

*The Biblical View of Slavery, Then and Now:
In commemoration of the 150th anniversary of the
Emancipation Proclamation*

By: YAAKOV S. WEINSTEIN

“The Union of the States is at the present moment threatened with alarming and immediate danger; panic and distress of a fearful character prevails throughout the land; our laboring population are without employment, and consequently deprived of the means of earning their bread. Indeed, hope seems to have deserted the minds of men. All classes are in a state of confusion and dismay, and the wisest counsels of our best and purest men are wholly disregarded.

In this the hour of our calamity and peril, to whom shall we resort for relief but to the God of our fathers? His omnipotent arm only can save us from the awful effects of our own crimes and follies—our own ingratitude and guilt towards our Heavenly Father.

Let us, then, with deep contrition and penitent sorrow, unite in humbling ourselves before the Most High, in confessing our individual and national sins, and in acknowledging the injustice of our punishment. Let us implore Him to remove from our hearts that false pride of opinion which would impel us to persevere in wrong for the sake of consistency, rather than yield a just submission to the unforeseen exigencies by which we are now surrounded. Let us with deep reverence beseech Him to restore the friendship and good will which prevailed in former days among the people of the several States; and, above all, to save us from the horrors of civil war and “blood-guiltiness.” Let our fervent prayers ascend to His Throne that He would not desert us in this hour of extreme peril, but remember us as He did our fathers in the darkest days of the revolution; and preserve our Constitution and our Union, the work of their hands, for ages yet to come...”

James Buchanan.

Washington, Dec. 14, 1860

(A Proclamation for a Day of Humiliation, Fasting, & Prayer)

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Then

The winter of 1860-1861 was a pivotal time for the United States of America. The tension between the Northern and Southern states had reached its climax. Upon the presidential election of Abraham Lincoln on Nov. 6, South Carolina seceded from the Union, and, before Lincoln took office on March 4, six additional Southern states followed. A Civil War seemed inevitable. With nowhere to turn, lame-duck president James Buchanan looked ‘towards our Heavenly Father’ and proclaimed Jan. 4, 1861 a “Day of Humiliation, Fasting, & Prayer,” for the people of the United States. In the above paragraphs, he described the insecurity of the people, the need to turn to the Almighty, and expressed prayers that the Union be preserved.

The issue at the heart of the discord between the states was slavery. The Southern states, requiring large amounts of manpower to run their agricultural plantations, were in favor of and had always utilized slave labor. The more urban and industry-based Northern states were against slavery.¹

The attitude of the Jewish populace towards slavery generally followed that of their neighbors.² Jews living in the Southern states had no moral compunction against slavery and fought for the Confederacy. Jews living in the Northern states were anti-slavery and fought for the Union.³ However, anti-slavery Jews did not neces-

¹ By 1804 every state north of the Mason-Dixon line had abolished slavery. Note, however, that before the Civil War Congress had never suggested banning slavery in the Southern states, nor was the freeing of slaves an initial war aim of Lincoln and the Union. Instead the immediate issue was the Republican Party’s call to stop the expansion of slavery into new states and territories.

² J.D. Sarna, “American Judaism,” Yale University Press, 2004 (New Haven); See also B. Korn, *Jews and Negro Slavery in the Old South, 1789–1865*, Publication of the American Jewish Historical Society 50, 151 (1961), reprinted in *Jews and the Civil War*, New York University Press, 2010 (New York).

³ Even among anti-slavery Jews, few identified themselves with the abolitionists, a number of whom were involved in missionary activities and, at times, anti-Semitic incidents. See J.D. Sarna, “American Judaism,” Yale University Press, 2004 (New Haven) and references therein.

sarily support a civil war to keep the union whole. The Jews of the United States, many of whom were recent immigrants from Europe experiencing freedom for the first time (the Jewish population in the United States tripled in the years 1850–1860), had much to lose in a war. They knew Jews could be a convenient scapegoat on whom to pin the casualties of war and thus possibly lose their recently attained rights. Indeed, even besides the infamous decree of General Grant expelling Jews from the territories under his command,⁴ there was a large spike in anti-Semitism during and after the Civil War.⁵ This fear was spelled out by the outspoken anti-slavery Reform Rabbi David Einhorn: “The Jew has special cause to be conservative, and he is doubly and triply so in a country which grants him all the spiritual and material privileges he can wish for, he wants peace at every price and trembles for the preservation of the Union like a true son for the life of a dangerously sick mother.”⁶

Two Orthodox Jewish rabbis addressed the issue of slavery in sermons delivered to their flock on the Day of Fasting declared by President Buchanan. Both defended the concept of slavery in theory, though not in the way it was practiced in the Southern states, and both argued against a war to keep the Union whole. The first of these rabbis was R' Morris Jacob Raphall, rabbi of New York's Bnai Jeshurun synagogue. His defense of slavery as a biblically ordained institution became extremely popular amongst the citizenry of the Confederacy. The second was R' Bernard Illoy who gave his sermon in Baltimore's Lloyd St. synagogue. This sermon was well received by the Jews of the South and earned him a pulpit in the Confederacy's largest Jewish community, New Orleans. Both

⁴ J. Simon, “The Obnoxious Order,” *Civil War Times Illustrated* 23, 12 (1984) reprinted in *Jews and the Civil War*, New York University Press, 2010 (New York).

⁵ G.L. Bunker and J.J. Appel, “‘Shoddy’ Antisemitism and the Civil War,” *American Jewish History* 82, 43 (1994) reprinted in *Jews and the Civil War*, New York University Press, 2010 (New York).

⁶ D. Einhorn, *Sinai* 6, 2 (1861), translated from German; <<http://www.jewish-history.com/civilwar/einhorn.html>>.

of these sermons are worthy of full-length treatises. Here we will concentrate on the sections having to do with slavery.⁷

Morris Jacob Raphall was born October 23, 1798 in Stockholm, Sweden and educated in its Hebrew grammar school. He earned a Ph.D. from the University of Erlangen (Germany) and, in 1841, was appointed minister of the Birmingham Synagogue and honorary secretary to R' Solomon Herschell, chief rabbi of Great Britain. In 1849 he was called to the rabbinate in New York's B'nei Jeshurun congregation, where he served until 1866.

On Jan. 4, 1861 R' Raphall opened his sermon, later published as a pamphlet entitled "The Bible View of Slavery," comparing President Buchanan to the king of Ninveh who, upon realizing the eminent danger to the Union, "calls upon every individual 'to feel a personal responsibility towards G-d,' even as the King of Nineveh desired all persons 'to cry unto G-d with all their strength.'" And, as the King of Ninveh called upon his people to turn away from their evil ways, President Buchanan (as explained by R' Raphall) calls upon the people of the South to turn away from their trust in cotton and the people of the North to turn away from their trust in human thought. Rather all of the citizenry of the United States must turn towards HaShem the true King, who alone determines what is sinful and what is permissible. Thus, R' Raphall frames slavery as a theological issue, "... the question whether slave-holding is a sin before G-d, is one that belongs to the theologian. I have been requested by prominent citizens of other denominations, that I should on this day examine the Bible view of slavery, as the religious mind of the country requires to be enlightened on the subject."

The biblical view of slavery, says R' Raphall, is clear: "Is slave-holding condemned as a sin in sacred Scripture? How this question can at all arise in the mind of any man that has received a religious education, and is acquainted with the history of the Bible, is a phenomenon I cannot explain to myself, and which fifty years ago no man dreamed of. But we live in times when we must not be surprised at anything." Slaveholding is frequently mentioned in the Bible and even in the Ten Commandments. Furthermore, "When

⁷ The full text for both of these sermons can be found at <<http://www.jewish-history.com/civilwar/Default.htm>>.

you remember that Abraham, Isaac, Jacob, Job—the men with whom the Almighty conversed, with whose names He emphatically connects His own most holy name, and to whom He vouchsafed to give the character of “perfect, upright, fearing G-d and eschewing evil” (Iyov 1:8)—that all these men were slaveholders, does it not strike you that you are guilty of something very little short of blasphemy? And if you answer me, “Oh, in their time slaveholding was lawful, but now it has become a sin,” I in my turn ask you, “When and by what authority you draw the line?” Tell us the precise time when slaveholding ceased to be permitted, and became sinful?” When we remember the mischief which this inventing a new sin, not known in the Bible, is causing.”

R' Raphall's view is that slavery is clearly sanctioned by the Torah. It is even mentioned in the Ten Commandments with respect to rest on the Sabbath Day. Furthermore, many great people, people whom God Himself spoke to and thus testified to their righteousness, owned slaves. If one were to claim that slavery was somehow permitted at one time but is no longer, who has the right to determine this new morality? When did this 'new' morality become applicable? And do we not see the trouble this so-called morality has caused?

Of course, R' Raphall feels bad about the conclusion he has drawn from his reading of the Torah: “My friends, I find, and I am sorry to find, that I am delivering a pro-slavery discourse. I am no friend to slavery in the abstract, and still less friendly to the practical working of slavery. But I stand here as a teacher in Israel; not to place before you my own feelings and opinions, but to propound to you the word of God, the Bible view of slavery. With a due sense of my responsibility, I must state to you the truth and nothing but the truth, however unpalatable or unpopular that truth may be.” To ameliorate this tension between what is found in the Torah and his own ideals, R' Raphall differentiates between the Torah's view of slavery and the institution of slavery as practiced in the South: “This, indeed, is the great distinction which the Bible view of slavery derives from its divine source. The slave is a *person* in whom the dignity of human nature is to be respected; *he has rights*. Whereas, the heathen view of slavery which prevailed at Rome, and which, I am sorry to say, is adopted in the South, reduces the slave to a

thing, and a thing can have no rights.” Thus, we can conclude that while slaveholding in and of itself is not sinful, it must be practiced in the merciful and gracious way outlined by the Torah.

R' Bernard Illoy was born at Kolin, Bohemia in 1814. Highly educated in both Judaic and general studies, Illoy attained rabbinic ordination under R' Moses Schreiber (author of the *Chasam Sofer*), a Ph.D. from the University of Budapest, and subsequently studied in Padua under Samuel David Luzzatto (Shadal). Illoy's pro-democratic leanings kept him from attaining a position in his native Hungary, and he eventually came to the United States where he served in various positions including St. Louis, Syracuse, Baltimore, New Orleans, and, finally, Cincinnati. A great defender of Orthodoxy, Illoy frequently published articles in the Occident, the popular Jewish newspaper of the time, arguing with the Reform movement's Isaac Mayer Wise and Max Lilienthal. Nevertheless, Illoy maintained warm personal relations with both men and was well respected by Jew and Gentile alike.

R' Illoy started his Fast Day sermon comparing President Buchanan to the captain of the ship on which Yonah traveled to Tarshish. Seeing the maelstrom and great whirlpools, the shipmaster entreats every man to pray to God, perhaps He will be merciful and all will not be lost. So too says R' Illoy, “Let us, my brethren, hear the paternal warning of the faithful ship-master, and fervently pray to the G-d of our fathers that He may send us relief in the hour of calamity and peril, that He may remove from us the danger which has thrown all our citizens, rich and poor, in a state of general dismay and confusion. Let us pray unto Him that peace and harmony may return again unto our gates, and keep us far from polluting our hands with the blood of our brothers and fellow-citizens.”

R' Illoy expresses pro-secession sentiments because the Union will not protect the property rights of the Southern citizenry: “The ends for which men unite in society and submit to government, are to enjoy security for their property and freedom for their persons from all injustice or violence... Who can blame our brethren of the South for seceding from a society whose government cannot, or will not, protect the property rights and privileges of a great portion of the Union against the encroachments of a majority misguid-

ed by some influential, ambitious aspirants and selfish politicians who, under the color of religion and the disguise of philanthropy, have thrown the country into a general state of confusion, and millions into want and poverty?” R’ Illovy goes on to express his own negative attitude towards slavery, an attitude he believes is found in the Torah itself. Yet, like R’ Raphall, he notes that great people of the past owned slaves and thus we cannot disapprove of its existence in places where the practice is accepted: “Why did not Moses, who, as it is to be seen from his code, was not in favor of slavery, command the judges in Israel to interfere with the institutions of those nations who lived under their jurisdiction, and make their slaves free, or to take forcibly away a slave from a master as soon as he treads the free soil of their country? Why did he not, when he made a law that no Israelite can become a slave, also prohibit the buying and selling of slaves from and to other nations? Where was ever a greater philanthropist than Abraham, and why did he not set free the slaves which the king of Egypt made him a present of? Why did Ezra not command the Babylonian exiles who, when returning to their old country, had in their suit seven thousand three hundred and thirty-seven slaves, to set their slaves free and send them away, as well as he commanded them to send away the strange wives which they had brought along?” Thus, concludes R’ Illovy, “All these are irrefutable proofs that we have no right to exercise violence against the institutions of other states or countries, even if religious feelings and philanthropic sentiments bid us disapprove of them.”

Unlike R’ Raphall, R’ Illovy proclaims distinct disdain for slavery and believes that the Torah’s attitude towards slavery is negative. However, since the Torah does not explicitly outlaw slavery and there were great men who owned slaves, one cannot impose abolition on a culture that is already accepting of slavery.

A more liberal view of slavery, one that resonated with the abolitionists of the North, was formulated by another of Baltimore’s rabbis. This rabbi attacked R’ Raphall head-on, demonstrating that the Bible itself recognized the immorality of slavery. His name was

Rabbi David Einhorn and he was from the Radical Reform movement.⁸

Born in Bavaria in 1809, Einhorn supported the principles of Abraham Geiger, arguing, while still in Germany, for the exclusion of Jewish nationalistic hopes and sacrifices from the prayer book and the introduction of prayers in German. Upon immigrating to the United States in 1855, Einhorn crossed swords with the more moderate reformer Isaac Mayer Wise by rejecting the authority of the Talmud and declaring that only the portions of the Torah that derive from morality need be retained.

In a caustic, unmerciful essay Einhorn completely dismantles R' Raphall's biblically supported view of slavery. Einhorn's harshest

⁸ An Orthodox leader who did oppose slavery was Rev. Sabato Morais, *hazzan* of Philadelphia's Mikveh Israel synagogue and a major force in establishing the Jewish Theological Seminary in New York. While his known sermon on the subject ("On the Nature of the Slavery of the Bible") was restricted to demonstrating the humanity inherent in the slavery prescribed by the Torah, we do have the following statement from a sermon delivered on Thanksgiving Day 1864 (much to the chagrin of some of his congregants):

Not the victories of the Union, but those of freedom my friends, we do celebrate. What is Union with human degradation? Who would again affix his seal to the bond that consigned millions to [that?] Not I, the enfranchised slave of *Mizraim*. Not you, whose motto is progress and civilization. Cast, then, your vision yonder, and behold the happy change wrought by the hand of Providence.

(D.M. Cobin, E. Schwartz, and D. Roberts, "The Encrypted Sermons of Sabato Morais," *Journal of Law and Religion* 23, 147, 2007.)

Similarly, R' Jacques Judah Lyons of New York's Shearith Israel (the Spanish-Portuguese synagogue) speaking on Thanksgiving Day of 1865:

This righteousness is evinced by the love of law and order, by the promotion of the general welfare of man, by the exercise of benevolence, equity and mercy. True righteousness ignores all faction, it frowns upon all prejudices, it knows *no* distinction of race, creed, or color; it recognizes in every man a creature of God, equally bound by its obligations and equally entitled to its benefits...

(Sermon for Thanksgiving Day after Civil War, October 1865; Jacques Judah Lyons papers; P-15; Box 6; American Jewish Historical Society, Boston, MA and New York, NY. <<http://findingaids.cjh.org/?pID=333370>>).

criticism is leveled at the suggestion that slavery is sanctioned by the Bible. He formulates the issue as follows: “The question exclusively to be decided, is whether Scripture merely *tolerates* this institution as an evil not to be disregarded, and therefore infuses in its legislation a mild spirit gradually to lead to its dissolution, or whether it *favours, approves* of and *justifies* and *sanctions* it in its moral aspect?” But, one may ask as follows, if the Torah, the source of morality, allows for something does that not automatically sanction it? To this Einhorn says emphatically no, and provides the following counterexamples of institutions permitted by the Torah yet clearly not sanctioned: polygamy, the vengeful relative of one who was accidentally murdered (*go’el hadam*), marriage of the captive woman (*y’fat to’ar*), divorce, and the institution of the monarchy. Let us look at his words, “According to Deuter. 21:15-17, it is directed: A man possessing two wives, and loving the one and hating the other, both bearing him sons, the first-born belonging to the hated wife, dares not transfer the right of the first-born in regard to double inheritance to the son of the beloved one. Can we conceive of a more decided recognition of polygamy or at least of bigamy?... Is the justification of an institution, the immorality of which Dr. Raphall will scarcely deny, and whose propagation Rabbenu Gershom sought to check through a ban, not here affirmed in the most positive manner? With all the hollow clamor about the rationalism of our day, it must be conceded that the Mosaic law, as in the case of blood-vengeance and the marriage of a war-prisoner, here merely tolerated the institution in view of once existing deeply-rooted social conditions, or—more correctly—evils, and recognized it in reference to civil rights even (compare Exod. 21:10, Levit. 18:18), but never approved of or considered it pleasing in the sight of God, as polygamy is in direct contradiction to the Mosaic principle וְהָיוּ לְבָשָׂר אֶחָד' concerning marriage.

“Even the Rabbis teach: the [war-prisoner] law permits the marriage of prisoners only of necessity! Divorce is also a striking proof how the law of Moses recognized certain institutions, though at the same time positively disapproving of them... The prophet (Malachi 2:16) explicitly states: ‘God hateth the putting away of the wife!’—Thus also in regard to establishing monarchy. Samuel calls this institution a grievous sin, as God alone is to be Israel’s King; but as

the people insist on having a king, he received God's command: 'Hearken unto their voice and make them a king' (I. Sam. 8:22.) The distortion in the conception of this is therefore evident enough (Deuter. 17:15) מַלְךְ עֲשֵׂה אֶת הָעָם לְךָ מֶלֶךְ as מצות עשה. Hence monarchy and slavery are looked upon and treated alike according to the law of Moses, the latter being naturally considered the more immoral."

How does Einhorn know that slavery is in the category of institutions tolerated by the Torah but not sanctioned? "Had Dr. Raphall searched for the spirit of the law of God, he would have given due honor to it... he would have preferred to trace his way as far back as the history of creation, where the golden words shine: God created man in His image. This blessing of God ranks higher than the curse of Noah. A book which sets up this principle and at the same time says that all human beings are descended from the same human parents, can never approve of slavery and have it find favor in the sight of God. A law, which recognizes slavery, in its present day meaning, neither according to the conception of the institution of it, nor in its literal sense, and prescribes that the Hebrew, who after six years will not cease from serving as a slave, must as a sign of shame, submit to having his ear pierced, considers no human being to be property. A religion which spares the feeling of the animal mother as the order regarding the bird's nest proves, certainly objects to having the human mother forcibly deprived of her child. The ten commandments, the first of which is: 'I am the Lord, thy God, who brought thee out of the land of Egypt—out of the house of bondage' can by no means want to place slavery of any human-being under divine sanction, it being furthermore true, what all our prophets have proclaimed and around which Israel's fondest hopes center, that all human beings on the wide globe are entitled to admittance to the service of God, וישתחוּ לַפָּנִים כָּל הַבְּרוּאִים וַיַּעֲשׂוּ, כִּי בְרָא אֱלֹהִים אֶת הָאָדָם בְּצַלְמוֹתָיו, כִּי בְרָא אֱלֹהִים אֶת הָאָדָם בְּצַלְמוֹתָיו that in time to come all created in the image of God will form one congregation of God. Dr. Raphall tells his hearers: cotton is not king nor is human thought the ruler, but ה' מֶלֶךְ וּמַלְכוּתוֹ, but ה' מֶלֶךְ וּמַלְכוּתוֹ! We fully agree with him in this, but regret that here also only half of the quotation is given and the preceding words are forgotten: וַיֹּאמֶר כָּל אֲשֶׁר נִשְׁמָה בָּאָפוֹ." The fact that HaShem created all humans in His image and desires them all to recognize His kingship, and His alone, demonstrates that slavery is an *a posteriori* insti-

tution, one that is tolerated by the Bible but certainly not sanctioned.

How then could it be that the great men of the Bible did in fact own slaves? “Abraham was a slave-owner and possessed Hagar, his bondswoman; though even today we deem him a model of morality because we look upon him from the standpoint of his time...” And later on, “Were Abraham, Isaac, Jacob and Job not slaveholders?— This is certainly true, but it is just as true that among these pious and enlightened men there were some who had more than one wife, and it is difficult to perceive why they should serve as models to us as slaveholders more so than in this respect. It appears remarkable and very comical to have this wretched polygamy frustrate Dr. Raphall’s plans. Moreover, Abraham, to judge from his attitude towards Eleazer, the head of his slaves, whom he thought of making his heir, scarcely considered him property. Neither did Job, who said: If I did despise the cause of my man-servant, or of my maid-servant when they contended with me, what then shall I do when God riseth up? and when He remembereth, what shall I answer Him? Did not He that made me in the womb make him? And did not One fashion us in the womb? (Job 31, 13–15.)”

Einhorn’s stance on slavery was not popular in the slave state of Maryland. Soon after publication of his article a lynch mob forced him to flee to Philadelphia.⁹

Now

The fervent prayers of President Buchanan and the citizenry of the United States were not answered. The Civil war claimed the lives of more than 600,000 Americans and ended slavery on American soil. Now, 150 years after President Abraham Lincoln’s Emancipation Proclamation, no one in the United States would dare to support slavery. In fact, the tables have been turned. People are no longer looking to the Bible for guidance concerning the morality of slav-

⁹ For the different views of slavery held by Baltimore rabbis see I.M. Fein, “Baltimore Rabbis during the Civil War,” *American Jewish Historical Quarterly* 51, 67 (1961) reprinted in *Jews and the Civil War*, New York University Press, 2010 (New York).

ery, rather the immorality of slavery is assumed and the Bible's apparent acceptance of slavery brings into question its own morality. Those who defend the divinity of the Bible, including Orthodox Jews, are thus put on the defensive: can they dare claim morality in any sort of slavery as R' Raphall once did? Or can they find ways to restrict or even abnegate the Bible's concept of slavery? We will see that arguments of the sort forwarded by R' Raphall and R' Illowy are used by the Modern Orthodox Jewish thinkers of today. However, in a surprising irony, these arguments are stepping stones towards a thesis that almost exactly mirrors that of Reform Rabbi Einhorn.

The initial step promoted by a number of Modern Orthodox thinkers is R' Raphall's distinction between the slavery permitted by the Torah and slavery as practiced not in accordance with Torah law (such as was done in the South before the Civil War). R' Elchanan Samet¹⁰ points to the Torah laws governing a master killing or injuring his slave. Such laws did not exist anywhere else in the ancient world since slaves were considered and treated like animals. In the Torah, however, the life of a slave "is not the property of the master, but rather of the One Who gives all life – and it is He Who demands his blood from the hands of those who spill it – whether this be the master or someone else." Similarly, R' Avi Weiss¹¹ declares, "The concept of 'eved' has nothing to do with slavery as understood in contemporary times." The Canaanite slave is mandated to keep all commandments that a free woman must keep. This places a slave closer to a Jew than is a *ger toshav* (who must keep only the 7 Noahide laws). "As such," R' Weiss concludes, "The eved Canaani is a respected member of our community..."¹²

¹⁰ "Slavery," <http://www.vbm-torah.org/parsha.63/18mishpatim.htm>

¹¹ "Is Slavery a Torah Value?" <http://www.hir.org/a_weekly_gallery/1.30.09-weekly.html>.

¹² One would assume that R' Weiss is indulging in some hyperbole with this final remark as there are various sources pointing to the immorality of the typical *eved Canaani*. In addition, an *eved Canaani*, while still enslaved, cannot marry a free Jewish woman.

The next step taken by these thinkers echoes the words of R' Illovy. At the time the Torah was given, the world culture and society could never abide giving up slaves. Thus, the Torah could not prohibit the entire institution outright. Again, R' Weiss notes, "In order to understand why the Torah permits slavery, it must be recognized that slavery was universally accepted in ancient times. Rather than ignore that reality, the Torah deals with slavery in an extraordinarily ethical way."

Finally, these Orthodox thinkers declare that the Torah's revolutionary approach to slavery in its time was done to eventually bring about its complete abolition. The resemblance between the general arguments and the specific proofs brought by these Orthodox thinkers and the arguments of Reform R' Einhorn is striking. Einhorn brought a number of examples of institutions that the Torah tolerates though certainly does not sanction, including polygamy, divorce, etc. R' Nachum Rabinovitch¹³ too notes, "[The Torah] encompasses legislation and commands to combat the forces of evil and destruction that erupt within the individual's soul and the nation's spirit and to ensure that the necessary conditions for spiritual development are satisfied to the greatest possible extent, given each generation's situation and the social, economic, and cultural circumstances prevalent at any given time and place." He brings a number of examples besides slavery, including polygamy and divorce.

How do these Orthodox thinkers know that slavery is merely tolerated rather than sanctioned? Again, they follow Einhorn's trail. Just as Einhorn insists that the Divine image given to every human proves all men are created equal, thus nullifying the morality of slavery, so R' Elchanan Samet, for example, proclaims, "The declaration that the Divine image in man is equivalent in a slave and a master is the beginning of the demise of the institution of slavery."¹⁴ R' Nachum Rabinovitch similarly opines, "Thus, from Creation itself the Torah teaches us that all men are truly equal... However, humanity went astray. Men subjugated one another and distin-

¹³ "The Way of Torah," *Edah Journal* 3, 1 (Tevet 5763).

¹⁴ See also R' Shlomo Goren "Herut ha'adam l'or haTorah," in *Torat HaMo'adim*.

guished between slaves and masters. These distinctions of status lack substance and are not grounded in reality, for the Creator regards them all as equal. Only one whose imagination is depraved will disregard the fact that all mankind share in Adam's mold; and only the wicked will rule that the status of a slave is sub-human. "If I despise the cause of my servant or of my maid-servant when they contend with me, what shall I do when God rises up? When He remembers, what shall I answer Him? Did not He that made me in the womb make him? Did not the One fashion both of us in the womb?" "

The evolution of Orthodoxy's view of slavery over the past 150 years raises a number of questions as to how to view the various *mitzvot* of the Torah. R' Raphall testifies that 50 years before him no one would even question the morality of slavery. Yet, in our day 200 years later, Orthodox thinkers must 'apologize' for the Torah's tolerance of the institution. Is such a stark change of attitude really justified? Was Einhorn, the face of radical Reform, really correct all along? And, if so, are there other biblical institutions that we now regard as obviously correct and moral that future Orthodox thinkers will regard as immoral but excuse us because we were merely the product of our times? Could it be that Reform has already recognized these institutions and we will merely follow in its footsteps?

R' Rabinovitch implicitly addresses this problem by invoking an ancient anti-slavery precedent. The negative attitude towards slavery is already found in *Hazal*: "The Sages directed so much attention to remedial legislation related to slaves, and the doctrine of equality so penetrated the national consciousness, that these attitudes eventually became characteristic of Judaism and oppressive regimes attempted to uproot them. A *baraita* (*Avoda Zara* 17a) tells that in a time of oppression, the authorities arrested R. Elazar b. Parta and accused him of five "offenses." One of the charges was "Why did you emancipate your slave?" Rashi comments, "[the regime] had forbidden [emancipating slaves] because the practice was a Jewish religious precept."

R' Rabinovitch realizes the novelty of this. Was this “Jewish religious precept” an innovation? Of course it was¹⁵; but it was born of and nourished by the Torah, and its origins are rooted in Scripture, though the world at the time of the Bible was not yet fit for it. Over the course of time, knowledge increased throughout the world, new scientific and technological discoveries produced sources of energy far mightier than human labor, and opportunities for leisure grew. Divine providence then led to the abolition of slavery nearly everywhere. Blessed be God, who spread the light of His Torah, giving those who had strayed the intelligence to recognize the Divine greatness imprinted on every human being! The abolition of slavery is simply a partial realization of the exalted ideal taught by the Torah; and the history of the West makes it clear beyond all doubt that one of the decisive factors in that process was the widespread knowledge of the Torah. This came about “to improve the world as a whole so it would serve God together, as Scripture says, ‘For I will then turn the nations to clear speech, so they may call upon God’s name and serve Him in unison.’ ” There is little doubt that David Einhorn would agree with this sentiment.



¹⁵ This is especially innovative given the biblical command not to free Canaanite slaves. See Gittin 38b, *Mishneh Torah, Hilkhos Avadim* 9:6, *Sefer HaHinnukh* 347. Rambam does outline certain circumstances in which one can free their slave, for example when there is a *mitzva* need. No doubt these can be staged to allow the ‘legal’ freeing of slaves, but it is not clear that this is what was done by R’ Elazar ben Parta.