

Jews and Judaism on Slavery

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Jews and Slavery – what an extensive topic! Jews and Slavery can easily be the focus of a graduate seminar, a lengthy book and a life-time of research. Just to focus on anyone specific area honestly is a task far beyond this short half-hour. I do not even have the time to take us on a quick tour that would bring us through over three thousand years of history and over five continents. So what I plan to do this morning is to focus on three areas:

- The first – general observations – basically ideas on the issue of slavery and the ways in which Jews have been touched by slavery that have crossed my mind as I have reflected over the years as a rabbi, a historian and a theologian and particularly as I prepared for this presentation.
- The second – an attempt to frame ways in which I can talk about the experience of Jews with regard to chattel / productive slavery in the New World, particularly in the United States through the Civil War.
- The third is to look at the way the rabbinic tradition handled the issue of slavery in an attempt to protect enslaved people through the lens of the 12th century philosopher and jurist, Moses Maimonides' compendium of Jewish law – his Mishneh Torah. This, in itself is a daunting task so please bear with me.

Part One – General Observations

This is in many ways an arbitrary list of the thoughts and feelings that guide the way I think about the role played by slavery in the lives of Jews over the centuries. As this is my personal

list, I am sure that others might bring other ideas to the discussion or even find some of my fundamental conceptual tools as inadequate, wrong or, perhaps, even objectionable. I am sure that it grows out of my experience as 20th century Jewish man who has lived most of his life in New Jersey, the most diverse and densely populated state in the Union.

One: To this I am sure everyone here agrees: Slavery is immoral; the idea that one human being can own another is an abomination. The set of social and economic relationships evoked by the idea of slavery is reprehensible. No responsible Jewish or Christian thinker today would attempt a defense of slavery as a contemporary institution. However, the absolute condemnation of slavery is a modern idea, rooted in social, economic and political developments in Western society at the end of the 18th and beginning of the 19th centuries.

Two: While we often use the image of enslavement to describe other oppressive social, economic and political relationships between people and even use slavery in a metaphorical way to describe soul-depleting afflictions such as alcohol and drug addiction, here I am thinking about slavery in a much more literal sense – slavery as a social, economic and political “condition in which one human being was owned by another. A slave was considered by law as property, or chattel, and was deprived of most of the rights ordinarily held by free persons.”¹ A slave is someone who is considered property, who possess few, if any rights, who does not own to any significant extent the fruits of his or her labor, who lacks personal liberty, and whose fate and destiny is in the hands of another individual who exerts control over the slave’s life.

¹ <https://www.britannica.com/topic/slavery-sociology>

Three: Slavery in one form or the other has characterized most human societies and cultures over time, and our common religious traditions developed in societies that accepted some form of slavery as part of the communal structure. Slavery as an institution, the status of enslaved people, the role slavery played in the economy varies greatly over time and space so any discussion of slavery needs to be contextualized.

Four: Jews have been involved with slavery throughout Jewish history both as slave owners and as slaves. The fundamental texts – the Bible and rabbinic literature – evolved in societies in which slavery was an accepted institution and reflect attempts to regulate slavery to provide some protections to the enslaved person. Jews, however, were more likely to be slaves than to be slave owners. Not only is the foundation story of the Jews, the story of liberation from slavery in Egypt, Jewish history has been punctuated by times when vast numbers of Jews were thrown into slavery – the Babylonian Exile, the failure of the Jewish Revolts against Rome, the Expulsion from Spain and, most recently, the Holocaust. These experiences, like the memory of Egyptian slavery provide the filter through which Jews understood their past and current situations. The defining canons of the Jewish spiritual tradition evolved out of these traumatic events. On an individual level, Jews as marginal people in both Christian and Muslim lands were vulnerable to abduction into slavery, so that the *mitzvah*, the directive, to free a captive and/or enslaved fellow Jew, is institutionalized not only an individual but communal responsibility.

Five – The discussion of slavery is not a theoretical exercise. I know and have known people who were slaves – primarily Jews, Poles, Ukrainians and others who worked as slave labor under Nazi oppression and Soviet domination but also people, primarily extra-legal immigrants,

enslaved by criminals who took advantage of their vulnerable situation. I am sure that you know these people as well.

Six – I am not responsible for the past. What happened, happened. My anger, guilt, shame or pride in what my ancestors experienced is useful only to the extent that it focuses my moral energy to create a better world today. I cannot apologize for what people with whom I feel a connection have done in the past nor can I forgive, in their name, the descendants of those who oppressed them. I can feel sadness over what has transpired but I also need courage to confront the past, honesty to step away from apologetics and wisdom to avoid past transgressions.

Part Two – Thinking About Slavery in North America and the Jews.²

One: Productive Slavery, a form of slavery designed “to produce marketable commodities in mines or on plantations”³ and required vast numbers of enslaved persons which characterized the type of slavery in the circum-Caribbean area from the 16th through the 19th centuries, was different from the Household Slavery described in biblical and Talmudic sources and present in the social world of most Jewish communities. While household slavery was permissible and the

² See: Max. J. Kohler, *Jews And The American Anti-Slavery Movement. II, Publications of the American Jewish Historical Society*, No. 9 (1901), pp. 45-56

In 1991 the Nation of Islam published *The Secret Relationship Between Blacks and Jews Volume One*, which asserted, falsely, that the Jews played an leading role in the Atlantic slave trade. The volume was generally condemned in academic circles and led to a number of works refuting its basic claims. Among them are: Drescher, Seymour, “The Role of Jews in the Transatlantic Slave Trade”, in *Strangers & Neighbors: relations between Blacks & Jews in the United States*, Maurianne Adams (Ed.), University of Massachusetts Press, 1999, pp 105–115.

Faber, Eli: *Jews, Slaves, and the Slave Trade: Setting the Record Straight*. New York: New York University Press, 1998.

Korn, Bertram Wallace “Jews and Negro Slavery in the Old South”, in *Strangers and Neighbors*, Adams (Ed.), University of Massachusetts Press, 1999 (pp 147–182).

³ <https://www.britannica.com/topic/slavery-sociology>

thrust of legislation and moral injections serve to ameliorate the status of the household slave, large-scale Productive Slavery was routinely condemned.⁴ The refusal, or inability, of supporters of slavery in Ante-Bellum America to clearly differentiate between the two forms, led to abusive mis-readings of religious and spiritual traditions of Christianity and Judaism.

Such a mis-reading is found in Dr. Rabbi Morris J. Raphall's 1861 sermon, "The Bible View of Slavery", which he delivered shortly after South Carolina seceded from the Union. In this sermon, Rabbi Raphall held that preaching against slavery on biblical principles was wrong. He argued that abolitionist clergy, such as Henry Ward Beecher, distorted scripture which, as can be seen in the Decalogue, accepted slavery as an institution. Although he claimed "I am no friend to slavery in the abstract, and still less friendly to the practical working of slavery" and distinguished between the Hebrew treatment of the slave as "a person in whom the dignity of human nature was to be respected" from the then current understanding in the slave-owning South "which reduces the slave to the thing", he defended slavery as an institution endorsed by biblical text. "But I stand here" he said to his congregants, "as a teacher in Israel; not to place before you my own feelings and opinions, but to propound to you the word of G-d, the Bible view of slavery."⁵

Raphall's attempt to maintain some sort of personal distance from the abuses of slavery while defending the institution evoked a quick and sharp response from Jewish abolitionists.

⁴ Examples included: building store cities for Pharaoh, laboring in the mines and latifundia (plantations) of the Roman and toiling in Nazi munition factories Jewish sources condemn productive slavery (see Midrash on the Building of the Tower of Babel) as a way of ordering society but see Household Slavery as a private matter between individuals which needs to be regulated as other such private domestic arrangements such as marriage.

⁵ Rufus Lears, *The Jews in America: A History*., p.94

Rabbi David Einhorn, who was to be expelled from his congregation, Oheb Shalom in pro-slavery Baltimore for his anti-slavery views, wrote in dismay, “A Jew, the offspring of a race which daily praises God for deliverance from the bondage of Egypt ... undertakes to parade slavery as a perfectly sinless institution, sanctioned by God ... ! A more extraordinary phenomenon could hardly be imagined....

He added, “A religion which exhorts to spare the mother from the bird’s nest, cannot consent to the hear-trending spectacle of robbing a human mother of her child ... Thus crumbles into a thousand fragments the rickety structure of Dr. Raphall ... To proclaim in the name of Judaism, that God has consecrated the institution of slavery! Such a shame and reproach the Jewish religious press is in duty bound to disown and to disavow, if both are not to be stigmatized forever. If a Christian clergyman in Europe had delivered a sermon like that of Dr. Raphall, all the Jewish orthodox and reform pens would have immediately been set to work ... to repel such a foul charge, and to inveigh against this desecration of God’s holy name. Why should we, in America, keep silence when a Jewish preacher plays such pranks?”⁶

Or as the scholar, Michael Heilprin, a veteran of the 1848 Hungarian Revolution, “Must the stigma of Egyptian principles be fastened on the people of Israel by Israelitish lips themselves?”⁷

⁶ From: *The Reverend Doctor M. J. Raphall’s Bible View of Slavery*, Reviewed by the Reverend D. Einhorn, New York, 1861; for the entire text of Raphall’s sermon as well as Einhorn’s and Heilprin’s rebuttals see: American-Jewish History Foundation, <http://www.jewish-history.com/civilwar/raphall.html>

⁷ Richard Kreitner “The Powerful Example of The Jewish Abolitionists We Forgot”*The Forwards* – January 30, 2015

Wikimedia Commons <https://forward.com/culture/213776/the-powerful-example-of-the-jewish-abolitionists-we-forgot>. : Michael Heilprin’s reply to Raphell in the New York Tribune. Heilprin was, he declared, “outraged by the sacrilegious words of the Rabbi . . . the Hebrew defamer of the law of his nation,” and he went one to show that they were a “misinterpretation of Judaism . . . full for falsehood, nonsense and blasphemy.” Rufus Lears pp. 94-95

Two: Jewish people were involved in slave ownership and in the slave trade and Jewish people were the struggle to emancipate slaves and abolish slavery. In this way, as in so many ways, the experience of Jews in America reflects the general trends in American society and culture. As we consider the Jewish involvement with slavery in America, we need to hold these two opposing positions together.

Three: As an economic institution productive slavery was highly successful and household slavery became a way of demonstrating one's wealth. Slavery as a means of production was central to the economic life from the 16th through 19th centuries. Slave labor in the New World produced highly desired goods for, at first Europe, and later, as settlement increased, for people in North America as well. The economy of America, both in the colonial period and in the early republic, depended on slavery. Jews, like everyone else, to the extent that they prospered, participated either directly or indirectly with slavery. Newport, Rhode Island was the major port in the trade system that brought slaves from Africa to the Americas and then brought raw materials to New England and Europe and brought finished goods back to the New World. To the extent that they were able, Jews, such as Aaron Lopez (1731–1782), an important ship owner and a one of the major supporters of the Touro Synagogue, built their fortunes, in part, the importation of slaves and by the use of slave labor.

Four: Jews were a marginal people in America during colonial period and in the early Republic and American Jews, at that time, were marginal to the Jewish world. Jewish attitudes towards slavery and the participation of Jews as slave owners relate to the time of their arrival in the New

World, from where they came and where they settled. The first Jewish people to settle in the New World were Spanish / Portuguese crypto-Jews, *conversos*. They engaged in the same economic endeavors as their Christian counterparts including the establishment of sugar and tobacco plantations in the Caribbean and in Brazil. The slave trade was highly lucrative and tightly controlled and contested by the European powers in the early Modern period. Few Jews lived in Western Europe at that time and, as Jews, they were generally excluded from the trade. The number of Jews who participated in the slave trade was small and they only played a minor role, although individual Jews prospered.⁸

After the American War of Independence, there were probably no more than 2,500 Jews in the United States, the majority were of Spanish /Portuguese background with a growing percentage of Jews from Central Europe. In the United States, Jews were engaged in the same economic activities as their White Christian counter-parts. If successful, their philanthropic endeavors paralleled those of their successful neighbors. In the south, Jews such as Mordecai Cohen (1763-1848), of Charleston, SC, who made his fortune, in part, through the slave trade and bought plantations for his sons, won renown as a philanthropist, particularly for his support of Charleston Orphan House, the first public orphanage in the United States.⁹ Similarly, members of the leading Philadelphian Jewish family, the Gratz family, made their fortune using slave labor.¹⁰

⁸ See Wonthrop D. “Slavery and the Jews, A review of The Secret Relationship Between Blacks and Jews: Volume One” The Atlantic, September 1995 Issue, <https://www.theatlantic.com/magazine/archive/1995/09/slavery-and-the-jews/376462/>; David Bion, “The Slave Trade and the Jews” New York Review of Books, December 22, 1994 Issue, David Brion Davis DECEMBER 22, 1994 ISSUE <http://www.nybooks.com/articles/1994/12/22/the-slave-trade-and-the-jews/>; See also Jews and the African Slave Trade, My Jewish Learning, <https://www.myjewishlearning.com/article/jews-and-the-african-slave-trade/>

⁹ : <https://forward.com/culture/205455/slaves-of-charleston/>

¹⁰ [Josh Nathan-Kazis](#) – The Forward – Jun 28, 2015 [Wikimedia Commons](#)

Five: Slavery and the racist theories that were put forth to support slavery are not only an American problem although, as an American, I am particularly concerned with the lasting effects of slavery in our country. All nations in the New World need to deal with the legacy of slavery.

Sixth: The expansion of slavery in the New World in the 16th, 17th into the 18th centuries and needs to be understood in the context of the world of Early Modernity. The Mediterranean slave trade was as brutal and cruel as the Atlantic slave trade. Thomas Hobbes' observation that human life in the state of nature is solitary, poor, nasty, brutish, and short, is not merely a meditation on human existence but reflects a world torn by war and revolution and political and economic upheaval. Discipline in military forces was maintained by the whip. Navies recruited sailors by impressment. Children would be sold as "apprentices." The death penalty could be imposed for minor crimes. Medical knowledge was helpless against epidemic disease – plague, smallpox, typhus, cholera, yellow fever, syphilis. The death rate for the sailors on slave ships approximated that of their cargo and the life expectancy of a white immigrant was the same as the African slave. In Europe, Jews were persecuted, ghettoized and expelled and witches were regularly burnt to death. African rulers found a profitable way to rid themselves of excess male slave by selling them to eager and greedy European merchants.

Seven: Slavery is a moving target. Attitudes towards slavery change over time. Although the conditions under which enslaved people lived remained brutal from the Age of Discovery until the ending of the slave trade and the abolition of slavery in the 19th century, the way people

understood and related to slavery changed. Slavery ended not because it failed economically, but because of processes brought forward by changes in the economic, social and political landscape.

Jewish leaders such as Moses Montefiore in Great Britain and Isaac Adolphe Crémieux in France were influential in the movement against slavery in their respective countries.¹¹ Jews who immigrated from Germany and Central after the failure of the liberal revolutions of 1848 brought with them the ideas and values that led them to stand against conservative, autocratic governments in Europe. Although most struggled hard to make a living in their new homes and tried to fit into the social world of their new non-Jewish neighbors, their religious and intellectual leaders often expounded liberal principles that led to building new vibrant institutions of Jewish life and a greater involvement in then progressive social and political movements. Thinkers and scholars such as Michael Heilprin, Rabbi Bernard Felsenthal, Rabbi Gustav Gottheil, and Rabbi David Einhorn, became outspoken opponents of slavery. People like, Ernestine Rose, and August Bondi stood out as activists in the abolitionist cause.

The positions on slavery taken by American Jews in the period immediately before and during the Civil War, often reflect a sense of regional loyalty. Rabbis in the southern states, such as Rev. Maxmilian J. Michelbacher, Rabbi of Beth Ahabah in Richmond, VI, prayed for the success of the Confederate cause. Most American Jews tried to stay out of the debate entirely. Rabbi Isaac Meyer Wise's attempt to stay neutral reflects the general concern that the debate over slavery would cause in their small venerable communities and to the country that gave them

¹¹ Abigail Green, "Rethinking Sir Moses Montefiore: Religion, Nationhood, and International Philanthropy in the Nineteenth Century", *The American Historical Review*, Volume 110, Issue 3, 1 June 2005, Pages 631–658, <https://doi.org/10.1086/ahr.110.3.631> Published: 01 June 2005

refuge. During the Civil War, Jews fought on both sides¹², while also dealing with anti-Jewish prejudice.¹³

Eight: American Jews are obligated both as Jews and as Americans to participate in the struggle to resolve the lingering injustice rooted in slavery and racism in America. Most American Jews have not direct, personal, familiar connections with slavery in America. For the most part we are descendants of people who sought freedom and refuge in the United States during the great migration between roughly 1880 and 1920. That does not mean that we are not responsible for the legacy of slavery. The country that welcomed us was built on slave labor. Although Jews faced and continue to face anti-Semitism, the American race system kept Jews from being relegated to the bottom of the social scale as in Europe. In America, Jews, or at least Jews from European backgrounds have access to “white privilege” – a times a tenuous access but access all the same – which makes us a beneficiaries of an unfair system that we did not create but might very well be guilty of perpetrating. At the very least, our own security in America depends on a successful resolution of the lingering effects of the affliction of slavery.

Part Three: Slavery in the Halakhic Tradition

¹² Wikipedia Military History of Jewish Americans - Some 150,000 Jews lived in the United States at the time of the American Civil War, about 0.5 percent of the population.¹²¹

One academic estimate was that at least 8,000 Jewish soldiers fought for the Union and Confederate during the Civil War. [Jonathan D. Sarna and Adam Mendelsohn. *Jews and the Civil War: A Reader* (2010). New York University Press, 2010.]

Donald Altschiller estimates that at least 10,000 Jews served, about 7,000 for the Union and 3,000 for the Confederacy, with some 600 Jewish soldiers killed in battle. [Donald Altschiller, “Jews,” *Encyclopedia of the American Civil War: A Political, Social, and Military History*, eds. David Stephen Heidler, Jeanne T. Heidler, and David J. Coles (2000). W. W. Norton, p. 1070-1071.]

¹³ Lears, 101-105

In 1859, the then young Jewish scholar, Moses Mielziner (1828–1903) earned his Ph.D. from the University of Giessen. In his dissertation, “*Die Verhältnisse der Sklaven bei den alten Hebräern, nach biblischen und talmudischen Quellen dargestellt : ein Beitrag zur hebräisch-jüdischen Alterthumskunde*, Copenhagen, 1859,” he argued that although slavery was an established institution in the world of ancient Israel, the Israelites designed a system to ensure that their slaves maintained their status as human beings and were treated with a degree of decency. Mielziner, who would end his career as Professor of Talmud at the Hebrew Union College and upon the death of Rabbi Isaac Meyer Wise, the college’s second president opened his work with the words,

“Among the religions and legislations of antiquity none could exhibit a spirit so decidedly averse to slavery as the religion and legislation of Moses; nor could any ancient nation find, in the circumstances of its origin, such powerful motives to abolish that institution as the people of Israel. A religion which insists so emphatically upon the exalted dignity of man as a being created in the image of God, a legislation which bases its laws upon the dignity of man, and which enjoins, in all its enactments, not only the highest justice, but also the most tender kindness and the most considerate forbearance especially toward the needy and the unfortunate; a people, lastly, which had itself pined under the yoke of bondage, and had become a nation only through its deliverance from servitude; all these must have made it their object to abrogate, if possible, the unnatural state of slavery, so degrading to the human being.¹⁴

¹⁴ Michael Mielziner, *The institution of slavery among the ancient Hebrews, according to the Bible and Talmud*. Cincinnati : Bloch printing company, 1894. [31] p. <https://catalog.hathitrust.org/Record/100004734>,

This short book is fascinating from many perspectives, but it is significant in the debate over slavery immediately before the civil war. Anti-slavery American Christians saw in Mielziner's book a refutation of the claims of those defended the American system of Productive Slavery on biblical grounds. In April 1861, perhaps in response to Raphall's sermon, the American Presbyterian Review published an English translation.¹⁵

I will not review Mielziner's arguments, but rather, use his contention that biblical and, even more so, rabbinic legislation is essentially opposed to slavery as a way of structuring social relations as a way of reading rabbinic sources. The rabbis knew, as Mielziner did and as we do, that the Torah assumed slavery as an institution. Since the Torah was the "God-given constitution of the Jewish people", the rabbis could not easily abrogate Biblical legislation by fiat. They had to employ a number of legal strategies to blunt the impact of the law. I will briefly look at three of these strategies through the lens of the chapter on slaves, *Hilkhot Avadim*, in the Rambam's (Rabbi Moses ben Maimon's or Maimonides') 12th century CE compendium of Jewish law, the *Mishneh Torah*.

The advantage of using the Mishneh Torah is that it is both comprehensive and precise. The disadvantage is that it presents Maimonides conclusions on issues without the back and forth found in the Talmuds and in the responsa literature. It is important to note, however, that

For a contemporary analysis of Jewish attitudes towards slavery in late antiquity see: Catherine Hezser, *Jewish Slavery in Antiquity*, Oxford University Press, 2005

¹⁵ Richard Kreitner, "The Powerful Example of The Jewish Abolitionists We Forgot", The Forwards – January 30, 2015, Wikimedia Commons, <https://forward.com/culture/213776/the-powerful-example-of-the-jewish-abolitionists-we-forgot>

Maimonides in his summary of Jewish law, does not forbid slavery. What he does is reinforce the notion that within the Jewish context of his time, slaves owned by Jews, even non-Jewish slaves, were human beings, were part of the Jewish community and had specific rights.

Strategy One: Time Restriction – Avadim 1:10

The laws pertaining to Hebrew female and male slaves are applicable only when the law of the jubilee year applies, regardless of whether it is a Hebrew slave who has sold himself or one whom the court has sold. We have already explained as to when jubilees were discontinued.

This is a simple one – because the historic context has changed, the laws pertaining to the Hebrew slave, the *eved ivri*, have become inoperable and for all extends and purposes that category of slavery no longer exists. While according to biblical law it was permissible for an Jewish (Israelite) man to sell himself to pay his debts to another Jew (Lev. 25:39-42) and for the Jewish court to sentence a Jewish thief to service, (Ex. 22:2), this is no longer possible. With coming of the *Yovel* (the Jubilee year) all Hebrew slaves were set free. When the *Yovel* (Jubilee) ceased,¹⁶ the opportunity for the *eved ivri* to gain his freedom also ceased. That would mean that the *eved ivri* servitude could be permanent which is counter to the intent of the biblical law. Since the legal mechanism to free the *eved ivri*, the Hebrew slave, is no longer operative, the legal mechanism to enslave him must also be inoperative.

¹⁶ Git. 65a; Ked 69a - see Mishne Toah, Shemita 10:8 From the time the tribes of Reuven and Gad and half the tribe of Menasheh were exiled, [the observance] of the Jubilee year ceased, as [implied by Leviticus 25:10]: “You shall proclaim freedom throughout the land to all of its inhabitants.” [One can infer that this commandment applies only] when all of its inhabitants are dwelling within it. [Moreover,] they may not be intermingled, one tribe with another, but rather each tribe is dwelling in its appropriate place. (Arikin 72:2b)).

Strategy Two: Expand Exemptions – Hilkhhot Avadim 5:4

5:4 How is a slave released because of the loss of the tips of his limbs or organs? A person intentionally struck his slave and caused him to lose one of the 24 tips of his limbs or organs that will not regenerate; he is granted his freedom. A bill of release is required.

If this applies to the 24 limbs, why does the Torah mention explicitly a tooth and an eye? To extrapolate from them. What characterizes the loss of an eye and a tooth an eye or a tooth? That they are obvious blemishes that will not be regenerated; so too, all obvious blemishes that will not be regenerated cause a slave to be granted his freedom.

The fifth chapter of Hilkhhot Avadim deals with the ways in which the *Eved Canaani* (the non-Jewish) slave can achieve freedom. Rabbinic legislation expands the biblical law, which frees a non-Jewish slave who has already been made part of his owner’s household through the circumcision and immersion (see Avadim 5:5) if his owner harms the his eye¹⁷ or tooth.

Rabbinic law requires the owner to free the slave for a much broader range of injuries the owner might inflict on his slave.¹⁸ This serves to protect the slave from his master’s abusive behavior.

It also assumes that the slave possessed a certain level of personhood. In case of an injury, the slave has the right to petition the Jewish court to gain his freedom (See Avadim 5:15). The court

¹⁷ Gen. R. 36:5. - R. Jacob ben Zavdi said: Why is a slave to go free if his master causes him the loss of a tooth or an eye? Because [Canaan, the forebear of slaves, was condemned on account of what] “he saw [with his eye] . . . and told [with his mouth]” (Gen. 9:22). (*Book of Legends*)

¹⁸ Kid. 24a and following

could then require the owner to free the injured slave. This is understood as the penalty the owner must pay for the damages he incurred. The discussion of this law in Baba Kamma 74b includes the attempt by Rabban Gamaliel to reward his slave, Tabi, with freedom by injuring his eye. By injuring Tabi, Rabban Gamaliel hoped to work around the biblical injunction (Lev.25:45-46) that the non-Israelite slave is to be held in perpetuity. In Baba Kamma the account appears to illustrate that manumission for injury is a legal matter to be settled by the court and not an individual owner's decision. In this way, it underscores the claim that the Jewish court has the ability to modify Torah legislation, not an individual, even a learned and powerful individual such as Rabban Gamaliel.

Similarly in chapter 9, law 6 of *Hilkhot Avadim*. There Maimonides asserts that whoever frees his *eved canaani* violates the Torah injunction that the alien slave should serve his master in perpetuity. If, however, the owner violates the law, the slave is still free and the owner has to present the ex-slave with a document testifying to his manumission. Furthermore, it is permissible, if not appropriate, to free a *eved canaani*, since he has already been brought into the “household of Israel”, if he is needed to perform a mitzvah that only a freeman can perform, such as being part of a prayer quorum.¹⁹

Strategy Three: The Deeper Meaning of the Torah – *Hilkhot Avadim* 9:8

The third strategy is the most radical and, for us today, perhaps, the most useful approach. It stresses that a single Torah law must be understood within the framework of broader Torah

¹⁹ B. Ber.47b.

based statements that stress God’s goodness, mercy and compassion. The Torah, itself, has to be used in ways that enhance human life and Jews must emulate God’s loving concern for each other, other human beings and all creation.

While at first glance these concepts might seem only to suggest prudent behavior and/or express ethical goals, the requirement “to walk in God’s ways” compels Jews to apply Torah law in the most compassionate manner.

Maimonides’s conclusion to his presentation of Hilkhhot Avadim, the Laws of Slaves, illustrates this in a powerful way.

It is permissible to have a Canaanite slave perform excruciating labor. Although this is the law, the attribute of piety and the way of wisdom is for a person to be merciful and to pursue justice, not to make his slaves carry a heavy yoke, nor cause them distress. He should allow them to partake of all the food and drink he serves. This was the practice of the Sages of the first generations who would give their slaves from every dish of which they themselves would partake. And they would provide food for their animals and slaves before partaking of their own meals. And so, it is written Psalms 123:2: “As the eyes of slaves to their master's hand, and like the eyes of a maid-servant to her mistress' hand, so are our eyes to God.”

Similarly, we should not embarrass a slave by our deeds or with words, for the Torah prescribed that they perform service, not that they be humiliated. Nor should one shout or vent anger upon them extensively. Instead, one should speak to them gently, and listen to their claims. This is

explicitly stated with regard to the positive paths of Job for which he was praised Job 31:13, 15: “Have I ever shunned justice for my slave and maid-servant when they quarreled with me.... Did not He who made me in the womb make him? Was it not the One who prepared us in the womb?”

Cruelty and arrogance are found only among idol-worshipping gentiles. By contrast, the descendants of Abraham our patriarch, i.e., the Jews whom the Holy One, blessed be He, granted the goodness of the Torah and commanded to observe righteous statutes and judgments, are merciful to all.

And similarly, with regard to the attributes of the Holy One, blessed be He, which He commanded us to emulate, it is written Psalms 145:9: “His mercies are upon all of His works.” And whoever shows mercy to others will have mercy shown to him, as implied by Deuteronomy 13:18: “He will show you mercy, and be merciful upon you and multiply you.”

This text begins with the assertion that it is not against Jewish law to have a *eved canaani* perform excruciating labor. The text ends, however, with the assertion that the Torah enjoins Jews to be merciful to all. While one might think that it is permissible to oppress one’s slave with backbreaking labor, in actuality, Maimonides argues, Jews are commanded to be merciful to all, including their slaves, as God is merciful to all.

This passage, through its use of proof texts from the Ketuvim, here Psalms and Job, and its references to the saintly ancestors and wicked gentiles to guide the reader to the concluding

Torah verse, draws on the rabbinic rhetorical / sermonic tradition. Here, Maimonides does not merely present the law but exhorts Jews to observe the law in ways that express the goodness of the Torah and the love and mercy of God, the source of Torah.

This reversal of meaning appears in his very language. The word translated as “excruciating labor”, *perek*, appears in Exodus to describe the manner in which the Egyptians oppressed their Israelite slaves. The opening statement is, then, in fact, a rhetorical question, “Is one allowed to behave like Pharaoh?” Obviously not!

Maimonides then shifts and makes what seems as an ethical and pragmatic argument. However, the words he uses the “attribute of piety and the way of wisdom” (*middat chasidut* and *darchei chokhma*) are synonyms for the Torah and the statement “to pursue justice”, itself is a Torah injunction. (Deut. 16:20). He is suggesting something more than moral exhortation.

He then invokes the practice of the sages, the authors of the rabbinic traditions which he is summarizing in his work. Their behavior shows how they understood the laws pertaining to the treatment of slaves. This is how they lived their teachings. They did not oppress their slaves; rather they treated them as members of their households and saw to their welfare. He ends this section with a proof text from Psalms reminding the reader that Jews are slaves / servants of God, and by implication, Jews should treat their slaves as their master treats them.

Maimonides then claims that the Torah forbids Jews from shaming their slaves. They are human beings and they deserve respect. He reinforces this insight by citing verses from the Book of Job

which stress that both slave and owner are fully human. “Did not He who made me in the womb make him?” is Job’s question. Maimonides and his readers were well aware that the Hebrew word for “womb” – *rechem* – is related to the Hebrew word for “mercy” – *rachamim*.”

He then contrasts the wickedness of idolaters to the virtues of our ancestors whom we claim to follow and concludes with the injunction that we are to imitate God who is merciful to all.

Or in other words – it is a *mitzvah* – a divine directive – to treat slaves, and, by extension, all dependents with love, kindness, mercy, respect and honor.

Despite Maimonides inspiring concluding statement, from the perspective of the 21st century, the laws concerning slavery presented so bluntly in his 12th century law code are difficult to read. His world is not our world and many of the assumptions he and his contemporaries made on the ordering of human society seem distant and alien to us. Sitting in medieval Cairo, he demands of us that we treat all people, including slaves with kindness, mercy and honor. We, from our seat here in contemporary America, respond by saying, slavery in its essence cannot be kind, shows no mercy, and denies honor.

Where does this lead us?

Perhaps the early modern German Talmudist, Rabbi Ya’akov Yehoshua Falk’s (1689-1765) reflection on the proclamation of the *Yovel*, the Jubilee Year, can be instructive. He wrote:

“You shall proclaim release (*dror*) throughout the land for all its inhabitants.” It does not say “for all its slaves”, but “for all its inhabitants”, for in a state where there is no freedom, even for a minority of its inhabitants, all its inhabitants are enslaved. We experience freedom only when there is no slavery at all in a state. Slavery is an affliction that damages slave and master as one. This comes from a saying of the sages: “Anyone who buys an Israelite slave has essentially bought a master for him/herself “ [Talmud, Kiddushin 20]. Therefore it says “proclaim release for all its inhabitants” – by freeing the slaves, all the inhabitants of a state become free.²⁰

And to this we can say, Amen!

²⁰ <http://www.truah.org/wp-content/uploads/2017/04/yovel-sampler.pdf>