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SLAVE MANUMISSION AND *PARAMONĒ* – SOME REMAINING PROBLEMS? RESPONSE TO RACHEL ZELNICK-ABRAMOVITZ*

The paper to which I am responding (which for editorial convenience will hereafter be cited as "ZA") focuses on a research problem that relates both to a legal institution and to a group of texts, with substantial though not total overlap between the two.[1] The texts are inscriptions recording private acts of manumission (often in contexts of religious sanctuaries): this is a genre that is found widely though not universally throughout the Hellenistic world, which is itself a point that we shall revisit. The institution is that of *paramonē*, whereby a slave is released (usually in return for payment) subject to the condition that he or she will "remain alongside" the former owner,[2] with the condition being timed to run either for a set period of years or more commonly for the latter's lifetime. The research problem concerns the implications of this process for the juridical status of the person being freed. ZA steers a mid-way course among those who would see freedom and slavery as unitary and exclusive concepts: i.e., between on the one hand those scholars who believe that freedom is something which happens to you at the start of the process (and hence that a slave manumitted with *paramonē* is really a free person who is simply liable to some continuing contractual or quasi-contractual restrictions), and on the other hand those who believe that freedom is something that does not happen

* Given that this is not my primary area of expertise, I owe particular gratitude to Rachel Zelnick-Abramovitz, as well as to other conference participants, for bibliographical as well as other suggestions.

1 The mis-match works both ways, though to a limited extent in each direction. There is on the one hand some literary evidence for *paramonē* (e.g. the Wills of the Philosophers), as noted below. On the other, not all manumission inscriptions seem to involve *paramonē* (e.g. *SGDI* II.2001 [Delphi, 197 BC] is evidently an outright manumission), but most do, including some second-stage releases from *paramonē* (cf. the case of Eisias at ZA text 6b).

2 I tend to agree (cf. ZA at n.2 above) that uses of the verb παραμένω/*paramenō* ("remain beside", sc. as a dependent and perhaps indeed as a member of the household) or simply μένω/*menō* ("remain"), which are more common than the noun παραμονή/*paramonē*, can nevertheless be taken as referring to the same thing: but we should perhaps note Daube's remark about "the systematising thrust of the action noun" (1969: 43), and the danger that the regular use by scholars of the action-noun may lead us to over-institutionalise the process.

until the end (and hence that *paramonē* is still slavery, albeit with the promise of future freedom). It would probably not be tactful to pursue this train of thought any further,[3] but it will be obvious from my choice of metaphor that I am broadly sympathetic to her reiteration of the arguments for an intermediate status that is partly slave and partly free. But my reasons (which for convenience are divided under two headings) are perhaps from a somewhat different perspective, and may serve to broaden opportunities for discussion.

[1] Distribution: geographical, chronological, generic.

The geographical and chronological distribution of our evidence is surveyed in the first part of ZA's paper. I broadly agree with her conclusion that there is probably enough literary evidence to confirm the presence of *paramonē* in fourth-century Athens: to my mind the most persuasive such texts are the wills of the philosophers Theophrastos and Lykon (as quoted respectively in Diogenes Laertius 5.55 and 5.73),[4] where the references to *paramonē* are explicit, and where I would agree that a strong case for authenticity has now been made by Canevaro & Lewis (2014: 103-110, cf. ZA n.11); similarly, I also share her reservations about the relevance of Xen., *Oikon*., 3.4 (ZA n.12). That said, I am less persuaded by her acceptance that *paramonē* can be seen in Plato, *Laws*, 915a, primarily because it seems to me that Plato's aim here is to impose statutory obligations towards the ex-owner on all ex-slaves (cf. particularly those obligations relating to marriage), rather than to deal with the possibility that individual obligations may have been agreed at manumission.

We may add that a few passages from Athenian lawcourt speeches are occasionally cited by scholars as possible instances of *paramonē*,[5] though it is notable that the noun itself is used nowhere in the Orators, and the verb *paramenō* never in servile contexts. Similarly, and perhaps significantly, there is no entry s.v. *paramonē* in Harpokration's *Lexicon to the Ten Orators*, albeit a separate entry s.v. *apostasiou* is glossed as "a *dikē* against ex-slaves granted to those who had freed them, if they [the ex-slaves] abandon them or enrol themselves under another *prostatēs* [citizen patron] or do not do the things which the laws command; and those who are convicted must be [i.e. automatically become] slaves,[6] whereas those

[3] E.g. by suggesting which of those two views should be classed as a whirlpool, and which as a multi-headed monster.

[4] Noting the acknowledgement by ZA n.10 of the point made by Gernet (1955 [1950]: 172 n.4), that neither of these testators was an Athenian citizen.

[5] E.g. Westermann (1955: 25 with n.54) sees an example of *paramonē* in the case of Neaira at Dem. 59.29-32, and Gerhard Thür has suggested to me the possibility that it may underlie those of Kittos at Isok. 17.14 and Milyas in Dem. 29.5 (on the latter, see Thür 1987 [1972]: 419), but none of these is uncontested.

[6] This could mean that they revert to being slaves of the former owner, though Klees (1998: 338-339) suggests that conviction will lead to the ex-slave being sold by the *polis* i.e. to a third party.

who are victorious must from then on be fully free".[7] The implication of the latter clause would seem to be that the pre-trial status of the defendant had been that of an ex-slave who was in some sense less than fully free, which could be interpreted as alluding to individuals freed under *paramonē*, though it could also be read as implying that ex-slaves at Athens were liable to generic rules of patronage comparable in some way to Roman *obsequium*.[8]

There is however a key difference of genre worth noting here, in that Harpokration (like the orators on which he draws) reflects a context of litigation in which speakers are attempting however rhetorically to argue legal points. This is not to deny that there may also be rhetoric in the drafting of a manumission inscription from Delphi or elsewhere, but such texts do not to my knowledge contain any litigation,[9] and hence no juristic argument. As a result, any interpretation of the legal thinking that underlies such manumission inscriptions has to be something that we read out of them, or perhaps read into them.

Another point rightly emphasised in ZA's introductory survey is the geographical distribution of manumission inscriptions combined with the particular prominence of those from Delphi in the period C2 BC-C1 AD. On the latter point, her emphasis is on the exegetical risk that patterns of drafting attested at Delphi may be interpreted unconsciously as if they were the norm throughout the Greek world. On the former, she draws attention to the range of find-spots mainly though not only from central and northern Greece. More could perhaps be said here about the absence of this genre of text from some major urban centres: as Vlassopoulos has pointed out in another context, such absence is hard to match with conventional explanations in terms e.g. of a supposed desire for publicity within large and

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7 Harpok. s.v. ἀποστασίου· δίκη τίς ἐστι κατὰ τῶν ἀπελευθερωθέντων δεδομένη τοῖς ἀπελευθερώσασιν, ἐὰν ἀφιστῶνταί τε ἀπ' αὐτῶν ἢ ἕτερον ἐπιγράφωνται προστάτην, καὶ ἃ κελεύουσιν οἱ νόμοι μὴ ποιῶσιν. καὶ τοὺς μὲν ἁλόντας δεῖ δούλους εἶναι, τοὺς δὲ νικήσαντας τελέως ἤδη ἐλευθέρους…. (*apostasion* is lit. "desertion" or "abandonment", but with connotations of "running away").

8 Zelnick-Abramovitz (2005: 73 with n.22) has elsewhere proposed a lexical distinction between *apeleutheroi* and *exeleutheroi*: these are two terms normally translated "freedmen" or "ex-slaves", but she argues for the latter being a narrower and more privileged group, based on Pollux 3.81 (καὶ Δημοσθένης φησὶν ἐξελευθερικοὺς νόμους καὶ ἀπελευθερικοὺς νόμους, "and Demosthenes says 'laws pertaining to *exeleutheroi*' and 'laws pertaining to *apeleutheroi*'"). But given that Pollux is a collector of rare words, I am not sure that this need mean any more than that Demosthenes uses both terms, i.e. not necessarily as a contrast and possibly even in different contexts (cf. the string of *opsis*-compounds cited by Pollux 2.58 as being used by Thucydides, but which turn out to be from four different books).

9 The argument (text at ZA n.32 above) that "despite the frequent encouragement to guarantors and anyone who so wishes to act against challenges to the manumitted slave's freedom … , we have no evidence of actual recourse to such a process, unlike the evidence of the Athenian *aphairesis eis eleutherian*" perhaps risks being a truism.

diverse communities.[10] But this brings me to my second heading, that of motivation.

[2] Motive for publication.

Various motives for recording or publicising manumission have been suggested, including several in recent discussions by members of this Symposion.[11] One specific variety of motive which has not perhaps been sufficiently emphasised in this context, but which emerges very clearly from scholarship on US slavery, is the particular disruption associated with the death of the owner: within the US evidence, this seems to have been regarded as a context that might well lead to slaves being sold, either because of pressure from creditors or to satisfy the rival needs of the heirs, and hence as a context in which the prospect of sale tended to increase the risk that slaves might abscond.[12] We need of course to apply caution in

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[10] Vlassopoulos (2014: n.p.) reviewing Zelnick-Abramovitz (2013): he emphasises most notably the absence of such texts from Athens, but also their rarity in Asia Minor. Whatever view one takes of the so-called *phialai exeleutherikai* inscriptions from Athens – like ZA n.31 above, and cf. previously Vlassopoulos (2011: n.p.) and Zelnick-Abramovitz (2013: 94-100), I have some reservations about the reinterpretation proposed by Meyer (2010), who reads these as records of cases involving non-payment of the *metoikion* (metic tax) rather than cases involving manumitted slaves – they are clearly not manumission records in the same sense as those e.g. from Delphi: not least because the *phialai exeleutherikai* inscriptions appear to record outcomes of litigation, rather than private agreements over the terms of manumission as e.g. at Delphi.

[11] E.g. Zelnick-Abramovitz (2013), focusing on the recording of taxation as a motive in manumission inscriptions from Thessaly; Harter-Uibopuu (2013: 282), suggesting that the Delphian inscriptions function at least partly to advertise the benevolence of Apollo as protector (and cf. also Zelnick-Abramovitz 2005: 208, noting the rarity of epigraphic cases which proclaim the generosity of the owner by emphasising that manumission has been granted without payment); Scheibelreiter (2014: 35), focusing on benefits for the slave, e.g. in publicising the manumission and in protecting against subsequent claims against the person (the latter could of course represent a form of enlightened self-interest on the part of the wider community, i.e. in the hope of avoiding future disputes). Cf. also the alleged former practice described at Aiskhin. 3.41 (albeit the passage focuses on criticising the owners' desire for publicising manumission but without specifying precisely why this should have been considered objectionable).

[12] E.g. Franklin & Schweninger (1999: 19): "A master's death caused fear and apprehension in the slave quarters. Slave families were at the mercy of legatees or heirs, who might wish to transfer workers from one plantation to another, or creditors, who might merely want ready cash"; cf. Whitman (1997: 105): "In both rural and urban settings, slaves nonetheless typically comprised significant shares of a decedent's wealth. A master's death therefore frequently compelled the division of slaves into inheritance shares, as described by Frederick Douglass in his autobiography, or the conversion of slaves into cash by sale to settle the estate. The prospect of being sold soon after a master's decease caused some blacks to flee rather than to submit to a new and unknown master. Anticipating such problems, many slaveholders in their wills promised eventual manumission."

our interpretation of different inheritance systems,[13] but it is worth drawing attention here to several features of the ancient texts: first, that although *paramonē* for a fixed period of years is not unattested,[14] the norm in the Delphi inscriptions seems to have been the lifetime of the owner; and secondly, that although such texts do sometimes reserve for the owner the right to sell, this seems normally to be represented as being part of the repertoire of penal measures in case of misbehaviour by the (ex-)slave,[15] rather than as a cash-raising measure, let alone one that could be initiated by the demand of creditors.[16]

What I am suggesting here is that part of the motive at least for the Delphi texts (not the only motive, of course: there will have been others, including financial) may have been to provide long-term reassurance for the slave (i.e., aiming to reduce the likelihood that the latter will panic and abscond when the owner is on his/her deathbed). On this hypothesis, these texts should be read as a perhaps more trustworthy alternative to testamentary manumission. But this hypothesis would have consequences for our reading of these documents as legal texts, in that it may be a mistake to expect too much clarity of juristic thinking. In this context, I would draw brief attention to two features of the texts discussed by ZA that could be regarded as bad drafting, or at least the sort of conflict of interest that you would expect an experienced lawyer to handle otherwise, plus one additional observation. The first such feature occurs in the will of Theophrastos, at least if one follows the conventional translation of ἀναμάρτητος/*anamartētos* as "unerring" or "free from blame",[17] since the will makes no attempt to define what would count as blameless conduct, let alone to take the decision out of the hands of those who would presumably retain ownership if the slaves are deemed not to have achieved that level of virtue. The second occurs throughout the Delphi whole-of-owner's-life *paramonai*, where the writers of detective stories would surely want to say that this gives the (ex-)slave a motive for putting arsenic in the soup. These are admittedly

[13] How far were ancient Greek slave-owners typically reliant on credit? Does partible inheritance enhance the likely pressure to divide the estate, or will the family continue to run it e.g. under shared ownership?

[14] E.g. the wills of Theophrastos (Diog.Laert. 5.55) and of Lykon (Diog.Laert. 5.73), quoted and discussed by ZA as texts 2-3.

[15] Examples are discussed by ZA at n.16 above (though the right to sell is sometimes explicitly precluded, as she notes with refs. at n.20 above).

[16] There is a partial exception at *FD* III 6.39 lines 9-10 (Delphi, 20-46 AD), quoted and discussed by ZA as text 6.c: Aristion and Eisias the former owners retain the right to sell Sostrata's sc. future children, though not Sostrata herself, in case of need (ἔνδεια).

[17] Diog.Laert. 5.55, quoted by ZA as text 2 ("unerringly" is her translation, with "free from blame" being that of the Loeb editor Hicks). Maria Youni has however suggested to me that we should read *anamartētos* here as a synonym for terms like ἀνεπέγκλητος/*anepenklētos* or ἀνέγκλητος/*anenklētos* (lit. "unimpeachable" or "faultless") in the inscriptions from Leukopetra in Macedonia, where it appears to denote the "indisputable" status of the former slave (Youni 2010: 325).

errors more of foresight than of law, though that does not necessarily detract from their significance as indicators of careless drafting. But if the purpose of those responsible for the drafting of the text (which given the power differential must presumably be either the slave-owners or perhaps the priests) is to reassure the slave that he/she has some reasonable protection against being sold at the owner's death, it may be that such conflicts of interest are of no real concern.

Against this background and as a final observation, it is perhaps worth noting also the not negligible proportion of Delphic inscriptions which describe the primary manumittor(s) as having acted with the consent of a third party, usually a specified relative.[18] This occurs not only in contexts where we might imagine the primary manumittor to have lacked full legal capacity, e.g. a wife manumitting with the consent of her husband (*FD* III.3.26) or a mother with that of her son (*FD* III.4.480B), but also in cases where it is hard to imagine this (e.g. a father manumitting with the consent of his son, as at *SGDI* II.2154 and II.1826). Consent clauses seem to be more common in cases where the primary manumittor is a woman, but even here the range of consenting relatives is surprisingly wide and itself often female (the manumittor's mother at *SGDI* II.2200, the manumittor's daughter at *SGDI* II.2199, a combination of the manumittor's sister and son [or possibly sister and sister's son] at *FD* III.6.58[2]); and we also find a husband and wife as joint manumittors with the consent of their daughter (*FD* III.3.291). It may therefore be better to see these consent clauses not so much as a legal requirement but as a social precaution, i.e., seeking to extract a clear commitment from relatives who might otherwise cause trouble especially after the primary manumittor's death.

None of this is to deny that ideological assumptions about the nature of slavery may well underlie the drafting of these documents: what I am questioning is whether we should look for coherent and articulated juristic thinking.

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[18] This phenomenon has been extensively discussed in the literature, often with an eye to juristic inferences e.g. for joint ownership: see the discussion of earlier theories in Zelnick-Abramovitz (2005: 135-140), who rightly emphasises the benefit of such declarations in securing the future position of the manumitted slave.

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