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Oppression through Reform: Masters, Slaves, and Roman Society  
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Caesar Augustus was attending a dinner party thrown by Vedius Pollio. A slave was carrying one crystal cup too many. As he was walking, the cup slipped from his fingers and smashed to the floor, to the horror of all assembled. Vedius leaped up. He yelled, “Cut him and throw him to the lampreys in my pond! Let them suck his stomach out and dissolve his organs like he has smashed my crystal!” The slave, sobbing, ran to Augustus and flung himself at his feet. “Please don’t let him throw me to be eaten! I will do whatever you wish but please do not allow me to be eaten alive by those awful fish!” Augustus rose to his feet, horrified. “You, Vedius, you would execute this man in my presence?” he barked. “You would subject me to this hideous form of entertainment? You lack any semblance of self-control befitting a man of your rank.” Augustus snapped his fingers. “Let all of his crystal be smashed and his lampreys slaughtered, as punishment for his outburst!” His eyes swept the room, finally alighting on the groveling figure in front of him. “And you,” he hissed, “I shall decide your fate after dinner<sup>1</sup>.”

This story illustrates the shifting power dynamic between individuals and the Roman state. In Republican Rome masters had complete control over all aspects of their slaves’ lives, and could punish or kill them at will. The rise of Imperial Rome, however, witnessed a gradual process of withdrawing the power that masters had over slaves, ceding it to Imperial rule. This paper will explore this phenomenon, examining how it was manifested through various Imperial legislations.

Society in Rome was filled with tension between the rights of masters and the protection of slaves. The cultural and legal tradition established in early Rome gave full authority to the

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<sup>1</sup> Seneca, *Dialogue 5: On Anger*, 3, 40. (Wiedemann). This excerpt was dramatized for the purpose of this paper.

paterfamilias. The paterfamilias had control of life and death over sons and slaves, and could exercise his power without fear of retribution.<sup>2</sup> In the context of the Republic slaves largely had no protection from the whims of the paterfamilias. With the rise of the Empire, the Roman government created legislation limiting powers of the master, both in public and in their own home. This paper will argue that when such restrictions on the ability of masters to punish their own slaves were enacted, they were fashioned not to improve a slave's lot. Instead, they were used to take power away from the paterfamilias and give that power to the state.

Many Romans realized that cruel treatment of slaves could have deadly consequences in the form of the murder of owners, or general slave uprisings. Many owners moderated their behavior to their slave staffs as a result of such fears. Nonetheless, the Roman legal system also placed restraints on these interactions through a series of legal release valves to alleviate pressure and resentment building up in slaves before social unrest could take root.

One device was the power of the censor to check the paterfamilias' cruel treatment of slaves. Some scholars claim that "The censor could and did check wanton cruelty,"<sup>3</sup> suggesting that the censors were able to protect slaves from maltreatment. There are several problems, however, with the notion of the censor protecting slaves. Just because the censor had the theoretical power to protect slaves does not mean that they exercised that power. The literary evidence on censors protecting slaves from cruel masters is nonexistent, which is surprising considering that Romans took great delight in stories about stringent censors and the humiliation they wrought. Moreover, censors were appointed every five years, but were limited in 367 BC

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<sup>2</sup> Bradley 2007, 25.

<sup>3</sup> Bedwell 1908, 572.

by the *lex Aemilia* to a mere 18 months in office. This meant that three and a half out of five years, there was no censor in office to protect the slaves.<sup>4</sup>

A further bar preventing the censor from protecting slaves is the fact that slaves had no recognizable legal standing, so they had no way of reaching the ear of the censor. Another citizen would have to report the behavior to the censor, an unlikely course of action considering the psychology of class solidarity<sup>5</sup>. While the office of the censor was an ineffective means of limiting the powers of masters, its purview over slave abuse probably served as a psychological comfort. The knowledge that the censor could, in theory, protect slaves would have helped to assuage some of the slaves' fears, reinforcing compliance among the slave population.

Even though Romans believed that the punishment of slaves was only proper after rational reflection, even instituting an office (the censor) which could defend slaves from grievous bodily harm, there is no reason to assume that masters did not physically abuse or mutilate their slaves. Corporal punishment, both private and public, was reserved exclusively for slaves and non-citizens. The slave was considered to be held accountable for all crimes/actions with his body,<sup>6</sup> and there is ample evidence that masters punished their slaves accordingly.

Even when legal reforms governing the master-slave relationship came about, masters tended to be favored in the changes. Slave owners would not tolerate a scenario where slaves could continually challenge their authority by threatening to bring them to court for their behavior. The result was that the courts were closed to all claims by slaves, except when the slave argued that he was a free man, and his complaint was that he had been castrated.<sup>7</sup>

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<sup>4</sup> Watson 1987, 117.

<sup>5</sup> Watson 1987, 117.

<sup>6</sup> Finley 1998, 161.

<sup>7</sup> Watson 1987, 128.

The only exception to this rule was if a slave fled to a temple and claimed sanctuary. In this scenario, the slave would be tried by the priests to determine whether the slave had been unjustly maltreated by their master. If the priests judged in favor of the master then the slave would be returned. Should the priest rule against the master, however, then the slave would simply be resold to a different master and the original master compensated for their loss.<sup>8</sup>

This practice did not change significantly after the rise of Imperial Rome. Instead of fleeing to a temple, however, the slave could only claim sanctuary after fleeing to a statue of the emperor, or to a temple dedicated to the emperor<sup>9</sup>. Thus, this reform allowed for the continuation of this practice while consolidating it within Imperial power.

As noted earlier, slaves were the only members of Roman society who were punished with corporal punishment. A prime example of this is the use of torture on slaves testifying in court, a practice dating back to the early Republic. The torture of slaves was so common that courts only admitted slave testimony if it was extracted under torture.<sup>10</sup> In the Republic, however, the master had to give permission for their slave to be submitted to the court's torture. The only thing that might save a slave from torture would be if he was being asked to testify against his master. Since slaves were forbidden from testifying against their masters (on pain of death), the slave in this scenario would not be interrogated and tortured.<sup>11</sup> This was easily circumnavigated, however, because the master could just sell the slave to another master, and then torture the slave to extract information.<sup>12</sup>

The practice of torture in Imperial Rome did not die out. The circumstances under which torture was permissible, however, were changed by the emperors. A letter from Hadrian

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<sup>8</sup> Watson 1987, 128

<sup>9</sup> Watson 1987, 128

<sup>10</sup> Wiedeman 2005, 167

<sup>11</sup> Watson 1987, 128

<sup>12</sup> Watson 1987, 128.

states, “torture against slaves should be employed as the last resort, at a point when someone is suspected of having committed the crime, and proof is not forthcoming from other arguments, so that it seems that the only step missing is an admission by the slave.”<sup>13</sup>

This limited the type of physical abuse that a slave could endure. It also protected slaves from being tortured, except when no other avenue was open to the court, theoretically cutting down on the amount of physical abuse doled out to slaves. More importantly, however, the Emperor in this letter shifts the balance of power between master and court. Whereas in the Republic it was the master who could order the slave to be tortured, under Imperial Rule only the court could order a slave to be tortured. This seizure of power from the *paterfamilias* for the advancement of Imperial power fits the wider pattern of shifting power dynamics under Imperial rule: degradation of the individual’s power to increase the power of the Emperor.

The Empire also saw the rights that masters had over the life and death of their dependents vanish. The Imperial legal system established a line between the master’s control over a slave’s life and control over a slave’s death. This is exemplified in an edict issued by the emperor Claudius. Suetonius, writing under the emperor Hadrian, describes how masters were abandoning sickly slaves on the Island of Aesculapius after giving up hope that the slaves would recover. Claudius decreed that any slave who survived the abandonment would be set free, but that any owner who killed a slave rather than abandon him would be charged with murder.<sup>14</sup>

This edict undermines a slave owner’s power over the end of a slave’s life, while stressing the duty that Roman slave owners had to their slaves. Actually killing a slave violated this duty, a violation significant enough to be punished by a murder charge. Even though they had the duty to not kill a slave, they had no duty to keep a slave alive. This is reflected in the

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<sup>13</sup> Ulpian, Digest, 48, 18. (Wiedemann).

<sup>14</sup> Suetonius, Claudius, 25.2. (Wiedemann).

edict's punishment of owners who actively sought the death of a slave and the edict's blind eye towards owners who simply allowed their slave to die. The duality of Claudius's edict shows that it was not instituted to protect slaves. Instead, it was meant to reaffirm and protect the duties that slaves and slave owners owed each other. To Claudius, slaves were bound to serve their masters as long as their masters observed the obligations that they owed to slaves. As soon as the master no longer fulfilled those obligations (i.e. they left the slave alone on the island of Aesculapius to die), then the slave was freed from the relationship.<sup>15</sup> This edict was the one of the first in a long line of Imperial decrees that protected slaves from the unchecked power of their masters.

Constantine's rulings after seizing Imperial power are perhaps the best examples of the shifting power relations. Coming to the throne following a bloody civil war, he moved quickly to consolidate his power against any potential threats. One way he did this was to further decrease the power that individuals had by forcing them to abide by Imperial decrees outlining how the *paterfamilias* could discipline his slaves. Thus, his laws regarding slavery focus on the methods and timeliness of punishment to determine the legality of the punishment<sup>16</sup>. The second focus of his slave legislation was an allowance for masters who unjustly beat or killed their slaves to be charged with murder, rather than simply paying a penalty as they would for killing another man's slave<sup>17</sup>.

Constantine's legislation produces an interesting juxtaposition between actually protecting slaves and consolidating the power of the court. The murder of slaves could only be justified after the fact through a judicial process, yet the rescripts did represent an attempt to better the position of slaves. This juxtaposition reflects Constantine's own crisis, caught as he

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<sup>15</sup> Wiedeman 2005, 184

<sup>16</sup> Watson 1987, 288.

<sup>17</sup> Watson 1987, 288.

was between Imperial power and religion. The laws do reflect limited adoption of Christian values, but they are offset by the tradition of Imperial rule. The resulting legal documents are consequently full of contradiction and indecision, imploring masters to treat their slaves well while justifying murder if it was an unfortunate byproduct of improving the slave's ethical life<sup>18</sup>.

Law under the emperors was not limited to determining when a master was justified in killing a slave. Legislation was enacted that also determined how a master was allowed to punish a slave, with remarkable similarity to legislation regarding the master's right to kill slaves. By and large, masters were discouraged from punishing slaves harshly if it were unclear that the slaves deserved the punishment. The laws did not outlaw or forbid harsh punishment, however, implying that the problem was not the rights of slaves, but the power of the master set against the power of the government.

The *lex Petronia*, passed in roughly CE 61, was one piece of legislation which curtailed the power that masters had in determining punishment for their slaves. Masters who gave their slaves over to fight wild animals were prosecuted, as were the people who purchased or accepted the slaves. Instead of making the decisions themselves, the masters were required to consult the courts before they could punish their slave in this manner. The obviousness of the slave's guilt made no difference; the master would be tried unless they had brought the slave to court. The magistrate would hear the case out, and then decide whether the slave merited such punishment. Approval would generally be given if the master could show that the slave deserved punishment for bad conduct.<sup>19</sup> What this law shows is that the power of administering any form of punishment or justice was taken away from the master and given to the courts. There is no reference to any sort of humanitarian motivations prompting the adoption of these laws. The

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<sup>18</sup> Watson 1987, 289.

<sup>19</sup> Berger 1953, 557., Buckland 1969, 36.

laws were adopted, rather, to reinforce the power that the Imperial government had over the citizens.

Even though legislation passed under the emperors did help give slaves fairer punishments, the main interest of the government was always to protect its own interest and the maintenance of the *status quo*. Laws regarding the murder of masters, for instance, reflect this concern, and are surprisingly harsh. The *senatus consultum Silanianum*, passed in 10 CE, decreed that when a master was murdered, all of the slaves who were under the same roof were to be subjected to torture, and killed. The reasoning for this is made clear by the jurists, writing that, “no household could be safe if slaves were not forced by the threat of danger to their own lives to protect their master against enemies both internal and external.”<sup>20</sup> By this law, slaves were obligated to protect their master, and would be executed if they did not come to the aid of their master.

Many complications arose stemming from this bill. What if, for example, a slave was deaf or handicapped? Were slaves on the entire property subject to it, or only slaves nearby? A case arose, for instance, where a master was murdered. Jurists sentenced his 400 slaves to be tortured and executed. His heirs appealed this ruling, arguing that their entire livelihood would be destroyed. The jurists went ahead and executed the 400 slaves, even though most of them would not have been able to do anything to stop the murder. The jurists wanted to make a point that slaves should always try to protect their masters, no matter the situation.

During the Republic, there was little to no protection that slaves had from the power of their masters. The rise of the Empire saw that the power masters had to punish slaves was taken away. This was not done as a humanitarian gesture, but to give increased power to the state. Slaves could still be horrifically punished, but only the courts could legally punish a slave in this

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<sup>20</sup> Ulpian. On the Edict. 50.1. (Wiedemann).

way. Thus, legal reforms which restricted the master's ability to punish their slaves were enacted not for humanitarian purposes, but to cement the power of Imperial Rome.

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