

## **The Position of Roman Slaves**

# **Dependency and Slavery Studies**



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Jeannine Bischoff and Stephan Conermann

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# The Position of Roman Slaves



Social Realities and Legal Differences

Edited by  
Martin Schermaier

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# Introduction

Roman law has a lot to tell us. It forms the basis for most private law systems in use today. It is an important source for the history of concepts and ideas in western civilisation. And it is, finally, a key with which to unlock our understanding of ancient Roman culture. Anyone who wants to study Roman slavery cannot ignore Roman slave law.

But work on the Roman legal texts involves a number of difficulties. They are easily accessible, both in print and digitally online. The most important texts have been translated into the most common modern languages. But not every historian will find it easy to engage with the complex legal questions posed by many of these texts. What they have to tell us about social conditions in Rome often only becomes intelligible after one has worked one's way through the hard shell of technical jargon and dogmatic subtleties. Another problem is that most extant legal texts do not discuss the legal position of slaves. Instead, they discuss slaves who, as persons or as things, became part of a legal dispute. These texts tell us only indirectly about the rights or duties of slaves, or about a slave's position vis-à-vis a free person. Only where Roman laws were used to discuss a specific conflict in concrete terms can we draw conclusions about what is commonly referred to as 'slave law.' Paul du Plessis has already described this conundrum: 'While Roman legal sources do not provide much information about the socio-economic context of slavery, they do contain interesting glimpses of such concerns and the way in which this affected juristic reasoning.'<sup>1</sup>

So, if we want to find out something about the legal and social position of slaves, we need to study Roman legal texts in terms of their purposes, as it were: only the ruling and the reasoning divulge some information about the roles of slaves in that specific conflict, and perhaps more generally. The project about the Roman legal sources of slavery, 'Corpus der römischen Rechtsquellen zur antiken Sklaverei (CRRS)',<sup>2</sup> supported by the Mainz Academy of Sciences and Literature, facilitates access to the relevant legal texts and so helps us to understand them. It is, however, beyond the scope (and indeed not the stated aim) of that excellent project to facilitate access also to underlying social conditions in Rome. The present volume hopes to fill that gap in terms of selected aspects of Roman slave law. The authors, all of whom are legal historians, hope to bore through the hard technical shell of legal texts in order to get at their social core.

In doing so, they start from a shared working hypothesis, namely that Roman slavery was more diverse than we might assume from the standard wording about servile legal status. Slaves were the property of their *dominus*, objects rather than persons, and largely without rights: these are some components of our basic knowledge

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<sup>1</sup> Paul J. du Plessis, "The Slave in the Window," in *By the Sweat of Your Brow. Roman Slavery in Its Socio-Economic Setting*, ed. Ulrike Roth (London: Institute of Classical Studies, University of London, 2010): 49–60, 59.

<sup>2</sup> <https://www.adwmainz.de/index.php?id=712> [accessed 04.08.2022].

about Roman slavery. Yet numerous inscriptions as well as literary and also legal sources reveal clear differences in the social structure of Roman slavery. At the lower end of the scale, we find the socially degraded penal slaves (*servi poenae*), at the top end the often wealthy and sometimes socially influential state slaves (*servi caesaris*). In between, there were numerous groups and professions who shared the status of being unfree while inhabiting very different worlds.

The papers in this volume now pose the question of whether and how legal texts reflected such social differences within the Roman servile community. Did the legal system reinscribe social differences, and if so, in what shape? Were exceptions created only in individual cases, or did the legal system generate privileges for particular groups of slaves? Did it reinforce and even promote social differentiation? Of course, the essays collected here cannot paint a complete picture of Roman slave law. But they all probe neuralgic points that have long been known to challenge the homogeneous image of Roman slave law that still dominates modern scholarship. In this way we hope to show that Roman slave law was a good deal more colourful than historical research has so far assumed.

This volume is the result of a conference held at the ‘Bonn Center for Dependency and Slavery Studies’ (BCDSS) in August 2020. Despite the uncertainties created by the Covid-19 pandemic, a large number of the authors gathered in person in Bonn to discuss their contributions in two intensive sessions. As such, this conference was one of only a few academic bright spots during a two-year period of widespread isolation. We would like to thank the responsible bodies at the University of Bonn and the BCDSS for their support. Our special thanks go to the BCDSS, which funded both the conference and this volume. Imogen Herrad translated most of the papers in this volume into English; she also reviewed and, where necessary, improved the few that were submitted in English. We would like to express our sincere thanks for her commitment and patience in exploring particular interpretations and meanings. We would also like to thank the staff of the Institute of Roman Law and Comparative Legal History at the University of Bonn, especially Tessa Spitzley, as well as Dr Janico Albrecht at the BCDSS, who compiled the indexes and typeset and prepared the manuscript for going to press.

Bonn, June 2022

Martin J. Schermaier  
on behalf of all authors

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Pierangelo Buongiorno

# Social Status ‘Without’ Legal Difference. Historiography and Puzzling Legal Questions About Imperial Freedmen and Slaves

## 1 Historiography

In den drei Dezennien, die seit dem Erscheinen der ersten Auflage dieses Buches beinahe verflossen sind, ist die Forschung auf dem hier behandelten Gebiet nicht stehen geblieben.

With these words the German historian Otto Hirschfeld opened, in 1905, the introduction to the second edition of perhaps his most famous work, *Die kaiserlichen Verwaltungsbeamten bis auf Diocletian*.<sup>1</sup> Through the systematic and painstaking investigation of sources, especially epigraphic and papyrological ones, this study had reconstructed – since its first edition (Berlin 1877) – the development of the imperial administration: from the first nucleus that emerged in the Julio-Claudian period, through the well-structured administration under Claudius to the considerable reforms in the age of Diocletian.

By Hirschfeld’s own admission, the subject necessarily ended up being influenced by the progress in the auxiliary sciences of epigraphy and papyrology.

In the pages of Hirschfeld, the *familia Caesaris*, i.e. the ensemble of slaves and freedmen of the emperors, was not investigated *ex professo* but could be perceived as a constant presence in some ways. In the same way that an extensive group of slaves and freedmen carried out the most diverse tasks in private households, the emperor’s slaves and freedmen could be called upon to carry out palace tasks as well as, broadly speaking, tasks connected to the management of the emperor’s property and, *lato sensu*, of entire spheres of the growing imperial administration. Hirschfeld mainly focused on the first important evidence concerning the *familia Caesaris*, namely its activities to ensure the water supply of Rome, in imitation of a model that tradition says was introduced by Agrippa. This led to the creation of a

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<sup>1</sup> Otto Hirschfeld, *Die kaiserlichen Verwaltungsbeamten bis auf Diocletian*, 2nd ed. (Berlin: Weidmann, 1905): VI. The book, whose first edition had appeared in 1877, was projected as part of a monumental history of the Roman administration, to be published under the title *Untersuchungen auf dem Gebiete der roemischen Verwaltungsgeschichte*.

**Note:** The following pages develop the paper delivered in Bonn in August 2020, with some modifications and the addition of a concise apparatus of footnotes and useful bibliography.

position of *procurator aquarum*, which was at first entrusted to imperial freedmen (e.g. such as *Ti. Claudius Aug. lib. Bucolas*, *CIL XI 3612*).<sup>2</sup>

Nevertheless, he emphasized the involvement of the emperor's slaves and freedmen in the newborn imperial administration,<sup>3</sup> which reached its peak during the first Antonine age. At a later time these administrative apparatuses saw a progressive 'professionalization', in the course of which the slaves and freedmen at the top of these hierarchies were replaced by members of the equestrian rank. This was due in part to a change in the social perception of the emperor's role (of which slaves and freedmen were the most obvious manifestation) in relation to the administration of the empire:

Die Person des Kaisers tritt aus der Reichsverwaltung zurück, an Stelle der kaiserlichen Freigelassenen und Sklaven wird der so lange vom Staatsdienste gänzlich ausgeschlossene dritte Stand zu den niederen Stellen zugelassen, es bildet sich eine Subalternenkariere im modernen Sinne und ein in sich geeinigter Reichsbeamtenstand.<sup>4</sup>

Hirschfeld's study was in its own way pioneering, a sign of a proudly 'Mommsonian' period: a time in which sources and evidence were the core of scholarly thought, in which historical and legal investigations were not seen as divided by insurmountable obstacles but perceived as parts of the same whole. In addition to historians, the work was also appreciated by that generation of jurists such as Leopold Wenger and Paul Koschaker who, influenced above all by scholars such as Ludwig Mitteis, would shortly open new paths of romanistic research.<sup>5</sup>

In any case, Hirschfeld's work set the standard, remaining – for method and results – a point of reference for many decades. Arnold Mackay Duff's study on *Freedmen in the Early Roman Empire*,<sup>6</sup> for example, was a strong tribute to Hirschfeld's work: the same was also the study on imperial freedmen, and even the overall structure of § V of the entry *Libertus* in the *Dizionario Epigrafico*, edited by Giovanni

<sup>2</sup> Hirschfeld, *Die kaiserlichen Verwaltungsbeamten* (n. 1): 275–84.

<sup>3</sup> Hirschfeld, *Die kaiserlichen Verwaltungsbeamten* (n. 1): 457–65.

<sup>4</sup> Hirschfeld, *Die kaiserlichen Verwaltungsbeamten* (n. 1): 486.

<sup>5</sup> It is interesting to note that in the Nachlass Paul Koschaker (stored in the Rechtshistorische Bibliothek of the WWU Münster), there is a copy (signature ROM VI E 8) of the newly published second edition of Hirschfeld's book, given to the younger Paul Koschaker by the elder Leopold Wenger on the occasion of their teaching in Graz in WS 1905/06 (Wenger as außerordentlicher Professor, Koschaker as Privatdozent, freshly habilitated by Gustav Hanausek). The title page bears the dedication: "Meinem lieben Freunde Koschaker bei Beginn der gemeinsamen Dozentur. Graz, Oktober 1905. L. Wenger." The book was evidently at the center of the debate among these scholars, certainly not ruled by the anxiety to distinguish by labels what is history and what is law, a concern that unfortunately governs much historical-legal research today. On the relations between Koschaker and Wenger see Tommaso Beggio, *Paul Koschaker (1879–1951). Rediscovering the Roman Foundations of European Legal Tradition*, 2nd ed. (Heidelberg: Winter, 2018): 33–34, with bibliography.

<sup>6</sup> Arnold Mackay Duff, *Freedmen in the Early Roman Empire* (Oxford: Clarendon Press, 1928; repr. 1958).

Vitucci: it was organized, after a preamble, according to the tasks of the imperial freedmen, and broadly followed the *Gliederung* of Hirschfeld's work.<sup>7</sup>

But Vitucci, who concluded his work in October 1958, more than half a century after Hirschfeld, was able to consider the further progress of epigraphic research, made up of discoveries and new text readings, and this allowed him to specify how the number of imperial slaves and freedmen involved in the administration grew progressively and disproportionately, and how these servants and officials were actually not small in number even under the first emperors. From the examinations of the epigraphic evidence, diligently annotated by Vitucci, it became clear that from the start of the Julio-Claudian period, imperial freedmen were employed in almost all the branches of administration, both in Rome and in the provinces, in parallel with the progressive expansion of imperial interference in the spheres of competence of the ancient magistracies. Often this led to the creation of new administrative apparatuses, especially from the age of Claudius.<sup>8</sup>

Vitucci's work, soon to be counted among 'the best general treatments on freedmen',<sup>9</sup> provided a solid documentary basis for several works on slaves and imperial freedmen that were published soon after. These studies were now being written from a perspective of social history. All of them were conducted during the following decade, and, while coming to light in different cultural and academic contexts, brought about a season of profound rethinking of the categories of historical research, with a greater openness toward social history, evidently driven by that climate of democratization that pervaded the western world.

As is well known, the distinguished scholar Gérard Boulvert (1936–1984) dedicated almost his entire research activity to analyzing the role of imperial slaves and freedmen in the first centuries of the current era. His monumental two-volume doctoral dissertation was written under the direction of Jacques Macqueron and then discussed at the University of Aix-en-Provence in 1964. It was awarded with the *Premio Vincenzo Arangio-Ruiz*; after this exploit of such a young scholar the first volume was published in 1970 in Napoli (Jovene) under the title of *Esclaves et affranchis impériaux sous le Haut-Empire romain. Rôle politique et administrative*, while the second volume, concerning the work of *servi* and *liberti principis*, appeared as a stand-alone volume in Paris (Les Belles Lettres) in 1974 under the title *Domestique et fonctionnaire sous le haut-Empire romain*.

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7 Giovanni Vitucci, s.v. "Libertus," in *Dizionario Epigrafico*, vol. 4/1 (Rome: L'Erma di Bretschneider, 1958): 905–46, mainly 933–46.

8 Vitucci, "Libertus" (n. 7): 934. On this point see also § 2, below.

9 Thus Paul Richard Carey Weaver, *Familia Caesaris. Social Study of the Emperor's Freedmen and Slaves* (Cambridge: Cambridge University Press, 1972): 4 n. 2.

The research of Boulvert on *servi* and *liberti principis* was not an isolated case.<sup>10</sup> In fact, the 1960s were the years in which this subject came to the fore, even in other cultural contexts. If the participation of slaves and imperial freedmen in the Roman imperial administration had been understudied for a long time, despite its obvious importance for early Imperial social and administrative history, the reconstruction of the multiple profiles of interest that arose from it was in the 1960s again the focus of other cultural contexts, such as the Anglo-Saxon and West German ones.

As Hans-Georg Pflaum pointed out, between the 1960s and 1970s ‘les recherches sur l’esclavage’ were ‘à la mode’, mainly because of many inscriptions that constituted the base for fruitful investigations.<sup>11</sup> But without doubt it was also the cultural effect of the processes of decolonisation investing society after the end of the Second World War: such processes implied and indeed somewhat required a better knowledge of the phenomena of imperialism also in an historical perspective. Thus, in the same years in which Boulvert worked on his topic, two other scholars published books on the same subject.

In Germany, under the supervision of Hans Ulrich Instinsky, a brilliant scholar as Heinrich Chantraine (1929–2002) in 1964 submitted his Habilitationsschrift entitled *Freigelassene und Sklaven im Dienst der römischen Kaiser. Studien zu ihrer Nomenklatur*. This research was part of the growing interest of the *Akademie der Wissenschaften und der Literatur Mainz* in slavery in the ancient world, and in fact it was published, after review, in 1967 as the inaugural volume of the series *Forschungen zur Antiken Sklaverei*; this series had been founded by Instinsky himself together with Joseph Vogt with the aim of publishing the results of the monumental project of the same name. This project was recently completed under the auspices of the *Kommission für Geschichte des Altertums* of the *Akademie* in Mainz, without, however, treating in a systematic fashion the themes of *liberti* and *servi* in the imperial administration.<sup>12</sup>

Boulvert had already stressed in his thesis the necessity of focusing attention on the one hand on the role of slaves and freedmen in the nascent imperial bureaucracy, and on the other on their legal status (especially, of course, the freedmen) in terms of Roman private law.<sup>13</sup> Chantraine meanwhile drew attention to some important matters: mainly the close ideological connection between slaves and freedmen; he also drew attention to the possibility of better defining their legal status based

<sup>10</sup> See already Luigi Labruna, “Gérard Boulvert (1936–1984),” *Index* 15 (1987): XIII–XXII.

<sup>11</sup> Hans-Georg Pflaum, “Préface,” in *Domestique et fonctionnaire sous le haut-Empire romain*, vol. 3, ed. Gérard Boulvert (Paris: Les Belles Lettres, 1974): 3.

<sup>12</sup> Except for the synthetic encyclopedic voice of Werner Eck, s.v. “Familia Caesaris,” in *Handwörterbuch der Antiken Sklaverei*, vol. 1, ed. Heinz Heinen et al. (Stuttgart: Franz Steiner Verlag, 2017): 907–8.

<sup>13</sup> Gérard Boulvert, “Les esclaves et les affranchis impériaux sous le Haut-Empire romain” (PhD diss., CRDP Aix-en-Provence, 1964): vol. 1, 2–7, 455.

on a systematic study of the 'Nomenklatur', largely in the light of the epigraphic documentation.<sup>14</sup> As Chantraine himself recalls, such an approach took advantage of the rich epigraphic heritage collected in the *Corpus Inscriptionum Latinarum*, using the prosopographical method employed by Hermann Dessau and, mainly regarding the *uterque ordo*, by Edmund Groag and Arthur Stein.<sup>15</sup>

This formidable season of studies was completed by the research of Paul Richard Carey Weaver (1927–2005), an Australian professor of classics, who in 1972 published a relevant volume, *Familia Caesaris. A Social Study of the Emperor's Freedmen and Slaves*.<sup>16</sup> The text combined social history with an account of the actual practice of a Roman law of slavery concerning imperial servants. Weaver's monograph was preceded by several short essays, all of which appeared in the 1960s and which emphasized some preliminary<sup>17</sup> methodological problems. Weaver mainly tried to verify whether and in what way the framework of epigraphic documentation could confirm the reality of some aspects of the Roman law of persons.

The rapid succession of wide-ranging studies by Boulvert, Chantraine and Weaver produced, by the mid-1970s, the consolidation of a base, not only of data, but also (and perhaps above all) of reflective perspectives on which the investigations of the following decades were based. More detailed investigations, which allowed us to deepen our knowledge of individual aspects and problems of the role of slaves and freedmen within the dynamics of imperial power, sometimes even examined on a temporal basis. One is the synthesis by Fergus Millar in his *Emperor in the Roman World*. Another good example is Aloys Winterling's *Aula Caesaris*, a study on the institutionalization of the imperial court that investigated the role of freedmen, especially in the second half of the Julio-Claudian age.<sup>18</sup>

Over time, our dossier on the subject has been enriched by new epigraphic evidence which allowed us to increase our knowledge, updating the picture outlined by Vitucci's studies. Until the early years of the twenty-first century a constant survey of epigraphic evidence was carried out by Paul Weaver who, practically until the end of his life, worked on the preparation and constant updating of a repertoire of sources on imperial servants and freedmen, which included reassessing the interpretation of already known texts. After Paul Weaver's death (he passed away on 2 January 2005), Alleeta French, his widow, handed over his *Repertorium Familiae*

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14 Heinrich Chantraine, *Freigelassene und Sklaven im Dienst der römischen Kaiser* (Wiesbaden: Franz Steiner Verlag, 1967): 14–41.

15 Chantraine, *Freigelassene und Sklaven* (n. 14): VII.

16 See above n. 9.

17 Cf. mainly Paul Richard Carey Weaver, "The Status Nomenclature of the Imperial Freedmen," *Classical Quarterly* 13, no. 2 (1963): 272–78; Paul Richard Carey Weaver, "Irregular Nomina of Imperial Freedmen," *Classical Quarterly* 15, no. 2 (1965): 323–26.

18 Fergus Millar, *The Emperor in the Roman World, 31 B.C.–A.D. 337* (London: Duckworth, 1977): 69–83; Aloys Winterling, *Aula Caesaris: Studien zur Institutionalisierung des römischen Kaiserhofes in der Zeit von Augustus bis Commodus (31 v. Chr.–192 n. Chr.)* (Munich: C.H. Beck, 1999).

*Caesarum* to Werner Eck. Only a few parts of the *Repertorium* were not yet ready and sometimes just sketched out, but Werner Eck's team made it ready for publication in only a few short months. It was published in September 2005.<sup>19</sup> As Eck writes in the introduction to the *Repertorium*, Weaver

knew all the problems associated with this group of people, and he knew above all how important this group is for understanding the imperial period. For, without knowledge of it, the politics, administration and society of the Principate cannot be analysed and understood. Above all, however, he saw that many general statements concerning this group often were not supported by the sources, at least if one takes all the sources into consideration comprehensively. Of course, he also knew that it was very laborious to obtain a complete overview of the relevant sources; for a comprehensive collection of the sources did not exist. From an early time, therefore, he turned himself to the task of constructing a *repertorium* which would render it unnecessary for others to make such a laborious collection.<sup>20</sup>

## 2 Social Condition and Political Relevance of Imperial Slaves and Freedmen: Some Remarks

The results of the historiographical framework outlined above made it possible to consolidate and refine our knowledge. There is no doubt that imperial slaves and freedmen were very numerous. There were various routes by which slaves came into the imperial patrimony: purchase in the markets through intermediaries assigned to look after the emperor's interests in his various possessions, confiscation of the goods of convicted criminals, testamentary bequests, and especially the birth of *vernae* from slaves already belonging to the emperor's patrimony (often – but not always, as we will see – as a result of endogamic phenomena within the *familia Caesaris*).

All of these slaves, as well as the freedmen manumitted by the emperor, are generally referred to as the *familia Caesaris*, an expression that synthesizes the nexus *liberti servive*. But, above all during the initial phase of the principate, there was an elite of freedmen from the more restricted circle close to the first emperors, who stood out for their importance.

One can certainly agree with Mouritsen in the consideration that 'the Roman emperor had literally hundreds if not thousands of freedmen, and it was of course

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<sup>19</sup> Paul Richard Carey Weaver, "Repertorium Familiae Caesarum," *Universität zu Köln*, 09.07.2013, <https://alte-geschichte.phil-fak.uni-koeln.de/personal/ehemalige-emeriti/eck-prof-dr-werner/weaver-repertorium> [accessed 23.08.2022].

<sup>20</sup> Werner Eck, *Information Regarding Paul Weaver's Repertorium of Imperial Freedmen and Slaves* (Cologne: Universität zu Köln, 2005): 1, <https://alte-geschichte.phil-fak.uni-koeln.de/personal/ehemalige-emeriti/eck-prof-dr-werner/weaver-repertorium> [accessed 23.08.2022].

only a handful of them who ever came near the centre of power and only for what seems to be a relatively short period during the first century CE,<sup>21</sup> but on the other hand it should be noted that, although the number of servants who emerged and reached important positions was proportionally very low, we can speak of these persons as 'servants and officials' at the same time.

The beginnings of an imperial power apparatus, the primitive nucleus of a bureaucracy, was run by the freedmen from the *familia Caesaris*. This privileged existence gradually faded away, from the early Antonine age onwards, coming to a definitive end during the principate of Hadrian, in which the bureaucracy was run by equestrians.

The principate of Claudius, as numerous sources and evidence confirm, undoubtedly marked the highest point of this process. In other words, Claudius accelerated the processes of bureaucratisation of imperial power, and he did so through the active involvement of freedmen. Despite the critical attitude of senatorial historiography, these freedmen were nearly always selected for their outstanding managerial and political skills, which promoted them to head departments as *a cognitionibus*, *a studiis*, *a rationibus*, *ab epistulis*, *a libellis*, where they supervised the various areas of management of imperial power, from the treasury to the chancellery.<sup>22</sup> In the same period we also find imperial freedmen placed in charge of the government of some provinces entrusted to the emperor (e.g. Marcus Antonius Felix, procurator of Judea from 52 to 60 CE), or of parts of them.<sup>23</sup>

These activities were accompanied by substantial monetary donations to imperial freedmen who had risen to top positions, as well as *ornamenta* (*quaestoria*, *praetoria*, *consularia*), i.e. honours comparable to those of senators (of quaestorian, praetorian or consular rank).

It lasted only for a brief period. Gradually the imperial freedmen slipped more and more into subordinate or middle-management positions, often connected to the peripheral management of the imperial wealth, and not infrequently having slaves belonging to the emperor<sup>24</sup> as their dependents, especially when it came to managing the landed estates and the related production chains.<sup>25</sup> This wealth was, moreover, expanding due to phenomena that, for the first imperial age, were reproduced on a large scale: the hereditary succession of the emperor to private individuals and

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21 Henrik Mouritsen, *The Freedman in the Roman World* (Cambridge: Cambridge University Press, 2011): 93.

22 The key text remains Suet. *Claud.* 28. See already Vitucci, "Libertus" (n. 7): 935–36. But now see also Pierangelo Buongiorno, *Claudio. Il principe inatteso* (Palermo: 21 Editore, 2017): 107–14.

23 For Felix see *PIR*<sup>2</sup> A 828; but already in the age of Tiberius a freedman is reported as vice-prefect of Egypt (Dio 58.19.6).

24 Vitucci, "Libertus" (n. 7): 936.

25 The study by Marco Maiuro, *Res Caesaris. Ricerche sulla proprietà imperiale nel principato* (Bari: Edipuglia, 2012), deserves to be mentioned.

above all the legislation relating to *bona caduca* and the numerous confiscation procedures connected to criminal repression.

Thus, while the imperial slaves, who legally were counted among the *res Caesaris*, were often relegated to the most menial tasks, the freedmen were increasingly promoted to be procurators of the emperor's wealth, thus participating in a concrete way in the construction of the imperial order, now in open dialectic with the republican one.<sup>26</sup>

A relevant element of this process was the establishment of the jurisdiction of the imperial procurators and the rapid alignment of their judgements with those of the emperor. The *procuratores*, or at least some of them, had from the outset had a circumscribed focus of jurisdictional authority, albeit limited *in servitia et pecuniae familiares*, that is, over the *familia Caesaris* itself and the personal property of the emperor.

Within a few decades, however, this authority increased, as a matter of practice, to exponentially affect conflicts with private individuals. We have evidence of this – perhaps for the principate of Caligula, and certainly early on during the principate of Claudius<sup>27</sup> – in relation to matters previously entrusted to praetorian jurisdiction. It is likely, therefore, that there were frequent conflicts of authority between the jurisdiction of the magistrates and the judicial functions of the *procuratores*, now established in practice.

At the end of this process, a senatorial decree passed already in 53 CE determined that the sentences issued by the imperial procurators were recognized as equivalent to those issued by the imperial court.<sup>28</sup> This had the effect of acknowledging the existence of two constitutional orders (the republican and the imperial one) and, by means of the link constituted by the *princeps* (almost a Cartesian pineal gland), connecting them through the delegation to the imperial order of functions traditionally being the responsibility of the republican order. As Tacitus tells us (*ann.* 12.60.1), after this senatorial decree of 53 CE the imperial order, which was expressed through the procurators, was recognized more fully and abundantly than before (*plenius quam antea et uberius*).

<sup>26</sup> For the connection wealth-*procuratores*, see Peter Astbury Brunt, *Roman Imperial Themes* (Oxford: Oxford University Press, 1990): 353–432. But see now also the important work of Sabine Schmall, *Patrimonium und Fiscus. Studien zur kaiserlichen Domänen- und Finanzverwaltung von Augustus bis Mitte des 3. Jahrhunderts n. Chr.* (PhD diss., Universität Bonn, 2011).

<sup>27</sup> Suet. *Cal.* 47.1; *CIL* V 5050 = *ILS* 206.

<sup>28</sup> Pierangelo Buongiorno, *Senatus consulta Claudianis temporibus facta. Una palinogenesi delle deliberazioni senatorie dell'età di Claudio (41–54 d.C.)* (Naples: Edizioni scientifiche Italiane, 2010): 77, 349–52, with bibliography.

### 3 Roman Jurisprudence and the *liberti servive principis*

In the light of what I have outlined so far, it can be seen how the *familia Caesaris*, i.e. the slaves belonging to the *fiscus Caesaris* and the freedmen deriving from this patrimonial asset, all of who promoted the emperor's economic interests, assumed an almost autonomous connotation even in the eyes of the jurists.

This is confirmed by an examination of the mentions of *servi* and *liberti Caesaris* in Roman jurisprudence. This is an aspect that has been somewhat neglected by previous studies, but which requires further reflection.

First of all, it should be noted that the expression *familia Caesaris* or *familia principis* is never attested in jurisprudential sources. In fact, the Roman jurists mainly refer to individual imperial slaves, and to indicate them they prefer formulations such as *servus principis*, *servus Caesaris* and even *servus fisci*, whereby *fiscus* is seen as an element of continuity in the principate.<sup>29</sup> This is explained above all by the fact that the attention of jurists often focused on the conduct of the *servus* as an individual, and not of the emperor's *familia* as a whole.

But even this interest is always functional to the investigation of an individual emperor's prerogatives in the field of private law. This is confirmed, for example, by the evidence (e.g. Ulp. 16 *ad ed.*, D. 1.19.1.2; Pomp. 12 *ex var. lect.*, D. 28.5.42) concerning the emperor's power to purchase an inheritance through his slaves.

In other words, the sources of classical jurisprudence overall show how, at least on a formal level, slaves (and freedmen) of the emperor, especially when considered *uti singuli*, did not enjoy a privileged position compared to slaves and freedmen of private individuals. By way of further proof, it is sufficient to recall how even pseudo-Ulpian, in the *Liber singularis regularum*, recalled (1.12) how the provisions on the annulment of manumissions ordered by minors under thirty years of age under the *lex Aelia Sentia* included imperial slaves (*ideo sine consilio manumissum Caesaris servum manere putat*).

However, the circumstances (admittedly not many) in which the emperor's slaves and freedmen were considered in their entirety lead us back to a perhaps somewhat different scenario. A significant clue comes from Callistratus, 2 *quaest.*, D. 47.9.7 [*Pal.* 107 Lenel]. Callistratus wrote the *quaestiones* in the early years of the principate of Septimius Severus, roughly between 193 and 200 CE.

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<sup>29</sup> Ulp. 8 *ad Sab.* D. 29.2.25.2. From this list should be excluded the *servi poenae* who, as mentioned in a rescript of Antoninus Pius, were separated from the *servi fisci* (see D. 34.8.3; D. 29.2.25.3; D. 49.14.12: *magis poenae servos quam fisci*). On this matter see, efficaciously, already Annarosa Gallo, s.v. "Strafsklaverei," in *Handwörterbuch der Antiken Sklaverei*, vol. 3, ed. Heinz Heinen et al. (Stuttgart: Franz Steiner Verlag, 2017): 2963, and now, widely, also Tommaso Beggio, *Contributo allo studio della 'servitus poenae'* (Bari: Cacucci Editore, 2020), 15–17, 59–60, 115–120, 288–292.

This casuistic work intended to resolve several practical cases, arranged according to relevant themes.

In the second book the jurist also focused at length on naval trade and shipwrecks. In the palinogenetic reconstruction of Otto Lenel, in fact, D. 47.9.7 is immediately followed by D. 14.2.4 (*Pal.* 108 Lenel), i.e. a text about the risks involved in the loss of cargo by a cargo ship. Such topics often attracted the interest of Callistratus, as we can see for example (with specific reference to shipwreck) in texts such as 1 *de ed. monit.* D. 47.9.6, and 1 *de cogn.*, D. 50.6.6.3–6. On the other hand, Callistratus was a jurist who was attentive to certain aspects of provincial administration and the risks and responsibilities connected with overseas traffic were evidently part of his horizon of interests.<sup>30</sup>

Justinian's commissioners cut off the fragment without modifying it (there is no reasonable trace of interpolation) and put it under the heading D. 47.9.7, *De incendio ruina naufragio nave rata expugnata* ('Concerning fire, destruction, and shipwreck, where a boat or a ship is taken by force'):

D. 47.9.7 (Call. 2 quaest.): Ne quid ex naufragiis diripiatur vel quis extraneus interveniat colligendis eis, multifariam prospectum est. nam et divus Hadrianus edicto praecepit, ut hi, qui iuxta litora maris possident, scirent, si quando navis vel inficta vel fracta intra fines agri cuiusque fuerit, ne na naufragia diripiant, in ipsos iudicia praesides his, qui res suas direptas queruntur, reddituros, ut quidquid probaverint ademptum sibi naufragio, id a possessoribus recipiant. de his autem, quos diripuisse probatum sit, praesidem ut de latronibus gravem sententiam dicere. ut facilius sit probatio huiusmodi admissi, permisit his et quidquid passos se huiusmodi queruntur, adire praefectos et ad eum testari reosque petere, ut pro modo culpa vel vincti vel sub fideiussoribus ad praesidem remittantur. a domino quoque possessionis, in qua id admissum dicatur, satis accipi, ne cognitioni desit, praecipitur. sed nec intervenire naufragiis colligendis aut militem aut privatum aut liberum servumve principis placere sibi ait senatus.

D. 47.9.7 (Callistratus, Questions, book 2): Many precautions have been taken to hinder property from being stolen during a shipwreck, or to prevent strangers from coming in and taking possession of it. For the Divine Hadrian provided by an edict that those who owned land on the shore of the sea should, when a ship either badly damaged or broken up within the boundaries of any of them, see that nothing was stolen from the wreck; and that the governors of provinces should grant actions against them in favor of those who were searching for the property of which they had been deprived, to enable them to recover anything which they could prove had been taken from them during the shipwreck, by those who had possession of the same. With reference to such as are proved to have taken the property, the governor should impose a severe sentence upon them, as upon robbers. And to render proof of the commission of crimes of this kind easier, he permitted those who complained of having suffered any loss to go before the prefect and give their evidence, and search for the guilty parties, in order that they might be sent before the governor either in chains, or under bond, in proportion to the gravity of their offences. He also directed

<sup>30</sup> Salvatore Puliatti, *Callistratus. Opera* (Rome: L'Erma di Bretschneider, 2019): 107, 219–20.

that security be taken from the owner of the property alleged to have been stolen not to desist from the prosecution. The Senate also decreed that neither a soldier, nor any private individual, nor a freedman or a slave of the emperor, should interfere in the collection of articles dispersed by shipwreck.

Callistratus' text recalls two regulatory measures: firstly, an edict of Hadrian, datable to between 117 and 138 CE, which is said to have introduced as a main regulatory provision the establishment of a *cognitio* in charge of provincial governors in matters of shipwrecks, which also prohibited the owners of coastal land from taking possession of goods resulting from a shipwreck (*ne [ . . . ] quis extraneus interveniat colligendis eis [naufraigiis, scil.]*). This measure was in continuity with an older senatorial decree, approved at the time of the emperor Claudius (*Claudianis temporibus*),<sup>31</sup> which forbade the removal of any kind of shipwrecked goods and provided for liability for the entire value of the cargo and the boat (the synecdoche *si quis ex naufragio clavos vel unum ex his abstulerit, omnium rerum nomine teneatur* is vivid).<sup>32</sup> But evidently the measure introduced by the Senate under Claudius must have been disregarded, so that the edict of Hadrian made it easier to sanction such stealthy conduct by defining a particular procedural regime, which lightened plaintiff's burden of proof and increased the penalty while providing a safeguard for the plaintiff to prevent him from withdrawing the accusation.

However, Callistratus adds at the end of his fragment<sup>33</sup> that the Senate further decreed that neither a soldier nor a private citizen, nor (of particular interest to us) even 'a freedman or a slave of the emperor' could interfere in the collection of goods lost in a shipwreck. The dating of this senatorial decree, not recorded by Volterra and referred to only in passing by Talbert,<sup>34</sup> fluctuates at first glance between the principate of Hadrian and the advent of Septimius Severus. The aim of the decree, in any case, was the same as that of the above-mentioned edict, i.e. to sanction interference in the recovery of goods lost due to a shipwreck. This has led some scholars to believe that this decree aimed to clarify Hadrian's edict,<sup>35</sup> even to specify how the regulation

31 Cf. Buongiorno, *Senatus consulta Claudianis temporibus facta* (n. 28): 370–71, 421–22.

32 The text is not mentioned in the portion of Callistratus' text that has come down to us but is known to us from Ulp. 56 *ad ed.*, D. 47.9.3.8.

33 Strangely enough, however, the interesting book by Sara Galeotti, *Mare monstrum. Mare nostrum. Note in tema di pericula maris e trasporto marittimo nella riflessione della giurisprudenza romana (I secolo a.C. – III secolo d.C.)* (Naples: Jovene, 2020) does not address this senatorial measure.

34 Edoardo Volterra, *Senatus consulta*, eds. Pierangelo Buongiorno, Annarosa Gallo and Salvatore Marino (Stuttgart: Franz Steiner Verlag, 2017); Richard J.A. Talbert, *The Senate of Imperial Rome* (Princeton, NJ: Princeton University Press, 1984): 452 no. 159.

35 Antonino Pinzone, "Naufragi, fisco e trasporti marittimi nell'età di Caracalla (su CJ 11,6,1)," *Quaderni Catanesi* 4, no. 7 (1982): 64–109.

introduced by this emperor sanctioned not only the conduct of private individuals, but also that of soldiers and *liberti servive principis*. In other words, in the event of a shipwreck near a *castrum* or imperial property, those who claimed rights to the shipwrecked property could be deprived of it with impunity.

What is certain is that while the distinction *privati/milites* is well attested after Marcus Aurelius, the explicit reference to a third *genus* of persons, the *liberti servive principis*, clearly alludes to the privileged role of *fiscus* and leads me to prefer a dating of this senatorial decree in the age of Pertinax (193 CE). Given the fact that the wording *ait senatus* could lead us to place the measure in a period not far from the one in which Callistratus wrote, it should also be noted that during the brief principate of Pertinax the Senate experienced a period of relevance and centrality, while certain arbitrary acts of imperial power were more limited.<sup>36</sup> The fact that the Senate intervened to interpret an imperial edict at the end of the second century CE also has a not inconsiderable relevance, which leads us, once again, to the principate of Pertinax.

Finally, the expression *liberti servive principis* deserves a few more comments. The disjunctive enclitic *-ve* closely links the *servants* and *freedmen* of the emperor, almost like two parts of the same whole. Here, then, the notion of *familia Caesaris*, never attested in the sources of jurisprudence, appears in another form, indicating the two cores (slaves of the emperor and freedmen bound to him by *officia*) around which this *familia* is articulated: we are standing at the threshold of what in the *Pauli sententiae* will be qualified as *familia fiscalis*.<sup>37</sup>

The group of imperial delegates is thus understood as a living body, composed of both slaves and ex-slaves, all of them ideologically linked to the emperor and his wealth: the slaves are a part of it, the ex-slaves help to administer it. The *familia* of the emperor has then its own recognised social status which is quite distinct from that of private individuals (and, obviously, from the *milites*). On a strictly legal level, a *libertus* of the emperor was not significantly distinct from a *libertus* manumitted by a *privatus*; and all slaves were indiscriminately slaves. In short: being part of the *liberti servive principis* was a social status but without legal difference.

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<sup>36</sup> On this point Mario Mazza see, “Il breve regno (in)felice di Publio Elvio Pertinace: Considerazioni sull’impero romano alla svolta dell’età severiana,” in *Fides Humanitas Ius*, 9 maggio 2007, ed. Cosimo Cascione and Carla Masi Doria (Naples: Editoriale Scientifica, 2008): 161–86.

<sup>37</sup> *Paul. Sent.* 5.1.3: *Descriptio ingenuorum ex officio fisci inter fiscalem familiam facta ingenuitati non praeiudicat.*

## 4 Status Nomenclature, Imperial Freedmen and Roman Private Law

As part of the *fiscus*, the slaves were transferred from an emperor to his successor. The *operae libertorum* were also due to the emperor (no matter who he was): this scheme is already clear under the emperor Claudius, who received *operae* from imperial freedmen who had been manumitted by previous emperors and even by other members of the dynasty, such as C. Iulius Callistus, a freedman of Caligula; or M. Antonius Pallas and M. Antonius Felix (freedmen of Antonia minor).

The epigraphic evidence confirms that imperial freedmen were proud to state that they received the status of free person from an emperor, an *Augustus* (this 'status' is usually indicated in the inscriptions with the nomenclature *Augusti libertus*). The most relevant trace remains in the use of the *tria nomina*, as the freedmen retained part of the emperor's nomenclature in their private names (*praenomen+nomen*; while the servile name is preserved in the *cognomen*). The system is the same for private individuals; so a name such as *Ti. Claudius Aug. lib. Classicus* means that *Classicus* was the freedman of a *Ti. Claudius* (this could have been either Claudius or Nero); *Ti. Iulius* leads us back to Tiberius, *C. Iulius* to Augustus or Caligula, *M. Antonius* to Antonia minor, *T. Flavius* to a member of the Flavian dynasty, *M. Ulpus* to Trajan, *P. Aelius* to Hadrian, *Ti. Aelius* to Antoninus Pius and so on. This structure is probably the product of unwritten rules but it is nevertheless interesting to note that in the epigraphic evidence we have some irregularities<sup>38</sup> that can be listed in two groups:

1. non-imperial *nomina*; inscriptions pertaining to some imperial freedmen who have a name at least apparently not connected with the emperors and their relatives.
2. irregular imperial *nomina*: inscriptions pertaining to some imperial freedmen who have names that do not chronologically correspond to the period in which they lived.

Many solutions were proposed for each of these inscriptions, but these solutions need to be examined under the light of the juridical system. Even though some scholars, such as Heikki Solin, think that such an activity is only 'an exercise in hermeneutic nihilism',<sup>39</sup> we shall try to reconsider the most relevant part of this evidence, paying attention to other aspects such as law and even political history.

<sup>38</sup> Partially recorded and discussed first by Weaver, "Irregular Nomina" (n. 17) and then updated in *Familia Caesaris* (n. 9): 35–37; but see also Chantraine, *Freigelassene und Sklaven* (n. 14): 67–89; for other possible updates of this dossier see also Weaver, *Repertorium* (n. 19).

<sup>39</sup> Heikki Solin, "Abuso dell'onomastica nella ricerca epigrafica," in *Usi e abusi epigrafici. Atti del Colloquio Internazionale di epigrafia latina (Genova 20–22 settembre 2001)*, ed. Maria Grazia Angeli Bertinelli and Angela Donati (Rome: Quasar, 2003): 279–86. This statement, as well as speaking for itself because of its staggering relativism, expresses the *Isolierung* – just to use a polite expression –

In the dossier of non-imperial *nomina* we have first of all *CIL* VI 12533 = 34057 = *CIL* X 2112 = EDR177121:<sup>40</sup>

D(is) M(anibus) / C(aio) Asinio Aug(usti) lib(erto) / Paramythio / Festiano / Falconia Hedone / marito bene m(erenti)

The inscription was dedicated to the *manes* of C. Asinius Paramythius Festianus, freedman of an emperor, by his widow Falconia Hedone. It comes from Rome and its chronology is uncertain, but it could maybe be dated to the end of the first century CE on the basis of paleography. Hirschfeld pointed out that this evidence seems to be connected to the possibility that the emperor could have been instituted as heir of a C. Asinius, with the consequence that, at the time of his manumission, the slave Paramythius had attained the name of his original master. Mommsen criticized this thesis with this argument: ‘Si in principe per exceptionem eiusmodi patronatus admissus esset, exempla similia abundarent’.<sup>41</sup>

An example of a slave manumitted *ex legato* by the emperor who was appointed as heir seems instead to be, for example, *CIL* X 6318 = *ILS* 2815 = EDR127089:

Ti(berio) Iulio Aug(usti) l(iberto) / Optato / Pontiano / procuratori et / praefect(o) classis / Ti(berius) Iulius / Ti(beri) f(ilius) Fab(ia) / Optatus Ilvir.

Optatus senior could have been originally a slave of a Pontius, who appointed the emperor Tiberius as his heir.

Coming back to C. Asinius Paramythius Festianus, it is then possible also to think of a *servus alienus* instituted as heir. Such an *heredis institutio* was conditional upon *manumissio*: see Cels. 16 *dig.* D. 28.7.21 (*Servus alienus ita heres institui potest ‘cum liber erit’* et rell.) and the main purpose was to preserve the *sacra privata* of the *de cuius*, in application of the principle *sacra cum pecunia* (already known by Cic. *leg.* 2.52: *Nam sacra cum pecunia pontificum auctoritate, nulla lege coniuncta sunt*).<sup>42</sup> The *de cuius* could then have been a C. Asinius Festus (see the *agnomen Festianus*), and Paramythius (who already was an imperial slave) the *servus alienus*.

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in which some of the so-called “epigraphists” have been confined for some time now, being convinced of the absolute self-sufficiency and epistemological primacy of their field of study.

<sup>40</sup> See also Chantraine, *Freigelassene und Sklaven* (n. 14): 67–68; Weaver, *Familia Caesaris* (n. 9): 36–37.

<sup>41</sup> Hirschfeld, *Die kaiserlichen Verwaltungsbeamten* (n. 1): 276; contra Theodor Mommsen, “Observationes epigraphicae,” in *Ephemeris epigraphica: Corporis inscriptionum Latinarum supplementum*, vol. 5, ed. Instiuti Archaeologici Romani (Romae-Berolini: Georgium Reimerum, 1884): 109 n. 7. On this matter see also Paul Richard Carey Weaver, “Augustorum libertus,” in *Historia* 13, no. 2 (1964): 189.

<sup>42</sup> On this topic see Wolfram Buchwitz, *Servus alienus heres. Die Erbeinsetzung fremder Sklaven im klassischen römischen Recht* (Vienna/Cologne/Weimar: Böhlau, 2012).

Another similar case is the *CIL* VIII 12922:<sup>43</sup>

D(is) M(anibus) s(acrum) / M(arcus) Macrius Trophimus / Aug(usti) lib(ertus) medicus pius / vixit annis XXXXV / fecer(unt) lib(erti) eius patrono / bene de se merenti

In this case the inscription – which was found at Carthage and can be dated to the first or second century CE only because of its reference to the *Dis Manibus* – is dedicated to the *manes* of M. Macrius Trophimus, freedman of an emperor and pious doctor. He died 45 years old and the inscription was put up by his freedmen.

But I would add to this category also the controversial case of *C. Pompilius Caesaris libertus*, from Rubi (today Ruvo di Puglia), who is attested in *CIL* IX 313 = EDR104467 (presumably first half of the first century CE).<sup>44</sup>

So we can assume that in all of these cases the imperial slaves could have been instituted *heredes* as *servi alieni* under the condition of gaining their freedom.

The case of *CIL* VI 24316 = AE 2006, 173 seems to be more puzzling:

D(is) M(anibus) / C(aius) Plotius Aug(ustae?) lib(ertus) Gemellus / et Flavia Arescusa se vivi / comparaver(unt) sibi et fil(iis) suis / libert(is) libertab(us)q(ue) posterisq(ue) / eorum

The inscription comes from Rome and can be dated to the beginning of the second century CE. It was vowed to the *manes* of C. Plotius Gemellus, an imperial freedman, and of Flavia Arescusa (his wife). They acquired the tomb for themselves and for their children and their freedmen and freedwomen and even for their descendants.

It is not certain if C. Plotius Gemellus was a *servus principis* who was instituted as *heres*<sup>45</sup> or simply a freedman of the wife of Trajan, Pompeia Plotina (who was the daughter of a Plotia). Perhaps, as François Chausson suggested,<sup>46</sup> Gemellus received the *patrimonium* of Plotina through her mother, and in this case the nomenclature of C. Plotius would be no exceptional case.

Let us now look at the cases of inscriptions apparently including one or more irregular imperial *nomina*, beginning with the puzzling evidence of *CIL* VI 15317 = EDR151983.<sup>47</sup>

<sup>43</sup> See also Chantraine, *Freigelassene und Sklaven* (n. 14): 79–80; Weaver, *Familia Caesaris* (n. 9): 35–36; but already Herman Gummerus, *Der Ärztestand im römischen Reiche nach den Inschriften* (Helsingfors: Societas Scientiarum Fennica, 1932): no. 308.

<sup>44</sup> On which see also Marcella Chelotti, “Rubi,” in *Supplementa Italica*, vol. 5, ed. Unione Accademica Nazionale (Rome: Quasar, 1989): 17, with bibliography.

<sup>45</sup> As Chantraine, *Freigelassene und Sklaven* (n. 14): 79–80 hypothesized.

<sup>46</sup> François Chausson, “De Domitia Longina aux Antonins: Le règne de Nerva,” *Bulletin de la Société nationale des Antiquaires de France* 2002 (2008): 203.

<sup>47</sup> See also Chantraine, *Freigelassene und Sklaven* (n. 14): 86–87; Weaver, *Familia Caesaris* (n. 9): 35–36 and Weaver, *Repertorium* (n. 19): 69, no. 373, 259–61, no. 1604. Useless is Solin, “Abuso dell’onomastica nella ricerca epigrafica” (n. 39).

D(is) M(anibus) / Ti(berio) Claudio Vitalioni filio / karissimo qui vix(it) ann(os) XI / m(enses) VII d(ies) XIII fecit / P(ublius) Aelius Aug(usti) lib(ertus) Ianuarius pater / et Claudiae Successae coniugi / bene merenti et incomparabili feminae / cum qua vix(it) ann(os) XXXI cuius nulla(m) cupiditate(m) / est expert(us) et Ti(berio) Claudio Aug(usti) l(iberto) Censorino filio / karissimo et sibi et suis lib(ertis) libertabusq(ue) poster(is)q(ue) / eorum

We are again at Rome, and the inscription is dedicated to the *manes* of a child, Ti. Claudius Vitalio, who lived for 11 years, 7 months and 13 days. His father was P. Aelius Ianuarius, imperial freedman, who put up the inscription for himself, his wife Claudia Successa, ‘a meritorious wife and wonderful woman, with whom he lived for 31 years without having experienced her bad side’, and for Ti. Claudius Censorinus, freedman of the emperor, and also for all their freedmen and freedwomen and for their descendants.

In this inscription we have two imperial freedmen, a *Ti. Claudius* and a *P. Aelius*. But the date of the inscription clearly leads us back to the second century, after 117 CE (i.e. the earliest possible date for a manumission of an imperial freedman named P. Aelius) and it is also important to stress that the latest date for a manumission of an imperial freedman ‘regularly’ named *Ti. Claudius* had been in the first half of 68 CE.

The most reasonable hypothesis is then that this inscription is an example of a late application of the *senatus consultum Claudianum* of 52 CE. As is well known, through this decree the Senate had established that if a woman who had carnal relations with a slave did not cease this relationship after three warnings of the slave’s master, she herself became a slave of the same master.<sup>48</sup> But as Gai. *inst.* 1.84 shows, in accordance with the norms of the same *senatus consultum* a woman who was a Roman citizen and had sexual intercourse with the slave of another with the consent of her slave partner’s master could remain free herself, but any children she had would be slaves. However, Hadrian was displeased by the injustice and impropriety of this norm and so decided to restore the rule of the *ius gentium* so that as the woman herself remained free, her child was also born free.<sup>49</sup>

We can then assume that Claudia Successa was a free woman who had sexual intercourse with Ianuarius, who was a slave of the emperor Hadrian. Because of the consent of the master (maybe not the emperor personally but some procurator whose *servus vicarius* Ianuarius had been?<sup>50</sup>), Claudia Successa remained free, but her first son Censorinus became a slave, being born before Hadrian’s reform.

<sup>48</sup> Buongiorno, *Senatus consulta Claudianis temporibus facta* (n. 28): 311–25.

<sup>49</sup> Gai. *inst.* 1.84: *Ecce enim ex senatus consulto Claudiano poterat civis Romana, quae alieno servo volente domino eius coïit, ipsa ex pactione libera permanere, sed servum procreare; nam quod inter eam et dominum istius servi convenerit ex senatus consulto ratum esse iubetur. Sed postea divus Hadrianus iniquitate rei et inegantia iuris motus restituit iuris gentium regulam, ut cum ipsa mulier libera permaneat, liberum pariat.*

<sup>50</sup> On this matter see, in general, Heinrich Erman, *Servus vicarius. L’esclave de l’esclave romain* (Naples: Jovene, 1986).

Censorinus attained his freedom as *Augusti libertus*, but because of the free condition of his mother he could use her name.

But Successa and Ianuarius also had a second son, Ti. Claudius Vitalio, who was not an *Augusti libertus* but seems to have been a freeborn. So we can speculate that he was born after the reform of the *senatus consultum Claudianum* passed under Hadrian and almost certainly before the manumission of his father Ianuarius, who is clearly an imperial freedman of Hadrian.

Another interesting case is the one of an inscription from Rome, *NSc* 1917, p. 291 no. 7 = *EDR000144*,<sup>51</sup> which can be securely dated after 138 CE because of palaeography, names, and archaeological context.

Ti(berio) Cl(audio) Aug(usti) / l(iberto) Eutrapelo / patri piissi/mo et dulcis/simo T(itus) Aelius / Aug(usti) l(ibertus) Paris / filius b(ene) m(erenti) f(ecit)

This inscription was dedicated to the memory of Ti. Claudius Eutrapelus, a freedman of the emperor, by his son Ti. Aelius Paris, who was also freedman of the emperor.

In this case again the latest possible date for the manumission of an imperial freedman 'regularly' named *Ti. Claudius* is 68 CE, while the earliest possible date for the manumission of an imperial freedman named *Ti. Aelius* is 138 CE.

It is extremely unlikely that a father could have been manumitted 70 years before his son. It seems therefore better to consider again the application of the *senatus consultum Claudianum* before the reform passed under Hadrian for Eutrapelus (who had been son of a Claudia who had remained free). Eutrapelus had then (at least) one son, Paris, with a *serva Caesaris* whose name remains unknown. Paris was then manumitted by Antoninus Pius.

Let us turn now to two more puzzling cases. *CIL* VI 376 = *ILS* 3670 = *EDR179457*:<sup>52</sup>

Iovi Custodi / et Genio / thesaurorum / aram / C(aius) Iulius Aug(usti) lib(ertus) / Satyrus / d(onum) d(edit) // dedic(avit) XIII K(alendas) Febr(uarias) / M(arco) Civica Barbaro / M(arco) Metilio Regulo / co(n)s(ulibus).

The inscription comes from Rome and was placed at an altar vowed as a gift to *Iupiter Custos* and to the *Genius thesaurorum*. The vower was C. Iulius Satyrus, freedman of the Emperor.

He dedicated it on 20 January under the consulship of Marcus Civica Barbarus and Marcus Metilius Regulus (i.e. in 157 CE). The latest possible date for a manumission of an imperial freedman 'regularly' named *C. Iulius* is January 41 CE. In this case

<sup>51</sup> See also Chantraine, *Freigelassene und Sklaven* (n. 14): 77; Weaver, *Familia Caesaris* (n. 9): 25, 35–36.

<sup>52</sup> See also Chantraine, *Freigelassene und Sklaven* (n. 14): 77–78; Weaver, *Familia Caesaris* (n. 9): 25, 35. Different view in Gérard Boulvert, *Esclaves et affranchis impériaux sous le Haut-Empire romain. Rôle politique et administrative* (Naples: Jovene, 1970): 95–96 no. 29.

again the simplest solution would be then the application of the *senatus consultum Claudianum* before the reform of Hadrian: Satyrus could have been son of a Iulia. Nothing is said about the age of Satyrus and it is not unlikely to think that he was not very young in 157 CE.

But we do not possess much information, and an alternative could be that Satyrus could have been instituted as a *servus alienus heres* according to the will of an otherwise unknown C. Iulius. But this is merely speculative.

We can conclude our overview with the analysis of the most puzzling inscription, *CIL VI 8634 = ILS 1697 = EDR171345*:<sup>53</sup>

Ti(beri) Claudi Aug(usti) / lib(erti) Aviti imbi/tatoris et T(iti) Ae/li Aug(usti) lib(erti) Theo/doti adiuto/ris a cognit(ionibus) / et Scetasiae / Octaviae fili(i)s / carissimis / Antonia Rhodine / mater fecit.

The inscription<sup>54</sup> was found at Rome, in the archaeological context of the so-called *Sepolcreto Salario*, and is a funerary text in memory of Ti. Claudius Avitus, imperial freedman, who worked as *invitator*; of T. Aelius Thedotus, *adiutor a cognitionibus*, imperial freedman; and of Scetasia Octavia. They all were children of an Antonia Rhodine, who made the tomb. The dating is unclear but must be in either the first or the second century CE. In any case, the reference to a *T. Aelius* suggests (but does not prove) a dating after 138 (as we have seen, the earliest possible date for the manumission of an imperial freedman named *T. Aelius*).

If we accept a dating after 138 CE, we could describe this scenario: Antonia Rhodine was freeborn or a freedwoman of an Antonius. She had three children with different partners. Two of them were conceived with one or two imperial slaves (and so we would have an application of the *senatus consultum Claudianum* before Hadrian's reform). The third, Octavia, clearly a freeborn, would have been then conceived in Rhodine's marriage to a Scetadius. This hypothesis, however, does not explain why the two sons have different *nomina*. As we saw, the latest possible date for a manumission of an imperial freedman 'regularly' named Ti. Claudius had been the first half of year 68 CE; and because of the *nomen* of Rhodine (Antonia!) there is no plausible argument for the use of *Ti. Claudius* instead of Antonius with reference to Avitus.

Although the palaeographic aspects of the inscription could seem to be closer to the second century CE,<sup>55</sup> I would like then to put forward another (not certain, but plausible) hypothesis that brings us back to the imperial slaves and freedmen of the Julio-Claudian dynasty.

<sup>53</sup> See also Chantraine, *Freigelassene und Sklaven* (n. 14): 78–79; Weaver, *Familia Caesaris* (n. 9): 35.

<sup>54</sup> On the *monumentum*, see Dietrich Boschung, *Antike Grabaltäre aus den Nekropolen Roms* (Bern: Stämpfli, 1987): 65, 82.

<sup>55</sup> But obviously the paleographical argument is not definitive; and in any case, the inscription in question does not explicitly mention the invocation to the *Dii Manes* but only the genitive form for the names of the departed.

Antonia Rhodine, who seems not to be an imperial freedwoman, could have been directly related to a freedman of Antonia Minor, the mother of the future emperor Claudius. After the approval of the *senatus consultum Claudianum* in 52 CE, she had sexual intercourse with one imperial slave but with the consent of his master. So she remained free and the two children, Avitus and Theodotus, were born slaves. One of them, Ti. Claudius Avitus, could have been then manumitted already by either Claudius or more likely by Nero. Theodotus may instead have become part of the patrimony of Claudia Antonia, the daughter of Claudius and of his second wife Aelia Paetina. The strange *nomen* of Theodotus (Aelius) could be attributed to such a context and he could have been qualified as *Augusti libertus* because of the manumission by Claudia Antonia, who was daughter of Aelia Paetina and half-sister of the emperor Nero.<sup>56</sup> This hypothesis is however entirely speculative and there is unfortunately no evidence of the identity (and so of the *praenomen*) of the father of Aelia Paetina.

In any case, we should note that the names of all the protagonists are close to the context of the imperial family in the age of Claudius (even the *cognomen* of the freeborn daughter of Antonia Rhodine: Octavia!); this would be moreover supported by the fact that the *gens* Scetasia, originally from Iguvium, with whom Rhodine became related, seems to be attested only for the first century CE.<sup>57</sup>

## 5 Conclusions: The Rank of Imperial Slaves and Freedmen

In summary, we can conclude that being an imperial slave (and moreover an imperial freedman) could imply a relevant social status. Originally, this relevance was limited only to a few leading freedmen, later for the *familia Caesaris* as a whole, as it was perceived as expression of *fiscus* itself.

Imperial freedmen, and moreover slaves, were proud to state their connection with the imperial house. In some inscriptions the slaves used expressions such as *Caesar noster*, *Augustus noster*, to refer to 'their' emperor.

Such a proud statement of social status did not produce any appreciable forms of legal difference in comparison with the slaves and freedmen of private citizens;<sup>58</sup> in other words, there were no privileged norms for slaves and freedmen who belonged

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<sup>56</sup> Could the decision to use the *nomen* Aelius, instead of *Claudius*, indicate a form of political opposition of Claudia Antonia against Nero? It seems likely that the woman was involved in the Pisonian conspiracy in 65 CE.

<sup>57</sup> *CIL* XI 5898 = EDR138067; *CIL* VI 26007; *CIL* VI 26008 = EDR158684.

<sup>58</sup> Except for the fact that we have no information about imperial slaves who were killed in the application of *senatus consultum Silanianum* after the violent death of an emperor (such as Caligula or Domitian), perhaps because of an interest to protect the *fiscus*.

or had belonged to the emperor and the imperial family. The affair concerning the *restitutio natalium* of powerful imperial freedmen such as the brothers M. Antonius Pallas and Felix, connected to Claudius, confirms that: all the freedmen, even if they were tied to the emperor and had received the *ornamenta consularia*, were legally subjected (albeit only formally) to freeborn persons: unless there had been a *restitutio natalium*, a freedman remained a freedman.<sup>59</sup>

It is for this reason (as I pointed out above) that after the middle of the first century CE the political role of a small group of leading freedmen was no longer tolerated. The construction of a new imperial bureaucracy, in which the leading roles were now reserved for equestrian officers led to freedmen soon being excluded from political games and leading political roles. They nevertheless retained economic relevance as *procuratores* of the emperor, and in some cases also played a role in the administration of justice through *cognitiones* at their first stage:<sup>60</sup> and this seems to be an aspect that still requires systematic analysis.

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<sup>59</sup> With reference to M. Antonius Pallas see also the scepticism of Plinius in *ep.* 8.16.

<sup>60</sup> Cf. Tac. *ann.* 12.60.1; Suet. *Cl.* 12.1.