

## REVIEW ARTICLE

ENSLAVED, FREED AND SUB-ELITE PEOPLE  
IN ROMAN SOCIETY

SCHERMAIER (M.) (ed.) *The Position of Roman Slaves. Social Realities and Legal Differences*. (Dependency and Slavery Studies 6.) Pp. viii + 310. Berlin and Boston: De Gruyter, 2023. Cased, £70, €79.95, US\$80.99. ISBN: 978-3-11-099868-9 (978-3-11-098719-5 open access).

COHEN (E. E.) *Roman Inequality. Affluent Slaves, Businesswomen, Legal Fictions*. Pp. xii + 265. New York: Oxford University Press, 2023. Cased, £54, US\$83. ISBN: 978-0-19-768734-5.

ZAIR (N.) *Orthographic Traditions and the Sub-elite in the Roman Empire*. Pp. xviii + 295. Cambridge: Cambridge University Press, 2023. Paper, £29.99, US\$39.99 (Cased, £85, US\$110). ISBN: 978-1-009-32767-1 (978-1-009-32766-4 hbk).

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The three volumes under review delve into the field of slavery and, more specifically, the social, economic and cultural role of enslaved, freed and sub-elite people within the Roman world.<sup>1</sup> The first two books are closely related, as both focus on the relevance of slaves and freed persons in the Roman world from a social and economic perspective. The third volume deals with the ‘cultural’ position of the lower strata of Roman society: it addresses the issue of sub-elite literacy through the analysis of the various spellings in the surviving Latin inscriptional evidence.

The first book, edited by Schermaier, consists of nine chapters by seven different authors and concentrates on the comparison between the information on Roman slavery that can be gathered from legal evidence and what inscriptions and literary sources reveal about the role of enslaved people in daily life. It opens with an introductory chapter, ‘Without Rights? Social Theories Meet Roman Law Texts’, by Schermaier, who examines the relationship between social theories of slavery and Roman legal texts and argues that modern concepts of ‘slave law’ and ‘slavery’ can be misleading when analysing historical conditions of Roman enslaved people. Schermaier cautions against applying modern interpretations of terms like ‘humanity’ or drawing direct parallels with transatlantic slavery. While Roman law defined slaves as lacking legal status (*nullum caput*) and as property (*dominium*), this did not fully reflect the social reality of Roman slaves: indeed, they held diverse positions; and legal pronouncements such as *servi pro nullis habentur* or *servitutum mortalitati fere comparamus* must be understood within their specific legal and historical contexts, often relating to procedural limitations rather than a complete lack of rights or ‘social death’ (this

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point clearly aims at tackling O. Patterson's famous theory). The chapter concludes that understanding Roman slavery requires moving beyond modern preconceptions and analysing the specific legal and social structures of ancient Rome.

The second chapter, '*Filii naturales*: Social Fate or Legal Privilege?' by T. Finkenauer, explores the status of natural children and the slave family in Roman legal sources. Although Roman law did not formally recognise the slave family as a legal entity, Finkenauer highlights instances where natural kinship among slaves was considered (e.g. manumissions based on *servilis cognatio*, the possibility of *redemptio* by natural relatives, and legal interpretations aiming to prevent the separation of slave families in sales and inheritance). He argues that these considerations were present in classical Roman jurisprudence, driven by concepts like *pietas* and the presumed intent of individuals: although slaves remained 'objects', certain legal interpretations offered them some protection based on natural family ties. P. Buongiorno's chapter, 'Social Status "Without" Legal Difference. Historiography and Puzzling Legal Questions About Imperial Freedmen and Slaves', examines the social status of imperial slaves and freedmen. It first provides a useful state-of-the-art of scholarship on the topic and then reaffirms that the slaves of the emperor played a crucial role in the administration of the state, especially under Claudius. The study also analyses Roman jurisprudence, noting the lack of both specific privileges for the members of the *familia Caesaris* and any differentiation in their status from that of other privately owned slaves. The article ends with a not fully convincing section, in which some inscriptional evidence that seems to testify irregular naming practices among imperial freedmen is examined: explanations related to Roman inheritance law and the *senatus consultum Claudianum* of 52 CE are suggested, which would indicate a social relevance despite the lack of legal distinction.

The next chapter, '*Peculium*: Paradoxes of Slaves With Property' by R. Gamauf, discusses property held by slaves with their master's consent, i.e. the *peculium*, which had significant social and economic dimensions, allowing slaves some autonomy and the possibility of self-purchasing manumission. Gamauf highlights that jurists defined *peculium* primarily for legal purposes, sometimes contrasting it with the property of free individuals (*bona*); however, he shows that, despite the efforts to maintain such a legally strict definition, the *peculium* emerges from the sources as an institution that substantially facilitated slaves' economic activity.

A second chapter by Gamauf, '*Dispensator*: The Social Profile of a Servile Profession in the *Satyrica* and in Roman Jurists' Texts', explores the social profile of slaves employed as *dispensatores* by analysing excerpts from Petronius' *Satyrica* and legal sources. The *dispensator*'s main duties included cash management and debt collection. The portrayal of Trimalchio in the *Satyrica* offers insights into their career progression and social mobility, although it contains exaggerations. Legal texts corroborate the importance of *dispensatores*, by revealing that they held positions of trust, sometimes managing other slaves and even influencing their *domini* ('masters'). The study highlights that manumission may have been a possibility for them, but it was always tied to their reliability and the complex relationship with their *domini*.

W. Buchwitz's chapter, 'Giving and Taking: The Effects of Roman Inheritance Law on the Social Position of Slaves', analyses the influence of Roman inheritance law on the social position of slaves. Buchwitz recalls that slaves could not make wills but could be named as heirs or legatees, and masters sometimes freed slaves in their wills to make them heirs, often to manage indebted estates: being named an heir could bring honour to the slave. He also recalls that public and imperial slaves had the right to bequeath parts of their property. The conclusion is that Roman inheritance law, despite not primarily aiming to benefit enslaved people, had secondary effects that could improve slaves' social standing.

The next chapter, ‘*Servi poenae*: What Did It Mean to Be “Condemned to Slavery”?’ by A. McClintock, discusses the Roman legal concept of those condemned to slavery as punishment, i.e. individuals who were sentenced to capital punishments such as hard labour in mines or fighting in the arena, leading to the immediate loss of citizenship and freedom. *Servi poenae*, a category of enslaved people that emerged during the empire, notably under Antoninus Pius, were considered slaves of an ‘impersonal’ owner: the concept had roots in Roman religion, potentially linked to the goddess Poena (‘vengeance’) and later associated with Nemesis, the deity of retribution, especially in the context of the amphitheatre. McClintock argues that the idea of penal servitude has influenced legal thinking into modern times, with forced labour remaining a feature of some prison systems.

In the chapter ‘*Favor libertatis*: Slaveholders as Freedom Fighters’ J.F. Stagl considers the key principle of *favor libertatis* in Roman law, which stated that, in doubtful cases, decisions should favour the freedom of a slave. Stagl argues that this institution, seemingly contradictory to slavery, had a strong legal basis, particularly in laws such as the *Lex Iunia Petronia*, the *Lex Iunia Norbana* and subsequent imperial acts, which aimed to alleviate the condition of slaves. The conclusion is that the rationale behind *favor libertatis* included pragmatic interests like incentivising slave loyalty and maintaining order, as well as philosophical ideas rooted in *humanitas* and natural law, which viewed freedom as a natural state: *favor libertatis* operated as a special law (*ius singulare*) that deviated from common law for public benefit.

In the last chapter, ‘Neither Fish nor Fowl: Some Grey Areas of Roman Slave Law’, Schermaier highlights how Roman jurists often addressed ‘grey areas’ where social practice influenced legal treatment: this included recognising a slave’s intent in acquiring property for a master, limited protection based on their rank/dignity, masters acknowledging servile families (*contubernium*), and *de facto* personal property and the *peculium*, which allowed slaves economic activity. According to Schermaier, legal fictions such as the *naturalis obligatio* (an obligation that was not legally enforceable but could have some legal effects) and *emptio suis nummis* (slaves buying freedom with their own money) bridged this formal/practical divide. The conclusion is that some servile social realities received legal recognition.

The second book, a monograph by Cohen, consists of five chapters, preceded by an introduction, and focuses on the idea just addressed in discussing the last chapter of Schermaier’s edited book, i.e. the dichotomy between legal status and social reality of Roman slaves. In the introductory section Cohen notes how ancient literature and legal systems often stereotyped and denied rights to slaves and women similarly; however, he argues that, in the early Roman Empire, legal status did not entirely dictate social position, as a small elite of wealthy slaves prospered, and Roman commercial law could be gender-blind, enabling businesswomen, both free and enslaved, to succeed. Cohen insists that the Roman legal system developed mechanisms to reconcile the conflict between legal theory and commercial reality, particularly concerning slaves’ economic activities. Despite the absence of comprehensive statistics on Roman inequality, Cohen emphasises the importance of legal sources such as Justinian’s Digest and Imperial constitutions, which frequently mention slaves and women, indicating their social and economic relevance: for instance, these legal sources reveal practices like slaves’ control of *peculia* or self-purchase of freedom, and women’s involvement in commerce. The aim of the book therefore is to explore how Roman jurists navigated the contradictions between formal legal precepts and economic realities. Ultimately, the introduction sets the stage for an examination of Roman inequality through the lens of its legal framework and its adaptation to social and economic complexities.

Chapter 1, 'Inequality', explores the significant economic gap in Roman society, highlighting the vast disparities between a tiny ultra-rich elite and the impoverished majority, including the mass of slaves. While Roman slaves were generally oppressed and exploited, the chapter argues that financial inequality also existed within the unfree population, with some enslaved people accumulating considerable wealth and even owning their own slaves (*vicarii*). This was sometimes coupled with the poverty of free individuals, leading to a paradoxical situation where the life of a slave could appear better than that of a free individual. Cohen argues that the legal structure, including limitations on liability through the *peculium*, favoured the use of slaves as managers (*institores*) and in other key economic roles: slaves could operate businesses, including banks, sometimes for their own benefit, sharing profits with their masters or even retaining them entirely. The chapter shows how this system created opportunities for some slaves to achieve financial success and social standing that sometimes surpassed that of poorer free citizens.

Chapter 2, 'Fiction', discusses Roman inequality by examining the economic roles of slaves and freedmen and the legal fictions that arose to accommodate them. While Roman slaves were legally considered nullities, a significant phenomenon was the rise of wealthy freedmen who dominated commerce. Cohen argues that this was unsurprising, stemming from the practice of slaves operating businesses through the *peculium*, a fund implicitly recognised as their own: Roman law, unable to explicitly grant ownership to slaves, used legal fiction to attribute practical ownership of the *peculium* to the slave. Cohen recalls that the *peculium* could originate from the master's assets or, importantly, from the slave's own thrift and services: despite the master's theoretical right to withdraw it, in practice, the *peculium* was treated as the slave's, allowing the latter to engage in business activities. Moreover, upon manumission, freed people generally retained their *peculia*, and, although they maintained obligations to their former masters (patrons), Roman law employed another legal fiction and allowed them to be treated as quasi-family members, which let them to continue acting as agents for their patrons, crucial for maintaining commercial activities. The development of the *actio quasi-institoria* further supported this by holding the patron liable for the actions of his freedman procurator. These legal fictions allowed Roman law to adapt to the economic realities of a society heavily reliant on the contributions of both enslaved and freed individuals in commerce, without contradicting its fundamental principles.

Chapter 3, 'Opportunity', discusses voluntary self-enslavement in Rome, where free individuals could enter slavery, possibly to access economic opportunities, aiming to accumulate wealth (*peculium*) and buy their freedom (*redemptio suis nummis*): according to Cohen, this created a cycle from impoverished freedom to slavery and then to prosperous freedom. The chapter highlights the economic significance of this cycle for social mobility and skilled labour. It also addresses the debate surrounding the general frequency of manumission in Rome, arguing that the self-funded route was significant for skilled individuals but not necessarily representative of all levels of servitude.

Chapter 4, 'Businesswomen', examines numerous examples of both free and enslaved women who were actively involved in a wide range of mercantile undertakings: they participated as principals in financial transactions, real estate and owned maritime vessels, but also worked in various services such as hairdressing and healthcare as well as in retail, especially textiles and perfume. Some evidence examined by Cohen, such as the archive of the Sulpicii and various funerary inscriptions, suggests that female individuals owned slaves active in banking and, although some scholars believe the profession of *argentarius* ('banker') was officially banned to women, this demonstrates that the latter were involved in financial activities like lending. Cohen also intends to show that legal principles diverged from reality: the *senatus consultum Velleianum*, intended to prevent women from

*intercessio* ('credit enhancement'), was largely ineffective in practice, as well as the institution of *tutela mulierum* ('male guardianship over women'), which is not even mentioned in the Theodosian Code, diverged significantly from reality. Indeed, the evidence, including some of Cicero's writings and the archive of the Sulpicii, shows women engaging in substantial business transactions without their tutors' involvement. Cohen concludes that adult Roman women enjoyed considerable legal autonomy in commercial matters.

Chapter 5, 'Servile Imperialism', focuses on imperial slaves and freedmen, who played a crucial role in the administration of the Roman Empire, especially during the first and second centuries CE. Although some emperors' freedmen attained great wealth and power, their status remained ambiguous. They were often perceived and referred to as slaves (*servi*) by contemporaries like Pliny the Younger and Tacitus, highlighting the enduring impact of their servile origins and their continued dependence on the emperor. Figures like the father of Claudius Etruscus and Pallas rose to become high-ranking fiscal officials, wielding immense influence. According to Cohen, the system relied on a degree of legal fiction, as the emperor's personal property, i.e. his slaves, effectively ran the state, blurring the lines between public and private domains. Cohen highlights that the manumission of imperial slaves did not necessarily equate to true independence from imperial control. The clear distinction between slavery and freedom was therefore only fully realised in the next generation, with the children of freedmen, who were born as free individuals (*ingenui*).

By underlining the difference between how enslaved (and freed) people were legally perceived in the Roman world and what they were actually able to do, the greater merit of the two above-mentioned books is to provide more food for thought for scholars currently studying the various forms of agency of Roman slaves. For example, the international team of the ongoing European Research Council-funded large-scale project, 'SLaVEgents: enslaved persons in the making of societies and cultures in Western Eurasia and North Africa, 1000 BCE–300 CE' (Advanced Grant 2022, Grant Agreement 101095823), which aims to construct an open-access digital prosopography of all attested enslaved and freed persons in antiquity and their agency (project website: <https://www.ims.forth.gr/en/project/view?id=272>), will greatly benefit from the results of both volumes. A further merit of the two books is to show the wide internal hierarchy that characterised the enslaved population and affected the life trajectories of some slaves from those of others. From a methodological point of view, this always implies a case-by-case analysis, like the one offered by the two volumes, as this approach provides appropriate contextualisation and relativisation in tackling the problems related to the role of slaves within Roman society. Regarding this aspect, however, a limitation of the two books is to be noted: crucial aspects of Roman slavery, such as violence and mistreatment, are left mostly aside, which risks giving a misleading image of the overall ancient world of slaves. This does not mean that one must necessarily subscribe to Patterson's paradigm of slavery as 'social death', a theory that, if taken too rigidly, fails to explain a range of fundamental distinctions in the world of slavery; however, the exercise of force against many slaves in Roman times affected their social and economic position. A further weakness of both volumes is the lack of a concluding section, in which the main results could have been summarised and evaluated: this is especially true for Cohen's work, which would have greatly benefited from a conclusion that would have made more explicit the *raison d'être* of the book and better explained the notion of 'Roman inequality'.

The third volume, a monograph by Zair, opens with a long introductory section (Chapter 1) illustrating the central focus of the study, i.e. the level of sub-elite literacy and education in the Roman Empire between the first and fourth centuries CE. A useful state-of-the-art of the longstanding debate on literacy in the Roman world is provided. Then, the

methodological approach of the research is presented: due to the limited information on sub-elite education from ancient literary sources, the book considers numerous epigraphic texts engraved on Vindolanda, Pompeii and Herculaneum tablets as well as on *defixiones* (curse tablets). By assuming that the writers of such inscriptions largely belonged to the sub-elite, Zair analyses the ‘optional’ spellings found in this evidence, particularly ‘old-fashioned’ features and diacritics such as *apex* and *i-longa*. Zair provides readers with the relevant definitions: ‘optional’ spellings are those available to writers educated in the standard orthography of the day to use and not considered incorrect, but whose absence would not indicate a lack of education; spellings are ‘old-fashioned’ when they are no longer part of the core repertoire of standard orthography, though not necessarily substandard. Zair differentiates between ‘standard’ and ‘substandard’ spellings, noting that orthographic standardisation was an ongoing process in the Roman Empire. While some variation was acceptable even among the elite, substandard spellings reflect phonetic changes not admitted into educated orthography and indicate a lower level of education. The book’s research methodology also involves analysing frequency and use of ‘old-fashioned’ spellings in sub-elite corpora and comparing them to elite usage; it also considers the role of authors (those responsible for the wording), writers (those who physically wrote) and professional scribes: the frequent use of scribes means that assumptions about the education of authors based on spelling, or vice versa, are problematic unless the author and writer are the same person.

The book is then divided into two parts: Part 1 consists of sixteen chapters (2–17) and focuses on specific examples of ‘old-fashioned’ spellings involving vowels and consonants, and Part 2 includes eight chapters (18–25) and concentrates on the cases that attest to the use of *apices* (on vowels) and *i-longa*. Concluding remarks to both parts are provided in Chapter 25, which falls into Part 2.

Zair concludes that treating ‘old-fashioned’ spelling as a single category is not useful due to the variety of the history, development and survival or loss of individual spelling rules and words, which depend on several factors. The methods used to identify ‘old-fashioned’ spellings can yield different results, as seen with the digraph <xs> for /ks/, which was always less common than <x> without being explicitly called ‘old-fashioned’. Its use varied by register and social background, appearing in early official texts but persisting longer in scribal training, for example in London and Vindolanda tablets, as well as in *defixiones*. The same applies to the variation between <u> and <i> before /l/ and labial consonants, which show different patterns of change depending on specific words and morphological categories. Spelling changes linked to phonological shifts sometimes led to rapid standardisation of new spellings, such as the change from <uo> to <ue> before coronal obstruents or syllable-final /t/. However, some older spellings persisted much longer in both elite and sub-elite contexts, such as <uo> for /wu/, which maintained a distinction from <uu> for /uu/ and was geographically widespread. Unlike sound change, spelling change is irregular and lexeme-dependent, as shown by the continued use of double <ll> in *millia* despite the phonological reduction to single /l/. Other spellings, such as <qu> for /k/ before a back vowel in *quom* and *quur*, survived in specific words and were noted by linguistic commentators. Not all spelling innovations were phonologically driven, such as the introduction of <ii> for intervocalic /jj/. Zair thus proposes using the term ‘optional spellings’ instead of ‘old-fashioned’, defining them as non-standard, non-substandard and non-intuitive, requiring specific learning. He then argues that the use of ‘optional spellings’ is not exclusive to the highly educated: inscriptional examples demonstrate the adoption of optional spellings across different social strata, which suggests that knowledge of the ‘optional spellings’ was part of educational traditions accessible to the sub-elite. Certain optional spellings tend to co-occur in Vindolanda tablets, for example,



<uo>, <xs> and <ss>, suggesting specific educational traditions where they were taught together. The prevalence of <ss> in Vindolanda and London tablets and in British curse tablets, hints at a possible regional orthographic tradition. Some optional spellings might have moved from elite to sub-elite usage over time. Genre and register also influenced spelling choices. The adoption of optional spellings by the sub-elite might reflect a 'competition' model of education for cultural recognition. Many optional spellings seem to have been preserved at the sub-elite level until the second century CE. Evidence from Sulpicii and Caecilius Iucundus archives indicates that scribes had distinct orthographic conventions (e.g. the scribes of Caecilius Iucundus used <xs> more frequently), suggesting specialised training. At Vindolanda, 'optional spellings' were widespread among both scribes and non-scribes, potentially pointing to a broader regional orthographic tradition within the military and its interactions with civilians. The use of *apices* also distinguished scribes, and parallels between the orthographic practices of scribes and stonemasons have been traced by Zair. A further conclusion is that the study of 'optional spellings' can provide valuable data for understanding the chronology of sound changes. An appendix on the cases of <uo> and <uu> in Catullus closes the book before a long list of bibliographical references and an index.

The great merit of the book is that a significant amount of inscriptional evidence is examined, and an extensive mass of examples of different spellings are considered: this will be useful for future sociolinguistic works. Conversely, few insights on the possible sub-elite educational background are offered, and the conclusions are not particularly significant nor innovative. For instance, Zair notes that the diffusion and the type of literacy in the ancient world varied across social classes: while evidence attests that elite education followed a 'curriculum' involving reading, writing, grammar and literature, information on sub-elite education is scarce, though literacy was available to some extent. A further example is Zair's statement: 'there was (perhaps unsurprisingly) no army-wide spelling standardisation, and hence presumably no fixed educational tradition that applied across the empire' (p. 275). This assumption is indeed unsurprising, although it is useful to have it demonstrated by the study of a great bulk of sources. Future works will start from this book for a more nuanced understanding of spelling variations, considering overall historical, social and phonetic factors.

The three books under review have been considered together as they all focus on the social, economic and cultural role of enslaved, freed and sub-elite people in Roman times. The first two volumes can be compared closely, since they both examine Roman slaves and freed persons with a view to their social and economic role. The third one focuses on some aspects of the education – hypothetically testified by the analysis of written spelling variations – of people from Roman society's lower strata, which – as is known – did not include necessarily enslaved and freed individuals. However, this volume can equally be useful to those interested in studying the socio-cultural dynamics among the (free, freed and unfree) members of non-elite groups.

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