

CHAPTER I

'ALL HUMAN BEINGS ARE EITHER FREE OR SLAVE': THE SLAVE AS PROPERTY

1. *Digest* 1, 5: 'On the Status of Persons'; 4: Florentinus, from *Institutes*, book 9

Both Greeks and Romans assigned their slaves a legal position which clearly separated them from other, 'free', members of the community. Although chattel slaves were human beings, and thus had certain moral rights (see Chapters 9 and 12), legally they were property in the absolute control of an owner – even to the extent that the owner could transfer his rights to someone else by gift or sale. All slaves were alike in being denied any legal claims on society; this masks the different social and economic roles that slaves played, for instance as either producers or consumers, as well as the fact that free citizens often performed identical economic functions to slaves.

Definitions and explanations of some of the most common terms associated with slavery are to be found in a passage from Justinian's *Digest* of Roman law, excerpted from an earlier textbook for law students.

Being free (*libertas*) is the natural ability to do whatever anyone pleases, unless one is prevented from doing it either by force or by law.

(1) Slavery is an institution of the common law of peoples (*ius gentium*) by which a person is put into the ownership (*dominium*) of somebody else, contrary to the natural order.

(2) Slaves (*servi*) are so called because commanders generally sell the people they capture and thereby save (*servare*) them instead of killing them.

(3) The word for property in slaves (*mancipia*) is derived from the fact that they are captured from the enemy by force of arms (*manu capiantur*).

② Aristotle, *Politics*, 1, 2

In the ancient Greek and Roman world, the polarity between 'slave' and 'free' seemed as natural a way of dividing up the human race as those between men and women or young and old. But Greek philosophers soon recognised that these pairs of words were not all alike. That

human beings were *either* male or female was clear; but in the case of the opposites 'young and old' or 'rich and poor', the reason for classifying certain intermediate examples as one or the other could be relative, or simply arbitrary. Although the 'slave/free' polarity was deeply rooted in Greek thought, it raised a number of problems. Was it analogous to that between the magistrates who ruled Greek communities and the people over whom they exercised authority? After all, every citizen had to be either subject or ruler. Or was it like the division of functions between parents and children who cannot look after themselves? And was there a natural correlation between master and slave, and superior and inferior – either in power or in moral virtue (we still use the word 'liberality' to denote a moral virtue)?

Aristotle begins the *Politics* with an analysis of what it is that differentiates a political relationship from analogous ones like those between husband and wife, masters and slaves, Greeks and barbarians. Since the city community consists of a number of separate (and, ideally, self-sufficient) households, Aristotle first analyses the distribution of authority within the household. He explains his own interpretation of slaves as 'tools to assist activity', rather than merely economic 'productivity' (4–7); goes on to discuss the problems raised by fifth-century Sophists' opinions that slavery had to be *either* natural or merely a conventional institution of some human societies (7–21: *physis* (nature) and *nomos* (convention) was another favourite, and misleading, Greek polarity); and finally considers whether there is a skill involved in the ownership of slaves (21–23). These questions continued to exercise philosophers, some of whom concluded that the institution was unjust or morally irrelevant (see Nos. 235–9 below).

(1) We must first discuss household units, since the city as a whole consists of households. The subject can be subdivided into the parts of which a household is made up: a complete household consists of slaves and free persons. Since one ought to examine everything in its smallest part first, and the primary and smallest constituents of a household are master and slave, husband and wife, and father and children, we ought to examine what each of these three relationships is and ought to be – (2) the institution of 'being the master', 'marriage' (there is no current word in Greek for the relationship between husband and wife) and 'having children' (again there is no specific word for this in Greek). Let these be the three basic relationships. There is another subdivision which many people think is actually equivalent to household management, or the most important part of it, and we shall have to consider that too – I mean what is called dealing with money.

Let us first consider the relationship between master and slave, in order to see what needs it fulfils; perhaps we shall be able to understand

it better if we approach it in terms of the ideas that are commonly held.

(3) Some thinkers believe that there is a 'science' of how to be a master, and that (as I said earlier on) running a household and controlling slaves and being a politician and being a king are all the same. Then there are others who hold that controlling another human being is contrary to nature, since it is only by convention that one man can be a slave and another free; there is no natural difference, and therefore it cannot be just, since it is based on the use of force.

Aristotle's View: Slaves as 'tools'

Property is a part of the household, and the art of acquiring property a part of household management (since no kind of life, and certainly not a fulfilled life, is possible without the basic necessities); (4) and so, just as in particular crafts the relevant tools are needed if a job is to be done, exactly the same applies to managing a household. Tools can be divided into animate and inanimate (for instance, for the helmsman of a ship, the rudder is inanimate while the look-out man is animate: since an assistant can be categorised as a 'tool' as regards that particular craft). So a piece of property is, similarly, a tool needed to live; 'property' is a collection of such tools, and a slave is an animate piece of property. (5) Every assistant is a tool taking the place of several tools – for if every tool were able to perform its particular function when it was given the order or realised that something had to be done (as in the story of Daedalus' statues or Hephaestus' tripods which Homer describes as 'entering the assembly of the gods of their own accord'), so that shuttles would weave cloth or harps play music automatically, then master craftsmen wouldn't need assistants, nor masters slaves. The tools I have mentioned are tools used to make something else, and must be distinguished from property which is useful in itself: a shuttle, for instance, is good for something other than the activity of using it, while clothes or a bed are simply used themselves. (6) Now, since we must distinguish 'being productive' (*poiēsis*) from 'being active' (*praxis*), and both of these need tools, there must also be some difference between the two kinds of tools. But living is a matter of 'being active', not of 'being productive'; so the slave can be classified as a tool assisting activity.

The word 'property' is used in the same way as the word 'part': a part is not simply a section of something else, but belongs to it completely, and the same is true of a piece of property. Therefore a master is simply the master of a slave, but does not belong to the slave, while the slave isn't just the slave of a master, but belongs to him completely.

(7) It will be clear from these facts what the nature and the functions of a slave are.

A: A human being who by nature does not belong to himself but to

another person — such a one is by nature a slave.

B: A human being belongs to another when he is a piece of property as well as being human.

C: A piece of property is a tool which is used to assist some activity, and which has a separate existence of its own.

'Nature' or 'Convention'?

The next thing to consider is whether by nature there is in fact any such person or not, or whether all slavery isn't rather contrary to nature. (8) There are no difficulties here either as regards theoretical analysis or empirical observation. Ruling and being ruled are not only among the things that are inevitable, but also among things that are beneficial, and some creatures are marked out to rule or to be ruled right from the moment they come into existence. There are many types both of rulers and of subjects, and rule over a better type of subject is a better type of rule — ruling a man is better than ruling a wild beast; similarly, something produced from better materials is a better piece of work. (9) Everything that consists of several parts which become one common whole, whether the parts are continuous or discrete, always has an element that rules and an element that obeys, and this is true for living things as a consequence of their whole nature (there is also a ruling element in things that have no life, such as harmony in music, but that isn't relevant to this investigation). (10) But animals primarily consist of soul and body, of which by nature the former rules, and the latter obeys. We must look for what is natural in things that are in their natural state and not in things that have degenerated; thus we must consider a human being whose mental and physical condition is in the best possible state, in whom this will be obvious — for in bad specimens, or specimens in a bad condition, it may appear that the body often rules the soul because of its evil and unnatural condition. (11) But as I was saying, it is in living creatures that it is particularly possible to see rulership both of the master/slave variety and of the political variety: for the soul rules the body as a master rules a slave, while the intellect rules the desires as a politician or king does. In these cases it is clear that it is natural and advantageous for the body to be ruled by the soul and the emotions by the intellect (which is the part that possesses reason); it would be harmful if the components were on an equal level or if the situation were reversed. (12) The same is true of the relationship between man and the other animals: tame animals are naturally better than wild animals, yet for all tame animals there is an advantage in being under human control, as this secures their survival. And as regards the relationship between male and female, the former is naturally superior, the latter inferior, the former rules and the latter is subject.

By analogy, the same must necessarily apply to mankind as a whole. (13) Therefore all men who differ from one another by as much as the soul differs from the body or man from a wild beast (and that is the state of those who work by using their bodies, and for whom that is the best they can do) — these people are slaves by nature, and it is better for them to be subject to this kind of control, as it is better for the other creatures I have mentioned. For a man who is able to belong to another person is by nature a slave (for that is why he belongs to someone else), as is a man who participates in reason only so far as to realise that it exists, but not so far as to have it himself — other animals do not recognise reason, but follow their passions. (14) The way we use slaves isn't very different; assistance regarding the necessities of life is provided by both groups, by slaves and by domestic animals. Nature must therefore have intended to make the bodies of free men and of slaves different also; slaves' bodies strong for the services they have to do, those of free men upright and not much use for that kind of work, but instead useful for community life (and this category can itself be subdivided into appropriateness for peaceful activities and for military ones). Of course the opposite often happens — slaves can have the bodies of free men, free men only the souls and not the bodies of free men. (15) After all, it is clear that if they were born with bodies as admirable as the statues of the gods, everyone would say that those who were inferior would deserve to be the slaves of these men. And if that is true of the body, it would be far more correct to apply this rule with regard to the soul. But then it isn't as easy to see the beauty of the soul as that of the body. To conclude: it is clear that there are certain people who are free and certain who are slaves by nature, and it is both to their advantage, and just, for them to be slaves.

(16) Yet it is not difficult to see that those who assert the opposite are also right in some respects. For there are two senses of the words 'to be enslaved' and 'slave'; there is such a thing as a person who is enslaved as the result of legal convention. This legal convention is an agreement that whatever is captured in the course of warfare is said to belong to the conqueror. Many of the people who discuss legality treat this principle just like a politician who makes an unconstitutional proposal — they say that it is horrible that someone who is less powerful should be the slave and subject of someone who is able to use violence and can apply superior force. Even among theorists there are some who accept this point of view, and some who accept the other.

(17) The cause of this controversy and of the confusion in the arguments is that when something which is good has managed to obtain the necessary means, it is also able to exercise power, and there is always some good quality of which the winning side has more, so that it looks as though the powerful are never without some good quality, and that

this dispute is purely about justice — since there are some who think that legitimate authority requires goodwill towards the subject, while others think that it is sufficient justification for the ruler to be more powerful. If the two issues were separated, there would be no basis or validity for any other arguments, since the implication would be that someone superior in goodness ought not to rule and govern.

(18) Some philosophers who can't abandon the notion that right and wrong must be relevant to this problem (since legal enactments are in some way based on ideas of right and wrong) suppose that enslaving people in the course of warfare is just, but at the same time deny this, since it is possible that the reasons for going to war may not be just; and they conclude that one cannot say that someone who became a slave undeservedly was a real slave. (If this were false, we would be forced to conclude that people of the most respected family suddenly turned into slaves just like slaves by birth, simply because they happened to be captured and sold.) So they don't mean to say that people of that kind become slaves; those who do become slaves are non-Greek foreigners. Of course when they say this, they are only looking for a definition of natural slavery such as I gave at the beginning — we have to recognise that some people are slaves under any circumstances, and others under none. (19) The same is true of the concept of 'nobility'; Greeks think that they themselves are noble not just here but anywhere, while barbarians are only noble in their own communities, so that absolute nobility and freedom is one thing, relative nobility something else, as Theodektes' Helen says:

I am the child of two divine parents —
to whom would it occur to talk to me as though I were a servant?

When they say this, they distinguish slavery and freedom and high and low social status purely in terms of goodness and badness. They think that just as a man is descended from another man and a beast from beasts, so a good man comes from good parents. This may be what Nature generally intends to do, but she doesn't always succeed.

It has become clear that there is some basis for this controversy, and that there are some slaves and free men who are not 'naturally' so. (20) But in some cases there is such a distinction, and it is advantageous for some to be slaves and others masters, and just and proper for some to be ruled and others to exercise the sort of rule which corresponds to their natures. Furthermore, bad rule would be disadvantageous for both of them (since the same thing is good for a part as is good for the whole of both body and soul, and the slave is part of his owner — like a distinct part of the body having a soul of its own). (21) Thus slave and master have a certain common interest and friendship, if their statuses

are deserved by their respective natures; but the opposite is true if the relationship is not of this kind but purely based on convention and superior force.

What emerges from all this is that the power of a slave-owner is not the same as that of a political leader, and that all forms of government are not, as some assert, identical. The one concerns men who are free by nature, the other slaves, and control over a household is a form of monarchy (since each household is ruled by a single person), while political leadership is the government of free men who are equals. (22) The word 'master' is not therefore applied to someone with a particular skill, but to someone who is in the position of a master, and so are the words 'slave' and 'free man'. Of course there might be a skill involved in owning slaves or being a slave; this was what the man in Syracuse used to teach who made a living by instructing youngsters in the ordinary duties of slaves. There could even be a more detailed science than this, such as cookery, and the various other types of domestic service — since different slaves have different jobs, some of them more honourable and some more restricting: in the words of the proverb,

One slave comes before another, and one master comes before another.

(23) All these kinds of things are the skills with which slaves are particularly associated; a master's skill consists in being able to make the best use of his slaves (the function of a master consists not in buying slaves, but in using them). But this skill has no importance or status attached to it — it is simply that whatever the slave has to know how to do, the master will have to know how to order him to do. So anyone who is rich enough to avoid this troublesome business has a manager to exercise this office, and they themselves go off and become politicians or philosophers. The skill or science of obtaining slaves justly is quite separate from both of these; it is more analogous to warfare, or hunting. That, then, is my analysis of the master/slave relationship.

3. The Gortyn Code, 1, 1—49

In the middle of the fifth century BC, the city of Gortyn in Crete set up an inscription containing a revision of its ancestral laws. From the very first line we are made aware of the way in which men were classified as either free or slave; as in other parts of the Greek world, and in other societies, this status distinction is expressed in terms of the money value of fines prescribed (see AVN 62).