Christian polemic offered by “pagan” authors, such as by Celsus (when writing in his own name).<sup>57</sup> The assumption that Philo’s critique of the Jews was much more extensive and damning than we can learn from the surviving fragments is supported by Josephus’ comment that in proving the antiquity of the Jews he will draw on Phoenician sources, especially Tyrian ones, because Phoenicians, and Tyrians in particular, were notoriously known as the bitterest enemies of the Jews (*Cap* 1.70). Therefore, by implication, for Josephus’ purposes, one cannot dismiss these Phoenician/Tyrian sources as Jewish forgeries or accuse them of

<sup>54</sup> BAUMGARTEN 1981, 53-54, 66; BAUMGARTEN 1996, 103, n. 39.

<sup>55</sup> Along similar lines, the Rabbis praised Oenomaus of Gadara (a very minor figure by our standards) as the greatest philosopher among the nations of the world, *GenR* 734. What Oenomaus did to earn this praise was not specified. The fragments of Oenomaus contain a critique of Greek religion, and of oracles in particular. Perhaps Oenomaus was praised by the Rabbis because of his gibes against gods and oracles: here was an insider who spilled the beans and told the truth about the falsity of oracular cults. It was not an accident that the emperor Julian accused Oenomaus of impiety, *Or.* 6.199A, 209B-C, 212A. According to Julian, Oenomaus’ aim was

To do away with all reverence for the gods, to bring dishonor on all human wisdom, to trample on all law that can be identified with honor and justice, and more than this, to trample on those laws which have been, as it were, engraved on our souls by the gods, and have impelled us to believe without teaching that the divine exists, and to direct our eyes to it and to yearn towards it; for our souls are disposed towards it as eyes towards the light (209B-C).

Those aspects of Oenomaus’ work which Julian found most reprehensible would have been music to Rabbinic ears. On Oenomaus see further SARTRE 2007, 285.

<sup>56</sup> BAUMGARTEN 1981, 35-36. These unfavorable comparisons may have included Phoenician accounts of child sacrifice, where the child was really offered up, with the Biblical *akeda*, which was only a test at the end of which Isaac was saved. Phoenicians might well ask: who were the true knights of faith, the Phoenician fathers who offered their sons or Abraham? BAUMGARTEN 1981, 250.

<sup>57</sup> BAUMGARTEN 1990, 41-42.

a pro-Jewish bias, as Philo did concerning Hecataeus/Ps.-Hecataeus (F9). The Phoenician/Tyrian sources to which Josephus referred have not survived, but his comment is testimony to the existence of a Phoenician/Tyrian anti-Jewish literature, in which Philo's comments on the Jews fit well.

To turn to modern times, since Scaliger in 1583, scholarship now covers four hundred thirty years of twists and turns in response to scholarly fashions, ideological, and theological shifts. More recently, an important aspect of the study of Philo was the response (woefully exaggerated at times) to new discoveries of ancient near eastern literature. How is it possible that Philo has been portrayed in so many different ways over the centuries, as demonstrated by Corinne Bonnet?<sup>58</sup> It is not only that Philo was (and in some ways continues to be, even today), as dubbed by Bonnet, *testis unus*.<sup>59</sup> Perhaps part of the answer goes back to the fact that we have so many different Philos from among whom to choose. Which of the many faces he showed do we elect to frame in the center? The plurality of Philos is not only a matter, as I once thought, of his efforts at reconciling, coordinating, and systematizing the different traditions of each city.<sup>60</sup> The issue is much deeper and touches to what seems to us as the core. To name one more example, do we prefer Philo the Euhemerist,<sup>61</sup> whose work conformed to the canons of Euhemeristic historiography, who fought the battle of the Euhemerists against the allegorizers and physiologizers of Greco-Roman culture of his day,<sup>62</sup> or Philo who narrated a Phoenician version of the ancient near eastern trope of "kingship in heaven?"<sup>63</sup> Yet, in the end, both these Philos were the same person.

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<sup>58</sup> BONNET 2010.

<sup>59</sup> See also RIBICHINI 1999, 150, on Philo as *quasi unico*.

<sup>60</sup> BAUMGARTEN 1981, 267.

<sup>61</sup> One should note that at least in the extant fragments Philo never mentioned Euhemerus. His focus was on the great sources of old – Taaautos, Hierombalos, Abibalos, Sanchuniathon and company. Perhaps to have appealed to Euhemerus would have been a concession on Philo's part that the guiding principle of his work was not the ancient sources he supposedly rediscovered and translated but a "modern" author. We modern scholars are the ones who make Philo into a Euhemerist. However, in light of Philo's conformity with the canons of Euhemeristic historiography this conclusion seems fully justified.

<sup>62</sup> BAUMGARTEN 1981, 243; BAUMGARTEN 1996. On this paradoxical aspect of Philo see also RIBICHINI 1999, 151.

<sup>63</sup> BAUMGARTEN 1981, 235-242.

As noted at the outset, Rostovtzeff and Bickerman were among the first scholars to discuss the implications of the meeting of East and West in the light of the new archaeological and epigraphic evidence available as a result of excavations in the East, Dura in particular. While their articles are “old” scholarship, they are also “classics of scholarship,” well worth reading even though they were written some seventy years ago and remain relatively unknown. Both articles in *Renaissance* are far from the most recent “cutting edge” contributions to the topic and Rostovtzeff’s conclusions have been challenged by both contemporary and more recent evaluations of the evidence (above, 289-291).

Nevertheless, I would also argue that these articles by Rostovtzeff and Bickerman have a quality best epitomized by Bickerman’s concluding remarks in his *Renaissance* review analyzed above. Commenting on Rostovtzeff’s *SEHHW*, Bickerman wrote: “*c’est un livre qui fait penser. Et je ne connais de meilleur éloge qu’on puisse décerner à un livre ou à un auteur.*”<sup>64</sup> Even today, decades after they were written, and despite so many new contributions to the topic, these articles force the reader to think.

For my purposes, the arguments put forward by Rostovtzeff and Bickerman concerning the orientalization of the West and the hellenization of the East, which provoked changes on both sides and caused a “new type of person,” *sui generis*, to emerge, provide a background against which the contradictions and paradoxes we may find in Philo of Byblos recede.<sup>65</sup> His work is no longer so enigmatic.<sup>66</sup> Philo may remain *testis unus* and *sui generis*, but that is only an accident of preservation. As a Hellenized oriental living among orientalized Greco-Romans, and participating in his own way in both cultures, Philo, as Rostovtzeff and Bickerman help teach us, was not nearly as anomalous as we might classify him.<sup>67</sup> We wish we knew more about the members of his

<sup>64</sup> BICKERMAN 1944, 392.

<sup>65</sup> Compare the conclusion, which complements my argument here, offered by BONNET 2010, 136: *le double ancrage de Philo, dans une tradition phénicienne manifestement séculaire, dont il est à la fois le seul et le dernier témoin, et dans l’air du temps, celui d’un « empire gréco-romain » qui englobe l’orient, n’est plus évalué comme une difficulté insurmontable, une impasse historique et historiographique, qui obligerait l’historien à choisir, mais plutôt comme une richesse heuristique.*

<sup>66</sup> MILLAR 1993, 277.

<sup>67</sup> Franz Rosenzweig (1886-1929) said of Gershom Scholem (1897-1982) that he came home as a Jew, but came home alone. See MYERS 1995, 153. One might be tempted to say the same of Philo of Byblos as a Phoenician. However, despite the lack of explicit extensive evidence to support this conclusion, as a result of which Philo of Byblos will always remain something of *testis unus*, I would argue that Philo of Byblos was far from as alone as we might think in his “Phoenician” way of life

circle, such as Hermippos of Beirut, Paul of Tyre, or Herodian of Alexandria, but we should expect them to have been little different than Philo of Byblos. For all Philo's opposition to Greek culture, an opposition that we may presume his friends shared, they were all full-fledged participants in a new world in which East and West had come together from both sides towards the middle to create a new cultural complex. Our knowledge of Philo and his friends is very limited, which makes Philo, in particular, seem unique. A more careful reading of the ancient evidence, however, turns Philo and his circle into more typical representatives of an important cultural trend of their times. They are examples of a solution to what Rostovtzeff identified in the passage quoted at the beginning of this article as "*le grand problème, le problème éternel, celui de la symbiose et de l'interpénétration de la civilisation occidentale, c'est-à-dire grecque, et de la culture orientale dans le Proche Orient.*"

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This essay is appearing in a volume in honor of a friend of long-standing, Prof. Ranon Katzoff. We have been friends since he came as a graduate student to Columbia, including a year of intense activity in Yavneh,<sup>68</sup> through many years as colleagues at Bar Ilan. In his research, while placing the ancient Jews firmly in the Greco-Roman world, unlike Feuchtwanger's Josephus, in the epigraph of this article, he has emphasized Jewish difference. If this work has one outstanding quality it is the very trait noted by Bickerman above, in praise of Rostovtzeff's *SEHHW*: *c'est un livre qui fait penser. Et je ne connais de meilleur éloge qu'on puisse décerner à un livre ou à un auteur.* To take only two examples closer to my own areas of interest, Ranon has forced us to think longer and harder about the relationship between Jewish law, as we know it from Rabbinic sources, and the legal traditions lying behind the Yadin papyri.<sup>69</sup> He has raised the puzzle of how, contrary to our expectations, Rabbinic traditions associated with R. Eliezer appear in sources concerning the Jews of Rome.<sup>70</sup> It is in appreciation of that aspect of Ranon's contributions that I have organized this article around the work of two outstanding scholars of an earlier generation who regularly forced (and still force) us all to think, and to the analysis of a paradoxical ancient source that also shares that same quality.

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and identity for his time.

<sup>68</sup> See now KRAUT 2011.

<sup>69</sup> I cite only the most recent of many articles: KATZOFF 2007, 545-575.

<sup>70</sup> KATZOFF 2008, 306-319.

## BIBLIOGRAPHY

- BAUMGARTEN 1981  
A.I. BAUMGARTEN, *The Phoenician History of Philo of Byblos: A Commentary*, Leiden 1981.
- BAUMGARTEN 1990  
A.I. BAUMGARTEN, "Jews, Pagans and Christians on the Empty Grave of Jesus", in: *Proceedings of the Tenth World Congress of Jewish Studies. Jerusalem, August 16-24, 1989. Division B, Volume II: The History of the Jewish People*, Jerusalem 1990, 37-44.
- BAUMGARTEN 1996  
A.I. BAUMGARTEN, "Euhemerus's Eternal Gods: Or, How Not to be Embarrassed by Greek Mythology", in: R. KATZOFF, Y. PETROFF and D. SCHAPS (eds.), *Classical Studies in Honor of David Sohlberg*, Ramat-Gan 1996, 91-103.
- BAUMGARTEN 2010  
A.I. BAUMGARTEN, *Elias Bickerman as a Historian of the Jews*, Tübingen 2010.
- BICKERMAN 1930  
E.J. BICKERMAN, "Zur Datierung des Ps. Aristes", *ZNW* 29, 1930, 280-298 = *Studies in Jewish and Christian History, Part One*, Leiden 1976, 109-136 = "The Dating of Pseudo-Aristes", in: *Studies in Jewish and Christian History, A New English Edition including The God of the Maccabees*, Leiden 2007, 108-134.
- BICKERMAN 1952  
E.J. BICKERMAN, "*Origines Gentium*", *CP* 47, 1952, 65-81.
- BICKERMAN 1985  
E.J. BICKERMAN, [E. Gabba and M. Smith (eds.)], *Religions and Politics in the Hellenistic and Roman Periods*, Como 1985.
- BICKERMAN 1944  
E.J. BICKERMAN, "L'eupéanisation de l'orient classique: À propos du livre de Michel Rostovtzeff", *Renaissance* 2-3, 1944, 381-392.
- BONGARD-LEVIN 1997  
G. BONGARD-LEVIN, *Skifskii Roman*, Moscow 1997.
- BONGARD-LEVINE *et al.* 2007  
G. BONGARD-LEVINE, C. BONNET, Y. LITVINENKO, A. MARCONE, *Mongolus Syrio salutem optimam dat: la correspondance entre Mikhail Rostovtzeff et Franz Cumont (Mémoires de l'académie des inscriptions et belles-lettres 36)*, Paris 2007.
- BONNET 2010  
C. BONNET, "Errata, absurditates, deliria et hallucinationes: Le cheminement de la critique historique face à la mythologie phénicienne de Philo de Byblos: un cas problématique et exemplaire de *testis unus*", *Anabases* 11, 2010, 123-136.
- BOWERSOCK 2006  
G.W. BOWERSOCK, *Mosaics as History: the Near East from Late Antiquity to Islam*, Cambridge, Massachusetts 2006.
- BRIANT 1982  
P. BRIANT, "Colonisation hellénistique et populations indigènes", in: *idem, Rois, tributs et paysans: Études sur les formations tributaires du Moyen-Orient ancien*, Paris 1982, 263-279.
- CUMONT 1926  
F. CUMONT, *Fouilles de Doura-Europus (1922-1923)*, Paris 1926.
- FEARS 1990  
R. FEARS, "M. Rostovtzeff", in: W.W. BRIGGS & W.M. CALDER III (eds.), *Classical Scholarship: A Biographical Encyclopedia*, New York -London 1990, 405-418.
- FROMENTIN-GOTTELAND 2001  
V. FROMENTIN & S. GOTTELAND (eds.), *Origines Gentium*, Paris 2001.

- HOPKINS 1979  
C. HOPKINS, *The Discovery of Dura Europus*, New Haven 1979.
- KATZOFF 2007  
R. KATZOFF, "P.Yadin 21 and Rabbinic Law on Widows' Rights", *JQR* 97, 2007, 545-575.
- KATZOFF 2008  
R. KATZOFF, "The Laws of R. Eliezer in Ancient Rome", in: D. GOLINKIN, M. BENOVIITZ, M.A. FRIEDMAN, M. SCHMELZER, D. SPERBER, (eds.), *Torah Lishma: Essays in Jewish Studies in Honor of Professor Shamma Friedman*, Jerusalem 2008, 344-357 (in Hebrew).
- KRAUT 2011  
B. KRAUT, *The Greening of American Orthodox Judaism: Yavneh in the 1960s*, Cincinnati 2011.
- MILLAR 1993  
F. MILLAR, *The Roman Near East 31 BC-AD 337*, Cambridge 1993.
- MILLAR 1998  
F. MILLAR, "Dura Europus under Parthian Rule", in: J. WIESEHOFFER (ed.), *The Arsacid Empire: Sources and Documentation, Beiträge des internationalen Colloquiums, Eutin (27-30 Juni 1996)*, Stuttgart 1998, 473-492.
- MILLAR 2011  
F. MILLAR, Review of Baumgarten, *Elias Bickerman as a Historian of the Jews*, *JJS* 62, 2011, 180-184.
- MOMIGLIANO 1994  
A.D. MOMIGLIANO, "M.I. Rostovtzeff", in: G.W. BOWERSOCK & T.J. CORNELL (eds.), *Studies on Modern Scholarship*, Berkeley-Los Angeles-London 1994, 32-43.
- MYERS 1995  
D. MYERS, *Re-Inventing the Jewish Past: European Jewish Intellectuals and the Zionist Return to History*, New York 1995.
- RAJAK 2002  
T. RAJAK, "Jews, Semites and their Cultures in Fergus Millar's Roman Near East", in: *ead.*, *The Jewish Dialogue with Greece and Rome: Studies in Cultural and Social Interaction*, Leiden 2002, 503-509.
- RIBICHINI 1999  
R. RIBICHINI, "Rileggendo Filone di Biblo. Questioni di sincretismo nei culti fenici", in: C. BONNET & A. MOTTE (eds.), *Les syncrétismes religieux dans le monde méditerranéen antique: actes du colloque international en l'honneur de Franz Cumont à l'occasion du cinquantième anniversaire de sa mort: Rome, Academia Belgica, 25-27 septembre 1997*, Bruxelles-Rome 1999, 149-177.
- ROSTOVITZEFF 1929  
M. ROSTOVITZEFF, "Ausgrabungen in Dura", *Jahrbuch des Deutschen Archäologischen Instituts: Archäologischer Anzeiger*, 44, 1929, 431-438.
- ROSTOVITZEFF 1943  
M. ROSTOVITZEFF, "L'orient et la civilisation grecque: Doura-Europus sur l'Euphrate", *Renaissance* 1, 1943, 43-59.
- SARTRE 2007  
M. SARTRE, *The Middle East Under Rome*, Cambridge, Massachusetts 2007.
- WES 1990  
M.A. WES, *Michael Rostovtzeff, Historian in Exile: Russian Roots in an American Context (Historia Einzelschriften: Heft 65)*, Stuttgart 1990.



# Swords, Sandals and Prayer-Shawls: Depicting Jews and Romans on the Silver Screen

LISA MAURICE

## I. DEPICTING JEWS

More or less stereotypical depictions of ethnic, racial, and religious minorities feature in many movies, and the Jewish people are no exception. The presentation of the Jews on film has been affected by a range of factors: Christianity's attitude towards Judaism, the economic and professional connection between Jews and Hollywood, the influence of the Holocaust, the establishment of the state of Israel and the rise of multiculturalism have all had a bearing on how Jews are portrayed in popular culture. This is as true for the subgroup of "sword and sandal movies" as it is for other genres. The classic epic films about the ancient world that most frequently feature Jews are those dealing with the life of Jesus. While the movies that aim to make films based on stories from the gospels do not have the depiction of Jews as a fundamental goal of their productions, nevertheless they do have to deal with this issue in order to achieve their wider aims.

The Jesus biopics, due to the emotive nature of the subject matter, have somewhat different agendas and aims from other movies of the genre. While the ancient world was exploited by other makers of epic films keen to push specific messages – both *Spartacus* and *The 300 Spartans* for example were

more about contemporary issues than ancient values<sup>1</sup> – and the Romans were traditionally portrayed as the evil and corrupt imperial enemy,<sup>2</sup> other epic movies were not in danger of hostility because of the beliefs of their target audience about their plots and characterization. Makers of films based on the gospels had always to be aware that their subject matter was regarded as holy by many, and therefore every artistic decision about the portrayal of the characters and events was coloured by preconceptions and might have far reaching consequences.

In particular, the movies that deal with the Jesus narrative raise some difficult questions about how to depict the Jews in each case. While a negative presentation of the ancient Romans – the other group traditionally regarded as bearing responsibility for Jesus' death – was not controversial, the same was not the case for the portrayal of the Jews. On the one hand, Jesus himself was a Jew, and he lived surrounded by Jews; but to Christian audiences he was also the first Christian. The church had a long history of holding the Jews responsible for Jesus' death; but in the nineteen-sixties and seventies, anti-Semitism was becoming less politically correct. At the same time, the portrayal of Jews as Christ-killers had uncomfortable connotations, especially after the *Nostra Aetate* declaration of the Second Vatican Council in 1965, by Pope Paul VI, which repudiated the ancient charge against the Jews of deicide. These considerations led to a range of approaches to the question of the depiction of the Jews in these films.

## II. SELECTED PRODUCTIONS

In this paper, I focus briefly on the depictions of the Jews and the Romans in three different versions of the Jesus story, two made for the big screen and one for television. These productions are Nicholas Ray's *King of Kings* (1961), George Stevens' *The Greatest Story Ever Told* (1965) and Franco Zeffirelli's television mini-series *Jesus of Nazareth* (1977). Finally, I compare in rather more depth all three of these portrayals with another that has not yet been treated academically, namely the 1981 television mini-series, *Masada*. Although not a Jesus narrative, this production, made for mainstream television, focusses on the Jews in Judaea under Roman occupation, and being produced after the other three movies, is coloured by their portrayals.<sup>3</sup> These particular

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<sup>1</sup> See, e.g., FUTRELL 2001, 77-118.

<sup>2</sup> See WINKLER 2001, 50-76.

<sup>3</sup> The question of this paper can of course be asked with regard to other genres, but such a wide

productions have been chosen since all were significant for their depictions of the Jews in different ways, and the later versions often react against the earlier representations, whether consciously or less so.

The first two movies selected were the great Hollywood epic movies of the 1960's that depicted the life of Jesus. Nicholas Ray's *King of Kings* of 1961 is fundamental to considering how the Jews were depicted in the great age of the sword-and-sandal epic, both as a reaction to the De Mille's earlier *The King of Kings*, and as a stimulus to later versions. Similarly, George Stevens' *The Greatest Story Ever Told* from 1965 shows the development of that portrayal, as a very different depiction of Jesus and his message appears. As so often, the solution to the difficult question of how to portray the Jews highlights a host of other contemporary reactions, with the atmosphere of the mid-1960's producing a very different version from that created by Ray only five years earlier. Despite the differences between them, both of these movies were very much mainstream Hollywood epics. As such, they are able to shed light on the society that produced them, and for which they were produced, in a way that more unconventional movies, such as Pasolini's *The Gospel According to St. Matthew* (1964), could not. *King of Kings* and *The Greatest Story Ever Told* were the two classic versions of the Jesus story in the golden era of the epic movie, and for that very reason, a study of both in parallel is enlightening.

In the aftermath of the decline of the epic movie, it was television that came to prominence and came close, in the mini-series genre, to recreating the epic movie in a new form. In the new genre, Zeffirelli's *Jesus of Nazareth*, which was coloured by Zeffirelli's own religious beliefs, is an obvious point of comparison with the two earlier epic movies for considering the similarities and differences in approaching the question of the depiction of Jews in Jesus biopics, despite the fact that as a television production it has marked differences from the movie versions.

Zeffirelli's *Jesus of Nazareth* created the definitive screen Jesus of the second half of the twentieth century,<sup>4</sup> and his portrayal of the Jews in this mini-series also became the benchmark for depictions of the Jewish people in the ancient world. The mini-series *Masada* that followed four years later, although not a Jesus biopic, should therefore be viewed in light of Zeffirelli's production. The consideration of *Masada*, as the only mainstream movie or film to feature Jews in the Roman period as the central characters, adds a new perspective to the question of the depiction of the Jews in the Roman epic.

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study is beyond the scope of this paper, which will focus only on film and television, genres that have received the most attention in recent years by scholars of classical reception.

<sup>4</sup> HOULDEN 2003, 290

This miniseries, like the other movies under discussion, is very much a product of its society and period. Unlike the other productions, however, in this case there is no proselytizing or religious agenda or considerations to take into account. Despite this different slant, the depiction of the Jews is inevitably coloured by the earlier filmic portrayals of the ancient Jews who figure in the world of ancient Rome in the Jesus biopics, so that a comparison between the earlier epics and *Masada* allows a clearer light to be shed on the issue of the representation of Jews in this genre.

### III. THE FILMS

#### 1. *KING OF KINGS*

Nicholas Ray's *King of Kings*, made by Samuel Bronston Productions and distributed by Metro-Goldwyn-Mayer, marks the first of the mainstream Jesus epics of the great age of the genre.<sup>5</sup> At the same time as being what Pamela Grace describes as a "grand religious spectacle", it also undercuts and overturns many of the expectations of the genre of biblical epic.<sup>6</sup> In particular, Nicholas Ray's version of the Jesus biopic was as much a reaction to Cecil B. DeMille's 1927 enormously influential silent movie entitled *The King of Kings* as it was an example of the epic sword and sandal genre.<sup>7</sup> The conscious echoing of and reaction to DeMille's earlier movie is clear. Similarly named, with only the definite article being dropped from the title after a legal battle that prevented the reuse of the original name, *King of Kings* of 1961 sets out to reinterpret not only the New Testament story but that of DeMille. Ray's movie paid far more attention to historical accuracy, and was an ongoing criticism of the belief in supersession, the conviction that underlies DeMille's film.<sup>8</sup>

DeMille's film was a reverent depiction,<sup>9</sup> supported by Christian religious advisors, with filming beginning each day with a Catholic Mass and behavioural restrictions imposed on the private lives of members of the cast, and

<sup>5</sup> *King of Kings*, dir. Nicholas Ray (MGM, Samuel Bronstein Productions, 1961). DVD. For overviews of this film, see BABINTON & EVANS 1993, 127-138; HUMPHRIES-BROOKS 2006, 23-37; STALEY & WALSH 2007, 33-42.

<sup>6</sup> See GRACE 2009, 65.

<sup>7</sup> *The King of Kings*, dir. Cecil B. DeMille (Pathé, 1927). DVD. For the importance of this movie, see REINHARTZ 2006, 14.

<sup>8</sup> See GRACE 2009, 64-77.

<sup>9</sup> *Ibid.*, 25.

especially on H. B. Warner who played the lead role. The film opens with a statement equating the production and screening of the movie with an evangelical process of spreading the word: “This is the story of Jesus of Nazareth. He Himself commanded that His message be carried to the uttermost parts of the earth. May this portrayal play a reverent part in the spirit of that great command”.<sup>10</sup>

In line with this agenda, in the original version of *The King of Kings*, the Jews are portrayed as responsible for the death of Jesus. After protests by Bnei Brith and other organisations, DeMille made some alterations. He added, for example, a title at the very opening of the movie, which declared: “The events portrayed by this picture occurred in Palestine nineteen centuries ago, when the Jews were under the complete subjection of Rome – even their own high priest being appointed by the Roman procurator”,<sup>11</sup> and it is Caiaphas rather than the people as a whole who is held ultimately responsible. These changes, however, hardly eradicate the message of the film. Caiaphas himself is a caricature of the evil Jew,<sup>12</sup> who cares only for the money he can steal from the temple, and who wears a tall headdress that looks vaguely horned. It is Caiaphas who is the central villain of this plot and he does repent of what he has done, begging Pilate: “If thou, Imperial Pilate, wouldst wash thy hands of this man’s death, be it upon me – and me alone”;<sup>13</sup> but the people of whom he is high priest, and by whom he is supported, are only marginally rehabilitated in this movie.

Most importantly, supersession is the underlying philosophy promoted by the film. This is clear from DeMille’s own words, in his autobiography. In the context of complaining about the opposition of contemporary Jewish groups to his movie, he stresses that he portrayed only the corrupt leaders and callous Roman government as guilty of Jesus’ death, and declares, “We went to great lengths in *The King of Kings* to show that the Jewish people of Jesus’s time followed and heard him gladly”.<sup>14</sup> According to this view then, the Jews were not guilty, but only because they accepted Jesus, and therefore Christianity.

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<sup>10</sup> *The King of Kings*, 00:01:19.

<sup>11</sup> *Ibid.*, 00:00:30.

<sup>12</sup> See e.g. STERN, JEFFORD & DEBONA 1999, 39: “In many respects, DeMille has drawn the first century religious figure of Caiaphas with the bold strokes of a medieval and Reformation caricature of the greedy Jew”. Similarly, BABINTON & EVANS 1993, 122: “Caiaphas... is an anti-Semite’s dream caricature of wickedness: obese, cynical, rubbing his plump fingers together in gleeful anticipation of his plots, appearing like a well-fed devil at Pilate’s side to whisper ‘Crucify him’.

<sup>13</sup> *The King of Kings*, 01.59.01

<sup>14</sup> DEMILLE 1959, 282; also quoted by BABINGTON-EVANS 1993, 121, and William R. Telford, in CHRISTIANSON, FRANCIS & TELFORD 2005, 278.

Similarly, at the moment of the crucifixion, as Caiaphas begs forgiveness and claims responsibility (“visit not thy wrath on thy people Israel – I alone am guilty”),<sup>15</sup> a storm swirls around him, ripping off his headdress and destroying a large menorah, implying that his words are rejected and that his religion’s role is at an end.

*KING OF KINGS*, THE JEWS AND THE ROMANS

In Ray’s version the portrayal of the Jews was altered radically, as he retold the life of Jesus under the influence of more recent historical events. In particular, the holocaust affected how the Jews in the film were represented, as the opening minutes of the film demonstrate.<sup>16</sup> The movie begins with the entrance of Pompey into Jerusalem, Rome’s armies pouring in in huge numbers, across a dusty area before the temple, strewn with dead bodies. The accompanying narration declares, “Under the eye of General Pompey the holy city fell, her people strewn like wheat in the harvest time of Rome. While Pompey, triumphant, dared take the last high place, the still living heart of the city”.<sup>17</sup> On entering the temple, Pompey is faced with a mass of silent Jewish priests, all with shining white shawls over their heads, and all bearded and unresisting. Passing through these ranks to where the high priest and elders stand facing him, Pompey approaches and gives a signal to his soldiers standing behind, who hurl spears over the heads of the massed priests, killing the unarmed leaders in cold blood. In search of treasure,<sup>18</sup> the Roman general then enters the Holy of Holies with the dead bodies of these men, spears still sticking out from their torsos, in the foreground. Finding only a Torah scroll in the Holy of Holies, Pompey takes it and is about to burn it before the anguished protests of the horrified mob, which is now being beaten back and contained by the Roman troops. One of the priests breaks free and approaches Pompey, falling to his knees before the general and holding out his hands in beseeching supplication. After a moment’s hesitation as the camera moves to the flickering fire and back to the kneeling Jew, Pompey hands him the scroll. As the voiceover continues against scenes of burning houses and the terrified local population being rounded up, the audience learn that over the next fifty years, “the history

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<sup>15</sup> *The King of Kings*, 02:21:26.

<sup>16</sup> See REINHARTZ 2006, 57-59; HUMPHRIES-BROOKS 2006, 29-31.

<sup>17</sup> *King of Kings*, 00:07:05

<sup>18</sup> It is an interesting inversion of stereotype that the Roman is here depicted as lusting after wealth, while the Jews value their Torah scroll above all and have no interest in riches and precious metals.

of Judaea could be read by the light of burning towns”,<sup>19</sup> are treated to sights of piles of dead Jewish bodies, and finally are told that, “like sheep, from their own green fields, the Jews went to the slaughter”.

While the reference to burning a Torah scroll can be found in Josephus,<sup>20</sup> it also carries strong Holocaust connotations. Both on Kristallnacht specifically and throughout the Holocaust generally the Nazis made a point of defacing and burning Torah scrolls. Similarly the bearded, elderly, kneeling, suppliant Jew and the heaped corpses were images that would have carried resonance for cinema audiences a mere sixteen years after the end of the Second World War. The references to burning homes, round-ups, and most of all, sheep to the slaughter are clear intimations of the Holocaust, portraying the Jews as helpless victims of genocide and the Romans as Nazis.

The Holocaust is not the only point of reference in the movie however. By 1961, the state of Israel was established and had survived more than a decade of attacks by her Arab neighbours. This political and historical reality is reflected in the depiction of Herod, claimed here to be ‘an Arab of the Bedouin tribe’,<sup>21</sup> who is a further oppressor of the Jews. It is Herod’s wickedness and cruelty that leads to Jewish rebellion, which is justified in this light, and it is Herod and his family who are presented as the villains of the plot in this version. Herod Antipas, Herodias and Salome are portrayed as ‘lurid, sado-masochistic’ Arabs,<sup>22</sup> and represent the contemporary view of the Arab threat to Israel.<sup>23</sup> The Arab Herod is depicted as a worse figure than any Roman in this movie; thus the Roman officer, Lucius declares, “I am a Roman soldier. I do not murder children”.<sup>24</sup> Although Lucius is a ‘good Roman’, the distinction is still made between the Romans, who have some kind of moral boundaries, and the Arabs, who do not.

In contrast to the corrupt and sexually lascivious Arab Herodians stands the figure of Barabbas. Barabbas, while based on the gospel figure, is far more developed in this version. He is presented here as a rebel leader, a messiah who presents the option of war as the solution to the Jews’ woes, in contrast to Jesus whose message is one of peace. A cowboy figure, a traditional American man of action, he is a rare figure, the Jewish freedom-fighter, rugged, athletic and with an overwhelming commitment to the freedom of his people and

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<sup>19</sup> *King of Kings* 00.11.02

<sup>20</sup> Jos. AJ 20.5.4; BJ 2.12.2.

<sup>21</sup> *King of Kings*, 00:12:03.

<sup>22</sup> HUMPHRIES-BROOKS 2006, 30.

<sup>23</sup> BABINGTON-EVANS 1993, 131.

<sup>24</sup> *King of Kings*, 00:17:02

homeland. This depiction of the brave Jew fighting for his country against oppression owes a great deal to the American view of the modern state of Israel in the fifties and sixties.<sup>25</sup>

Despite this portrayal of the personality of Barabbas, the rebel leader fails in his mission, and Rome's power remains unshaken by his rebellion. This is of course in keeping with historical reality, but it also reflects the paradox inherent in portraying imperial Rome in the United States of the 1960's. While epic movies routinely portrayed the United States as a Christian empire or Christian Rome in order to justify its role in the cold war, *King of Kings* is a post-Christian-empire epic, and there is an uncomfortable tension here. On the one hand, Rome was portrayed throughout the sixties as an evil dictatorship, equivalent in the cold war climate to the Soviet Union.<sup>26</sup> Elements of such a portrayal can be seen in *King of Kings*, in the depiction of Pompey and in particular of Pontius Pilate who is portrayed as a bureaucratic politician figure, whose cynical and nervous reason for crucifying Jesus (because "he is different and refuses to behave like others"<sup>27</sup>) smacks of the McCarthy era fears.<sup>28</sup> On the other hand, the average citizen in cold war America probably had more in common with a citizen of the Roman Empire, or with Barabbas the cowboy rebel, than with Ray's very pacifistic Jesus.<sup>29</sup>

*King of King's* answer to these tensions was the introduction of a fictional character to the Jesus biopic, the Roman centurion, Lucius. Lucius is a good soldier and the honourable opponent of Barabbas, and he comes to recognize Jesus as the messiah. He witnesses all of the major events of the story, from the slaughter of the innocents to the crucifixion. A noble Roman, a man of integrity, he struggles with the tyrannical rulers, and moves from not believing in God to accepting Jesus as the messiah. This characterisation enables the audience to identify with him, as he presents an acceptable face of Rome and of imperialism in general. He symbolises the conversion of the gentiles, and also the modern secular world, for whom religion in general and Jesus in particular were remote, alien and uncomfortable.<sup>30</sup> Rather paradoxically then, *King of Kings* presents both a proud and brave Jew fighting against oppression and an enlightened noble Roman in its portrayal of first century Judaea.

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<sup>25</sup> See GRACE 2009, 76.

<sup>26</sup> See WINKLER 2001, 50-76.

<sup>27</sup> *King of Kings*, 02:26:23.

<sup>28</sup> See STALEY & WALSH 2007, 38.

<sup>29</sup> See WALSH 2003, 127.

<sup>30</sup> Ibid.

## 2. *THE GREATEST STORY EVER TOLD*

George Stevens' *The Greatest Story Ever Told*, based on Fulton Ousler's 1949 bestselling novel, was made into an epic movie distributed by United Artists and intended as a way to entice audiences away from television and back into the cinemas.<sup>31</sup> As a director, Stevens was a perfectionist particularly interested in visual authenticity, who spent hours filming and re-filming scenes and shots from multiple angles, as well as retracing Jesus' steps through Israel as part of the creative process.<sup>32</sup> No expense was spared for this movie, which was accompanied by a huge publicity campaign and a star-packed cast. Released only four years after *King of Kings*, *The Greatest Story Ever Told* presents a very different interpretation of the nativity story, and is reflective of a different time period and society. Where Ray's movie was a product of the 1950s and the Cold War,<sup>33</sup> Stevens' version is one of the growing diversity and postmodernism of the 1960's.<sup>34</sup> It was still most definitely an epic movie, but it was an epic that spelled the end of an era. With a huge budget of more than \$20 million and a production time of over five years, it was in fact the most lavish Bible film ever produced; but it was plagued by financial problems, and in the end was a flop with both critics and audiences, and its failure really provided a fatal blow for the Hollywood Bible-epic genre.<sup>35</sup> The reasons for this failure were multiple, but the muddled messages of the film were certainly a contributing factor. The portrayal of the Jews in the film is one example of these confused ideas and ideology.

### *THE GREATEST STORY EVER TOLD*, THE JEWS AND THE ROMANS

The Jews in *The Greatest Story Ever Told* are recognisable as such only because the audience knows that the inhabitants of Jesus' world were Jewish; in this movie, they have almost no outward signs of their religion. In place of the elderly bearded figures of *King of Kings*, these Jews are often younger, clean-shaven, and chant prayers and psalms in the English translation of the King James Bible, in a manner more reminiscent of monks than of Jewish priests, or as one study suggests, "like Presbyterians in an elocution class".<sup>36</sup> There are

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<sup>31</sup> *The Greatest Story Ever Told*, dir. George Stevens (United Artists, 1965). DVD.

<sup>32</sup> STERN, JEFFORD & DEBONA 1999, 150.

<sup>33</sup> HUMPHRIES-BROOKS 2006, 39-45.

<sup>34</sup> STERN, JEFFORD & DEBONA 1999, 129-160.

<sup>35</sup> See e.g. STEMPEL 2001, 24; FINLER 2003, 244; KAHLIL & ALLEN 2008, 47.

<sup>36</sup> Fred Meyers, *The Christian Century* (21 April 1965) 492. Also quoted by STERN, JEFFORD &

no tallitot (prayer shawls) or tefillin (phylacteries), and the synagogue has no Jewish symbolism at all; there is no star of David, menorah or mezuzah. The only artefacts of Jewish significance at all are the Torah scrolls, and these are shown from a distance, lying on a table, unadorned, and with no Hebrew writing visible; they could just as easily be papyrus scrolls as *Sifrei Torah*. Many episodes from the gospels that relate to Jesus' Jewishness are excluded from this version. There is no circumcision of Jesus, no conversation with scholars in the Temple, nor does Jesus read from the Torah. Both the wedding feast at Cana and the arguments about keeping the Sabbath, episodes that would have lent themselves to elements and symbols of the Jewish religion, are missing.<sup>37</sup> Even when, in his trial before Pilate, Jesus quotes from the Shema, he does so in English, and misses out the crucial first words, "Hear O Israel", saying only "The Lord our God is One".

The eradication of Jewish content in this movie stems from the presentation of Jesus as a universal saviour, rather than one for the Jewish people. This is emphasised in his conversation with Pilate ("One? For all people?" "All nations shall be gathered before Him"). This messiah is not even particularly Christian, uttering bland platitudes and offering a wide universal, if unremarkable, faith. Much stress is laid upon the fact that Jesus is the Word made flesh, that he has come to 'give witness to what is true', as he says to Pilate. He is a messiah for the world, who just happened to be Jewish thanks to an accident of birth.

One reason for this portrayal was the growing respect for minority cultures which was evolving in the American consciousness at this time. In particular, George Stevens, who was one of the soldiers who had liberated Dachau, was very concerned to avoid anti-Semitism. This led him to another solution to the problem of how to apportion the blame for killing Jesus. Where *King of Kings* had placed responsibility on Caiaphas but made the people willing participants, Stevens went a stage further. In this version, responsibility lies with individual characters, who are motivated by personal interests and greed, rather than with the people as a whole. Even the Sanhedrin is split between those who oppose Jesus and those who support him, as internal politics rather than questions of religion or blasphemy rule. The people themselves are half-hearted about crucifying Jesus, with cries of "release him" penetrating as loudly as those demanding crucifixion. Even Judas does not seem to know why or how things have come to pass, as, on Jesus' arrest, he declares that Jesus is the "purest, kindest man" that he has ever met.

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DeBONA 1999, 153.

<sup>37</sup> BAUGH 1997, 24-32.

While supersession is still promoted, in that it is clearly suggested that Israel before Jesus has lost its way, this is portrayed as an understandable result of the oppression by the Romans, with their political, military and even religious control of Judaea. Even these Romans, however, play merely a back-drop role, creating a background of oppression and authoritarianism in this film, rather than being specifically evil.<sup>38</sup> The real villain in this movie is an invented character, named only as the Dark Hermit, but identified with Satan. This mysterious and shadowy figure is present at crucial moments along the path that leads to Jesus' execution and serves as a catalyst to those who oppose Jesus.<sup>39</sup> Thus it is not the Jewish people who are guilty of killing Jesus, nor the Romans. Blame is apportioned to individuals, who follow Satan, for reasons of their own.

This emphasis on the individual was very much a product of the period. In a 1960's America where global expansion and diversification were the current trends, society was less interested in a broad consensus than in its individuality. In place of one unifying metanarrative, countless individual narratives featured.<sup>40</sup> In light of this, the portrayal of Jesus is also more understandable, for the universalism of the figure and message of Jesus in this movie was a rather clumsy attempt to unite the now disparate audience, by promoting something to which anyone would be able to relate. Unfortunately, this was not the case, and the film flopped, at least partly because of the insipid nature of its message, which in the end satisfied no one.

Another reason for the lack of success was the confused nature of the genre of this epic. Rejecting the landscape of the land of Israel as a setting for his biblical epic, Stevens chose instead to film in the United States, in Utah and Colorado. This landscape was well known from another film genre, the Western, and contributed to an atmosphere that was more of this genre than of the Bible. As W. Barnes Tatum puts it, "Panoramic shots of towering mountains with snow-capped peaks show ant-like figures moving slowly across vast spaces punctuated by buttes so characteristic of the American southwest".<sup>41</sup> In addition, the film contrasts the simple faith of Jesus' rural followers with the lack of faith he meets in the city; this virtuous rural/corrupt urban juxtaposition is a common motif of Westerns.<sup>42</sup> The movie even featured John Wayne as a Roman centurion, who appeared to pronounce in cowboy drawl, "Truly this was the Son of

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<sup>38</sup> HUMPHRIES-BROOKS 2006, 49.

<sup>39</sup> WALSH 2003, 148-150.

<sup>40</sup> STERN, JEFFORD & DeBONA 1999, 129-160.

<sup>41</sup> TATUM 1988, 88.

<sup>42</sup> STALEY & WALSH 2007, 57.

God”.<sup>43</sup> In this context, Judaea becomes the Wild West, and the Jews are not really Jewish at all; they are just simple country folk whose Galilee synagogue is really a replacement for the Spanish mission church of the Western movies.<sup>44</sup> Neither Jews nor Romans in this production are really recognisable as more than broad outlines of social groupings; all are lost in the mass melting-pot of citizens of the world to whom the universal Jesus has come.

### 3. *JESUS OF NAZARETH*

Franco Zeffirelli's *Jesus of Nazareth*, aired for the first time in 1977, is a different kind of production from the two already discussed.<sup>45</sup> It was an Anglo-Italian project, commissioned by Lew Grade, who approached Zeffirelli and asked him to direct the film, which was shown on two consecutive weeks, on Palm Sunday and Easter Sunday, in April 1977. Zeffirelli's production is a harmonized version based upon all four Gospels and is reverential in nature, tracing the story of Jesus from before the marriage of Mary and Joseph until the resurrection. The fact that it was designed for television rather than the big screen – the first mini-series to be so designed – had widespread implications for its style, content and reception. The very length of the production, a mini-series running for six hours, enabled Zeffirelli to include far more scenes and details than any of his predecessors had done, and he exploited this aspect both in terms of content and in staging, incorporating in his visual presentation many tableaux and images that echoed traditional Christian art. Its television format also made it a much more intimate experience, bringing Jesus and his story into the very living rooms of the viewers.<sup>46</sup> This format also allowed for repeated screenings, and indeed in many countries the series was shown semi-annually, at Christmas and at Easter, for many years.<sup>47</sup> Repeated exposure therefore made this version of the Jesus story and Robert Powell's Jesus the iconic, recognised version and face of the Messiah, for a vast number of people.

What then is the message of and rationale behind *Jesus of Nazareth*? The answer to this question may be found in Zeffirelli's own words. Explaining

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<sup>43</sup> See BAUGH 1997, 27-28. Wayne was just one of a slew of famous actors who appear in the movie, another element that created a sense of dissonance in the viewing public.

<sup>44</sup> HUMPHRIES-BROOKS 2006.

<sup>45</sup> *Jesus of Nazareth*, dir. Franco Zeffirelli (Incorporated Television Company (ITC), Radiotelevisione Italiana 1977). DVD.

<sup>46</sup> STERN, JEFFORD & DEBONA 1999, 212-215.

<sup>47</sup> BAUGH 1997, 72.

that Pope Paul VI's declaration *Nostra Aetate* had become his "deepest motivation for making the film", he reiterated, "I don't only wish to re-evoked the story of Christ, but also the tragedy of the blaming of the Jewish people, which should no longer exist. I want to clarify the reasons that were behind your ancestors' decisions and – within my film – help all to understand them".<sup>48</sup> Freeing the Jews from the responsibility of killing Christ was therefore one of his main intentions.

#### *JESUS OF NAZARETH, THE ROMANS AND THE JEWS*

A number of techniques were used to achieve this aim. First of all, the Romans in this production, as so often, are portrayed in such a way as to create sympathy for the Jews and thus explain or excuse their actions. Thus there is one scene in which mounted Roman soldiers raid Nazareth at the very moment of Jesus' bar mitzvah. Zeffirelli writes of this scene that he did not want to give this attack too vicious a tone but wanted rather, "to show how, in the face of Roman arrogance – ruthlessly snatching family provisions and the very bread of the Nazarenes, and laughing at the angry reaction – the people's sense of humiliation was inversely proportionate (sic) to the insults and scorn they received".<sup>49</sup> This Jewish unrest in Judaea, as a result of Roman oppression, was in Zeffirelli's eyes what caused Pontius Pilate to be wary of Jesus and the threat that he posed, and therefore to pronounce upon him the sentence of crucifixion. The blame for killing Jesus, therefore, is at least partly placed upon the Romans.

More importantly, though, this Jesus was the first to be set blatantly in a Jewish world. The originality of this approach at the time is highlighted by Lloyd Baugh: "After the California-surfer-Jesus of George Stevens, the Grand-Canyon-Old West-Jesus of Nicholas Ray and a variety of other culturally anachronistic representations of Jesus, almost all of them reflecting American or at least Western European roots, the first century Jewish-Palestinian setting of Jesus of Nazareth is notable".<sup>50</sup> This is developed in a large number of scenes that situate the young Jesus and his family firmly and positively in a Jewish setting. Thus the wise and kindly rabbi of the Nazareth village features prominently, usually in the setting of his synagogue, and we witness the betrothal and wedding of Joseph and Mary, and after Jesus' birth, his circumci-

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<sup>48</sup> ZEFFIRELLI 1984, 11-12.

<sup>49</sup> Ibid. 30.

<sup>50</sup> BAUGH 1997, 82.

sion and later, bar mitzvah.<sup>51</sup> These landmark ritual moments are often staged to create ‘Kodak moments’, creating a sense that Jesus and his family were more typical suburban American Jews than ancient Hebrews.<sup>52</sup>

In addition to emphasising and idealising the traditional Jewish background, Zeffirelli works to absolve the Jews from blame by his treatment of both the Sanhedrin and Judas. He presents a Sanhedrin that has members that support Jesus, in particular Nicodemus and Joseph of Arimathea, as well as those that oppose him. The opposition is led by an entirely fictional character, created to be the villain of the plot, named Zerah. This character’s sole function, in the words of Baugh, is that of “deflecting from the historical-biblical characters of the film the responsibility for Jesus’ death, in short, the function of absolving the biblical Jews, that is Judas and the Jewish people of Jerusalem”.<sup>53</sup> Zerah, a young member of the Sanhedrin, tricks Judas into betraying Jesus, promising that he will have a hearing before the Sanhedrin, but in reality the hearing is the trial for blasphemy that will lead to Jesus’ crucifixion. Much more than Caiaphas, Zerah is the evil force of the production. As Zeffirelli himself described it, “Zerah would be Stalin’s Yagoda, Hitler’s Himmler, Napoleon’s Fouché. In every power system there is always a Zerah, the secular arm, the executor. In my script I fancy that there was a Zerah to guide Judas, making him think that the destiny of Jesus was in his hands, hoping it would appeal to his political ambitions”.<sup>54</sup>

This introduction of the evil Zerah character goes in tandem with the rehabilitation of Judas, who is softened by being made fallible rather than evil, as he is tricked by the wicked Zerah. Rather than being motivated by greed or malicious intent, Judas misunderstands Jesus’ prophecies. This misinterpretation enables him to be manipulated by Zerah. Seeing Jesus as the Jewish messiah promised by scripture, Judas delivers him to the Sanhedrin, not as an act of betrayal but to enable Jesus to reveal himself as the messiah.<sup>55</sup> Judas is a sympathetic character, torn between the dictates of mind and heart, who eventually commits suicide, hanging himself, his heart broken.

It is not only Judas who is exempt from blame however, for the Jewish people *en masse* are also excused. Even on this national level, it is Zerah who is responsible, while many Jews are portrayed as following or supporting Jesus, and of not wanting him to be killed. Thus in the ‘Ecce Homo’ scene,

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<sup>51</sup> STERN, JEFFORD & DeBONA 1999, 206-207.

<sup>52</sup> HUMPHRIES-BROOKS 2006, 73.

<sup>53</sup> BAUGH 1997, 76.

<sup>54</sup> ZEFFIRELLI 1984, 103.

<sup>55</sup> HUMPHRIES-BROOKS 2006, 74-76.

along with shouts from the Jewish crowd for the release of Barabbas, there are also cries requesting Jesus' release, and calling him "a just man" and "a true prophet".<sup>56</sup> It is also notable that the condemnation of Jesus comes from the Jews of Jerusalem rather than the Galilee, which should be understood within the contrast between the small town/village Jews and those from the city.<sup>57</sup> As in *The Greatest Story Ever Told*, the supporters of Jesus are from simple common stock, pure minded people who understand the truth, while the city-based national leadership and the intellectual elite are blinded by corruption and misunderstanding.

In this way, of course, the 'good' Jews are to be compared to the citizens of suburban, small town America; from this point of view, they are in fact not Jews at all, but the Christians who superseded them, and it is here that the greatest weakness in Zeffirelli's attempt to absolve the Jewish people from blame lies. For in dividing the Jews in the series into believers and non-believers, he is actually making a division between the Jews, who did not accept Jesus, and the Christian "New Jews" who did. In the end, the key motif of the series is that spiritual Christianity supersedes messianic Judaism. This theory of supersession is set in a detailed Jewish framework that lends authenticity to its portrayal. As Stephenson Humphries-Brooks puts it, "While the series was the best received of the Cinematic Saviors by the American Jewish community, it may in reality be the most dangerous, because here history becomes absolutely indistinguishable from myth. The Jews really do have no excuse, except their own hardness of heart".<sup>58</sup>

#### 4. *MASADA*

Based on the 1971 novel *The Antagonists* by Ernest K. Gann, the TV mini-series *Masada* (1981) is a fictionalized account of the Roman siege of the fortress Masada in 73 CE.<sup>59</sup> Aired in four consecutive nightly two hour episodes, almost exactly four years after the first screening of *Jesus of Nazareth*, it was a great success, earning 13 Emmy nominations, and achieving almost 50 per cent of the viewing audience on its first showing.<sup>60</sup> This accomplishment then led also to further ancient mini-series, such as *The Last Days of Pompeii*

<sup>56</sup> *Jesus of Nazareth*, Episode 3, 00:58:59, 1:01:52. See BAUGH 1997, 76.

<sup>57</sup> HUMPHRIES-BROOKS 2006, 76.

<sup>58</sup> *Ibid.*, 80.

<sup>59</sup> *Masada*, dir. Boris Sagal (Arnon Milchan Productions, Universal TV, 1981)

<sup>60</sup> See SOLOMON 2008, 19-20.

(1984) and *A.D.* (1985). Although the latter of these flopped badly, causing such productions to dry up at this point, the popularity of *Masada*, which was itself seen as a successor to *Jesus of Nazareth*, was instrumental in its very creation.<sup>61</sup>

Unlike the three Jesus productions already discussed, the Jews in *Masada* are not presented in contrast to the Christians, and no blame need automatically be assigned to them in this production. These Jews are meant to be the heroes of the film. Indeed, the basic premise of both novel and movie was a romanticized version of a tale of a heroic last stand by the remnant of the Jewish people, who nobly finally commit suicide rather than accept Roman defeat and slavery.

#### MASADA: MYTH, FACT AND PROPAGANDA

In recent years scholars have pointed out the discrepancies between the traditional version of the events of Masada and the description given by Josephus, our only ancient source for the story. The role of politics and the influence of the Israeli government have been cited as pressuring archaeologist Yigael Yadin into making exaggerated claims about his discoveries on Masada that helped turn the site into a place of central importance for twentieth century Zionism. Sociologist Nachman Ben-Yehuda, for example, argues that Yadin's portrayal of the rebels at Masada as "freedom fighters" and "patriots" was a distortion of the truth. He claims that the early Israeli pioneers fabricated the story of Masada found in Josephus into "a powerful myth of heroism."<sup>62</sup> This process was continued by pre-state underground organizations, and later Israeli youth movements, the army, archaeological teams, educational establishment and mass media as Masada became an ideological symbol of defiance for the modern state of Israel. Similarly, but rather less pejoratively, Yael Zerubavel investigated the Masada story, explaining how the narrative of this event was reinterpreted in order to serve the theme of national heroism. Instead of being understood as the grim result of a disastrous revolt, the collective suicide of the defenders of Masada was seen as a heroic stand of the Jewish people against foreign oppressors and the fall of the fortress as *a crucial* event that brought on the Exile.<sup>63</sup>

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<sup>61</sup> GAGARIN & FANTHAM 2010, 217.

<sup>62</sup> BEN-YEHUDA 1995 and 2002.

<sup>63</sup> ZERUBAVEL 1997.

The end of the Second Temple period was a time of considerable internal strife and sectarianism for the Jewish people. Josephus mentions three major sects of Jews who differed in their philosophy and religious practices: the Pharisees, the Sadducees and the Essenes.<sup>64</sup> Of these groups, the Essenes figure prominently in *Masada*. According to Josephus, the Essenes led a stringently communal life, sharing property equally and owning nothing individually. They would not swear oaths, trade, nor sacrifice animals, and they kept strict laws of purity. Believing they were channels of peace, they did not participate in warfare and carried weapons only for protection from bandits. Some groups, although not all according to Josephus, were celibate. Modern scholars generally believe that the Dead Sea Scrolls were written by a group of Essenes who settled at Qumran.<sup>65</sup> From one of these scrolls, the so-called War Scroll, discovered in Cave I of Qumran in 1947, it appears that the Essenes thought of themselves as the holy elect of Israel, the Sons of Light, who would at the end of time engage in a cataclysmic war with the enemies of Israel, the Sons of Darkness.<sup>66</sup> The victory of the forces of light would mark the final destruction of evil, after which the God of Israel would rule eternally in justice.

Josephus also refers to both the Zealots and the Sicarii, groups of extreme nationalists, whom he describes as more politically motivated. The name Sicarii comes from the word *sica*, meaning dagger, which these people carried hidden in their clothes and with which they killed their opponents, namely fellow Jews who did not agree with their policy of resistance against the Romans.<sup>67</sup> These Sicarii were exponents of criminal attitudes and behaviour, who murdered the high priest, Jonathan, and most famously attacked the settlement of Ein Gedi, looting and pillaging it in order to supply the fortress on Masada, and killing more than 700 women and children in the process.<sup>68</sup>

It is the Sicarii rather than the clearly differentiated Zealots who are described by Josephus as occupying and defending Masada, although Yigael Yadin consistently refers to the Masada defenders as Zealots rather than the more derogatory term, Sicarii.<sup>69</sup> No other Jewish groups are mentioned by

<sup>64</sup> Jos. *AJ* 18.11-22; *BJ* 2.119.

<sup>65</sup> See e.g. BEALL 2004; VANDERKAM 1994, 97-126.

<sup>66</sup> 1QM 1:1-7.

<sup>67</sup> Jos. *AJ* 20.186; *BJ* 2.255.

<sup>68</sup> Jos. *BJ* 4.7.2.

<sup>69</sup> See KOHL, KOZELSKY & BEN-YEHUDA 2008, 258.

Josephus as being on Masada at all.<sup>70</sup> Although Yadin argued that the Essenes were present at Masada and participated in the revolt,<sup>71</sup> there is no evidence for this from Josephus. In the view of Ben-Yehuda, these claims were all part of Yadin's agenda which was to create a symbol of nationalist heroism from the site.<sup>72</sup>

The rights and wrongs of these arguments fall outside the scope of this paper; I mention the debate in order to stress that historically and ideologically the mini-series *Masada* falls clearly within this 'Masada myth'. In 1981, the heroism and importance of the Masada story had not yet been questioned, and it would be some years before these issues would be raised, not least because the mini-series itself was so central in promoting this very story. The heroism and bravery of the defenders of Masada is a given in the television version.

### THE ROMANS IN *MASADA*

Clearly, if the Jews are the heroes in the Masada mini-series, the Romans are the evil enemy. They speak with British accents, as opposed to the Jewish heroes who are American.<sup>73</sup> Ruthless imperialists, they desire to conquer the poor, brave Jews struggling for freedom. Rome's soldiers steal lands from their rightful Jewish owners, plunder and destroy in their greed. They are merciless slave-owners. So far, the picture is standard of sword and sandal epics, and of the Jesus biopics already discussed.<sup>74</sup> Yet this is not the whole picture, for individual Romans, and indeed Roman power in general, are presented in a more nuanced way than is typical of the genre.

Firstly, there are definitely 'good' Romans. Rubrius Gallus, for example, the chief engineer, is both brilliant and a pleasant character. His attitude is one of practicality, a down-to-earth worker who does his best to get the task done as efficiently as possible, and as he tells his men, this includes a responsible and not over-harsh attitude towards the Jewish slaves. He declares that over-whipping is worse than not whipping, and that the Jews will have regular breaks and water. His final words on the matter are, "Treat them decently

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<sup>70</sup> In fact Josephus mentions only one Jew, Shimon ben Giora, visiting the rebels on Masada, at *BJ* 4.9.3. *Ibid.*, 259.

<sup>71</sup> YADIN 1966, 220.

<sup>72</sup> BEN-YEHUDA 1995, 59-61.

<sup>73</sup> For this phenomenon in Hollywood movies see e.g. GATES 2006, 254-7; JORDAN & JAMIESON 1998, 114-117; ROJEK 2007, 130-134. For Roman epic movies, see e.g. WYKE 1997, 133; JOSHEL, MALAMUD & WYKE 2001, 8-9, 12, 26; CYRINO 2005, 232.

<sup>74</sup> For more on such depictions see WINKLER 2001.

and they will do very nicely.”<sup>75</sup> Clearly there is a certain amount of tongue in cheek parody of a foreman getting the most effective performance out of his workers, who in this case are slaves liable to be beaten even to death, but even this does not detract from the portrayal of Gallus as a decent soul, with no interest in persecution for persecution’s sake. Like Nicholas Ray’s Lucius, he is a far cry from the stereotypical harsh Roman of Hollywood, and he represents the honourable man struggling to do his best in a difficult world; his death causes as much dismay amongst the audience as it does amongst the Roman legion.

The portrayal of Silva is even more generous. Peter O’Toole’s Cornelius Flavius Silva<sup>76</sup> is a fair, intelligent and noble character as weary of the war in Judaea as the Jews are. Tough when necessary, but always fair to his men, a true leader, he is the ideal soldier and general. He is on the whole honourable, despite one episode where, having arranged a meeting with Eleazar to whom he had guaranteed safe passage, he then imprisons him instead. Even on this occasion, however, he quickly repents and releases his captive, negotiating with him a truce that he will then present to Vespasian. For all his disparaging comments about Jews (“brainy bastards without a dram of ethics”; “I’m sick of dead Jews....live Jews’)<sup>77</sup>, he seems in fact to be very sympathetic to their demands (“it does make perfect sense” he agrees when Eleazar puts his demands to him,<sup>78</sup> and later to Vespasian he argues, “Caesar, what do they want? A temple, their own governor.... What they want is what we should have done in the first place”).<sup>79</sup> When the far more brutal Falco takes over and perpetrates brutalities against the Jews, Silva, furious and outraged, seizes power back from him. At the end, after the final capture of Masada, he is deeply grieved by Eleazar’s death and when his soldiers declare victory, his bitter response is “What victory!? We have won a rock on the shore of the poisoned sea!”<sup>80</sup>

Clearly Silva is a heroic figure here. How then does this fit in to the portrayal of Rome, both in the mini-series and in the wider context of screen representation? If Silva is not evil, who is the villain of the plot? There are some obvious wicked characters in the series most obviously, Pomponius Falco catapulting Jews against the rock face, and the greedy pillaging soldiers who seize the land of the Jews. Yet many other Romans are presented sympatheti-

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<sup>75</sup> *Masada*, Episode 2, 0:59:46.

<sup>76</sup> More properly Lucius Flavius Silva according to Josephus.

<sup>77</sup> *Masada*, Episode 1, 00:40:47; 00:44:07

<sup>78</sup> *Ibid.*, 00:59:47.

<sup>79</sup> *Ibid.*, 1:16:30.

<sup>80</sup> *Masada*, Episode 4, 1:32:54.

cally. Even the average Roman soldier is shown as a suffering tragic character, as demonstrated by a scene early in the series where a few soldiers attempt to mutiny against Silva and kill him, but are clearly shown to be motivated by a longing for an end to their long service overseas and a return to their families. These soldiers are good family men, mere pawns in the hands of the true masters of Rome, the politicians.

If there is a true enemy in *Masada*, it is the world of politics and government. Vespasian himself agrees with Silva that to accede to the Jews' demands would be the right thing to do, but he cannot follow that course of action since he is under threat from his political enemies who are eager to exploit the situation in order to topple him from power. The Roman who authorises the soldiers' theft of Jewish land, Marcus Quadratus, is a political spy for Vespasian's opposition, and is a greedy politician at heart. The meeting of the senators in Rome, at which Silva is present but barred from speaking due to his non-senatorial rank, demonstrates all the corruption, backbiting and treachery of politics at its worse, while Silva's enforced silence demonstrates the powerlessness of those not involved in the political world.

The 1970's saw major crises in American society, as urban unrest, the Watergate scandal and the Vietnam War all shook the trust Americans had in their political leaders.<sup>81</sup> It seems that in the aftermath of these events, it is political corruption that has become the ultimate evil, and the presentation of the ancient Romans has altered correspondingly. Whereas earlier (and later) representations of Rome as an evil power compare her to a communist or imperialist world-dominating regime, *Masada* portrays her as a society whose citizens are ruled by, and at the mercy of, corrupt, self-seeking politicians. It is they who are the villains of the plot, which leaves the 'average Roman soldier' a far more sympathetic character than he is in many Hollywood versions. It is striking in fact that the only occasion on which a standard physical stereotype of the Jew features in the mini-series is during the scene in Rome, where Vespasian watches a satirical skit about Rome and the rebellious Israel. In this play, the character playing the Jew wears a mask with exaggerated Semitic features, a striped cap and a robe with blue stripes that is reminiscent of a tallit. This is an entertainment for the Roman senators and it is they, unlike the noble Silva, who see Jews in this way.

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<sup>81</sup> DALTON 2005.

Other than this stereotype, throughout the whole of *Masada* the Jews are not depicted as outwardly Jewish in any serious way. They are actually, as a group, like the Romans, portrayed rather ambiguously. In contrast to Josephus, the mini-series depicts three different groups of Jews taking refuge on and defending Masada. In addition to the Zealots, there are two sects of religious Jews. The first of these is seen on Masada after the fall of Jerusalem, with no explanation as to their presence there; the voiceover has stated only that Eleazar and his supporters are atop the mountain. Yet a subsequent scene shows the group, who are certainly not supporters of Ben-Yair, and are to be found in some kind of synagogue building, complete with a large seven-branched menorah burning in the background, reading from Torah scrolls. They are to be identified as religious Jews both by this setting, and by their use of tallitot draped around their shoulders, and in the case of the leader, a black skullcap. It is noticeable that this man, listed only as the Chief Priest, is invariably clad in black.

Interestingly, however, they are also far from stereotypical Jews. While they are bearded, the beards are short, and their headwear is that of Bedouins or desert nomads, rather than anything more conventionally Jewish. Similarly, their chanting from the Torah is unintelligible, with no recognisable hint that this is the Hebrew language. These Jews are opposed to Ben-Yair, regarding the Zealots as murderers and bandits, and they have to be forced and threatened in order to participate in the raid on Hebron. In the end, it is only this group that show any resistance to the idea of mass suicide, and even then, their objection is more from cowardice than from disapproval, as voiced by their leader, "You are asking a great deal of many of these people".<sup>82</sup> Luckily, Eleazar and nine others chosen by lot are available to help these weaker brethren do what is necessary.

The second group of Jews on Masada in the mini-series are a large number of the Essenes, described in the voiceover introducing the second episode as "a highly religious Jewish sect",<sup>83</sup> who have some rather unusual practices and beliefs. This group dress all in white and lay heavy store by sanctity. They regard themselves as the guardians of the written Torah, and protect the Torah scrolls above all else. On Masada, however, they are forced to join in the labouring, and are seen at the opening of the second episode helping to haul a cow on a pulley up to the top of Masada. There are also hints that they are celibate, as they are seen debating celibacy and the adoption of children

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<sup>82</sup> *Masada*, Episode 4, 01:13:02.

<sup>83</sup> *Masada*, Episode 2, 00:02:35.

at one stage, and they appear to be unaccompanied by women or children. At first they are opposed to the rebellion, and to fighting in general. Their leader explains to Eleazar, “No Essene of our order has ever taken arms and you have all despised us for it. Our reason for not fighting was this: we were meant to fight in one war only, that battle between the sons of light and the sons of darkness ordained by God. That is the prophecy”.<sup>84</sup> Later they become reconciled to Eleazar’s ideas, believing that this is that great final battle, and declare, “Now we see that this is that battle and we will fight under your command.... God has sanctioned your leadership”.<sup>85</sup> In the end, despite some initial resistance to the idea of mass suicide, the Essenes agree to the plan, after Eleazar’s speech when he explains, “[It] may be that in thinking of ourselves as the sons of light we’ve been guilty of pride. It may be that we are no more than one battalion of that army, as the tenth legion down there is a small part of the army of darkness, and this may be just one skirmish in that war”.<sup>86</sup> They are then seen hiding the Torah scrolls in an underground cellar, true to their beliefs to the end.

#### THE JEWS IN MASADA: (2) THE ZEALOTS

Eleazar ben Yair’s Zealots are the third group of Jews shown at Masada in the mini-series. This faction is composed of whole families, fighting men, whose wives are equally prepared to take part in the defence of Masada, and their children. They are a very family-minded band, epitomised by Eleazar himself, his wife Miriam and son Reuben. From the very beginning of the first episode, Eleazar is shown protecting and saving his family, and this remains his central philosophy throughout, up to and including the moment when he kills them with his dagger in order to prevent their falling into Roman hands and suffering greater torment and torture. The mini-series includes many scenes showing the deep love among the three, a love which makes the final deaths all the more poignant. Miriam in particular is a gentle but very strong character, able to show the love for her husband which is reciprocated but rarely able to be demonstrated by him. She is as much a leader of the women as her husband is of the men, setting an example on the final night by dressing in her best finery and making up her face. “This is how I want them to find me” she declares, spurring the other women on to follow her example.<sup>87</sup>

<sup>84</sup> *Masada*, Episode 3, 01:32:50.

<sup>85</sup> *Ibid.*, 01:33:41.

<sup>86</sup> *Masada*, Episode 4, 01:07:58.

<sup>87</sup> *Ibid.*, 01:12:39.

Another important element in this portrayal of ben Yair is his religiosity. For the first part of the production he is an atheist, in opposition to the two other groups of religious Jews who refuse to fight against Rome. But half way through the second episode there is a scene set at night, where Eleazar and his family are outside with some of the Zealots, and the sound of praying from the synagogue is audible.<sup>88</sup> Eleazar says that they should also be in the synagogue, despite the fact that they are, in his own words, “lazy, wicked men”.<sup>89</sup> Alone with Miriam, he expresses his own doubt as to the existence of God, a doubt which Miriam does not share, and she asks him, if he does not believe, why he is fighting. As she says, “I thought you were fighting – we were all fighting – because we wouldn’t accept any master before God. But if you don’t believe in God, what difference does it make? Why must we live up here like animals in a tree? Why do you keep at it?” Eleazar’s answer is revealing; “Whether or not I truly believe in God, I do believe in one thing: that no man should be another man’s slave”.<sup>90</sup> This is his religion.

Later, Eleazar seems to undergo some sort of conversion. When the Roman Falco tries to break the Jewish resistance by catapulting Jews against the mountain, Eleazar storms into the synagogue and shouts at God, complaining that the Jews have done nothing wrong to earn them this punishment. He continues:

“They’re afraid of You, and they love You. At sundown they’ll all be in here, no matter what You ask of them. What more can You make them suffer? If You’re here in this place, if there’s anything in here except stones, if You’re here ... tell me how to help them! Talk to me! Talk to me! Talk to me or kill me!”<sup>91</sup>

At the end of this tirade, he collapses to the floor, sobbing in despair. He decides at this point to surrender, but fate, in the form of Silva, intervenes. Disgusted by the human catapults, Silva runs down to the place of execution, and retakes control of the army. The leaders of the factions on Masada come to tell this to Eleazar, whose prayer has clearly been answered.

Despite this turn of events, Eleazar does not become a complete believer. Although he tells his son, as the final Roman attack draws near, that “We have an Ally and a Judge and a Protector who has promised us this country and He blows away Romans and catapults and elephants like a sleeping man blows

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<sup>88</sup> *Masada*, Episode 2, 00:49:20-00:52:32

<sup>89</sup> *Ibid.*, 00:49:32

<sup>90</sup> *Ibid.*, 00:52:00.

<sup>91</sup> *Masada*, Episode 3, 01:25:29.

away a feather”,<sup>92</sup> his certainty is only that God is there, and not that his own actions are those that God desires. He uses the religious believers’ faith in God to persuade them to the final act of suicide, giving a faith-based reason for the action as he tells them that “We long ago resolved never to be servants to the Romans nor to any other than to God himself, who is the only true and just Lord of mankind”.<sup>93</sup> Yet when the Essene leader asks him, “Was it HE who put it in your mind?”, his answer is a simple, “I don’t know”.

#### FROM JOSEPHUS TO *MASADA*

Clearly some changes have taken place between the text of Josephus and the mini-series *Masada*. Firstly, in place of the Sicarii described by Josephus as being present on the hilltop, the movie depicts three different groups of Jews; the Zealots, the Essenes and the religious non-Essene Jews. Nor is there any evidence in Josephus that Eleazar, or his followers, were at any stage atheists; indeed Josephus declares that they have no other master besides God.<sup>94</sup> Finally, while ben Yair, in the speech found in Josephus, does refer repeatedly to wives and children, there is no evidence for or against the fact that he himself was married or had children, or the names of the members of his family if they existed.<sup>95</sup>

The latter two changes can be explained in terms of an attempt to present Eleazar ben Yair as a hero in the movie. In order to achieve this, he cannot be a bloodthirsty bandit who attacks fellow Jews, but a freedom fighter struggling against foreign oppression. Eleazar is explicitly depicted as holding out and fighting a guerilla war against the combined Roman forces, after fleeing from Jerusalem during its sack. His bravery, resourcefulness and leadership are glorified greatly. Similarly, a true American hero must be a family man, with a ‘gentler’ side, able to show love for his family, and for whom the defence of that family is the motivating factor in his struggle.<sup>96</sup>

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<sup>92</sup> *Masada*, Episode 4, 00:22:28.

<sup>93</sup> *Ibid.*, 01:10:02.

<sup>94</sup> δυσνίκητος δὲ τοῦ ἐλευθέρου ἔρως ἐστὶν αὐτοῖς μόνον ἡγεμόνα καὶ δεσπότην τὸν θεὸν ὑπεληφόσιν, Jos. *AJ* 18.1.6.

<sup>95</sup> Other changes or interpretations have occurred and assumptions have been made. Notably, even the story of the mass suicide, documented clearly by Josephus, has not yet been proven from archaeological findings. This is despite the formal state burial of twenty-seven skeletons excavated at Masada, described as the fortress’ last defenders. On this burial see ZERUBAVEL 1997, 129-130, 190-191, and BEN-YEHUDA 2002, 116-142.

<sup>96</sup> See for example DIMARE 2011, 201 on the character of Maximus in *Gladiator*.

The issue of the introduction of the different religious groups into the story and that of Eleazar's own religiosity is rather more complex. In part, these changes are explained by the building of national Zionist Israeli identity, as examples of the "Masada myth" outlined above. In this context can be placed, for example, the framing of the ancient plot with scenes from the modern state of Israel. Thus the first episode opens with a scene of modern Israeli soldiers being sworn in atop Masada. These scenes are accompanied by a voiceover that refers to Masada as "the inspirational heritage that has made the Israeli soldier of today the most daring and defiant defender of freedom in the world", and the final resistance of the defenders of Masada is "the stand of 960 men, women and children against the five thousand men of the Roman tenth legion".<sup>97</sup> The voiceover goes on to link the ancient Masada story explicitly with the modern situation of the state of Israel:

"A young Israeli soldier up here has to think back on how it all began. He knows that along with so much of the world the Roman Empire had also conquered Palestine in the first century BC, and he knows that finally the Jews had rebelled against the Roman oppression. The soldier has been taught since childhood that it took four years, the full military might of Rome and 600,000 Jewish dead before Jerusalem would fall and the Romans could claim that the rebellion was at an end."<sup>98</sup>

The mini-series concludes similarly, with the same scene of the soldiers' swearing-in ceremony, and another voiceover which states that, "The soldiers conclude their ceremony with the burning of a sign whose inscription merges past and present: Masada shall not fall again. The promise Eleazar made to his people nearly two thousand years ago was being kept. They are remembered".<sup>99</sup>

These scenes set out certain premises that are to be understood as given in the Masada story. It is stressed that the heavily outnumbered Jews were brave, daring, defenders of freedom who rebelled against Roman oppression. They managed to successfully hold off the entire Roman army for four years before finally committing suicide in a valiant final stand that is justly still remembered and honoured two thousand years after the event. Thus it is a classic depiction of the Masada of the "Masada myth".

An important element of Zionist and Israeli ideology, Masada represented, at certain times in the state's history, an alternative to the Holocaust, in the

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<sup>97</sup> *Masada*, Episode 1, 00:01:39 -00:02:01.

<sup>98</sup> *Ibid.*, 00:04:07-00:04:40.

<sup>99</sup> *Masada* Episode 4, 01:34:45-01:35:07.

Jew who fought and resisted persecution.<sup>100</sup> Paradoxically, however, Masada was also depicted as an additional Holocaust experience, in the Jew who was finally driven to suicide by enemy persecution.<sup>101</sup> This aspect is not emphasized in the mini-series. While it is impossible in the decades after the Second World War for images of Jews being persecuted not to conjure up associations of the Holocaust, these overtones are rarely explicit. The various scenes of brutality and torture, particularly in the sack of Jerusalem and the catapulting of the Jews against Masada, conjure up vague suggestions of more recent history, but not in the overt manner in which earlier movies had done. The emphasis here is not on poor, persecuted, downtrodden Jews, but on the brave, tough Jewish fighter, the representative of the Jewish state. There is a clear distinction made between the religious Jew, who represents Eastern Europe and the Holocaust, and the secular Jew, who represents the modern age. It is the Essenes and the other religious Jews on Masada in the mini-series, who do not support Eleazar either through misguided false beliefs or through stubbornness, who reflect those older, weaker Jews.

On the other hand, the atheism and lack of Jewish symbolism and religious behavior in the portrayal of Eleazar and his followers reflects the secularism of that Israeli society for whom Masada was such an important symbol. It is notable that the scenes of the military swearing-in ceremony that frame the production contain no Jewish symbolism at all; these soldiers wear berets rather than skullcaps, they are beardless and demonstrate none of the stereotypes of the depiction of the Jew more commonly found in Hollywood productions. These Jews are the new Jews, the Israelis far removed from the traditions of religious Jews, but close to Eleazar and his ideals and behavior.

This lack of religiosity on the part of Eleazar must be understood within the wider social and religious culture in which the mini-series was made. By the late 1970's America had become a secular society. From the 1960's onwards, a number of factors combined to weaken the centrality of religion in general and Christianity in particular in the United States. The sexual revolution that was so at odds with traditional religious belief and practice was one factor, as were the rise of both feminism and the civil rights movement. A growing emphasis upon the rights of the individual as a result of these movements, as well as the war in Vietnam, all combined to create a society in which religion was

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<sup>100</sup> It should be noted that this was very much a secular Israeli ideal rather than a religious one, for the episode of Masada and all that it represented was rejected by mainstream rabbinical Judaism. See WEISS-ROSMARIN 1966.

<sup>101</sup> ZERUBAVEL 1997, 70-78, 192-209.

regarded pejoratively by the mainstream.<sup>102</sup> Religion became so disregarded, that by the early 1980's a backswing would occur with the rise of Christian fundamentalism in reaction to what many regarded as an incomparable social, moral, and religious crisis in American society.

Yet this distancing from religion did not mean that the majority of Americans became atheists or even agnostics. Rather than rejecting religion as such, Americans turned against institutionalized Christianity; the church, as part of "the Establishment", was denounced by the young adults of the 1960's for its materialism, power ploys, self-interest, and complacent smugness. A seeking after truth, a belief in some greater force remained mainstream, and it is against this social backdrop that *Masada* must be viewed. Eleazar, with his struggles against the unfairness of the world but ultimate acceptance of God, and his rejection of orthodox religious practices is the man, if not of his time, then of the time when the mini-series was produced. A good person, a humanistic, family man who struggled to find both his and God's place in the world, Eleazar represents the average American that was his intended audience.

As a Jew in particular, Eleazar is also representative of American Jewry of the period. He is assimilated, with no outward signs of traditional Orthodox Judaism, just as middle class suburban American Jews were.<sup>103</sup> Nevertheless, Eleazar is confident in his Jewishness and proud to be Jewish. Similarly, the mainstream American Jewish population, while not in general practicing Orthodox Judaism, did identify strongly as Jews, celebrating the Jewish life-cycle events of circumcision and bar mitzvah and eating 'kosher-style' food.<sup>104</sup> Finally, American Jewry consistently showed its support for the young State of Israel, especially after the six-day war in 1967, when Israel's popularity soared.<sup>105</sup> Eleazar's commitment to that same ancient homeland of Israel, particularly when framed by the shots of the young modern Israeli soldiers, identifies him with the modern state of Israel fighting against its Arab neighbours for survival, and allows the Jewish American viewer sitting in his living room watching *Masada* to identify with both.

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<sup>102</sup> See TAYLOR 2007, 473-504, ALLITT 2003, 252-259.

<sup>103</sup> See *ibid.*, 89-91

<sup>104</sup> *Ibid.*, 93-95.

<sup>105</sup> *Ibid.*, 96-98.

#### IV: CONCLUSIONS

##### SCREENING THE JEW IN ANCIENT ROME, 1961-1981

The two decades from 1961 to 1981 were a period in which clear changes in the perception of the Jewish people can be seen. Throughout this period, directors and producers of epic movies set in ancient Rome faced the challenge of how to depict the Jewish people in a way that was both sensitive to modern concerns and true to their subject matter in a range of ways. Like other groups, both Jews and Romans became vehicles to express different aspects of society or human nature, according to the needs and agendas of filmmakers, but contemporary events influenced these requirements. In general, in these movies the Romans stand in opposition to the Jews, being depicted as their evil oppressors, although more nuanced presentations occur as well, as a result of identification on the part of the American citizen with the ordinary citizen of ancient Rome. With regard to the Jews, a range of approaches can be identified.

At first in the shadow of the Holocaust, there was a natural tendency to emphasise the Jew as victim, as demonstrated by Nicholas Ray's *King of Kings*. As the sixties wore on, however, a growing ethnic awareness and stress on individualism influenced the portrayal of Jews, presented as bland universal figures in *The Greatest Story Ever Told*. This changing world led to the reforms of Vatican II, and with these reforms, a new perspective on the Jewish people and their role in the birth of Christianity, as *Jesus of Nazareth* reflects. By the late 1970's and early 1980's, a new Jew had emerged in popular imagination, that of the tough Israeli fighter, a heroic figure in defence of his homeland, encapsulated in the figure of Eleazar Ben Yair in *Masada*.

The Jews in these productions were therefore presented in different ways in accordance with these social climates. Thus Nicholas Ray portrayed the Jews as Holocaust-style victims, Stevens as simple country folk of the American west, and Zeffirelli depicted them as God-fearing seekers after the Messiah. *Masada* meanwhile presented a range of different Jews, but particularly glorified the heroic Eleazar Ben Yair, who was above all the twentieth century man seeking after truth in a complicated world.

None of these portrayals are an accurate representation of first-century Judaism, nor, on the whole, do they attempt to be so. While historically accurate elements might be included for added veracity, a desire to put forward a particular message or agenda is by far the most important motivating factor in the portrayal of Jews in sword-and-sandal movies; as such, these depictions reveal more about the contemporary society and attitudes of the individual productions than they do about the ancient world.

## BIBLIOGRAPHY

- ALLITT 2003  
P. ALLITT, *Religion in America since 1945*, New York 2003.
- BABINTON & EVANS 1993  
B. BABINTON & P.W. EVANS, *Biblical Epics*, Manchester 1993.
- BAUGH 1997  
L. BAUGH, *Imaging the Divine: Jesus and Christ-Figures in Film*, Kansas City 1997.
- BEALL 2004  
T.S. BEALL, *Josephus' Description of the Essenes Illustrated by the Dead Sea Scrolls*, Cambridge 2004.
- BEN-YEHUDA 1995  
N. BEN-YEHUDA, *The Masada Myth: Collective Memory and Mythmaking in Israel*, Madison 1995.
- BEN-YEHUDA 2002  
N. BEN-YEHUDA, *Sacrificing Truth: Archaeology and the Myth of Masada*, Amherst 2002.
- CHRISTIANSON, FRANCIS & TELFORD 2005  
E.S. CHRISTIANSON, P. FRANCIS, W.R. TELFORD, *Cinema Divinité: Theology and the Bible in Film*, London 2005.
- CYRINO 2005  
M.S. CYRINO, *Big Screen Rome*, Oxford 2005.
- DALTON 2005  
R.J. DALTON, "The Social Transformation of Trust in Government", *International Review of Sociology/Revue Internationale de Sociologie* 15.1, 2005, 133-154.
- DEMILLE 1959  
C.B. DEMILLE, [D. HAYNE (ed.)], *The Autobiography of DeMille*, New Jersey 1959.
- DIMARE 2011  
P.C. DIMARE, *Movies in American History: An Encyclopedia*, Santa Barbara 2011.
- FINLER 2003  
J.W. FINLER, *The Hollywood Story*, London 2003.
- FUTRELL 2001  
A.FUTRELL, "Seeing Red: Spartacus as Domestic Economist", in: S. JOSHEL, M. MALAMUD & M. WYKE (eds.), *Imperial Projections*, Baltimore 2001, 77-118.
- GAGARIN & FANTHAM 2010  
M. GAGARIN & E. FANTHAM, *The Oxford Encyclopedia of Ancient Greece and Rome: Academy-Bible*, Oxford 2010.
- GATES 2006  
P. GATES, *Detecting Men: Masculinity and the Hollywood Detective Film*, New York 2006.
- GRACE 2009  
P. GRACE, *The Religious Film: Christianity and the Hagiopic*, Oxford 2009.
- HOULDEN 2003  
L. HOULDEN, *Jesus in History, Thought and Culture: An Encyclopedia*, Santa Barbara 2003.
- HUMPHRIES-BROOKS 2006  
S. HUMPHRIES-BROOKS, *Cinematic Savior*, Westport 2006.
- JORDAN & JAMIESON 1998  
A.B. JORDAN, & K. HALL JAMIESON, *Children and Television*, Pennsylvania 1998.
- JOSHEL, MALAMUD & WYKE 2008  
S. JOSHEL, M. MALAMUD & M. WYKE (eds.), *Imperial Projections*, Baltimore 2001
- KAHLIL & ALLEN 2008  
G. KAHLIL & K. ALLEN, *The Word Made Cinematic: The Representation of Jesus in Cinema*, Pittsburgh 2008.
- KOHL, KOZELSKY & BEN-YEHUDA 2008  
P.L. KOHL, M. KOZELSKY, & N. BEN-YEHUDA, *Selective Remembrances: Archaeology in the Construction*,

- Commemoration and Consecration of National Pasts*, Chicago 2008.
- REINHARTZ 2006  
A. REINHARTZ, *Jesus of Hollywood*, Oxford 2006.
- ROJEK 2007  
C. ROJEK, *Brit-Myth: Who Do The British Think They Are?*, London 2007.
- SOLOMON 2008  
J. SOLOMON, "Televising Antiquity: From You Are There to Rome", in: M.S. Cyrino (ed.), *Rome, Season One: History Makes Television*, Malden 2008.
- STALEY & WALSH 2007  
J.L. STALEY & R. WALSH, *Jesus, the Gospels and Cinematic Imagination*, Louisville, Kentucky 2007.
- STEMPEL 2001  
T. STEMPEL, *American Audiences on Movies and Moviegoing*, Lexington, Kentucky 2001.
- STERN, JEFFORD & DeBONA 1999  
R. STERN, C.N. JEFFORD. & G. DeBONA (eds.), *Savior on the Silver Screen*, New York 1999.
- TATUM 1988  
W.B. TATUM, *Jesus at the Movies: A Guide to the First Hundred Years*, Santa Rosa 1988.
- TAYLOR 2007  
C. TAYLOR, *A Secular Age*, Harvard 2007.
- VANDERKAM 1994  
J.C. VANDERKAM, *The Dead Sea Scrolls Today*, Grand Rapids 1994.
- WALSH 2003  
R. WALSH, *Reading the Gospels in the Dark: Portrayals of Jesus in Film*, Harrisburg 2003.
- WEISS-ROSMARIN 1966  
T. WEISS-ROSMARIN, "Masada and Yavneh", *Jewish Spectator* 31, 1966, 4-7.
- WINKLER 2001  
M.M. WINKLER, *The Roman Empire in American Cinema after 1945*, in: S. JOSHEL, M. MALAMUD & M. WYKE (eds.), *Imperial Projections*, Baltimore 2001, 50-76.
- WYKE 1997  
M. WYKE, *Projecting The Past: Ancient Rome, Cinema and History*, New York 1997.
- YADIN 1966  
Y. YADIN, *Masada: Herod's Fortress and the Zealots' Last Stand*, London 1966.
- ZEFFIRELLI 1984  
F. ZEFFIRELLI, *Franco Zeffirelli's Jesus; A Spiritual Diary*, New York 1984.
- ZERUBAVEL 1997  
Y. ZERUBAVEL, *Recovered Roots: Collective Memory and the Making of Israeli National Tradition*, Chicago 1997.

# Index locorum

# Greek Literature

## Aeschines

1.18-22	104 <sup>50</sup>
1.41-43	104 <sup>50</sup>
1.51-52	104 <sup>50</sup>
1.159-60	104 <sup>50</sup>

## Anaxilas

<i>PCG</i> F 27 = <i>Athen.</i> 14.623F	214 <sup>11</sup>
---	-------------------

## Appian

<i>Hisp.</i> 98	75 <sup>35</sup>
<i>Mithr.</i> 116	72 <sup>15</sup> , 73 <sup>25</sup> , 74 <sup>31</sup>
<i>Mithr.</i> 117	74 <sup>28</sup>

## Aristotle

<i>GA</i> 2.7: 746b7-12	214
<i>HA</i> 8.28: 606b19-24	214
<i>NE</i> 8.1.2: 1155a16	37 <sup>27</sup>
<i>NE</i> 8.1.3: 1155a16-22	39 <sup>29</sup>
<i>NE</i> 8.1.4: 1155a22-28	39 <sup>29</sup>
<i>NE</i> 8.10.5-6: 1160b32-1161a9	39 <sup>29</sup>
<i>NE</i> 8.11.2: 1161a15-20	39 <sup>29</sup>
<i>NE</i> 8.11.4-5: 1161a22-30	39 <sup>29</sup>
<i>NE</i> 8.12.3: 1161b27-33	39 <sup>29</sup>
<i>NE</i> 8.12: 1161b11-1162a33	39 <sup>29</sup>
<i>NE</i> 8.14.4: 1163b15-28	39 <sup>29</sup>
<i>NE</i> 8.2.2-3: 1156a14-24	24
<i>NE</i> 8.2: 1155b18-21	27 <sup>9</sup>
<i>NE</i> 8.3: 1156b24	47
<i>NE</i> 8.3.6: 1156b7-12	27-8
<i>NE</i> 8.3.6-7: 1156b7-24	42
<i>NE</i> 8.4.1: 1156b33-1157a12	42
<i>NE</i> 8.4.1-2: 1156b33-1157a20	42
<i>NE</i> 8.4.2: 1157a12-20	42
<i>NE</i> 8.4.3: 1157a20-25	30 <sup>19</sup>
<i>NE</i> 8.7.1-2: 1158b11	39 <sup>29</sup>
<i>NE</i> 8.7.2: 1158b20-28	42
<i>NE</i> 8.8.3: 1159a27-33	39 <sup>29</sup>
<i>NE</i> 8.8.5: 1159b1-10	42
<i>NE</i> 8.9.3-6: 1160a2-1160a30	39 <sup>29</sup>

<i>NE</i> 9.1.7: 1164b2-3	37 <sup>26</sup>
<i>NE</i> 9.12.2: 1172a2-8	44
<i>NE</i> 9.12.2: 1172a5	37 <sup>26</sup>
<i>NE</i> 9.2.3: 1164b31-3	40
<i>NE</i> 9.2.7-10: 1165a16-35	39 <sup>29</sup>
<i>NE</i> 9.4.7: 1166b2-6	39 <sup>29</sup>
<i>NE</i> 9.4: 1166a1-1166b29	39 <sup>29</sup>
<i>NE</i> 9.5.2: 1167a28-b4	43
<i>NE</i> 9.5.3: 1167a3	43
<i>NE</i> 9.5.4: 1167a19-21	43
<i>NE</i> 9.6: 1167a22-1167b16	39 <sup>29</sup>
<i>NE</i> 9.8: 1168a28-1169b2	39 <sup>29</sup>
<i>NE</i> 9.9.5: 1169b28-1170a6	34
<i>NE</i> 10.7.4: 1177a34-5	37
<i>NE</i> 10.7: 1177a-121178a8	38
<i>Summa Alexandrinorum</i>	30 <sup>20</sup> , 35, 37
Athenaeus	
3.74C	62 <sup>52</sup>
9.372	59 <sup>32</sup>
14.623F	214 <sup>11</sup>
Callimachus	
<i>Hymns</i> 4.175	219 <sup>26</sup>
Cassius Dio	
43.21.4	80 <sup>82</sup>
72.23	18 <sup>31</sup>
Damascius	
<i>Life of Isidore</i> frg. 186 = Suda A 2763	159
Demosthenic corpus	
[Dem.] 35.15.3	270 <sup>7</sup>
Dionysius Halicarnassensis	
<i>Pomp.</i> 3	12 <sup>11</sup>
Diodorus Siculus	
1.1.1–1.4.1	12 <sup>9</sup>
2.48.1	227 <sup>8</sup>
2.48.6-9	228
19.99.1-2	228

19.99.3	227
32.26.1	12
35.1.1	59 <sup>35</sup>
100.1-2	227 <sup>8</sup>
Euripides	
<i>Ion</i>	102 <sup>42</sup>
Galen	
<i>Alim. Fac. 6.2.636</i>	59 <sup>35</sup>
<i>De Simpl. Med. Temp. ac Fac. 4.20</i> (=GLAJJ, vol. 2, no. 381), ll. 14-15	230 <sup>16</sup>
Hermogenes	
<i>Stas. 10</i>	101 <sup>37</sup>
Herodotus	
1.5.3-4	9 <sup>1</sup>
2.35	221 <sup>30</sup>
7.104.4	15 <sup>21</sup>
Homer	
<i>Il. 2.800</i>	219 <sup>26</sup>
<i>Il. 8.554-556</i>	219 <sup>26</sup>
<i>Il. 9.385</i>	219 <sup>26</sup>
<i>Il. 16.180-86</i>	102 <sup>42</sup>
<i>Od. 11.236-54</i>	102 <sup>42</sup>
Josephus	
<i>AJ 1.1.8.1</i>	102 <sup>40</sup>
<i>AJ 1.14</i>	15 <sup>26,30</sup>
<i>AJ 1.25</i>	16 <sup>24</sup>
<i>AJ 1.29</i>	16 <sup>24</sup>
<i>AJ 1.192</i>	16 <sup>24</sup>
<i>AJ 1.214</i>	16 <sup>24</sup>
<i>AJ 1.239-241</i>	214 <sup>9</sup>
<i>AJ 2.347</i>	297 <sup>46</sup>
<i>AJ 3.94</i>	16 <sup>24</sup>
<i>AJ 3.143</i>	16 <sup>24</sup>
<i>AJ 3.205</i>	16 <sup>24</sup>
<i>AJ 3.223-86</i>	15
<i>AJ 3.230</i>	16 <sup>24</sup>
<i>AJ 3.257</i>	16 <sup>24</sup>

<i>AJ</i> 3.259	16 <sup>24</sup>
<i>AJ</i> 3.264	16 <sup>24</sup>
<i>AJ</i> 4.67-75	15
<i>AJ</i> 4.198	16 <sup>24</sup>
<i>AJ</i> 4.199-301	15
<i>AJ</i> 10.35	18 <sup>29</sup>
<i>AJ</i> 14.71	74 <sup>30</sup>
<i>AJ</i> 14.79	74 <sup>29</sup>
<i>AJ</i> 14.82-85	77 <sup>47</sup>
<i>AJ</i> 14.92-97	77 <sup>48</sup>
<i>AJ</i> 14.100-102	77 <sup>49</sup>
<i>AJ</i> 14.120	77 <sup>50</sup>
<i>AJ</i> 16.162-165	69 <sup>2</sup>
<i>AJ</i> 16.166	69 <sup>2</sup>
<i>AJ</i> 16.167-168	69 <sup>2</sup>
<i>AJ</i> 16.169-170	69 <sup>2</sup>
<i>AJ</i> 16.172-173	69 <sup>2</sup>
<i>AJ</i> 17.289	77 <sup>52</sup>
<i>AJ</i> 18.11-22	323 <sup>64</sup>
<i>AJ</i> 20.5.4	313 <sup>20</sup>
<i>AJ</i> 20.186	323 <sup>67</sup>
<i>AJ</i> 20.263	14
<i>AJ</i> 20.268	16 <sup>24</sup>
<i>Ap.</i> 1.15-27	16
<i>Ap.</i> 1.29	16, 17
<i>Ap.</i> 1.30-40	17
<i>Ap.</i> 1.38	17, 17 <sup>27</sup>
<i>Ap.</i> 1.42-43	17
<i>Ap.</i> 1.47-56	17
<i>Ap.</i> 1.49	17
<i>Ap.</i> 1.52	17
<i>Ap.</i> 1.54	17
<i>Ap.</i> 1.70	300
<i>Ap.</i> 2.145	15
<i>Ap.</i> 2.145-296	15
<i>Ap.</i> 2.146	16
<i>Ap.</i> 2.165	13
<i>Ap.</i> 2.174	15 <sup>22</sup>
<i>Ap.</i> 2.184	15 <sup>22</sup>
<i>Ap.</i> 2.291-295	16
<i>BJ</i> 1.3	18
<i>BJ</i> 1.9-10	10
<i>BJ</i> 1.11	9
<i>BJ</i> 1.154	74 <sup>30</sup>
<i>BJ</i> 1.157	74 <sup>29</sup>
<i>BJ</i> 1.158	74 <sup>30</sup>

<i>BJ</i> 1.160-163	77 <sup>47</sup>
<i>BJ</i> 1.171-174	77 <sup>48</sup>
<i>BJ</i> 1.177	77 <sup>49</sup>
<i>BJ</i> 1.180	77 <sup>50</sup>
<i>BJ</i> 1.353	15 <sup>19</sup>
<i>BJ</i> 2.12.2	313 <sup>20</sup>
<i>BJ</i> 2.119	323 <sup>64</sup>
<i>BJ</i> 2.255	323 <sup>67</sup>
<i>BJ</i> 2.338	15 <sup>19</sup>
<i>BJ</i> 2.360	14 <sup>18</sup>
<i>BJ</i> 3.351-4	18
<i>BJ</i> 3.354	14 <sup>18</sup>
<i>BJ</i> 4.7.2	323 <sup>68</sup>
<i>BJ</i> 4.476	229
<i>BJ</i> 4.480	230 <sup>17</sup>
<i>BJ</i> 5.19	10
<i>BJ</i> 5.20	11, 17, 19
<i>BJ</i> 5.367	14
<i>BJ</i> 5.379	102 <sup>40</sup>
<i>BJ</i> 5.391-3	18
<i>BJ</i> 6.417-419	75 <sup>34</sup>
<i>Vita</i> 1-6	18

#### Libanius

<i>Ep.</i> 164	160
<i>Ep.</i> 315	160

#### Lucian

<i>De Hist. Conscr.</i> 41	11 <sup>6</sup>
----------------------------	-----------------

#### Menander

<i>Mon.</i> 637	103 <sup>43</sup>
<i>Sam.</i>	103

#### Pausanias

5.7.4	230
-------	-----

#### Philo Judaeus

<i>Abr.</i> 96-8	102 <sup>40</sup>
<i>Legat. ad Gaium</i> 155	69 <sup>1</sup> , 84 <sup>111-12</sup>
<i>Legat. ad Gaium</i> 158	80 <sup>80</sup>
<i>Spec. Leg.</i> 1:5	174 <sup>26</sup>
<i>Spec. Leg.</i> 2.6-7	174 <sup>24</sup>

<i>Spec. Leg.</i> 3.72	99 <sup>29</sup>
<i>Spec. Leg.</i> 3.112	109 <sup>56</sup>
Philo Byblius	
F 1.21	299-300
F 1.22	300
F 1.27	298
F 1.28	297
F 2.40-1	298
F 9	297, 300-1
F 13	297
F 14	297
F 15-18	299
T 1	298 <sup>49</sup> , 299
T 2a	297, 298 <sup>49</sup>
T 2a-c	297
T 4	299
Pindar	
<i>Olym.</i> 2.98	219 <sup>26</sup>
<i>Pyth.</i> 9.8	214 <sup>9</sup>
Plato	
<i>Euthyd.</i> 294b.	219 <sup>26</sup>
<i>Leg.</i> IX 879a	250
<i>Leg.</i> XII 948d-948e	174 <sup>28</sup>
<i>Leg.</i> XII 955a	250
<i>Symp.</i> 183d-e	24
Plutarchus	
<i>Pomp.</i> 45.1-2	74 <sup>27</sup>
<i>Pomp.</i> 45.3	72 <sup>15</sup>
<i>Pomp.</i> 45.4	74 <sup>28</sup>
Ps.-Plutarchus	
<i>Fluv.</i> 6.1	230
Polybius	
1.14	11
16.14.6	12 <sup>7</sup>
38.4	11
Procopius Gazaeus	
<i>Ep.</i> 153	161

Strabo	
14.5.2	72 <sup>14</sup>
15.1.57	230
Suda	
A 2763	159
E 0773	160
Thucydides	
1.1.1	11 <sup>4</sup>
1.22	18
Xenophon	
<i>Mem.</i> 1.3.14	33 <sup>23</sup>
<i>Mem.</i> 4.1	24 <sup>2</sup>
<i>Symp.</i> 8.21	24 <sup>2</sup>

## Latin Literature and Law

Apicius	
3.6	62 <sup>51</sup>
3.6.1	62 <sup>54</sup>
3.6.2	62 <sup>54</sup>
3.18.1-2	53 <sup>8</sup>
4.2.12	59 <sup>32</sup>
Augustus	
<i>Res Gestae</i> 4.3	73 <sup>22</sup>
<i>Res Gestae</i> 15.4	80 <sup>82</sup>
Caesar	
<i>BG</i> 2.33.7	72 <sup>12</sup>
<i>BG</i> 3.16.4	72 <sup>12</sup>
Catullus	
7.3-6	219
61.202-206	219

## Cicero

<i>Fam.</i> 5.12.3	13
<i>Flac.</i> 28.66	75 <sup>39</sup>
<i>Leg.</i> 1.5	13 <sup>14</sup>
<i>Orat.</i> 2.62-63	13
<i>Philip.</i> 8.32	79 <sup>70</sup>

## Claudian

<i>Eutr.</i> 1.32-33	220
<i>Rapt.Pros.</i> 2.68-69	218 <sup>23</sup>

## Collatio Mosaicarum et Romanarum Legum

14.3.5	237 <sup>10</sup>
--------	-------------------

## Columella

<i>Rust.</i> 10.389-392	53 <sup>9</sup>
<i>Rust.</i> 11.3.51-53	55 <sup>18</sup>

## Eutropius

<i>Brev.</i> 6.16	74 <sup>28</sup>
-------------------	------------------

## Gaius

<i>Inst.</i> 1.23-24	81 <sup>91</sup>
<i>Inst.</i> 1.28-29	83 <sup>101</sup>
<i>Inst.</i> 1.31	83 <sup>102</sup>
<i>Inst.</i> 1.32b	83 <sup>102</sup>
<i>Inst.</i> 1.33	83 <sup>102</sup>
<i>Inst.</i> 1.35	83 <sup>98</sup>
<i>Inst.</i> 1.42-43	79 <sup>71</sup>
<i>Inst.</i> 3.40-44	83 <sup>103</sup>
<i>Inst.</i> 3.42	82 <sup>92</sup>
<i>Inst.</i> 3.56	81 <sup>84,88,89,90</sup>
<i>Inst.</i> 3.57	83 <sup>105</sup>
<i>Inst.</i> 3.58-63	83 <sup>106</sup>
<i>Inst.</i> 3.72	83 <sup>104</sup>
<i>Inst.</i> 3.88	196 <sup>60</sup>

## Horace

<i>Carm.</i> 1.9-10	218
<i>Sat.</i> 2.3.84-87	217

## Julian

<i>Or.</i> 6.199A, 212A	300 <sup>55</sup>
<i>Or.</i> 6.209B-C	300 <sup>55</sup>
<i>Or.</i> 6.212A	300 <sup>55</sup>

## Justin

<i>Hist. Phil. Epit.</i> 36.3.6-7	225-230
-----------------------------------	---------

## Justinian

<i>Cod.</i> 5.17.5	261 <sup>28</sup>
<i>Dig.</i> , <i>Constitutio omnem</i> 7	156 <sup>5</sup>
<i>Dig.</i> 1.1.1.1	XXIX
<i>Dig.</i> 1.18.13pr.	235 <sup>2</sup>
<i>Dig.</i> 24.2.2.2	98 <sup>23</sup>
<i>Dig.</i> 28.2.5	103 <sup>46</sup>
<i>Dig.</i> 28.2.9.3	103 <sup>46</sup>
<i>Dig.</i> 38.8.2	110 <sup>59</sup>
<i>Dig.</i> 38.8.4	110 <sup>59</sup>
<i>Dig.</i> 44.7.1	196 <sup>60</sup>
<i>Dig.</i> 48.5.21-22	100 <sup>34</sup>
<i>Dig.</i> 48.5.24	100 <sup>34</sup>
<i>Dig.</i> 48.15.6	250 <sup>53</sup>
<i>Dig.</i> 48.15.16.2	237 <sup>10</sup>
<i>Dig.</i> 50.16.101	99 <sup>30</sup>
<i>Nov.</i> 3.2	163 <sup>15</sup>

## Juvenal

<i>Sat.</i> 3.14-16	84 <sup>109</sup>
<i>Sat.</i> 3.176-184	84 <sup>108</sup>

## Martial

<i>Epig.</i> 6.86.5-6	218
<i>Epig.</i> 12.57.13	84 <sup>110</sup>

## Ovid

<i>Met.</i> 11.615	219 <sup>26</sup>
--------------------	-------------------

## Paulus

<i>Sententiae</i> 5.30b.1	237 <sup>10</sup>
---------------------------	-------------------

## Plautus

<i>Amph.</i>	102 <sup>42</sup>
--------------	-------------------

Persius

*Sat.* 5.176-184 84<sup>108</sup>

Pliny the Elder

*HN* 2.1 63<sup>56</sup>  
*HN* 4.28 298  
*HN* 7.26 73<sup>26</sup>  
*HN* 7.65 230<sup>17</sup>  
*HN* 8.42 215  
*HN* 15.59 55<sup>20</sup>  
*HN* 19.64 55<sup>20</sup>  
*HN* 19.70 53<sup>9</sup>  
*HN* 19.152f 60  
*HN* 19.152-153 55<sup>18</sup>, 60<sup>38</sup>  
*HN* 35.52 226  
*HN* 36.160f 55<sup>20</sup>

Pliny the Younger

*Epistulae* 132<sup>5</sup>

Seneca the Elder

*Con.* 1.5 101<sup>37</sup>  
*Con.* 2.3 101<sup>37</sup>  
*Con.* 3.5 101<sup>37</sup>  
*Con.* 7.8 101<sup>37</sup>  
*Con.* 8.6 101<sup>37</sup>

Seneca the Younger

*Thy.* 348-357 218

Statius

*Silvae* 3.3.89-91 217

Suetonius

*Aug.* 40.3-4 70<sup>6</sup>  
*Jul.* 41.3 80<sup>82</sup>  
*Nero* 31 72<sup>17</sup>

Tacitus

*Ann.* 1.1 11  
*Hist.* 5.5 109<sup>56</sup>  
*Hist.* 5.6.3 230<sup>17</sup>

## Ulpian

<i>Ad edict.</i> 46 (=Dig. 38.8.4)	110 <sup>59</sup>
<i>De off. proc.</i> 7	235 <sup>2</sup>
<i>De off. proc.</i> 9	237 <sup>10</sup>
<i>Frag. Tit.</i> 5.3–5	96 <sup>16</sup>
<i>Frag. Tit.</i> 5.8–10	96 <sup>16</sup>
<i>Inst.</i> 1 (=Dig. 1.1.1.1)	XXIX

## Valerius Maximus

<i>Facta et dicta memorabilia</i> 1.3.3	76 <sup>43,44</sup>
---	---------------------

## Virgil

<i>Georg.</i> 2.105–6	220
-----------------------	-----

# Hebrew and Aramaic authors

## Bible

<i>Gen.</i> 2:15	63 <sup>57</sup>
<i>Gen.</i> 12:1–20	102
<i>Gen.</i> 21:23	173 <sup>12</sup>
<i>Gen.</i> 22:17	219
<i>Gen.</i> 25:4	214 <sup>9</sup>
<i>Gen.</i> 25:23	56
<i>Gen.</i> 25:28	40
<i>Gen.</i> 37:3	46
<i>Gen.</i> 35:22	101
<i>Gen.</i> 41:49	217
<i>Gen.</i> 41:54–57	217
<i>Gen.</i> 49:4	101 <sup>39</sup>
<i>Exod.</i> 20:7	173 <sup>13,14,16</sup>
<i>Exod.</i> 22:29	101 <sup>37</sup>
<i>Lev.</i> 19:18	39
<i>Lev.</i> 24:22	181
<i>Lev.</i> 26	15
<i>Num.</i> 11:5	52
<i>Num.</i> 22:17	108
<i>Deut.</i> 5:11	173 <sup>13</sup>
<i>Deut.</i> 9:5	31
<i>Deut.</i> 21:10–14	33

<i>Deut.</i> 22:24	98
<i>Deut.</i> 23:2	93 <sup>6</sup>
<i>Deut.</i> 28	15
<i>Deut.</i> 30:12	XXX
1 <i>Sam.</i> 18:1	28, 29 <sup>14</sup>
1 <i>Sam.</i> 19:1	28
1 <i>Sam.</i> 20:7	28
1 <i>Sam.</i> 24:13	107
2 <i>Sam.</i> 1:26	26, 29
2 <i>Sam.</i> 13:16	101 <sup>37</sup>
1 <i>Kings</i> 5:7	57 <sup>25</sup> , 58 <sup>27</sup>
1 <i>Kings</i> 14:13	28 <sup>10</sup>
<i>Isa.</i> 40:10-11	31
<i>Jer.</i> 31:2	31
<i>Ez.</i> 20:38	33
<i>Joel</i> 4:6	71 <sup>7</sup>
<i>Mal.</i> 1:2-3	33
<i>Ps.</i> 24:4-5	173 <sup>18</sup>
<i>Cant.</i> 6:5	108
<i>Ruth</i> 1:16	107, 108
<i>Ruth</i> 1:17	108
<i>Ruth</i> 3:11	108
<i>Eccl.</i> 3:2	57 <sup>25</sup>

#### Apocrypha

<i>Jubilees</i> 33.3-4	101 <sup>39</sup>
<i>Sir.</i> 23:9	174 <sup>23</sup>
<i>Testament of Reuben</i> 3:11-15	101 <sup>39</sup>

#### Dead Sea Scrolls

<i>Apocalypse of Lamech</i> [1QapGen], 43-44	102 <sup>40</sup>
--	-------------------

#### Mishnah

<i>Kil.</i> 5:8	52 <sup>3</sup>
<i>Sheb.</i> 10:2	181 <sup>5</sup>
<i>Ter.</i> 8:6	53 <sup>7</sup>
<i>Ma'as.</i> 1:5	53 <sup>6</sup>
<i>Yeb.</i> 11:1	181 <sup>5</sup>
<i>Yeb.</i> 4:9	98, 99 <sup>29</sup>
<i>Yeb.</i> 4:10	98
<i>Yeb.</i> 4:13	95, 106 <sup>31</sup>
<i>Yeb.</i> 7:5	181 <sup>5</sup>
<i>Ket.</i> 1:5	98
<i>Ket.</i> 5:1	98
<i>Ket.</i> 5:2	98

<i>Git.</i> 1:5	197 <sup>63</sup>
<i>Git.</i> 8:9	98 <sup>24,26</sup>
<i>Kid.</i> 1:1	95, 106 <sup>51</sup>
<i>Kid.</i> 3:1	99 <sup>30</sup>
<i>Kid.</i> 3:12	95
<i>Kid.</i> 4:8	100
<i>B.K.</i> 8:1	183 <sup>14</sup>
<i>Sanh.</i> 1:1	183 <sup>14</sup>
<i>Sanh.</i> 3:6	186, 192 <sup>48</sup> , 202
<i>Sanh.</i> 4:1	202
<i>Sanh.</i> 7:4	98
<i>Sanh.</i> 7:9	98
<i>Sanh.</i> 7:11	55 <sup>17</sup>
' <i>Ed.</i> 4:7	98 <sup>24,26</sup>
' <i>Abot</i> 5:16	23
' <i>Ar.</i> 3:4	181 <sup>5</sup>
' <i>Uq.</i> 2:9	58 <sup>29</sup>

#### Tosephta

<i>Bez.</i> 3:19	61 <sup>44</sup>
<i>Yeb.</i> 6:6	98
<i>Ket.</i> 4:9	98 <sup>22</sup> , 99
<i>Ket.</i> 5:1	98
<i>Ket.</i> 12:2	197 <sup>64</sup>
<i>B.B.</i> 7:1	109 <sup>58</sup>
<i>Sanh.</i> 10:8	98
<i>Sanh.</i> 12:2	98

#### Talmud Yerushalmi

<i>Ter.</i> 7:1 44c-d, col. 242	199 <sup>68</sup>
<i>Ma'as. Sh.</i> 4:1 54d, col. 298	58 <sup>31</sup>
<i>Shab.</i> 7:2 10a, col 409	53 <sup>8</sup>
<i>Meg.</i> 1:1 70a, col. 740	58 <sup>30</sup>
<i>Yeb.</i> 15:3 14a, col. 897	99 <sup>28</sup>
<i>Ket.</i> 1:4-5 25b-c, cols. 957-8	98
<i>Ket.</i> 4:8 28d-29a, col. 977	99 <sup>28</sup>
<i>Kid.</i> 4:14 66b, col. 1186	93 <sup>5</sup>
<i>Shebu.</i> 6:6 37b, col. 1363	174 <sup>29</sup>

#### Talmud Bavli

<i>Ber.</i> 43a	58 <sup>30</sup>
<i>Ber.</i> 57b	56 <sup>22,24</sup>
<i>Shab.</i> 88a	107 <sup>62</sup>
<i>Shab.</i> 104b	101 <sup>36</sup>
<i>Shab.</i> 108b	53 <sup>8</sup>

<i>Shab.</i> 140b	54 <sup>16</sup>
' <i>Erub.</i> 83a	61 <sup>45</sup>
<i>Yom.</i> 9b	31
<i>Beṣah</i> 34a	61 <sup>44</sup>
<i>Ta'an</i> 26b	33 <sup>23</sup>
<i>M.K.</i> 28b	28 <sup>10</sup>
<i>Yeb.</i> 42b	98
<i>Yeb.</i> 45a	95, 97, 110
<i>Yeb.</i> 49b	106 <sup>51</sup>
<i>Yeb.</i> 100b	110 <sup>63</sup>
<i>Yeb.</i> 122b	183 <sup>12</sup>
<i>Ket.</i> 51b	110 <sup>63</sup>
<i>Ket.</i> 101b–102b	186 <sup>22</sup>
<i>Ket.</i> 102a	188 <sup>28</sup>
<i>Ket.</i> 106a	26 <sup>7</sup>
<i>Ned.</i> 20b	33
<i>Ned.</i> 81a	XXII <sup>3</sup>
<i>Giṭ.</i> 35a	174 <sup>29</sup>
<i>Giṭ.</i> 40b	188
<i>Giṭ.</i> 88b	179
<i>B.K.</i> 70a	198, 198 <sup>67</sup>
<i>B.K.</i> 70b	198, 198 <sup>65</sup>
<i>B.K.</i> 70b–71a	199 <sup>68</sup>
<i>B.K.</i> 84b	179, 203 <sup>77</sup>
<i>B.M.</i> 59b	XXX
<i>B.M.</i> 91a	198, 198 <sup>65</sup> , 201 <sup>72</sup>
<i>B.B.</i> 33a	185 <sup>21</sup>
<i>B.B.</i> 149a	186 <sup>22</sup> , 187
<i>Sanh.</i> 2b	179, 182, 203 <sup>77</sup>
<i>Sanh.</i> 3a	180 <sup>2</sup> , 183 <sup>11</sup> , 196
<i>Sanh.</i> 6	183 <sup>11</sup>
<i>Sanh.</i> 29a	186 <sup>22</sup>
<i>Sanh.</i> 32b	179, 182, 183 <sup>10,12,13</sup> , 196, 203, 203 <sup>76</sup>
<i>Sanh.</i> 57b	99 <sup>30</sup>
<i>Sanh.</i> 68a	55 <sup>17</sup>
<i>Sanh.</i> 72a	200 <sup>70</sup> , 201
' <i>A.Z.</i> 2b	197 <sup>62</sup>

Targumim, Midrashim, Masechtot Ktanot

<i>Abot. R. Nat.</i> version A, ch. 12	93 <sup>6</sup>
<i>Abot. R. Nat.</i> version B, ch. 4	93 <sup>6</sup>
<i>Midrash Rabba:</i>	
<i>Gen. Rab.</i> 41.2 389	102 <sup>40</sup>
<i>Gen. Rab.</i> 52.18 554	102 <sup>40</sup>
<i>Gen. Rab.</i> 65.22 734	300 <sup>55</sup>
<i>Gen. Rab.</i> 67.2 755	54 <sup>15</sup>

<i>Gen. Rab.</i> 80.26 966-967	101 <sup>38</sup>
<i>Deut. Rab.</i> 1.5	57 <sup>25</sup>
<i>Esth. Rab.</i> 2.4	60-61
<i>Eccl. Rab.</i> 2.5.1	58 <sup>27</sup>
<i>Pirkei R. El.</i> 26	102 <sup>40</sup>
<i>Pirkei R. El.</i> 35	101 <sup>38</sup>
<i>Pirkei R. El.</i> 37-38	101 <sup>38</sup>
<i>Seder Eliyahu Rabbah, Parasha</i> 26	26 <sup>7</sup> , 32
<i>Sifre Deut.</i> 242	98
<i>Tanḥ. Lekh.</i> 5	102 <sup>40</sup>
<i>Tanḥ. Lekh.</i> 6	102 <sup>40</sup>
<i>Targ. Yer. Gen.</i> 41:45	101 <sup>38</sup>
<i>Yalkut Reubeni Gen.</i> 32:25	101 <sup>38</sup>

#### Geonim

R. Hai Gaon, <i>Sefer ha-Shetarot</i> 6	191
R. Hai Gaon, <i>Sefer ha-Shetarot</i> 7	191
R. Hai Gaon, <i>Sefer ha-Shetarot</i> 11	191
<i>Teshuvot ha-Geonim min ha-Genizah</i>	199 <sup>68</sup>

#### Rishonim

R. Abraham b. David in <i>Shiṭah Mekubetzet</i> on <i>B.M.</i> 91a	199-200
R. Jacob Anatoli, <i>Mamad HaTalmidim</i> on <i>Toldot</i>	41
R. Joshua ibn Shu'ayb, <i>Drashot:Toldot</i> s.v. <i>Ahavti etchem</i>	43
Maimonides, Commentary on <i>Avot</i> 5.15	34
Maimonides, Commentary on <i>Avot</i> 5	36
Maimonides, <i>Mishneh Torah, Yesodei HaTorah</i> 2.1-3	36, 38
Maimonides, <i>Mishneh Torah, Yesodei HaTorah</i> 2.4	36, 38
Maimonides, <i>Mishneh Torah, Yesodei HaTorah</i> 2.12	36, 38
Maimonides, <i>Mishneh Torah, Deot</i> 6.4	39
Maimonides, <i>Mishneh Torah, Sefer Ahavah</i>	36
Maimonides, <i>Mishneh Torah, Isurei Biah</i> 15.3	97 <sup>19</sup>
Maimonides, <i>Mishneh Torah, Sanhedrin</i> 5.8	180, 182 <sup>9</sup> , 202 <sup>75</sup>
Maimonides, <i>Mishneh Torah, Edut</i> 3.1-2	180-181
Maimonides, <i>Mishneh Torah, Edut</i> 3.2.	182 <sup>9</sup>
Maimonides, <i>Moreh Nevukhim</i> 2.28	36
Maimonides, <i>Moreh Nevukhim</i> 3.36	37
Maimonides, <i>Moreh Nevukhim</i> 3.46	38
Maimonides, <i>Moreh Nevukhim</i> 3.51	36
R. Mattathias HaYizhari, com. on <i>Avot</i> 5.16	28 <sup>11</sup>
<i>Meiri B.K.</i> 214	198 <sup>65</sup>
<i>Meiri B.K.</i> 334	198 <sup>65</sup>
R. Nissim of Gerona on <i>Sanhedrin</i> 32b	183 <sup>12</sup>
Rabbenu Tam, <i>Sefer ha-Yashar</i>	198 <sup>65</sup>
Rabbenu Yonah on <i>Sanhedrin</i> 3a, s.v. <i>u-mah ta'am</i>	180 <sup>2</sup>

Rashi on Bab. <i>Sanh.</i> 2b and 32b	182
R. Shmuel b. Ali, <i>Iggerot</i> p. 82	181
Tosaphot, <i>Sanhedrin</i> 72a, s.v. <i>lo</i>	200-1

#### Acharonim

Don Isaac Abarbanel, commentary on <i>Avot</i>	26 <sup>6</sup> , 44-45
Don Isaac Abarbanel, commentary on <i>Gen.</i> 37:3	45-46
R. Solomon 'Adani, <i>M'lechet Shlomo</i> on <i>Avot</i> 5:16	29 <sup>13</sup>
R. Joseph Alashkar, <i>Merkevet HaMishneh</i> ( <i>Avot</i> )	26 <sup>6</sup>
R. Judah Aryeh Leib Alter, <i>Sefat Emet</i> , <i>Shekalim</i>	33
R. Isaiah Horowitz, <i>Shnei Luchot HaBrit</i> :	
<i>Torah Shebikhtav</i> , <i>Toldot</i> , <i>M'kor HaB'rachot</i>	25 <sup>5</sup>
<i>Sha'ar HaOtiyot</i> s.v. <i>pirayon</i>	28 <sup>11</sup>
R. S. Horowitz, <i>Vavei HaAmudim</i> , <i>Amud HaShalom</i> 25	33
R. Judah Loew of Prague, <i>Netzach Yisrael</i> 11	32
R. Isaac Karo, <i>Toldot Yitzhak</i> on <i>Gen.</i> 25:28	25 <sup>5</sup>
R. Joseph Karo, <i>Shulhan Arukh</i> , <i>Even ha-Ezer</i> 4.13	106 <sup>51</sup>
R. Menashe Klein, <i>Mishneh Halachot</i>	33 <sup>23</sup>
R. Joseph Saul HaLevi Nathanson, <i>Sho'el uMeshiv</i> , 4:3:39	200 <sup>69</sup>
R. Schneur Zalman of Ladi, <i>Likutei Amarim</i> ( <i>Tanya</i> ) 23	47-8

#### Other

<i>Toledot Yeshu</i>	91-114
<i>Toledot Yeshu</i> (MS New York JTS 8998)	105
<i>Toledot Yeshu</i> (MS RNL EVR 1.274)	105
<i>Toledot Yeshu</i> (MS New York JTS 6312)	105
<i>Toledot Yeshu</i> (MS Princeton 28.1r-10v)	106-7
<i>Toledot Yeshu</i> (MS. Princeton 28, fol.3v.23).	108 <sup>52</sup>

## Christian authors

#### New Testament

Matt 5:34-37	174 <sup>25</sup>
Matt 5:34	174 <sup>27</sup>
Luke 2:5	101 <sup>35</sup>
John 8:12-19	91

Amulo	
<i>Contra Iudaeos</i> 846	95
Choricius Gazaesus	
7.5	162-3
7.8	162-3
7.21	162
7.22	162
Cyrillus Scythopolitanus	
<i>Vit.Sab.</i> 61	158, 163
<i>Vit.Sab.</i> 70	158, 163
Ephrem	
<i>Gen.</i> 42.2	101 <sup>39</sup>
<i>Hymn.Vir.</i> 1.9	102 <sup>41</sup>
Eusebius	
<i>Ecl. Proph.</i> 3:10	95 <sup>11</sup>
<i>PE</i> 9:17	102 <sup>40</sup>
Hieronymus	
<i>Quest.Gen.</i> 12:15-16	102 <sup>40</sup>
Johannes Chrysostomos	
<i>Hom.Gen.</i> 32	102 <sup>40</sup>
Origenes	
<i>Cels.</i> 1.32	95 <sup>11</sup>
Paulus Helladicus	
<i>Acta S. Theognii</i> 18	157
Salvianus	
<i>Timothei ad ecclesiam</i> 3.7.34	82 <sup>97</sup>
Tertullian	
<i>Marc.</i> 4.10.6	91 <sup>1</sup>
Zacharias	
<i>HE</i> 7.1	161
<i>HE</i> 7.10	162

<i>Vit. Is. (HE II, App. II, p. 267)</i>	158
<i>Vit. Is. (HE II, App. II, p. 268)</i>	158
<i>Vit. Sev. p. 26</i>	161

## Author in Arabic

### Alfarabi

Commentary on Aristotle's <i>Ethics</i>	35
---	----

## Inscriptions

<i>AE</i> 1902, 230	122 <sup>17</sup>
<i>AE</i> 1922, 53	122 <sup>18</sup>
<i>AE</i> 1926, 136	122 <sup>17</sup>
<i>AE</i> 1956, 167	122 <sup>16</sup>
<i>AE</i> 1971, 508	127 <sup>29</sup>
<i>AE</i> 1980, 235	125 <sup>25</sup>
<i>AE</i> 1989, 743	118 <sup>5</sup>
<i>AE</i> 1994, 1782	122 <sup>17</sup>
<i>AE</i> 1995, 1165	127 <sup>28</sup>
<i>AE</i> 1995, 1577	122 <sup>17</sup>
<i>AE</i> 2000, 1534 = <i>IGLS</i> XIII 2, 9484	123 <sup>21</sup>
<i>AE</i> 2001, 1978	126 <sup>27</sup>
<i>CHIP</i> I 719	121 <sup>10</sup>
<i>CHIP</i> I 722	122 <sup>17</sup>
<i>CHIP</i> I 723	122 <sup>17</sup>
<i>CHIP</i> II 1200	121 <sup>12</sup>
<i>CHIP</i> II 1202	121 <sup>12</sup>
<i>CHIP</i> II 1204	121 <sup>12</sup>
<i>CHIP</i> II 1206	122 <sup>18</sup>
<i>CHIP</i> II 1207	122 <sup>18</sup>
<i>CHIP</i> II 1208	121 <sup>12</sup>
<i>CHIP</i> II 1355	120 <sup>9</sup>

<i>CIIP</i> II 1772	158
<i>CIJ</i> 284 = <i>JIWE</i> 547	70 <sup>4</sup>
<i>CIJ</i> 301 = <i>JIWE</i> 96	70 <sup>4</sup>
<i>CIJ</i> 338 = <i>JIWE</i> 169	70 <sup>4</sup>
<i>CIJ</i> 365 = <i>JIWE</i> 170	70 <sup>4</sup>
<i>CIJ</i> 368 = <i>JIWE</i> 189	70 <sup>4</sup>
<i>CIJ</i> 416 = <i>JIWE</i> 194	70 <sup>4</sup>
<i>CIJ</i> 425 = <i>JIWE</i> 130	70 <sup>4</sup>
<i>CIJ</i> 496 = <i>JIWE</i> 542	70 <sup>4</sup>
<i>CIJ</i> 503 = <i>JIWE</i> 549	70 <sup>4</sup>
<i>CIJ</i> 991	163
<i>CIL</i> III 202 = <i>IGLS</i> VI 2918	121 <sup>11</sup>
<i>CIL</i> III 1374	127 <sup>31</sup>
<i>CIL</i> III 3525 = 10492 = Dessau 2457	127 <sup>30</sup>
<i>CIL</i> III 4567	123 <sup>20</sup>
<i>CIL</i> VI 2099 = Scheid, CFA 94	122 <sup>16</sup>
<i>CIL</i> VIII 2495	122 <sup>16</sup>
<i>CIL</i> VIII 2699	122 <sup>16</sup>
<i>CIL</i> X 7237 = Dessau 6770	122 <sup>16</sup>
<i>CIL</i> XI 970 = Dessau 7216	122 <sup>16</sup>
<i>IAM</i> II 2, 82	127 <sup>31</sup>
<i>IEJ</i> 32, 1982	118 <sup>5</sup>
<i>MDAI</i> (Da) 11, 1999, 445 ff.	128 <sup>33</sup>
<i>SEG</i> 8, 1937, 301	159
<i>SEG</i> 44, 1994, 1356	118 <sup>5</sup>

## Papyri, Ostraca, Genizah

<i>BGU</i> I 136 = <i>MChr</i> 86	263 <sup>35</sup>
<i>BGU</i> I 326	110 <sup>62</sup>
<i>BGU</i> III 910, col. 1.11 = <i>P.Dime</i> III 31 GH	276 <sup>30</sup>
<i>BGU</i> IV 1139	237, 245 <sup>40</sup> , 246 <sup>43,45</sup>
<i>BGU</i> V 1210.115 f. (§ 41)	243 <sup>34</sup>
<i>BGU</i> V 1210.239 f. (§ 107)	243 <sup>34</sup>
<i>BGU</i> VI 1271	270 <sup>9</sup>
<i>BGU</i> VII 1680	150 <sup>19</sup>
<i>BGU</i> XIV 2367	270 <sup>8</sup>
<i>BGU</i> XIV 2390	270 <sup>9</sup>
<i>BGU</i> XIV 2395	271 <sup>9</sup>
<i>CPGr</i> I 19.27	244 <sup>36</sup>

<i>CPG</i> , vol. 1, p. 45; p. 192; vol. 2.1, p. 96	214 <sup>9</sup>
<i>CPG</i> , vol. 1, p. 271; vol. 2.1, p. 78	216 <sup>15</sup>
<i>CPR I 18</i> = <i>Stud.Pal.</i> XX 4 = <i>MChr</i> 84 = <i>JP</i> 89	257, 260
<i>CPR I</i> 223	275 <sup>24</sup>
<i>CPR XVIIb</i> 13.7-16 1	276 <sup>30</sup>
<i>DJD XXXVIII</i> 11	141, 150
<i>MChr</i> 63, 27 f.	241 <sup>24</sup>
<i>O.Mas.</i> I 554	137
<i>O.Mas.</i> I 555	137
<i>O.Mas.</i> I 555	138
<i>P.Athen.</i> 14	275 <sup>24</sup>
<i>P.Bad.</i> II 2	271 <sup>9</sup>
<i>P.Berl.Leihg.</i> 29	274 <sup>21</sup>
<i>P.Corn.</i> 6	275 <sup>24</sup>
<i>P.Dion.</i> 13	271 <sup>9</sup>
<i>P.Dion.</i> 16	271 <sup>9</sup>
<i>P.Dura</i> 28	190
<i>P.Erasm.</i> 14	271 <sup>9</sup>
<i>P.Fam.Tebt.</i> 20 = <i>SB</i> III 6611	247 <sup>48</sup>
<i>P.Fam.Tebt.</i> 22	275 <sup>24</sup>
<i>P.Fam.Tebt.</i> 37	238 <sup>13</sup> , 239 <sup>18</sup>
<i>P.Fam.Tebt.</i> 40	239 <sup>19,20</sup>
<i>P.Gen.</i> I 8	275 <sup>24</sup>
<i>P.Grenf.</i> II 78 = <i>MChr</i> 63 = <i>P.Lond.</i> III 718 descr.	241 <sup>24,25,26</sup>
<i>P.Hal.</i> 1, 214–218	172 <sup>11</sup>
<i>P.Hamb.</i> I 58	271 <sup>9</sup>
<i>P.Har Yishai</i> 2	141
<i>P.Hev.</i> 13	193 <sup>50</sup>
<i>P.Hev.</i> 30	140, 148, 149
<i>P.Hev.</i> 45	191
<i>P.Hev.</i> 49	192
<i>P.Hev.</i> 69	109 <sup>57</sup>
<i>P.Hev.</i> 342	140-141
<i>P.Lond.</i> VI 1916.17	251 <sup>54</sup>
<i>P.Mas.</i> II 724	138, 149
<i>P.Mas.</i> II 726	138
<i>P.Mas.</i> II 728	138-139
<i>P.Mas.</i> II 728a	139
<i>P.Mas.</i> II 741	139, 150
<i>P.Mas.</i> II 745	139
<i>P.Mas.</i> II 746	139
<i>P.Meyer</i> 8	262
<i>P.Mich.</i> II 123-128, V 238-240	274 <sup>23</sup>
<i>P.Mich.</i> III 183	270 <sup>7</sup>
<i>P.Mich.</i> V 238	257 <sup>8</sup>
<i>P.Mich.</i> V 251	276 <sup>28</sup>

<i>P.Mich.</i> V 254	275 <sup>25</sup>
<i>P.Mich.</i> V 258	275 <sup>25</sup>
<i>P.Mich.</i> V 263	275 <sup>25</sup>
<i>P.Mich.</i> V 263.24-39	275 <sup>25</sup>
<i>P.Mich.</i> V 305	275 <sup>25</sup>
<i>P.Mich.</i> V 331	275 <sup>25</sup>
<i>P.Mich.</i> V 339	275 <sup>25</sup>
<i>P.Mich.</i> V 341 = <i>PSI</i> VIII 904	275 <sup>25</sup>
<i>P.Mich.</i> X 583	275 <sup>24</sup>
<i>P.Mich.</i> XII 631	274 <sup>21</sup>
<i>P.Mil.Vogl.</i> II 78	275 <sup>24</sup>
<i>P.Mil.Vogl.</i> IV 229	262
<i>P.Mil.Vogl.</i> VI 288	274 <sup>22</sup>
<i>P.Mur.</i> I 18	191-192
<i>P.Mur.</i> I 21.10-11	109 <sup>57</sup>
<i>P.Mur.</i> I 115.8-9	109 <sup>57</sup>
<i>P.Mur.</i> II 42	134
<i>P.Mur.</i> II 44	134-135
<i>P.Mur.</i> II 45	135
<i>P.Mur.</i> II 46	135-136
<i>P.Mur.</i> II 47	136
<i>P.Mur.</i> II 48	136
<i>P.Mur.</i> II 49	136
<i>P.Mur.</i> II 50	136-137
<i>P.Mur.</i> II 51	137
<i>P.Mur.</i> II 52	137
<i>P.Oslo</i> III 82	238 <sup>14</sup>
<i>P.Oslo</i> III 140 = <i>C.Ptol.Sklav.</i> I 20	271 <sup>9</sup>
<i>P.Oxy.</i> I 37 = <i>CPGr</i> I 19 = <i>MChr</i> 79 = <i>Sel.Pap.</i> II 257 = <i>FIRA</i> III 170 = <i>Jur.Pap.</i> 90 = <i>P.Lond.</i> III 746 descr.	243 <sup>33</sup> , 244 <sup>36,37,38</sup> , 245 <sup>40</sup>
<i>P.Oxy.</i> I 38 = <i>MChr</i> 58	243 <sup>33</sup> , 245 <sup>40</sup> , 245 <sup>42</sup>
<i>P.Oxy.</i> II 237.8.17	246 <sup>45</sup>
<i>P.Oxy.</i> II 237	260
<i>P.Oxy.</i> II 237 VIII 27-43	256, 264
<i>P.Oxy.</i> II 237 VIII 21-27	256
<i>P.Oxy.</i> VIII 1120	237 <sup>12</sup> , 238 <sup>13</sup>
<i>P.Oxy.</i> IX 1206 = <i>Sel.Pap.</i> I 10 = <i>FIRA</i> III 16 = <i>Jur.Pap.</i> 10	240 <sup>21</sup> , 243 <sup>32</sup>
<i>P.Oxy.</i> XII 1422	242 <sup>30</sup>
<i>P.Oxy.</i> XVI 1837	241 <sup>24</sup>
<i>P.Oxy.</i> XXXVI 2757	257, 261
<i>P. Oxy.</i> XLII 3015	260, 262, 263
<i>P.Oxy.</i> XLII 3025	257
<i>P.Oxy.</i> XLII 3033	246 <sup>46</sup> , 247 <sup>47</sup>
<i>P.Oxy.</i> XLVI 3285	256, 258, 261
<i>P.Oxy.</i> LX 4060	242 <sup>30</sup>

<i>P.Oxy.</i> LXXVIII 5175	243 <sup>33</sup>
<i>P.Petrie</i> III 56d	173 <sup>20</sup>
<i>P.Polit.Jud.</i> 3	172 <sup>7</sup>
<i>P.Polit.Jud.</i> 4	99 <sup>30</sup>
<i>P.Polit.Jud.</i> 9	169 <sup>2</sup>
<i>P.Polit.Jud.</i> 12	172 <sup>8</sup>
<i>P.Ryl.</i> II 161	276 <sup>30</sup>
<i>P.Ryl.</i> III 302 descr.	238 <sup>13</sup>
<i>P.Ryl.</i> IV 601	275 <sup>249</sup>
<i>P.Sorb.</i> I 17	270 <sup>7</sup>
<i>P.Stras.</i> II 118	238 <sup>13</sup> , 240 <sup>21</sup>
<i>P.Stras.</i> IV 234	238 <sup>15</sup>
<i>P.Stras.</i> IV 296 verso	242 <sup>29</sup>
<i>P.Tebt.</i> I 5 Z. 207-220 = <i>Sel.Pap.</i> II 210 = <i>COP</i> 53	259
<i>P.Tebt.</i> I 104 = <i>MChr</i> 285 = <i>Sel.Pap.</i> I 2	270 <sup>3</sup> , 271 <sup>9</sup>
<i>P.Tebt.</i> I 105	271 <sup>9</sup>
<i>P.Tebt.</i> II 390 = <i>MChr</i> 251	275 <sup>25</sup>
<i>P.Tebt.</i> II 488 descr.	261, 263
<i>P.Tebt.</i> III.1 818	270 <sup>7</sup>
<i>P.Tebt.</i> III.1 819	271 <sup>9</sup>
<i>P.Tebt.Tait.</i> 49	275 <sup>24</sup>
<i>P.Vet.Aelii</i> 9	238 <sup>17</sup>
<i>P.Vind.Tand.</i> 26	276 <sup>30</sup>
<i>P.Vind.Worp.</i> 10	276 <sup>30</sup>
<i>P.Würz.</i> 6	271 <sup>9</sup>
<i>P.Yadin</i> 11	110 <sup>61</sup>
<i>P.Yadin</i> 17	193
<i>P.Yadin</i> 18	109 <sup>57</sup> , 110, 193-194
<i>P.Yadin</i> 21	XXIV
<i>P.Yadin</i> 22	XXIV
<i>P.Yadin</i> 37	109 <sup>57</sup>
<i>P.Yadin</i> 49	141-142
<i>P.Yadin</i> 50	142
<i>P.Yadin</i> 51	142
<i>P.Yadin</i> 52	143
<i>P.Yadin</i> 53	143
<i>P.Yadin</i> 54	143-144, 149 <sup>13</sup>
<i>P.Yadin</i> 55	144, 148, 150
<i>P.Yadin</i> 56	144, 148, 150
<i>P.Yadin</i> 57	145, 150 <sup>16</sup>
<i>P.Yadin</i> 58	145, 150 <sup>16</sup>
<i>P.Yadin</i> 59	145-146, 148, 150, 150 <sup>16</sup>
<i>P.Yadin</i> 60	146
<i>P.Yadin</i> 61	146
<i>P.Yadin</i> 62	146
<i>P.Yadin</i> 63	147, 149 <sup>14</sup>

<i>P.Yadin</i> 64	147
<i>PSI</i> I 64	172 <sup>10</sup>
<i>PSI</i> VIII 908	275 <sup>24</sup>
<i>SB</i> I 5117 = <i>P.Dime</i> III 29	276 <sup>30</sup>
<i>SB</i> III 6097	241 <sup>24</sup>
<i>SB</i> VI 9109	275 <sup>24</sup>
<i>SB</i> VIII 9642 <sup>4</sup>	275 <sup>24</sup>
<i>SB</i> VIII 9642 <sup>5</sup>	275 <sup>24</sup>
<i>SB</i> VIII 9679	271 <sup>9</sup>
<i>SB</i> XII 10929	235 <sup>3</sup> , 236 <sup>6</sup>
<i>SB</i> XIV 11904	237 <sup>12</sup> , 238 <sup>16,17</sup>
<i>SB</i> XVI 12372	271 <sup>9</sup>
<i>SB</i> XVI 12954 = <i>P.Ryl.</i> II 329 descr.	276 <sup>30</sup>
<i>SB</i> XVI 12957 = <i>P.Lond.</i> II 292 descr.	276 <sup>30</sup>
<i>SB</i> XVIII 13274 = <i>P.Cair.Masp.</i> I 67089 = III 67294	241 <sup>24</sup>
<i>SB</i> XVIII 14056 = <i>P.Stras.</i> IV 296 recto + verso	241 <sup>27</sup> , 242 <sup>28</sup>
<i>SB</i> XX 14108	271 <sup>9</sup>
<i>SB</i> XXII 15613 = <i>P.Sel.Warga</i> 7 = <i>P.Tebt.</i> II 529 descr.	275 <sup>24</sup>
<i>SB</i> XXIV 16256	237 <sup>12</sup>
<i>Sel.Pap.</i> I 121	149 <sup>15</sup>
<i>UPZ</i> I 3+ 4 = <i>C.Ptol.Sklav.</i> 83	240 <sup>24</sup>
<i>UPZ</i> I 125	271 <sup>9</sup>
<i>UPZ</i> II 162 IV 18 f. = <i>P. Tor.Choach.</i> 12	259
Genizah: Bodl. MS. Heb. d 65, fol. 30 (Cat. 2877)	194

## Others

Christopher Marlowe

*Doctor Faustus* IV vii 55<sup>17</sup>

Israel Supreme Court

Civil Appeal 407/89, Zuk Or vs. Car Security,  
*PD* 48 (5) 661, pp. 698-9 196<sup>61</sup>

# Index nominum et rerum

*NOTE: No effort has been made to enforce uniformity of spelling and transliteration on the authors, so people or things may appear in the index with a different spelling from that used in the text. Nor has any effort been made to include every proper name that appears in the book.*

- Abibalos, 300
- Abimelech, 173
- Abraham, 31-32, 102, 173, 214<sup>9</sup>, 300<sup>56</sup>
- Abraham ben David of Posquières, Rabbi, 198-9, 201
- Abulafia, Meir HaLevi, Rabbi, 182
- admissions
  - of debt, 179-207
- Aduatuci, 71<sup>12</sup>
- adultery, 99-103
- Aeneas of Gaza, 155, 162
- Aeschines, 104
- Africa, 211-23
- agriculture, 52
- Agrippa, Marcus Vipsanius, 70
- Agrippa I, King, 70<sup>5</sup>, 85<sup>114, 119</sup>
- Agrippa II, King, 17, 70<sup>5</sup>
- Agrippesians, 70
- Aḥa sar ha-birah, Rabbi, 110
- Akiva, Rabbi, 55<sup>17</sup>
- Albania, 73-4<sup>26-8</sup>
- Al-Bargeloni, Judah, Rabbi, 186-8
- Alcmene, 102<sup>42</sup>
- Alexander Balas, 264<sup>40</sup>
- Alexander Polyhistor, 214<sup>9</sup>
- Alexander son of Aristobulus II, 74<sup>30</sup>, 76, 77
- Alexander the Great, 104, 286
- Alexandra wife of Philip II, 102, 104
- Alexandria, 149<sup>15</sup>, 172, 246
  - bishop of, 241<sup>24</sup>
  - Jews of
    - riots and embassy, 78, 84-5
    - marriage customs, 99
  - Philo of. *See* Philo Judaeus
  - rhetoers, 159
- Alexandrian poets, 219
- Alexandrians, 270<sup>8</sup>
- Alguadez, Meir, Don, 31<sup>20</sup>
- alum, 226-7
- Ammon, 104, 219
- Amnon son of David, 23, 26, 29<sup>13</sup>, 32, 101<sup>37</sup>
- amoraim, 97, 192
- Amphitryon, 102<sup>42</sup>
- Amulo, 95<sup>13</sup>
- Anaxilas, 214-15, 221
- andrapodismos*, 236, 240-1, 248-50. *See also* *doulagogia*, *plagiaria*
- animals, 46, 60, 229, 329
  - in Africa, 214-17
  - rent of, 200
  - sacrificial, 173, 323
- anniculi probatio*, 83
- Antigonos Monophthalmus, 227
- Antigonos II Mattathias, King of Judaea, 77
- Antioch on the Orontes, 60, 118, 161
- Antiochus III, 71, 296
- Antiochus IV, 100<sup>31</sup>

- Antoninus, 121, 124, 128  
     in Jewish sources, 56-7, 130<sup>39</sup>  
     Pius, 124, 128-9, 130<sup>39</sup>, 256<sup>4</sup>  
     “the good”, 118, 129  
*Aphrodites polis*, 169-71  
 Aphroditopolis, 169  
 Apollo, 102<sup>42</sup>  
 Aquincum, 127  
 Arabia, 74<sup>27</sup>  
     *provincia Arabia*, 123, 126, 128-9, 131  
 Arabic, 30-1<sup>20</sup>, 35<sup>25</sup>, 37, 39, 44, 53, 61<sup>44</sup>, 131<sup>1-2</sup>, 287<sup>4</sup>  
 Aramaic, 13, 52, 92<sup>2</sup>, 95, 104, 132<sup>9</sup>, 137-47, 189<sup>36</sup>, 192-4, 276  
 Arangio-Ruiz, Vincenzo, XXIV  
 Aristobulus II, 73-7  
 Aristophanes, 59, 216, 221  
 Aristotle, 4, 23-50, 214-15, 220-1  
 Armenia, 73-4<sup>26-8</sup>  
 Armon, 110  
 army, 35, 328. *See also* legions  
     Israeli, 322  
     Roman, 75, 117-30, 329, 331  
 Arsinoite nome, 269-81  
 Artabanus III, 290<sup>13</sup>  
 artichokes, 51-65  
 Ascalon, 157, 160-1  
 Asenath, 101  
 Asia, 75, 289  
 Asia Minor, 71, 69<sup>2</sup>, 213  
     Jews in, 69-71  
     *Provincia Asia*, 69<sup>2</sup>, 73<sup>26</sup>, 123<sup>20</sup>  
 asphalt, 226-9  
 astrologers, 76<sup>43</sup>  
 atheism, 300, 329-33  
 Athenaeus, 58-9, 62  
 Athens, 12<sup>21</sup>, 59, 118<sup>3-4</sup>, 161, 174, 212, 270<sup>7</sup>, 292  
 Augustan era, 69, 81, 225  
 Augustesians, 70  
 Augustus, 73<sup>22</sup>, 85<sup>122</sup>, 110<sup>62</sup>  
     and the Jews, 69-70, 80  
  
 Babatha, XXIV-XXV, 110, 150<sup>20</sup>, 193  
 Babylonia, 56, 61, 93, 182<sup>7</sup>  
 Babylonian Talmud. *See* Talmud:  
     Babylonian  
 Baghdad, 181  
 Balaam, 26<sup>7</sup>  
 Balak, 26<sup>7</sup>  
 Bar Kokhba, 131-54, 191-2  
     signature, 134  
 Barabbas, 313-14  
 bastardy, 91-114  
 Basternae, 73<sup>26</sup>  
 baths, 4, 117-30  
*Bavli*. *See* Talmud: Babylonian  
 beetroot, 57-8  
 Ben Yair, Eleazar, 325-34  
 Berlin, Naftali Zvi Yehuda, Rabbi, 183  
 Berytus, 156, 159-62, 297<sup>47</sup>  
 Bethlehem, 101, 106, 136  
 Bible, XXI, 16-32, 40, 52, 54, 56, 173-4, 217, 285, 298, 300<sup>56</sup>, 310  
 Bickerman, Elias, 6, 285-305  
 Bilhah, 101  
 birds, 216  
 Bithynia, 161  
 bitumen, 226  
 Black Sea, 216  
 Bnei Brith, 311  
 Boaz, 26  
 Boethius, 31<sup>20</sup>  
 Britain, 132  
 Bruni, Leonardo, 31<sup>20</sup>  
 Byblos, 297-8. *See also* Philo of Byblos  
  
 Caesar (title), 4, 121-4, 128-9, 325  
 Caesar, Julius, 4, 6, 71, 80<sup>82</sup>  
 Caesarea Maritima, 5, 121<sup>12</sup>, 122<sup>17</sup>, 156-62  
 Caiaphas, 311, 316, 320  
 Cairo *genizah*, 194  
 Caligula, 78, 84-6  
 Callimachus, 219  
 Capito, Cn. Vergilius, prefect, 243  
 Cappadocia, 73<sup>26-7</sup>  
 Caracalla, 121, 128, 130<sup>39</sup>, 174  
 cardoon, 59  
 Carthage, 60  
 Cassius Dio, 18<sup>31</sup>

- Castor, C. Longinus, 110<sup>62</sup>  
 Catius, T., 298  
 Catullus, 219, 221  
 Celsus, XXIX, 94-5, 101, 108, 300  
 census, 77, 79, 83  
 chate melon, 52-4  
 Christianity, 32, 307-36. *See also*  
     supersession  
 Christians, 117-30  
     anti-Christian polemic, 300  
     authors, 12<sup>12</sup>, 62<sup>47</sup>, 102, 299  
     in movies, 307-36  
     rhetors, 157  
 Cicero, 13-14, 75-6, 79, 132<sup>3</sup>  
 Cilicia, 73<sup>26</sup>-74<sup>27-8</sup>, 124  
 circumcision, 316, 333  
 citizenship, 285  
     Alexandrian, 270<sup>8</sup>  
     citizens of the world, 285, 318  
     Roman, XXIV, 69-70, 78-84, 96<sup>16</sup>,  
         110<sup>62</sup>, 174, 225  
 Claudian, 220  
 Claudius, 83<sup>102</sup>, 85  
 Claudius Etruscus, 217  
 Cleopatra Thea, 264<sup>40</sup>  
 cloth  
     dyeing, 226  
     letters on, 132  
 coins, 71<sup>11</sup>, 72<sup>15</sup>, 73<sup>25</sup>, 77, 171, 217  
 Colchis, 74<sup>27-8</sup>  
 Commagene, 74<sup>28</sup>  
 commerce, 213<sup>7</sup>. *See also* trade  
     *commercium*, 81-2  
 Commodus, 121-5, 128, 217<sup>20</sup>  
 conquest, 3-4, 71, 74, 76, 94, 131<sup>1</sup>, 286,  
     292, 296  
 Constantinople, 117, 128, 156, 159,  
     161-3  
*Constitutio Antoniniana*, 110<sup>62</sup>  
 consul, 13, 83<sup>102</sup>, 123-6, 297  
 contract, XXIV, 6, 81-2, 171-5, 183,  
     187-9, 196-7, 237-40, 243-4, 246,  
     248, 256, 257<sup>8</sup>, 269-72, 276-7  
     marriage, 98-9, 109-10, 193<sup>50</sup>,  
         262-3. *See also* *ketubah*  
*conubium*, 96  
 Cordoba, 60  
 coriander, 59, 62  
 corn, 75<sup>34</sup>, 135, 216-8, 221  
     distributions of, 80  
     Egyptian, 217, 221  
 courgettes, 52  
 courts  
     architectural, 110<sup>61</sup>, 141  
     of kings, 18, 230  
     of law, 5, 81, 93, 99<sup>30</sup>, 105, 108,  
         155, 157, 160, 174, 180, 184-6,  
         189, 196-7, 199-203, 212, 239,  
         245-6, 258  
 Crassus, M. Licinius, 77  
 Crete 73<sup>26</sup>, 74<sup>28</sup>  
 Creusa 102<sup>42</sup>  
 cucumbers, 51-65  
 cumin, 60, 62  
 Cumont, Franz, 286-94  
*cursus honorum*, XXIII, 126  
 Cyrene, 69<sup>2</sup>, 219  
  
 Dacians, 4  
 Dalmatia, 217  
 Damascius, 159  
 Damascus, 194  
 Daphne near Antioch, 161  
 Darius I, 73<sup>25</sup>  
 David, King, 23, 26-9, 32, 35-6, 48,  
     106-7  
 de Gaulle, Charles, 296  
 Dead Sea, 132, 193, 225-31  
 Dead Sea Scrolls, 323  
 deicide, 94, 308, 316-17, 319-20  
 Delos, 72  
 Delphi, 71  
 Demetrios II, 264<sup>40</sup>  
 demotic, 255-6, 258-9, 263-4, 276<sup>30</sup>  
 Didius Iulianus, 123, 125  
 Didymus, 213  
 Dinah daughter of Jacob, 101  
 Diodorus Siculus, 12, 227-9  
 Diogenianus, 213, 216  
 Dionysius of Halicarnassus, 12<sup>21</sup>  
 divorce, 33, 93, 98-9, 101, 111, 175

- documents. *See also* contracts; Judaeen  
 Desert documents; *ketubah*; marriage: documents  
 halachic, 186-95  
 in Josephus, 69-70, 111  
 Ptolemaic, 169-75, 269-81  
 Roman, XXIV, 174, 269-81  
 dormice, 54  
*doulagogia*, 243, 245-50. *See also*  
*andrapodismos*, *plagiaria*  
 dowry, XXIV, 99<sup>30</sup>, 101<sup>37</sup>, 108-9, 172,  
 194  
 dreams, 18, 104  
 Dura Europus, 131, 287-9, 302  
 Éboué, Felix, 296  
 Echeclès, 102<sup>42</sup>  
 Egypt, 5, 59, 75<sup>34</sup>, 101-2, 131-2, 136,  
 148-50, 157, 160, 175<sup>31</sup>, 190, 217,  
 221, 255-67, 269-81, 289  
 Byzantine, 150<sup>19</sup>, 269, 271<sup>10</sup>, 277  
 law, 6, 255-67  
 Ptolemaic, 150<sup>19</sup>, 169-77, 171, 172,  
 255-67, 269-70, 277  
 Roman, 110<sup>62</sup>, 150<sup>19</sup>, 235-53,  
 269-70, 273, 277  
 Egyptians, 102, 104, 214<sup>9</sup>, 243<sup>34</sup>, 275,  
 296  
 Ein Gedi, 110<sup>61</sup>, 135, 139, 141-7, 191,  
 193, 323  
 Ein Jerab. *See* Hammat Gader  
 Elagabalus, 121, 128  
 Eleazar, Rabbi, 95  
 Eleazar ben Yair. *See* Ben Yair, Eleazar  
 Eleutheropolis, 159  
 el-Hama. *See* Hammat Gader  
 Eliezer, Rabbi, 4<sup>1</sup>, 55<sup>17</sup>, 303  
 Elusa, 160  
 England, 3  
 Enipeus, 102<sup>42</sup>  
 Ephesus, 69<sup>2</sup>, 72<sup>13</sup>  
 Esau, 25<sup>5</sup>, 33, 40, 56  
 Essenes, 323-4, 327, 330, 332  
 Eudocia, 102<sup>42</sup>, 117, 119, 128-30  
 Eudorus, 102<sup>42</sup>  
 Euhemerism, 299, 301  
 Eusebius, 156<sup>10</sup>, 299-300  
 Eutropius, 156  
 Feuchtwanger, Lion, 285, 303  
 Florentinus, 227<sup>8</sup>  
 food, XXII, 4, 51-65, 135, 333  
 freedmen, 69-70, 78-9, 81-3. *See also*  
 manumission  
 friendship, 11, 23-50  
*frumentationes*, 80<sup>82</sup>  
 Gabinius, 77  
 Gadara, 122<sup>17</sup>, 129, 300<sup>53</sup>  
 Gaius (emperor). *See* Caligula  
 Galilee, 58, 61, 93, 121, 134, 137, 317,  
 320  
 Gallienus, 127  
 garum, 59, 62  
 Gaul, 70-1, 225  
 Gaza, 155, 157-63  
 Genetic Information Act of 2000 (Israel), 108  
 Germanicus, 75  
 Germanos, son of Judah, scribe, XXV  
 Germans, 4, 75  
 gladiators, 72, 217, 330<sup>96</sup>  
 gold, 102, 217-18, 227-30  
 goodness. *See* virtue  
 gospels, 92-3, 101, 174, 307-9, 313,  
 316, 318  
 gourds, 53, 59  
 Gracchus, Ti. Sempronius maior, 75  
 grain. *See* corn  
*grammatici*, 155, 160-1  
 grapes, 55, 59  
*grapheion*, 269-81  
 Greater Punishment, Rule of, 198-202  
 Greece, 12, 213, 226  
 Greek (language), XXIII-XXIV, 4, 10,  
 128, 14, 25, 52, 132<sup>9</sup>, 138-9, 141,  
 143, 146-8, 157, 174, 189<sup>36</sup>, 193,  
 215, 272, 275-6  
 Grosseteste, Robert, 31<sup>20</sup>  
 guardianship, 81<sup>91</sup>, 184  
 Guinea, 220

- Hadrian, 213, 215, 217, 235, 247-50, 297-8
- Hagar, 102
- Hai Gaon, Rabbi, 190-5
- halacha*, XXIV, 5, 51, 55<sup>17</sup>, 91-114, 175, 179-207
- HaMeiri, Menahem, Rabbi, 32, 183, 198-9
- Hammam Gader, 117-30
- Ḥanina, Rabbi, 95, 99<sup>30</sup>
- Hasmonaeans, XXIII-XXIV, 71<sup>9</sup>, 77
- Hebrew, XXIII, 13, 25, 28, 52, 54, 57-8, 104, 132<sup>9</sup>, 134-37, 140-2, 146-7, 189<sup>36</sup> 192, 298<sup>50</sup>, 327
- Hebron, 327
- Hecataeus, 214<sup>9</sup>, 301
- Heius, M., prefect, 246
- Helene, Queen, 106
- Heliopolis, 101<sup>38</sup>
- Hera, 172
- Heracleopolis, 169, 172, 175
- Heracles, 102
- Herculaneum, 72<sup>13</sup>, 132<sup>2</sup>
- Hermes, 102<sup>42</sup>
- Hermippos of Beirut, 297, 303
- Hermopolis, 241
- law book, 256, 258
- Herod the Great, 77, 313
- Herod Antipas, 313
- Herodian of Alexandria, 297, 303
- Herodias, 313
- Herodion, 142-47
- Hierombalos, 300
- Hieronymus of Cardia, 227-30
- Hillel, 29<sup>13</sup>, 98-100
- historians, 9-21
- historiography, 9-21, 301
- Greek, 4, 9, 16, -19
- Roman, 17
- Hittite, 294<sup>33</sup>
- Hollywood, 307-36
- holocaust, 307-36
- Horace, 216-18
- Horkos, 173
- hypographê*, 6, 269-81
- hypomnêma*, 273-4
- Iberia, 73<sup>26</sup>, 74<sup>27-8</sup>, 217
- imperialism, 289<sup>10</sup>, 314, 324, 326
- imperium*, 80, 82<sup>94</sup>
- India, 3, 4, 53<sup>11</sup>, 230
- inheritance, 81-3, 109, 150, 183-4, 247, 256, 262
- inscriptions, 70-3, 117-30, 157-9, 163
- intermarriage
- between Greeks and non-Greeks, 296<sup>40</sup>
- between Jews and non-Jews, 94-7, 109<sup>60</sup>
- between Roman citizens and non-citizens, 109<sup>60</sup>
- Iran, 132
- Isaac, 25<sup>5</sup>, 31, 40, 300<sup>56</sup>
- Isaiah, 18<sup>35</sup>
- Islam, 94
- Israel
- Jacob the patriarch. *See* Jacob
- land of Israel, XXI-XXIII, 33, 52, 54-6, 58, 60, 181-2, 185<sup>21</sup>, 315, 317. *See also* Judaea, Palestine, *Syria Palaestina*
- nation of Israel, i.e., the Jews, 31-33, 51-2, 56-7, 96, 99, 105-6, 181, 191-2, 311, 316-17, 323, 326
- state of Israel, 108, 119, 171, 196, 307, 313-14, 322, 331-3
- Italy, 14, 69, 72<sup>17</sup>, 131<sup>\*</sup>
- Jacob, 25<sup>5</sup>, 26<sup>7</sup>, 31, 33, 40, 46, 54, 56, 101
- Jagsthausen, 127
- Jeremiah, 18-19
- Jericho, 141
- Jerusalem, 10, 14, 18, 60, 71, 76, 100<sup>32</sup>, 106, 117, 174, 312, 320, 327, 330, 331
- Jerusalem Talmud. *See*: Talmud: Palestinian
- Jesus, 4, 91-114, 174
- in movies, 307-36
- Jews, XXIII, 4, 6, 9-21, 73, 91-114, 131-54, 163, 169-77, 179-207, 299, 300. *See also* Israel

- diaspora, 4, 174-5
- dietary laws, 78
- great rebellion, 14
- Hellenized, XXIII-XXIV, 172, 175
- law. *See halacha*, law: Jewish, Torah
- Rome (city), 69-86
- slaves, 70-3, 76-80, 84, 324-5
- social and economic status, 84, 172
- Job, 101
- Jonathan son of Saul, 23, 26-9, 32, 35-6, 48
- Jonathan Apphus, high priest, XXIII
- Jordan River, 230
- Jordan valley, 58
- Joseph, son of Jacob, 18<sup>28</sup>, 46, 217
- Joseph, husband of Mary, 91-114, 318-9.
- Joseph of Arimathea, 319
- Josephus, 4, 9-21, 69, 74, 77, 78, 85<sup>119</sup>, 102<sup>40</sup>, 214<sup>9</sup>, 229, 230, 285, 300, 303, 322, 323, 324, 327, 330
- Jotapata, 18
- Judaea, 4, 71, 73-74, 76-8, 98, 100-1, 106, 110, 132, 228<sup>8</sup>, 313-14, 317, 319. *See also* Israel: land, Palestine, *Syria Palestina*
- Judaean Desert, 131
- Judaean Desert documents, 5, 131-54, 189, 194
- Judah, son of Jacob, 110, 192, 205
- Judah Cimber, 194
- Judah haNasi, Rabbi, 51-53, 55-8, 61, 63, 130<sup>39</sup>
- Judah Khthousion, XXIV, 110<sup>61</sup>, 193
- Judah son of Ilai, Rabbi, 100
- Judaism, X, XVI, XXII-XXXIV, 14, 16, 20, 51, 65, 87, 89-90, 96, 106, 112, 176, 205, 231, 304, 307, 321, 332<sup>100</sup>, 333-4
- Judas Iscariot, 319-20
- judges
  - expert (*mumḥim*)/lay (*hedyotot*), 180, 182, 184-5, 196-7, 202
  - provincial, 162, 175
- Julia Crispina, 150<sup>20</sup>
- Julian, 300<sup>55</sup>
- Julius Antonius, 69<sup>2</sup>
- Junian Latins, 81-3
- jus primae noctis*, 98-100
- jus trium liberorum*, 109<sup>59</sup>
- justice, XXIX, 16, 93, 323
- Justin, 225-31
- Justinian, 156
- katoché*, 262
- Katzoff, Adina, XXI
- Katzoff, Binyamin, XXI
- Katzoff, Charlotte, XXII
- Katzoff, Louis, XXI-XXII
- Katzoff, Ranon, XVIII-XXXIV, 4<sup>1</sup>, 6, 9, 23<sup>\*</sup>, 51, 96<sup>16</sup>, 99<sup>29</sup>, 169<sup>\*</sup>, 188<sup>29</sup>, 192, 193<sup>50</sup>, 211<sup>\*</sup>, 225, 237, 255, 303
- ketubah*, 110, 183, 184. *See also* marriage: documents
- kidnaping, 5, 235-53
- Kipling, Rudyard, 3-4
- Kirschenbaum, Aaron, XXIII
- Laban 26<sup>7</sup>
- Lambaesis, 127
- Late Antiquity, 110, 117, 128, 130, 155-7, 273
- Latin, 14, 57, 129, 131<sup>2</sup>, 132<sup>4,9</sup>, 138-9, 147-8, 156-7, 161, 214<sup>9</sup>, 215, 225
- Latin status, 83-4
- law, XXIX-XXX
  - Athenian, 240
  - Biblical, 173
  - civil, 81
  - Egyptian, 6, 255-68
  - Greek, 5, 16, 108, 169-77, 256
  - Hellenistic, 98<sup>21</sup>, 109<sup>57</sup>, 188<sup>31</sup>
  - Jewish, 169-77, 303. *See also halacha*, Torah
  - monetary, 179-207
  - Near Eastern, 109<sup>57</sup>
  - Persian 188<sup>31</sup>
  - Roman, XXIV, XXX, 79<sup>69</sup>, 99<sup>30</sup>, 100<sup>34</sup>, 103, 109, 174, 188<sup>31</sup>, 196<sup>60</sup>, 255-68
- law of history, 9-21
- lawyers, 5, 155-65

lead, 228  
 lease, 172  
 leather, letters on, 132  
 legions, 100, 110, 121-2, 124, 126-9,  
     130<sup>39</sup>, 325, 328, 331  
     II *Adiutrix*, 127  
     II *Traiana*, 100<sup>32</sup>  
     III *Augusta*, 127  
     III *Cyrenaica*, 126  
     V *Macedonica*, 100<sup>32</sup>  
     VI *Ferrata*, 100<sup>32</sup>, 122, 124, 126, 128-9  
     X *Fretensis*, 100<sup>32</sup>  
     XII *Fulminata*, 100<sup>32</sup>  
     XV *Apollonaris*, 100<sup>32</sup>  
 Leptis Magna, 72<sup>13</sup>  
 letters, 131-54  
 lettuce, 53, 56-7  
*lex Fabia de plagio*, 237  
*lex Junia*, 81-3  
*lex Minicia*, 96  
*lex Papia Poppaea*, 82<sup>92</sup>  
*lex Sentia*, 83  
*lex Visellia*, 83<sup>102</sup>  
 liability, 185, 188  
 Libanius, 156, 160-2  
 Libya. *See* Africa  
 literacy, 6, 132, 150, 211-12, 217, 220,  
     269-81  
 Livia, 70<sup>6</sup>  
 loans, 179-207  
 London, 3  
 Longinus, C. Cassius, 77  
 love, 23-50  
 Lucian, 11-12  
 Lucillus of Tarrha, 213  
 Lycopolis, 245-6, 248  
  
 Magnesia on Maeander, 72<sup>13</sup>  
 Magonius Valens, 110<sup>61</sup>  
 Maimonides, 28<sup>13</sup>, 29<sup>15</sup>, 31, 34-41,  
     44-5, 94-95, 97, 106, 180-2  
 manumission, 78-84  
     by adoption, 80  
     by *vindicta*, 80  
     informal, 80, 82<sup>94-5</sup>  
 Marcus Aurelius, 121, 126, 128  
  
 markets, 72  
 marriage, 26, 33, 35, 41-2, 175  
     dissolution of daughter's, 260, 262-4  
     documents, 193-4. *See also ketubah*  
     Hellenistic, 98<sup>21</sup>  
     Near Eastern, 98<sup>21</sup>  
 Martial, 216, 218, 221  
 Mary, mother of Jesus, 91-114, 318-19  
 Masada, 131-2, 138-9, 148, 321-2, 324,  
     327-9, 331-33  
     miniseries, 309, 321-4, 326-7, 330,  
         334  
 Media, 74<sup>27</sup>  
 Mediterranean area, 53, 70, 109, 213,  
     269<sup>2</sup>, 292  
 Megasthenes, 230  
 Meiri. *See* HaMeiri, Menahem, Rabbi  
 Menander of Athens, 102-4  
 Menander I, King of Bactria, 4  
 Mesopotamia, 74<sup>27</sup>, 131  
 Metellus, 74<sup>28</sup>  
 methodology, 130<sup>39</sup>, 212  
 Michael, archangel 101<sup>38</sup>  
 Miriam. *See* Mary, mother of Jesus  
 Misenum, 110<sup>62</sup>  
 Mishnah, 23-50, 51, 56, 175, 179-80,  
     182-4, 186, 188, 190, 195<sup>57</sup>, 202  
 Mithridates Eupator 73<sup>25-6</sup>, 74<sup>28</sup>  
 Mommsen, Theodor, 236  
 Moses, 15, 99, 172, 300  
 Moses ben Maimon, Rabbi. *See*  
     Maimonides  
 Moses ben Nachman, Rabbi. *See*  
     Nachmanides  
 movies, 307-36  
 multiculturalism, 307  
 murder, 235  
  
 Nabatean, 276  
 Nabateans, 228<sup>8</sup>  
 Naḥal Hever, 140-41, 191, 193  
 Nahmanides, 200  
 Naomi, 26  
 Nazareth, 101, 105, 319  
 Necho, Pharaoh, 102<sup>40</sup>  
 Nectanebo, 104

- Neoplatonism, 38, 48  
 Nepos, C., 297-8  
 Nero, 72<sup>17</sup>, 191-2, 298<sup>49</sup>  
 Nessana, 131  
 Netziv. *See* Berlin, Naftali Zvi Yehuda, Rabbi  
 Nicodemus, 319  
 Nile, 169, 173  
 Nissim Gironi, Rabbi, 183  
 Noah, 32  
*nomos*, 15  
*nomothetae*, 15  
*Nostra Aetate*, 308, 318  
 notaries, 174  
 Numantia, 75  
 numbers  
     in Roman sources, 77-8  
  
 oath, 169-77  
 obligations, 179-207  
 Oenomaus of Gadara, 300<sup>55</sup>  
 orientalization, 285-305  
 Ostia, 72<sup>13</sup>  
 ostraca, 131-2  
 Oxyrhynchus, 238, 242-3, 261<sup>26</sup>, 269<sup>2</sup>  
  
 pagans, 61<sup>43</sup>, 299-300  
 Palestine, 5, 74<sup>27</sup>, 118, 128, 155-65,  
     180, 311, 331. *See also* Israel: land,  
     Judea, *Syria Palaestina*  
 Palestinian Talmud. *See* Talmud:  
     Palestinian  
 palm leaves, letters on, 132  
 Pandera, 91-114  
*panprasia*, 262  
 pantheism, 298<sup>51</sup>  
 Panthera. *See* Pandera  
 Paphlagonia, 73<sup>26</sup>, 74<sup>27</sup>  
 papyri, XXIV, 5, 70, 131-54, 169-77,  
     235-53, 255-68, 269-81  
 papyrology, XXX  
 papyrus, 132  
 parchment, 132  
 Parthia, 77, 290<sup>13</sup>  
*pater familias* 100<sup>34</sup>  
 Patriarch, 184-5  
 patriarchs, 56, 96<sup>15</sup>  
 patriotism, 12  
 patronage, 81-2  
 Paul of Tyre, 297, 303  
 Paul VI, Pope, 308, 318  
 Pausanias, 230  
 peacocks, 54  
*peculium*, 81-2  
 Pelusium, 160  
 Persia, 70, 94  
 Petra, 132<sup>2</sup>, 159-60  
 Petronius, 4  
 Pharaoh, 102  
 Pharisees, 91, 323  
 Phasis, 216  
 Philip II of Macedon, 102, 104, 225  
 Philo Judaeus, 4, 69-86, 99, 174, 298<sup>50</sup>  
 Philo of Byblos, 6, 297-303  
 philosophy, 23-50  
     Arabic, 30<sup>20</sup>, 35<sup>25</sup>  
     Greek, 23-50  
 Phoenicia, 74<sup>27</sup>  
 Phoenician, 298-9  
 Phoenicians, 300-1  
 Pilate, Pontius, 85<sup>119</sup>, 311, 314, 316,  
     319  
 pirates, 73<sup>26</sup>, 74  
*plagiaria*, 248-9. *See also* *andrapodismos*,  
     *doulagogia*  
*plagium*, 237<sup>11-12</sup>, 249  
 Plato, 23-5, 27-30, 157, 174, 250  
 pleasure, 23-32, 35-40, 42, 47, 61<sup>44</sup>,  
     109<sup>56</sup>, 226  
 Pliny the Elder, 215, 230  
 Pliny the Younger, 297  
 poetry, 118, 128-9  
 poisoning, 235  
*politeuma*, 169, 171  
 Polybius, 11, 13  
 Polymele, 102<sup>42</sup>  
 Pompeii, 72<sup>13</sup>  
 Pompey, 71-6, 225, 312, 314  
 Pontius Pilate. *See* Pilate, Pontius  
 Pontus, 73<sup>26-7</sup>  
 Porphyry, 296, 299-300  
 Porta Capena, 84

Poseidon, 172  
*potestas vitae necisque*, 100<sup>34</sup>  
 Potiphar, 101<sup>38</sup>  
*praefectus praetorio*, 125  
*praefectus urbi*, 123-4  
 priests, 300  
   Egyptian, 101<sup>38</sup>, 259  
   Jewish, XXIII, 16-19, 96-7, 102,  
   311-12, 315, 323, 327  
 Priscian, 156  
 Procopius of Gaza, 155, 158-63  
 prophets, 16-19, 40, 320  
 proverbs, 5, 211-23  
 Ptolemaic era, 150<sup>19</sup>, 171-4, 269-72,  
   276-7  
 Ptolemais Euergetis, 271, 274<sup>22</sup>, 275<sup>24</sup>,  
   278  
 Ptolemies, 6  
 Ptolemy IV Philometor, 264<sup>40</sup>  
 Ptolemy VIII Euergetes II, 259  
 Puteoli, 126  
  
 Qumran, 323  
  
 Ra'abad. *See* Avraham ben David of  
   Posquières, Rabbi  
 Rabbenu Tam. *See* Yaakov ben Meir,  
   Rabbi  
 Rabbi. *See* Judah HaNasi, Rabbi  
 rabbis, 4, 30, 33, 39<sup>28</sup>, 52, 62-3, 93, 97,  
   99-100, 156, 181, 187, 194<sup>51</sup>, 197,  
   198<sup>66</sup>, 203<sup>77</sup>, 300<sup>55</sup>, 303, 319, 332<sup>100</sup>  
 Rabello, Alfredo Mordechai, XXIII  
 radishes, 53, 56-7  
 Ramah. *See* Abulafia, Meir HaLevi,  
   Rabbi  
 Ran. *See* Nissim Girondi, Rabbi  
 ransom, 78  
 Rashbam. *See* Shmuel ben Meir, Rabbi  
 Rashi (Rabbi Shlomo Yitzchaki), 182-  
   3, 198<sup>65</sup>, 203<sup>77</sup>  
 Rav, 56  
 Rava, 179-207  
 Rebecca, 25<sup>5</sup>, 40, 56  
 Repentinus, P. Claudius Pallas  
   Honorat(us), 123

Repentinus, Sex. Cornelius, 118, 123-4  
 replacement theology. *See* supersession.  
 Reuben son of Jacob, 101  
 rhetors, 155-65  
 robbery, 235  
 Roman Empire, 6, 132, 235-53  
   provinces, 255  
 Roman law *See* law: Roman  
 Roman period, 6  
 Romans, 6, 100, 144  
 Rome, XXI, XXXIII, 4, 14, 21, 52, 56,  
   59-61, 65, 69, 70-71, 74, 78-79,  
   82, 84-90, 112, 114, 154, 213, 217,  
   222-3, 231, 281, 293, 304-5, 309,  
   311-12, 314, 324-6, 329, 331, 334-6  
 Rome (city), 4<sup>1</sup>, 70, 71-8, 80, 83-4, 125,  
   194, 212, 298  
   Jews in, 69-86, 303  
 rose, 58  
 Rosenzweig, Franz, 302<sup>67</sup>  
 Rostovtzeff, Michael I., 6, 285-305  
 Rostovtzeff, Sophie, 285-305  
 Rufus, Mettius, prefect, 256  
 Ruth, 26, 108  
  
 Saadya Gaon, Rabbi, 186  
 Sabbath, 78, 135, 199-200, 316  
 Sabbatical year, 52<sup>3</sup>  
 Sadducees, 323  
 Salome, 313  
 Salome Komaïse, 150<sup>20</sup>  
 Samaritans, 163  
 Sanchuniathon, 299-300  
 Sanhedrin, 108, 184-5, 316, 319-20  
 Sarah, 101-2  
 Sardinia, 75  
 Saul, son of Simeon, 101  
*SC Orficianum*, 109  
*SC Tertullianum*, 109<sup>59</sup>  
 Schiller, A. Arthur, XXX  
*scholastikoi*, 155-65  
 Scholem, Gershom, 302<sup>67</sup>  
 Scipio Aemilianus, 75  
 Scipio Hispanus, Cn. Cornelius, 76<sup>43</sup>  
 Scythia, 73<sup>26</sup>, 74<sup>28</sup>  
 Scythopolis, 158

- secularism, 314, 332  
 Seleucids, 71<sup>9</sup>  
 Seleucus I, 230  
 Semiticism, 297–303  
 senate, 83<sup>102</sup>  
 senators, 82, 121, 123–4, 126, 326  
 Seneca the Younger, 218  
 Sermon on the Mount, 174  
 Shalamzion daughter of Judah  
     Khthousion, 150<sup>20</sup>, 194  
 Shamai, 29<sup>13</sup>  
 Shechem. *See* Sichem  
 Shimon, son of Jacob, 101  
 Shimon son of Kosibah. *See* Bar-Kokhba  
 Shimon bar Kappara, Rabbi, 95  
 Shimon ben Azzai, 95  
 Shmuel ben Ali, Rabbi, 181  
 Shmuel ben Meir, Rabbi 198<sup>65</sup>  
*Shtarot*. *See* documents: halachic  
 Sicarii, 323, 330  
 Sichem, 101  
 silphium, 60  
 Silva, Cornelius Flavius, 325–6, 329  
 silver, 228–9  
 Simeon. *See* Shimon  
 Similis, Sulpicius, prefect, 256  
*sitologoi*, 273<sup>18</sup>  
 slavery, 236  
 slaves, 94, 171, 211, 237, 239–40, 242,  
     246, 324, 329  
     Jewish. *See* Jews: slaves  
     living conditions, 73<sup>21</sup>, 79<sup>69</sup>  
     ransom, 72  
     sale of, 71–2  
     supply of, 71<sup>11</sup>  
 snake melon, 53–4  
 Socrates, 33<sup>23</sup>  
 Socrates scholasticus, 156<sup>10</sup>  
 Sohlberg, David, XXII  
 Soknopaiou Nêsos, 271–2  
 Solomon, King, 57–8  
 Solon, 108–9  
 sophists, 155–65  
 Sosius, C., 77  
 Spain. *See* Iberia  
 Spartans, XXIII  
*sponsalia*, 98<sup>23</sup>  
 Stada, 101<sup>36</sup>  
 Statius, 216–17  
 Stephen, Church of St., Jerusalem, 117  
*stipulatio*, 174  
 Strabo, 3, 230  
 supersession, 31–2, 310–11, 317, 321  
 Susa, 290<sup>13</sup>  
 synagogues, 70, 92, 317, 319, 329  
 Syria, 58, 73<sup>26</sup>, 74<sup>27</sup>, 77, 94, 131, 190  
     Roman, 291  
*Syria Palaestina*, 123–6, 128–9. *See*  
     *also* Israel: land, Judaea, Palestine  
 Tacitus, 4, 11  
 Talmud  
     Babylonian (*Talmud Bavli*), XV,  
         XXX, 51–65, 174, 179–207,  
         190, 195, 202, 204  
     Palestinian (*Talmud Yerushalmi*),  
         XVIII, 58, 62<sup>48</sup>, 64, 98, 174,  
         185<sup>21</sup>, 189<sup>35</sup>  
 Tamar, daughter of David, 23, 26, 29<sup>13</sup>,  
     101<sup>37</sup>  
 Tanhum ben Hiyya of Kefar Akko,  
     Rabbi, 110  
 Tanhuma, Rabbi, 106  
 Tarichaeae, 77  
 Tebtynis, 238–9, 246<sup>44</sup>, 248, 271–2,  
     274<sup>22–3</sup>  
 Tekoa', 144, 146  
 Temple, 33, 77, 106, 312, 316, 323  
 Tertullian, 292  
 Thebes (Egypt), 157  
 theocracy, 13  
 Theodosius II, 117, 128  
 Theopompus, 225  
 Third Commandment, 173  
 thistles, 52, 59–60  
 Thucydides, 13, 18  
 Tiber, 69, 79, 84  
 Tiberias, 58<sup>30</sup>, 61<sup>44</sup>, 110  
 Tiberius, 51, 54–55, 57–8, 70<sup>6</sup>  
 Tibet, 4  
 Tigranes, 73<sup>26</sup>, 74<sup>28</sup>  
 Timagenes of Alexandria, 230

- Timarchus, 104  
 Titus, 17, 75  
*Toledot Yeshu*, 4, 91–114  
 Torah, XVII, XXII, XXIII, XXX, 5,  
     15–17, 23, 25, 31, 33, 36, 45–6,  
     49, 177, 195, 197, 199, 202, 304,  
     312–13, 316, 327  
 Tosefta, 189<sup>34</sup>  
 trade. *See also* commerce  
     Essenes and, 323  
     foodstuffs, 60  
     slaves, 71  
 travel, 5, 73<sup>21</sup>, 101, 220, 292  
 Trimalchio, 4  
 triumph, 71–5, 77, 79, 212  
 Trogus, Pompeius, 5, 225–31  
 Trojan War, 300  
 Turranius, C., prefect, 245  
 Tyrians, 300  
 Tyro, 102<sup>42</sup>  
  
 Ulpian, XXIX, 235  
 Urdu, 3  
 utility, 24, 26–8, 35, 42  
  
 Varus, 77  
 Verus, 126  
 Vespasian, 17, 325, 326  
*vexillationes*, 122<sup>17</sup>, 124, 126  
 Vindolanda, 132<sup>4</sup>  
 Virgil, 220  
 virtue, 24, 26–28, 285  
  
 Wadi Murabba‘at, 134–37, 191  
 Wadi Seiyâl, 140  
 war, 17, 71, 294  
     Bar-Kokhba, 133–5, 147  
     booty, 71, 72<sup>15</sup>, 75  
     prisoners, 33, 70–9  
     Trojan, 300  
 watermelons, 53  
 wheat, 137, 144, 171, 217  
 wills, 184, 195  
     freedom of disposition, 81, 260,  
         262–4  
 wine, 218  
 women, 29<sup>12</sup>, 33, 35, 40, 42, 74<sup>28</sup>, 100,  
     102–5, 110, 131<sup>2</sup>, 150, 211, 271–2,  
     274, 278, 289<sup>10</sup>, 328–9, 331  
 wood, 228  
     letters on, 132, 143  
  
 Ya‘akov ben Natan‘el, 94  
 Yaakov ben Meir, Rabbi, 198, 200  
 Yadin, Yigael, 322, 324  
 Yarmuk, 128  
 Yehoshua ben Levi, Rabbi, 95  
 Yehoshua ben Perahiah, 105  
 Yehudah Pardasi, 105  
 Yehudah, Rav, 56  
 Yemen, 132  
*Yerushalmi*. *See* Talmud: Palestinian  
 Yeshu. *See* Jesus  
 Yohanan ben Zakkai, Rabban, 95  
 Yohanan, husband of Mary, 91–114  
 Yonah Girondi, Rabbenu, 180<sup>2</sup>  
 Yoseph. *See* Joseph, husband of Mary  
  
 Zacharias of Mytilene, 156<sup>10</sup>, 159  
 Zacynthus, 77  
 Zanzibar, 220  
 Zealots, 323, 327, 329–330  
 Zenobius, 213, 215  
 Zeus, 172, 298  
 Zeus Amon. *See* Ammon  
 zucchini, 52



Finito di stampare nel mese di ottobre 2016  
EUT Edizioni Università di Trieste