

THE EXPOSURE OF INFANTS
AMONG JEWS AND CHRISTIANS
IN ANTIQUITY



The Social World of Biblical Antiquity, Second Series, 4

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Erkki Koskenniemi



SHEFFIELD PHOENIX PRESS

2009

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Published by Sheffield Phoenix Press
Department of Biblical Studies, University of Sheffield
Sheffield S10 2TN

www.sheffieldphoenix.com

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A CIP catalogue record for this book
is available from the British Library

Typeset by Forthcoming Publications
Printed by Lightning Source

ISBN 978-1-906055-12-7

To Anna-Liisa Koskenniemi, my loving mother:

*Yet you brought me out of the womb;
you made me trust in you
even at my mother's breast*

—Ps. 22.9

*From where do you come? From a putrid drop.
Whither are you going? To a place of dust, worms, and maggots.
And before whom are you going to give a full account of yourself?
Before the King of Kings, the Holy One, blessed be he.*

—m. Abot. 3.1

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PREFACE

Your wife will be like a fruitful vine within your house;
your sons will be like olive shoots around your table (Ps 128.3).

This beautiful psalm praises families with many children. However, values seem to be very different today. In 2006 the fertility rate in the European Union was estimated to be 1.47 (total fertility rate). The lowest rate was in countries of the former USSR, such as Lithuania (1.20) and Slovenia (1.27); it was also very low in Catholic countries such as Poland (1.25), Italy (1.28) and Spain (1.28). Fewer and fewer European families seem to welcome the birth of many children. The situation is different in other parts of the world. While Africa wrestles with other kinds of problems (such as AIDS), Asia faces a curious situation. In July 2006, *Le monde diplomatique* reported extensively on a well known but too often disregarded fact that influences populations in the Eastern part of the world. Especially in China and India, but also elsewhere, parents prefer sons to daughters. Selective abortions and the killing of girls threaten to bring about a severe demographic imbalance: in Punjab, 126 sons are born for every 100 daughters; in Guandong, 138 boys for 100 girls. It would appear that in a few short decades some 100 million men are going to be seeking a wife in vain.

Governments are concerned about the small number of births in Europe, while the statistics in Asia are considered disastrous. However, the situation in the modern world seems to resemble certain aspects of life in ancient Mediterranean societies. In ancient world, rulers and authorities seldom if ever told individuals what to do with their new-borns. It was the parents' decision to rear the baby or to abandon or kill it. If a child was sick or malformed, of the 'wrong' sex, from the 'wrong' father, born into a family already considered big enough, or simply not wanted, it was in most cases fully legal to abandon the infants, who might or might not survive exposure. Although we lack statistics, the practice seems to have profoundly influenced the structures of ancient societies and presented a problem to the ruling classes.

Jewish people and later Christians were in many ways dissidents in the ancient Mediterranean world. Traditionally, scholars have believed that both Jews and Christians followed their own ways of life and did

not practice abandonment. However, increasingly this view is being questioned today by scholars who believe that Jews and Christians abandoned children despite the teachings of religious authorities.

Did Jewish and Christian parents abandon unwelcome babies? This book presents the most important texts dealing with exposure of newborn children and analyzes the arguments used by Jewish and Christian teachers to prevent or restrict the practice. It also analyzes the non-literary evidence pertaining to the question. In my view, there is no need to deny the conditions in which early Jews and Christians lived. Jewish and Christian children were clearly threatened with abandonment; we have only to read the work of eager teachers railing against such practices to find the evidence. But Jewish religious authorities actively tried to prevent child abandonment, and early Christian teachers followed in their footsteps. The life of a religious minority has never been easy, and the only way to prevent complete assimilation was and is continuous ethical instruction.

A book that attempts to cover early Judaism to the Mishnah and Tosefta and early Christianity to Basil the Great and Augustine, while also drawing on Classical Antiquity, and of course, the Old Testament, could hardly be written without the support of learned friends and colleagues. I have been fortunate in having endless, enthusiastic discussions with PhD student Timo Nisula (Turku), *homo novus* with a deep knowledge of Classical and Patristic studies; he has never once been stinting with his help. Professor Antti Laato (Åbo Akademi, Turku), has supported me faithfully throughout the long process of writing this book. Professor Jorma Toppari (Turku) has steadfastly assisted in answering the medical questions so important for this inquiry. Professor Beate Kowalski (Dortmund) kindly helped not only by giving her friendship and expertise, but also by seeking the right persons for further support. Professor Hubert Drobner (Paderborn) and Professor Danilo Mazzoleni (Rome) helped in areas where I had only little or no expertise. Professor Gunnar af Hällström (Joensuu) greatly encouraged and helped with my work with the Church Fathers. Dr David Instone-Brewer (Cambridge) offered companionship when things were at their darkest. Dr Pekka Lindqvist (Åbo Akademi), with his deep knowledge of Rabbinic literature, has always been ready to help. Professor David Clines not only accepted the manuscript but also gave many valuable pieces of advice. Mrs Theodosia Tomkinson (Preston) has been patient enough to correct my English and, moreover, greatly supported me on my way. Dr Duncan Burns copy-edited by word and assisted with the preparation of the indexes.

My wife Marja has once again made a book possible with her daily love and care. This book has taught me to appreciate more than ever the happy marriage and the five sons — Tuomas, Johannes, Antti, Jaakko and Pietari — she has given me. During the years the book was written my sons have grown up to be my advisors in many areas. Without the support of my entire family, the volume could never have been written.

Finally, a very personal point of view. It took years to collect and investigate the material presented. The texts were mostly fascinating, often dramatic, and sometimes terrible. The life of an unwanted newborn was cheap indeed in ancient times. Only in the last phase of the work did I realize that I owe my own life to the Christian ethics of my parents. They already had three sons, the first of whom was desperately ill, as well as a daughter. Yet, when I was born they gave a good home to me as well as to my younger sister, whose quarrels enlivened my youth. In dedicating this book to my mother, I pay tribute to every mother who loves her children no matter how difficult the circumstances.

Chapter 1

INTRODUCTION

1.1. *The Graeco-Roman Practice*

The ancient world is traditionally investigated by reading the works of the masters of Graeco-Roman literature, but scholars especially in the nineteenth century became aware of another kind of source. The centuries between classical antiquity and today have left us only a selection of literature, chiefly reflecting the views of the aristocracy, but papyri illustrate the daily life of the common people. These documents may be petitions to officials, promissory notes or private letters. They were written and received, perhaps also put in packaging or placed inside a human skull. Nobody planned to preserve them for scrutiny two thousand years later.

An example of these documents is a private letter sent by a husband to his wife, called 'sister', as is common in these documents. It is dated, July 17th 1 CE, and the text reads as follows:

Ilarion to Alis his sister, many greetings, and to my dear Berous and Apollinarion. Know that I am still even now at Alexandria; and do not worry if they come back together (?), but I remain at Alexandria. I urge and entreat you to be careful of the child, and if I receive a present soon I will send it up to you. If (Apollinarion?) bears offspring, if it is a male let it be, if a female expose it. You told Aphrodisias 'Don't forget me'. How can I forget you? I urge you therefore not to worry. The 29th year of Caesar, Pauni 23. Verso: Deliver from Ilarion to Alis (*P.Oxy* 4.744).

This intimate private letter from two thousand years ago shows the affection between a man and his wife, but some words in particular attract the attention of the modern reader: 'if it is a male let it be, if a female expose it'. The meaning is clear: an unwanted female child was to be abandoned and left without the care of its parents.

This letter is not the only Graeco-Roman text attesting the practice of exposing or killing a child immediately after birth.¹ Graeco-Roman

1. The major studies dealing chiefly with classical antiquity are Cameron 1932; Tolles 1941; Eyben 1980–81; Patterson 1985; Boswell 1988; Harris 1994; Corbier 2001.

sources permit the study of the practice,² as illustrated in mythology,³ literature⁴ and real life; the Graeco-Roman custom has already been thoroughly scrutinized. It is important to note that both Greek culture and the Roman world were of long and separate duration and cannot be treated as a unity. Corbier justly warns against generalizations, and in her article pays attention to Roman citizens,⁵ as Patterson does to the Greek world. Scholars disagree on many important points, but it is possible to summarize the principal reasons why children were exposed.

(1) Economic reasons are often mentioned in the sources.⁶ Poor people could not always afford to feed all the children born to the family and in some periods very few children were raised.⁷ Poverty could be reason enough to abandon a child, but it is not possible to treat the economic reasons summarily. Offspring were often greatly desired and children were not always regarded as a financial burden; in fact, they were even seen as profitable in some, especially agricultural, societies.⁸ There were also times in which the sale of one's own children into slavery was allowed and practised, and this reduced the need to abandon infants,⁹ although sometimes the price of slaves was so low that nobody was willing to buy a newborn child.¹⁰ On the other hand, we read that not

Harris's study gives a short, balanced account of the practice in classical antiquity, Eyben's extensive article is the most comprehensive study and it covers the classical and to some extent also the Jewish and Christian area.

2. On the terms used see Patterson 1985: 104-105.

3. The best known examples in mythology are perhaps Romulus and Remus; see Tolles 1941: 9-13 and Boswell 1988: 76-88.

4. Classical tragedy drew on myths, the best-known example being Sophocles's two plays about Oedipus. On the new comedy see below, p. 3; on romance, see Kudlien 1989: 35-44.

5. Corbier 2001: 53. One can only hope that Corbier's passage, in which she warns of generalizations, is duly observed. She refers to great ethnic, legal and social diversity. Practices varied among citizens and slaves, masses and élites, and in different nations.

6. See Cameron 1932: 108-109; on specifically the Greek world, see Tolles 1941: 80 and Patterson 1985: 116-19; on the Roman world, see Brunt 1971: 152; Boswell 1988: 103-105; Harris 1994: 13.

7. According to Appian, poor people were unable to raise their children in 133 BCE (*Civ.* 1.10).

8. Patterson (1985: 118-19) quotes Hesiod, *Erg.* 376-81: 'One single-born son would be right to support his father's house, for that is the way substance piles up in the household; if you have more than one, you had better live to an old age; yet Zeus can easily provide abundance for a greater number, and the more there are, the more work is done and increase increases'. See also Boswell 1988: 103-104.

9. See Boswell 1988: 69-70 and Harris 1994: 1.

10. See Harris 1994: 6.

only the poor but also the rich exposed their children.¹¹ One plausible reason was that they did not want more children to share their property.

(2) The letter quoted above contains an explicit order to expose the baby if it were female, and we know several other sources that indicate that sons were preferred to daughters.¹² Greek new comedy,¹³ which reflects everyday life, and the adapted Latin translations of Plautus,¹⁴ often describe the exposure of female babies. Furthermore, Ovid mentions the exposure of girls:

Therefore (and may Heaven save the mark!), if by chance your child should prove to be a girl (I hate to say it, and may I be pardoned for the impiety), let her be put to death (*pietas, ignosce: necetur*) (*Met.* 9.678-79).

Apuleius (*Met.* 10.23) and Terence (*Haut.* 626), too, tell of a man who in similar terms told his wife to kill and cast out the baby, if it were a girl.

The practice of abandoning especially daughters is thus well attested in the literary sources and supported by the documentary evidence.¹⁵ Sarah Pomeroy has studied the Milesian inscriptions from the third century BCE that mention the existence of 118 sons and 28 daughters. The statistic is clear enough, although the population studied was admittedly not typical:¹⁶ they were mercenaries and so were perhaps reluctant to have a large family to travel with them.¹⁷

Apparently, then, girls were abandoned more often than boys,¹⁸ but it is difficult to say how many of them were exposed because the lists quoted above are far from typical surveys of the population. However, according to Tarn and Griffith, rarely was more than one daughter reared.¹⁹ We shall return to this issue later.²⁰

11. Plutarch (*Mor.* 497a-e), Hierocles (in Stobaeus 4.24.14) and Clement of Alexandria (*Str.* 2.18.92-93 SC 38: 105-106) report that rich people exposed their children. See Patterson 1985: 118-19; Boswell 1988: 104-105; Harris 1994: 11-12.

12. On Greeks, see Tolles 1941: 80-82 and Garland 1990: 86-87; on Romans, Brunt 1971: 150-53; Patterson 1985: 110-11; Harris 1994: 11; generally, Cameron 1932: 105-106; Boswell 1988: 100-103; Kudlien 1989: 31-33; Fayer 1994: 186-87.

13. Poseidippus (*Fr.* 11 Kock) says that even a poor man raises a boy, but not a girl.

14. See Plautus, *Cas.* 39-44; *Cist.* 120-24; *Truc.* 399-404.

15. On the number of abandoned girls, see below, p. 9.

16. Patterson 1985: 111.

17. See Pomeroy 1983: 207-22; 1986: 160; Harris 1994: 11-12. A receipt for *alimenta* in the Table of Veleia mentions 34 girls and 245 boys; of these 279 children only two were illegitimate. The inscription does not present a typical ratio of boys to girls, because people could offer support to only one child and opted that it should go to boys, who received a larger allocation; see Cameron 1932: 105; Brunt 1971: 150-51.

18. *Pace* the short but unconvincing doubts raised by Reinhartz (1992: 57).

19. Tarn and Griffith 1953: 100-102. However, some early Ptolemaic officials had three or even four daughters; see Pomeroy 1986: 161-62.

20. See below, p. 9.

(3) Pre-marital babies and children from a 'wrong' father are not always welcome today and were not in ancient times either. Aristophanes (*Nub.* 530-32) metaphorically refers to the common practice, saying that he abandoned a play written by himself because his muse was not the mother, implying that the practice was common in Greek and Roman culture.²¹ However, even rulers had their problems: Augustus forbade the suckling of the bastard girl born to his daughter Julia (Suetonius, *Aug.* 65.4) and Claudius, whose wife had had a child by a freedman, solved the same problem in a similar way (Suetonius, *Claud.* 27).²² Yet, the fact that girls were married early reduced the number of illegitimate children, the age of 14 or 15 at marriage being common for girls, for example, in Athens, while males usually married at the age of 30.²³ But married people could also disagree about the paternity of a child, and agree to solve the problem by exposing the baby,²⁴ and single mothers often abandoned their children.²⁵ Prostitutes were special cases in Graeco-Roman civilization, but they seem to have been very well able either to prevent conception or to procure an abortion.²⁶

(4) Sources lead us to understand that neither the Greeks nor the Romans were eager to raise children who were not born healthy. There are signs that the exposure or even the killing of malformed or sick children was institutional in some cities, but the evidence is far from certain. However, although some scholars doubt it, most of the weak, malformed children were abandoned. The evidence is presented below.²⁷

(5) One reason, among others, to abandon newborns arose from bad omens connected with the birth.²⁸ A possible piece of evidence for this is found in Hesiod, *Erg.* 782-89.²⁹ Also, Suetonius reports (*Cal.* 5) that the death of Germanicus led parents to expose their children (*partus coniugum expositi*) and that the bad omens in the year 63 BCE led to

21. On the Greeks, see Tolles 1941: 79-80 and Patterson 1985: 115; on the Romans, see Harris 1992: 13.

22. On this event, see Corbier 2001: 54.

23. On the age of marriage see Golden 1981: 322 and Harris 1994: 13.

24. See Harris 1994: 5-6.

25. *BGU* 1104 attributes to the woman the right to decide on exposure if the father were dead.

26. See below, pp. 54-55.

27. See below, pp. 64-67.

28. See Eyben 1980-81: 16; Boswell 1988: 79-80; Harris 1994: 14.

29. 'The sixth of the mid-month is very unfavourable for plants, but is good for the birth of males, though unfavourable for a girl either to be born at all or to be married. Nor is the first sixth a fit day for a girl to be born, but a kindly for gelding kids and sheep and for fencing in a sheep-cote. It is favourable for the birth of a boy, but such will be fond of sharp speech, lies, and cunning words, and stealthy conversation.' See Garland 1990: 81-82.

abandonment of most of the boys (Suetonius, *Aug.* 94; see also Seneca, *Contr.* 10.4.16). It is wise not to generalize from Suetonius's words,³⁰ but he is not the only source telling about similar events. Some scholars, such as Corbier,³¹ interpret these acts as a peculiarly Roman way of expressing protest against the gods, a kind of social suicide. Later (335–337 CE), Firmicus Maternus wrote guidelines on when to raise and when to expose a child that were based on astrological wisdom (*Math.* 7.2.1–26).

(6) The simplest of all reasons not to raise a baby has not yet been mentioned. The children may have been healthy, of the right sex and the parents had no financial problems, but sometimes a child was simply not wanted. The family was considered to be complete already without the newcomer.³² The size of the family, however, was irrelevant: when a child was not 'needed', no other arguments were required.³³ Aristippus, the pupil of Socrates, could make this clear by his extreme behaviour.³⁴ In Rome, the parents alone made the decision.³⁵

Thus, both the Greeks and the Romans regularly exposed children, although critical voices were also heard. Some of these voices emphasized mainly the wellbeing of the state; others voiced moral principles. It was common for the state to show interest in increasing the size of families. Such views are attested in the microcosm of the Greek cities, but the Roman state too tried in different phases to encourage people to procreate and keep their children.³⁶ The moral criticism, evidently, partly agrees with these intentions.³⁷ Some of the critical voices referred to the distant past and postulated limitations on the practice in glorious Greek cities,³⁸ or claimed that various foreign peoples did not abandon their children.³⁹ Some philosophers, chiefly the Stoics, disapproved of the practice.⁴⁰ The reason for the criticism was mostly the welfare of the

30. Fayer 1994: 185–86.

31. Corbier 2001: 61.

32. On the size of the families, see below, pp. 80–86.

33. For example, C. Melissus was born free but exposed (*ingenuus sed ob discordiam parentum expositus* (Suetonius, *De gramm.* 21.1). Suetonius does not say what kind of disagreement led to his exposure.

34. See below, pp. 138–39.

35. See below, pp. 139–40.

36. See below, pp. 149–51.

37. Purification is sometimes implied after exposure (see Eyben 1980–81: 56–58). However, many other actions, which were not considered wrong, required a ritual purification (see Pomeroy 1986: 161–62).

38. See below, p. 135.

39. See below, p. 149.

40. Eyben (1980–81: 38–43) presents the most important passages in the philosophers very well (see below, p. 149). However, he considers that Seneca rejected the practice concerning healthy babies, although he regarded the killing of the malformed children as natural. This is, however, mere guesswork: we do not know of

state, not of the individual child. Themistius later formulated this view very clearly, saying that exposure is a crime against the state (*Or.* 26.325a).⁴¹ The view that the acceptable goal of sexual intercourse is children and not pleasure gained ground in the Imperial period.⁴²

Children were thus exposed, but how many, and how often did the abandoned infants survive and how many died? Only partial answers can be given to these questions. Harris wisely distinguishes between two different types of exposure.⁴³ In some cases the mother obviously wanted somebody else to raise and feed her baby. Harris calls this 'exposure A'. In other cases the parents did not care about the child's survival or even wanted its death, and we also know that the parents could kill their baby. Harris calls this 'exposure B'. We have examples of both.⁴⁴

We know that a baby could be clothed and brought to a place where it was likely to be found. Juvenal (6.602-605) mentions a place where poor people left their children.⁴⁵ We are aware of the people called κόπριοι, who, despite contrary arguments,⁴⁶ were apparently foundlings, taken ἀπὸ κοπρίας, that is, from the dunghill, and had names derived therefrom.⁴⁷ Pomeroy, who studies the copronyms in her article, gives a list of

any Roman philosopher who rejected the practice outright at this time. Moreover, Eyben here deals with exposure and abortion together; although they are intimately related practices, they should be treated separately. See also van der Horst 1978: 233.

41. See below, p. 149.

42. See below, pp. 121-22.

43. Harris 1994: 9.

44. Some ancient sources, too, distinguish between two types of abandonment, although the material does not allow for such a definition to be made. The elder Seneca quotes Clodius Turrinus on *inutiles partus*, and says that their parents 'throw them out rather than expose them' (*proiciunt magis quam exponunt*). Seneca also uses the word *abiciunt* of weak children (*Contr.* 10.4.16). Obviously, this was considered markedly different from killing a child already accepted in the family (see Patterson 1986: 106).

45. On *lactaria columna* in the Forum, possibly used as a place, where people exposed their children with the intention that they be found, see Harris 1994: 9. According to Corbier (2001: 62-63), however, it is more likely that the place received its name because of wet-nurses, who were sought there.

46. The view is based on Pedrizet's 1921 article, and is widely accepted. However, Pomeroy investigates the evidence and partly questions the view. She lists the occurrences of the words and shows that the list begins abruptly in the late Ptolemaic period. Apparently, exposure was not widely practised before this period in Egypt, although it always occurred. The early Ptolemaic families were large and could include several daughters, even as many as five (*P.Grenf.* 1.21), which was very unusual in Greece and Rome. Pomeroy supposes that κόπριοι, except perhaps the earliest, were not foundlings (1986: 157-62). Corbier doubts that they were foundlings (2001: 263-64).

47. See Harris 1994: 8. Dunghills are still in existence today. Animals often visit dunghills during the night, so a child certainly could not survive there long.

279 names in Egypt, and shows that many of them achieved high status in the society.⁴⁸ *Alumni* in Rome were apparently abandoned children raised by strangers. Their social status varied: they could be slaves or adopted heirs.⁴⁹ Patterson plausibly supposes that women were aware of who did and who did not want a baby and could thus form a network.⁵⁰ The exposure of a child was not a cause of rejoicing, but regarded as a sad necessity. Brunt justly formulates a view of the practice that explains why only the critics of the practice were willing to report the details: 'Its legality is beyond doubt: it was perhaps practised in shame and secretly'.⁵¹

Sometimes, as noted above, it was clear that the parents either did not care about the survival of their children or even wanted their death. Some examples have already been mentioned: Augustus forbade the nursing of the baby born to Julia (Suetonius, *Aug.* 65.4); Apuleius tells of a woman who was told by her husband to expose the baby if it was a daughter; and a wife falsely claimed that the girl was *nata et necata* (*Met.* 10.23), which apparently was not unusual. We know that many malformed children in particular were killed immediately after birth.⁵²

Thus, all exposed infants did not die; some were raised by strangers. Scholars, however, disagree about the number of children who survived: Eyben cites Pseudo-Quintilian, *Declamationes minores* 306.23 (*rarum igitur est, ut expositi vivant*).⁵³ On the other hand, the *kopriai*-papyri show that foundlings could find a good life in middle-class families,⁵⁴ and according to Patterson they formed a considerable proportion of the lower classes in the ancient societies.⁵⁵ They could be raised to be slaves,⁵⁶ while a worse fate was to provide service in brothels, and we know that girls raised by others were still children when they started their life as

48. Pomeroy 1986: 149-57.

49. See Boswell 1988: 110-11. Ptolemaeus Grammaticus (*De differentia vocabularum* 403.3) explains the word *θρεπτός* as follows: *ἐν τῇ οἰκίᾳ τρεφόμενος, ὃν ἡμεῖς θρεπτόν καλοῦμεν*.

50. Patterson 1985: 116; see also Boswell 1988: 110-11.

51. Brunt 1971: 49. See also Terence, *Haut.* 641; Longus, *Daphnis and Chloe* 4.35; Ovid, *Met.* 9.685-701 and Eyben 1980-81: 48-56; Harris 1994: 3. Corbier disagrees with most of the scholars, saying that the exposure was practised in public venues and in daylight (2001: 62).

52. See below, pp. 65-67.

53. Eyben is aware of the foundlings and cites also Gellius (12.1.23), supposing that an exposed child could find a wet-nurse. For discussion, see Eyben 1980-81: 15-16. According to Harris, most of the exposed children probably died (1994: 10-11).

54. Similarly, Juvenal says that Fortuna favours some of the children who were abandoned naked during the night and attributed them *domibus altis* (6.605-606).

55. See Patterson 1985: 121-22.

56. See below, p. 131.

prostitutes.⁵⁷ Notwithstanding that many of the exposed children survived it is impossible to estimate their number which certainly varied with time and space. As said above, there were times in which slaves were so cheap that very few were willing to raise a child for this purpose, while in other periods slaves were needed.⁵⁸ Nor can we exclude the geographical variation: it seems that Egyptians were more willing to raise children than some other nations.⁵⁹

What is said above explains why it is so difficult to arrive at even a rough estimate of the number of exposed children. We have no detailed statistics about family sizes, and even if we had, it would be difficult to evaluate all the possible reasons for the small number of children. Child mortality is estimated as very high: Aristotle's statement that 'most children die before their seventh day' is certainly an exaggeration,⁶⁰ but up to 47% of the people in Meiron died before the age of eighteen in the Herodian period,⁶¹ and we do not know exactly how various diseases reduced fertility. Ancient medicine was able to prevent conception and procure an early abortion significantly better than scholars assumed up until some decades ago.⁶² It is, however, perhaps not too bold to assume that contraception and abortion were practised by the rich, while the poor were more likely to resort to exposure.⁶³ No ancient writer provides us with a credible estimate of the number of infants exposed: Petronius's comment that nobody rears a child in Rome⁶⁴ is, of course, a comical exaggeration. Some scholars have tried to use demographic models to shed light on the situation, but these attempts have led to very different conclusions, the main question at issue being the number of girls exposed. Engels says that a community that exposes 20% of its girls will very soon disintegrate, and so claims that the number of the exposed must have been small.⁶⁵ However, his study is heavily criticized for its

57. On this possibility see below, pp. 131-33.

58. See Harris 1994: 6.

59. On Egyptians, see Tolles 1941: 72-73, who gives a reason for a different view of exposure. Greece, Tolles notes, had a poor land, but in Egypt all people were needed in agriculture. *Gnomon of the Idios Logos*, a collection of fiscal regulations, punishes any Egyptian adopting an abandoned child by the confiscation of one quarter of his fortune (1941: 41); cf. Eyben 1980-81: 25-26.

60. *Hist. an.* 7.12 588a; see Eyben 1980-81: 7.

61. See below, p. 85.

62. See below, pp. 123-24.

63. Eyben 1980-81: 76-77.

64. Petronius (*Satyricon* 116) lets his locutor complain about the life of people raising children and compares it with the life of the childless: in hac urbe nemo liberos tollit, quia quisquis suos heredes habet, non ad cenas, non ad spectacula admittitur, sed omnibus prohibetur commodis, inter ignominiosos latitat.

65. Engels 1980: 112-20. Already Bolkestein (1922: 239) questioned the common view that exposure was widely practised in Athens. See also Eyben 1980-81: 13-14.

serious flaws.⁶⁶ Moreover, a high percentage is not excluded from the demographic point of view: some primitive societies abandoned up to 50% of their children and still continued to exist.⁶⁷ Dio Chrysostom says that there were fewer females than males among the nobility in Augustan times,⁶⁸ and an uneven sex ratio in ancient Greece seems to be certain.⁶⁹ Furthermore, the fact that we do not know how many children survived exposure makes the use of demographic models problematic. Harris, like most scholars, is reluctant to estimate the number, but mentions figures between 1 and 5%.⁷⁰ At any rate, exposure seems to have been used as a systematic method of birth control in the classical world.⁷¹

1.2. Jewish and Christian Texts and their Interpretation

The practice among the Greeks and Romans has been thoroughly studied, and although many problems remain, the principle laid down is clear. Newborn children were frequently exposed, even though the practice was sometimes criticized. Malformed and illegitimate children, and babies born in families that the parents already considered large enough were in greatest danger. These Gentile solutions to its 'problems' are well known to scholars, but what about the Jewish and Christian way of life? Earlier scholars had no difficulty in drawing the historical line. Joseph Bingham's *The Antiquities of the Christian Church* is a good example

66. Golden 1981: 316-31; Patterson 1985: 107-108; Harris 1982: 114-16; Eyben 1980-81: 17.

67. See Golden 1981: 316-31 and Harris 1982: 116.

68. 'And since among the nobility there were far more (πολὺ πλεῖον) males than females, he allowed all who wished, except the senators, to marry freedwomen, and ordered that their offspring should be held legitimate' (Dio Chrysostom 54.16.2).

69. See Golden 1981: 316-31 and Patterson 1985: 120-21.

70. Harris 1994: 3. Boswell supposes that between 20 and 40% of the children were abandoned during the first three centuries (1988: 132-35), but he conflates different elements with exposure (see below, p. 13). Corbier (2001: 66) considers it impossible to estimate the proportion of children abandoned. See also Frier 2000: 802-804.

71. Kapparis claims that exposure was not a calculated policy of population control and that it always had a 'truly strong reason'. Apart from the ancient evidence quoted in the most important works, he motivates his view also with common sense: 'Parents in antiquity were emotionally not more indifferent to their young than are modern parents' (2002: 154-62, esp. 160). First, however, so many sources mention exposure that it must have been common, and a generalized statement like Kapparis's is rash; second, Polybius, for example, *expressis verbis* says that exposure was a reason for the depopulation in Greece. And finally, although no one doubts the emotionality of the ancients, Kapparis's reference to common sense is dangerous. Only a few decades ago, abortion was considered an unemotional murder in broad sections of Western societies; now, however, such a view is considered a minority opinion in many countries, although people of our time are certainly no less emotional than their grandmothers and grandfathers.

of a famous handbook. Bingham (1668–1723) cites briefly Tertullian, Minucius Felix, Athenagoras and Lactantius, and thereby collects the evidence for the view that the Christians rejected the practice. He goes on:

...it is also thought by his [Lactantius's] prudent advice to have induced Constantine to enact those two excellent and charitable laws, still extant in the Theodosian Code [Cod. Th. lib. II. Tit. 27. de alimentis, &c. Leg. 1 et 2] whereby it is provided by his great munificence in several parts of the empire, that poor parents who had numerous families, which they could not maintain, should have relief out of the public revenues of the empire; that they might be under no temptation either to expose, or kill, or sell, or oppignorate and enslave their children; of which there had been so great complaints under the former reigns of heathenism. Constantine [Cod. Theod. lib. 5. Tit. 7. de Expositis, Leg. 1 et 2] and Honorius added two other laws to these, in favour of such as took care of exposed children, that parents should have no right to claim them again, nor accuse those of theft or plagiarism, who showed mercy on those whom they exposed to death, and by their neglect suffered to perish; provided only that the collectors of such children presented evidence before the bishop, that they were really exposed and deserted. And in this case, the ecclesiastical laws concurred with the secular, adding the penalty of excommunication to be inflicted on all parents, who thus proved themselves guilty of murdering their children.⁷²

The scholars of the past did not hide their own opinions. Except for the point at which the racial-hygienic ideology of the German Nazi regime was clearly discernible,⁷³ scholars used to simplify history, following the traditional view presented already in the second Christian century. Scholars considered the practice of exposure very common among the Gentiles, but that it was unanimously rejected by (Jews and) Christians, until the Christian Emperors forbade the practice by law.

The view of Graeco-Roman practice comes to be seen in a new light in modern research. Classical antiquity lasted many centuries and its

72. Bingham 1837: 991.

73. Tolles wrote his study in Germany in the time of Hitler (published 1941) and describes the Spartan use of selective exposure. He goes on: 'Keinem Bürger hatte der Staat die Freiheit gelassen, nach seiner Façon zu leben; für jeden war seine Lebensweise durch Gesetz und Brauchtum bestimmt. So sehen wir das Sparta der älteren Zeit und der Epoche, in der es unter den griechischen Staaten eine hervorragende Stelle einnahm. Mit der Lossagung von der alten zielbewussten Lebensordnung verlor es auch diesen Platz in gesamtgriechischen Raum' (Tolles 1941: 34). Also ancient Athens, because it was a 'indogermanische Wehrgemeinschaft', had an institutional selection of its citizens, until it, unlike aristocratic Sparta, chose the way of democracy (1941: 37-38). Exposure of crippled children in early Greece was, he thinks, 'nicht ein Recht sondern eine Pflicht' (1941: 78-79), and it seems to him by no means terrible.

customs and their motivation were not always and everywhere identical. Moreover, critical voices are better heard today. We must also ask whether it is reasonable to regard Jews or Christians as monolithic blocks that unanimously rejected exposure. Although this was the traditional opinion, a wholly different view is offered in some recent studies.

Victor Tcherikover collected Jewish papyri that give us detailed information about the daily life of Jews, mainly in ancient Egypt. After studying all the taxation documents in 1960, he could not exclude the possibility that some Jewish families taxed in Egypt and mentioned in the papyri had exposed their infants, this view being supported by the low number of children recorded.⁷⁴ Adele Reinhartz scrutinized Philo's vehement attacks on exposure and concluded that the people criticized because of this practice were not Gentiles but Alexandrian Jews.⁷⁵ However, some scholars hold the traditional point of view and claim that Alexandrian Jews did not expose their children. Kraemer advocates the accepted view with caution, but Stern, Archer and Ilan do so with significantly more confidence.⁷⁶

But also the Christian practice is radically reinterpreted. Already Cameron (1932) considered that the reasons for the practice were financial and that Christianity did not reject them, so that the practice persisted for a long time.⁷⁷ John Boswell boldly claims that nothing changed with the age of Christianity:

Did Christians abandon children? No mystery remains here: they did. Even if one discounted injunctions against abandonment as evidence of its occurrence, prohibitions of other activities such as promiscuity and recourse to prostitutes are predicated on the consequences of Christian parents having exposed children, and by the fourth century, theology, Christian law, and conciliar Canons all provide abundant testimony that abandonment was widespread among Christians, apparently as familiar as it had been among pagan Romans.⁷⁸

Boswell is well aware of the criticism in the writings of the Early Christian Fathers; however, according to him, these Fathers belonged to the rich upper class, unable to change the life of the common people.⁷⁹

74. Tcherikover *et al.* 1960: 205. See below, pp. 84-85.

75. Reinhartz 1992: 42-58.

76. Stern 1974: 1: 33-35; Archer 1990: 27-29; Ilan 1995: 20-21 (but see p. 204). Actually, Kraemer (1993: 107-108) writes very cautiously: 'It is quite possible that infanticide and exposure were not routinely practised by Jews'. I do not know of any people, ancient or modern, which 'routinely' kills or exposes its children. The 2004 article of Daniel R. Schwartz appeared too late to be included.

77. Cameron 1932: 114. His view that the practice did not attest specific cruelty is hard to accept.

78. Boswell 1988: 177.

79. Boswell 1988: 157.

This opinion, which is by no means unique,⁸⁰ today involves a challenge to both Christian and Jewish studies: What did the teachers write and did it have any impact on the life of the ordinary people?

The sources have thus been radically reinterpreted, but there is still no consensus among scholars concerning either the Jewish or the Christian way of life. These studies give every reason to collect the sources once again and evaluate them from new perspectives.

While the Christian sources are frequently discussed, the Jewish texts are often mentioned but have acquired rather a peripheral position. Only a few scholars have studied any of them thoroughly as Reinhartz has treated Philo's words. The Jewish texts are often mentioned but analyzed superficially. This has made it possible to summarize the Jewish argumentation in a way one can hardly defend today – namely, that they allegedly lacked their own ethics, but followed the Hellenistic philosophers.⁸¹ Jewish family ethics, including the views on contraception, abortion and exposure, are mostly overlooked. A good example is the famous *Italian Manpower* by Brunt, claiming that Christians alone denounced abortion 'with their new conception of the foetus'. Brunt thus disregards the Jews completely.⁸² The articles of Eyben (1980–81) and Harris (1994), which offer a basic overview of the practice, deal only *en passant* with Jewish texts. John Riddle's excellent work on contraception and abortion (1992) deals with Jewish texts superficially and rarely distinguishes between early and late sources. The Jewish material has, as far I know, never been collected and thoroughly analyzed. The obvious consequence is that the Jewish belief is not recognized as a background for the Christian texts. Kapparis (2002) writes on Basil that he 'actively defies the authority of the Bible', and follows the Gentile ethics of late antiquity by rejecting abortion.⁸³ This is a clear and recent example of how Jewish texts can be completely forgotten and the Christian view distorted.

While the Christian texts are traditionally much better known, no book collecting and evaluating the Christian evidence exists, although, for example, Eyben's article, like many others, contains valuable a survey

80. Richard A. Horsley writes on *The Epistle of Enoch* (1 En. 92–105), a passage which happens to include some words against exposure: 'We should not think that 1 Enoch 92–105 is the product of a movement or group any more than we would understand the text of Sirach as a testimony to Ben Sira heading a social movement... At most, it would seem, we can imagine a relatively small scribal circle or clique, a circle of extremely dissident scribes' (Horsley 2000: 115).

81. For example, Cameron 1932: 113. Cameron boldly claimed that the Orphic tradition influenced Christian writers more than did Judaism (1932: 112).

82. See pp. 55–56.

83. Kapparis 2002: 48.

of some of the material.⁸⁴ The need is even more urgent now that recent research has challenged the traditional view.

1.3. *The Task and the Method*

The task of this book is to study the view of the early Jews and Christians on the practice of exposing or killing newborn infants, and how much their way of life and reasoning differed from Graeco-Roman culture up to late antiquity. The task is both challenging and urgent in many ways, beginning with the definition of the phenomenon. Boswell's book in particular has resulted in much confusion, because he also deals with the later practice of entrusting one's own children to others, even to monasteries for fostering.⁸⁵

In this book the words 'exposure' and 'abandonment' are used as synonyms. My study covers both what Harris called 'exposure A' and the phenomenon designated 'exposure B',⁸⁶ that is, abandoning a newborn infant either with or without the intention to save its life. However, cases in which a child was directly given to another individual are not considered in this work. By the word 'newborn' I mean a child of the age of up to ten days, which means that both the Athenian family-feast *amphidromia*,⁸⁷ the Roman *lustratio*⁸⁸ and the Jewish circumcision on the eighth day are within the scope of the present study.

Perhaps the most difficult problem consists of whether it is at all possible to define a 'Jewish' or 'Christian' way of life. Our sources are very limited and problematic in several ways. First, they rarely allow any statistical conclusions that can serve to define the life of ordinary people. In the main, what we have comprises an occasional selection of texts that originate from the upper layers of society. They were written in different centuries and in different parts of the Mediterranean world. However, although the age of simple generalisations is over, the question of the Jewish and the Christian attitude to the practice must be raised, and the nature of the sources must be carefully considered. The problem is discussed especially in Sections 2.4 and 3.3.

84. Boswell's account of the earliest Christian texts is surprisingly poor and he overlooks several texts; see Boswell 1988: 157-60 and below, p. 95.

85. See Boswell 1988: 24. A good example is how he deals with the story about Samuel being given to the service of the Lord (1 Sam. 1-2; see Boswell 1988: 146-47). According to Corbier, who notes the conflation, the decisive difference between exposure and later delivery to monasteries (oblation) was that oblation did not lead to slavery (2001: 66-67).

86. See above, p. 65.

87. On this feast, see p. 140.

88. See below, p. 2.

The present study includes all the Jewish sources prior to the Tosefta. The Christian texts are covered completely down to Tertullian and representatively in the East down to the great Cappadocian fathers, Basil (330–379), Gregory of Nazianzus (329–389), Gregory of Nyssa (335–394) and John Chrysostom (c. 350–407), and in the West down to Augustine (354–430). As far as possible, non-literary evidence is used to complement the literary.

Various other questions are closely related to the exposure of children. Contraception⁸⁹ and abortion⁹⁰ are treated in many texts alongside with exposure. Although they are not properly the theme of this study, they cannot be overlooked totally.⁹¹ Less closely connected is the practice of selling small children, which was already forbidden in Solon's laws; in Rome, it was allowed in the law of the *Twelve Tables*⁹² and again much later by Constantine in 313 CE. The killing of one's own children older than ten days does not belong to the present study.⁹³

An important objective of this study was to collect the relevant Jewish and Christian texts, which are presented with preliminary notes at the beginning of each chapter. I try to analyze the argumentation of the Jews in Section 2.2, and of the Christians in Section 3.2. After these sections I consider the phenomenon from the social point of view. It is important to ask whether the sources reflect only the opinions of a narrow, literate élite or also those of the majority of the population. Some medical questions must be asked and studied, namely: What defects were the ancients able to recognize in their babies? What were their chances of survival? And to what extent are the malformed mentioned in the sources? Some of these questions can only be asked concerning Jews; the Early Christian sources seldom if ever give answers to them. Nevertheless, the goal is not to study only the ideals of the élite but, despite the serious difficulties, also the phenomenon as it was manifested among Jews and Christians. The material is continually compared with the Graeco-Roman way of life.

89. The work of John Riddle changed views on the efficiency of ancient contraception; see below, pp. 54–55 and pp. 124–24.

90. The recent work of Kapparis (2002) thoroughly investigates abortion in the classical world, but, as noted above, the Jewish texts are almost totally overlooked (see also Koskenniemi 2009). What Kapparis writes on exposure (2002: 69) is the worst kind of generalization, and therefore deprecated by such scholars as Corbier (see above, n. 5).

91. On contraception and abortion among the Jews, see below, pp. 54–55; among the Christians, see p. 124.

92. On Athens, see Patterson 1985: 106. According to the *Twelve Tables* 4.2, the son must be freed if the father sells his child three times; see Fayer 1994: 210–43.

93. On the question, see below, p. 139.

Chapter 2

EARLY JUDAISM

2.1. *Texts and Preliminary Notes*

In this chapter the Jewish evidence is examined. The relevant texts are quoted and their context is illuminated. The next chapter analyzes the arguments that Jewish writers used when discussing exposure.

The Old Testament and Related Texts

The fact that the Old Testament does not contain a direct, detailed ban on the exposure of children has led several scholars to remark that the Old Testament did not prohibit the practice. Boswell writes briefly and superficially on the Jews when commenting on Josephus's claim that the Law banned exposure: 'his claim is certainly false: the Mosaic Law does not require this'. Later he summarizes the Jewish and Christian view as follows: 'Neither the Jewish scriptures, which Christianity brought with it to its foster home in Rome, nor its own sacred writings opposed abandonment'.¹ Reinhartz, too, emphasizes that the Law does not forbid exposure,² and it is true that the Old Testament does not contain an unambiguous ban. However, it is essential to distinguish between modern, historical reading of the Old Testament texts and their use and interpretation in Early Judaism. An ancient teacher seldom if ever had an interest in the original sense of a biblical passage, his intention being to apply it to the situation of himself and his community.³ Thus it does not

1. Boswell 1988: 134, 176.

2. '(Philo's) rigorous condemnations of infanticide and exposure of infants, practices which according to Philo are detested by the "holy Law", are attached to Exod. 21.22 and Lev. 22.27, which do not mention the issues at all' (Reinhartz 1992: 63).

3. David Dawson articulates the contrast in his book dealing with Philo as follows: 'In contrast to modern historical-critical exegesis of scripture, which begins with the assumption that the ancient communities that produced the text were radically different from our own, for Philo exegesis of the Pentateuch was first of all commentary on the actual history of the community to which he belonged' (Dawson 1992: 116).

suffice to seek the historical sense of the Old Testament passages. Sometimes, as in Exod. 21.22-25, the text is so close to the practice that it may have been used in the later tradition, and must be considered here.

The first Old Testament passage to be mentioned here is the commandment, 'You shall not murder' (Exod. 20.13). The historical sense of the commandment hardly included exposure, but it was certainly relevant if the child was killed immediately after birth, and also if the death was an obvious consequence of the abandonment. At any rate, the commandment later played a remarkable role in the Early Jewish world.⁴

Exodus 1 tells how the Pharaoh wanted to weaken Israel and told the midwives Shiphrah and Puah to kill every male child and leave only the daughters alive:

The midwives, however, feared God and did not do what the king of Egypt had told them to do; they let the boys live... And because the midwives feared God, he gave them families of their own (Exod. 1.17, 21).⁵

These verses condemn the killing of the newborn male children,⁶ dealing not with their exposure but with an assault on the entire nation of Israel. All the same, the text could serve as an argument not only against genocide but also against exposure.⁷ The passage is still more important, when an aspect often overlooked is noted. Pharaoh says that Hebrew boys 'must be thrown into the river' (הַיַּאֲרוֹת תַּשְׁלִיכֶנּוּ) and the same verb is used in Ezek. 16.5, where a full description of exposure is given.⁸ According to Cogan and Malul, שָׁלַךְ was a technical term for exposure, used also of Ishmael in Gen. 21.15.⁹ In this reading, the Pharaoh perhaps told Israel to expose male children.

4. See below, pp. 61-63.

5. Jewish writers later added some interesting traits to the story of how Moses was abandoned. Ezekiel the Tragedian (16) adds to the biblical text that Moses' parents clothed their son. He may defend them, or simply suppose that they did as the parents usually did when they hoped that somebody would find the baby. See Jacobson 1983: 75-76. *The Book of Jubilees* too emphasizes his mother's care for him (*Jub.* 47.1-4).

6. Archer (1990: 19) wonders why Philo declared 'that the virtue of midwives lay specifically (and exclusively?) in "bringing the males to birth" (*Leg. all.* 3.3), on the basis of Exod. 1.17-21', but she overlooks Exod. 1.16, in which the midwives are told to kill only the males.

7. Philo often mentions Shiphrah and Puah in a positive light, and, as is his manner, he often uses the story allegorically (*Leg. all.* 3.244; *Migr.* 215; *Her.* 128).

8. See below, p. 22.

9. Cogan 1968: 133-35. The term had wider reference and signifies 'that an object or a person cast outside the city, in the field or the desert, into a pit, or even in the street, is thereby removed to the outside domain, and no longer has any ties with the person who cast it'; see Malul 1990: 100-101. Malul also gives Mesopotamian parallels to the practice (1990: 106-10).

Another verse in Exodus is here of crucial importance for the later tradition:

If men who are fighting hit a pregnant woman and she gives birth prematurely, but there is no serious injury, the offender must be fined whatever the woman's husband demands and the court allows. But if there is serious injury, you are to take life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise (Exod. 21.22-25).

The text belongs to the 'Book of the Covenant' (Exod. 20.23-23.33), which is traditionally¹⁰ considered the oldest part of Hebrew Law. The text is difficult in several respects, and many questions are still open today. The first problem is the word *נִסְּא*, occurring only here and in Gen. 42.4. The word is mostly taken to denote 'a serious injury', which would make sense here: the entire range from injury to death is covered. However, the context in Genesis obviously implies death, and this is apparently true also here. But who is hurt, the mother or the foetus? If the mother is injured, it is easy to apply the maxim 'life for life, eye for eye, tooth for tooth', but *נִסְּא* rather points to death. On the other hand, if the baby is hurt or is born dead, the literal interpretation of the maxim is problematic. The most important question is who is the one who receives the damage or dies, the mother or the foetus.

Parallels in Near Eastern law have traditionally been observed and are usually more straightforward than the Old Testament passage. The Code of Hammurabi orders payment of ten shekels of silver for the loss of a foetus in a similar case, but retributive capital punishment¹¹ if the mother dies (*ANET*, pp. 175, 209). Apparently the case was so rare that the Near Eastern text 'was a literary phenomenon rather than a legal one, chosen for illustrative purpose in a school tradition'.¹² This may be true also concerning Exod. 21.22-25 and Israel.

An important step in the interpretation of this passage was taken by Jackson (1973). According to him, vv. 24-25 did not belong to the original. *נִסְּא* originally referred to the death of the foetus, not of the mother, and *נֶפֶשׁ תַּחַת נֶפֶשׁ* in v. 23 did not denote capital punishment, but a substitution, as in *ANET*, p. 221:

In their presence he [sc. the murderer] shall compensate for that murder with either his wife or his brother or his son, whichever is forthcoming.

If the fight led to a premature birth without further damage, the original consequence was, according to Jackson, that the man was fined, but if the

10. See von Rad 1987: I, 43-46.

11. LH §210 orders that the daughter of the killer be killed.

12. Otto 1993: 3-22; Van Seters 2003: 110.

blow led to the death of the foetus, he had to provide a substitute. The early addition after the words נפשו תהיה נפש, vv. 24-25, changed the meaning and focused attention on the wounding or death of the woman, not on an injury to the foetus. A foetus cannot lose a tooth, but a pregnant woman can.

Many modern scholars, but not all, consider vv. 24-25 an addition.¹³ According to Houtman, v. 22 refers to the death of the foetus, v. 23 to the death of the woman,¹⁴ and Osumi solves the problem by linking vv. 24-25 with the next passage, vv. 26-27, instead of with vv. 22-23.¹⁵ Van Seters, for his part, considers the entire Covenant Code late and supposes that it must be placed in the context of the Babylonian Exile. Consequently, he regards Exod. 21.22-25 as dependent on the passages in Deuteronomy and the Holiness Code (Deut. 25.11-12; Lev. 24.17-20).¹⁶

Several problems presented above are still in dispute,¹⁷ and Van Seters's theory challenges the older view of the entire Covenant Code. It cannot be ruled out that the word יָצָא is used here to denote an injury;¹⁸ indeed, it is possible that the words 'life for life, eye for eye, tooth for tooth' mean only that a stereotypic formula is quoted¹⁹ without an exact reference to the fate of the foetus.²⁰ The task of this book is not to solve these problems. On the contrary, the problems of the text are a part of the history of its interpretation.

The problems and the history of the Hebrew original are important for our theme, but it is interesting that already the LXX clearly differs from the Hebrew text:²¹

(22) ἐὰν δὲ μάχωνται δύο ἄνδρες καὶ πατάξωσιν γυναῖκα ἐν γαστρὶ ἔχουσαν, καὶ ἐξέλθῃ τὸ παῖδιον αὐτῆς μὴ ἐξεικονισμένον, ἐπιζημιον ζημιοθήσεται· καθότι ἂν ἐπιβάλῃ ὁ ἄνθρωπος τῆς γυναίκος, δώσει μετὰ ἀξιώματος· (23) ἐὰν δὲ ἐξεικονισμένον ᾖ, δώσει ψυχὴν ἀντὶ ψυχῆς, (24) ὀφθαλμὸν ἀντὶ ὀφθαλμοῦ, ὀδόντα ἀντὶ ὀδόντος, χεῖρα ἀντὶ χειρὸς, πόδα ἀντὶ ποδός, (25) κατάκαυμα ἀντὶ κατακαύματος, τραῦμα ἀντὶ τραύματος, μώλυπα ἀντὶ μώλυπος.

13. See, e.g., Crüsemann 1987: 413-15 and Otto 1993: 15. On different proposals, see Schwienhorst-Schönberger 1990: 80-82.

14. Houtman 1997: 159-60.

15. Osumi 1991: 108-22.

16. See Van Seters 2003: 109-18.

17. A list of problems in Schwienhorst-Schönberger 1990: 80-85.

18. Schwienhorst-Schönberger 1990: 89-94. But see Houtman 1997: 159 and Van Seters 2003: 114-15.

19. Cassuto 1968: 276. See Durham 1993: 291-93.

20. Crüsemann (1987: 413-15), who remains uncertain on many questions, also doubts that נפש נפש here means a monetary compensation and assumes that it refers to the shedding of blood.

21. On the LXX version, see Collins 1997: 171-72.

(22) And if two men strive and smite a woman with child, and her child be born imperfectly formed (μὴ ἐξεικονισμένον), he shall be forced to pay a penalty: as the woman's husband may lay upon him, he shall pay with a valuation. (23) But if it be perfectly formed (ἐάν δὲ ἐξεικονισμένον ᾦν) he shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe (trans. Brenton).

The Hebrew text, as we now have it, is ambiguous, and either the mother or the baby may suffer the damage, a wound or perhaps death. The LXX has removed this difficulty and unambiguously pays attention to the child, returning to the original sense of the passage, if Jackson is right. The Hebrew word מֵצָא is not translated literally, but the distinction of μὴ ἐξεικονισμένον/ἐξεικονισμένον is added. If the fight leads to a miscarriage and to the death of the foetus, it must be investigated whether or not the child was well formed. If it was deformed, the man should only be fined. But if he was well formed, the man should be punished as severely as a murderer was usually punished.

The word ἐξεικονισμένον is ambiguous. It may denote, as scholars usually interpret it, that the foetus was too small to survive the premature birth. However, the prefix ἐξ, with the root εἰκον-, does not necessarily bear that significance. If taken literally, the verb means that the foetus had developed an εἰκών, 'an image', or now perhaps we would say, 'a face'.²² Freund²³ sees here a reference to Gen. 9.6, where homicide is forbidden, because humans are made in God's image. Another possibility is that the foetus had or had not all its parts, that is, the pregnancy had advanced so far that the foetus clearly had a human shape. However, the words may not refer to the stage of the development at all, but describe whether or not the child was malformed. At any rate, some later Jewish texts discuss the criteria, according to which a foetus born dead was or was not regarded as a firstborn – taking this status from the second son.²⁴ Regardless of which of the three possible interpretations is selected, the translation made in the late third century BCE reflects the belief that a foetus is to be regarded as a living human being, but only if it meets certain criteria.

The crucial importance of the LXX version for the Jewish and Christian interpretation has aroused much interest. It is simply wrong to call the verses 'a mistranslation', as do Colson and recently Bauerschmidt.²⁵

22. The verb ἐξεικονίζω is rare. It occurs in Plutarch (2.445c) ('explain by a simile') and in Aristaenetos 1.9 ('to be exactly like'); see LSJ, s.v.

23. Freund 1983: 128-29.

24. See below, p. 75.

25. 'The exposure of children is nowhere expressly forbidden in the Law, though doubtless it would fall under the general head of murder as Philo himself suggests in § 118, and Josephus presumably held when he says, *Contra Ap.* ii,202, that it was

Kapparis, who investigates abortion in the ancient world, notes the difference, moreover, in a strange way:

In the Hebrew original and the Vulgate abortion is not treated as homicide: only the death of the mother is treated as such. In the translation of the Septuagint abortion is not treated as homicide if the foetus was not formed, but amounts to homicide if it was formed.²⁶

Actually, neither the Hebrew text nor the Greek or Latin versions directly deal with his subject, abortion, at all, although all versions were certainly influential in the later discussion. However, it is rash to claim that these versions define what kind of abortion is allowed and what is not.²⁷ Consequently, when Kapparis says that the Greek version is 'not an accidental mistranslation, but certainly a deliberate distortion of the original', only the first part of the sentence is justified.

Kapparis also follows a strong tradition when attributing the change in the text to Greek thought.²⁸ Waszink, in his important article,²⁹ considers it certain that the LXX is influenced by Greek thought and he is able to refer to numerous Greek authors who speculate on the moment when a person receives a soul.³⁰ Several scholars, including Eyben, follow Waszink's view.³¹ Scholars have referred to the ancient 'gradualists', especially Aristotle (*Pol.* 7.14 1335b), who required abortion in his ideal state if the limit of permitted births in a family has been reached, and provided that it is made 'before the foetus has developed sensation and life'.³² However, although Aristotle thus clearly separates different stages of the embryo, he also accepts and even demands exposure of newborn children.³³ Thus, Aristotle does not attribute human value to the foetus,

forbidden by the Law. The LXX mistranslation of Exod. xxi,22 comes in happily to help Philo to clinch the point' (Colson 1937: 545); see also Bauerschmidt 1999: 1.

26. Kapparis 2002: 47.

27. Houtmann correctly says: 'Die Frage nach der Legalität (sc. des *Abortus provocatus*) steht in diesem Abschnitt überhaupt nicht zur Debatte' (1997: 160).

28. Kapparis 2002: 47-48.

29. Waszink 1954: 175-83; followed by Bauerschmidt 1999: 1.

30. Some writers, such as the Pythagoreans (see Diogenes Laertius 8.24-33), claimed that a foetus has a soul from very beginning; others, such as Empedocles, from the moment of birth. Some, including Aristotle (*Gen. anim.* 2.34-36; *Pol.* 7.14.10), supposed a parallel development of the body and soul and supposed different stages of the soul. See Waszink 1954: 176-80; Kapparis 2003: 41-52.

31. Eyben attributes the alteration in the LXX 'in all probability to Greek influence'; see 1980-81: 58-59.

32. According to Aristotle (*Hist. an.* 7.3 583b), a female embryo acquires human shape by the 90th day and a male by the 40th. See Eyben 1980-81: 36-37; Kapparis 2002: 50-52.

33. To be sure, Aristotle says this *expressis verbis* only concerning handicapped children (*Pol.* 7.14 1335b), but he was willing to set a limit for the number of children,

as does the LXX. Moreover, because the LXX does not introduce the traditional Greek questions into the text, such as that on the development of the soul, the brief passage should not be pressed too far.

As seen above, many scholars suppose that the Hebrew text had a complicated history. Thus, whenever the LXX is investigated, we must bear in mind that the Hebrew text before the ancient translators was not always the same as the one available to us. If the ancient translator had before him the same Hebrew text that has come down to us today, did the translator deliberately change the sense of the passage? Or did he find the text corrupt and try to reveal its original sense? True, the text of the LXX is frequently an interpretation rather than an exact translation,³⁴ but the content of the LXX text now differs markedly from the extant Hebrew text. While it is possible that the Hebrew original of the translators did not differ from ours, the problems of the Hebrew text as we have it give reason enough to clarify the text, which involves an important reinterpretation. It is not unreasonable to assume that a regulation preceded the translation and not vice versa.

Apparently the commentators have overlooked the obvious problems which the LXX seeks to solve. Van der Horst considers the translation a starting point of a strong interpretation.³⁵ His view is certainly partly correct, but the translation was hardly the starting point of the interpretation; rather, it was the result of an interpretative tradition, because the LXX seldom deviates so radically from the Hebrew original. The Greek text apparently represents an early Jewish interpretation, partly based on the difficulties of the Hebrew text.

The two sacred versions of Exodus divided the ways of the people studying the Scriptures. All interpretations known to me written in Semitic languages, on the one hand, concentrate on the mother and say that the loss of the foetus led only to a monetary compensation.³⁶ On the other hand, Philo follows the LXX and pays attention to the child, and so do almost all the Christian writers I am aware of.³⁷ A striking exception is that the Vulgate follows the Hebrew tradition.³⁸ However, it is very important to observe that, regardless of the interpretation of

after which abortion was obligatory. Aristotle recommended that the reason for marital sex should be procreation only at a certain age and suggested it otherwise only for the reasons of health or 'other similar reasons' (Pol. 7.16 1335b).

34. Siegert 2001: 68-69, 287-340.

35. Van der Horst 1978: 232-34; followed, for example, by Carras 1993: 37-38.

36. See Koskeniemi 2009.

37. See Koskeniemi 2009.

38. Vulgate reads '*... et abortivum quidem fecerit sed ipsa vixerit*'; see Koskeniemi 2009.

Exod. 21.22-25, Jews writing in Semitic languages also condemned exposure.³⁹ This observation leads to a very important conclusion, namely, that the interpretation in the LXX is not the reason why many Jews and Christians rejected exposure.

Some relevant passages from the rest of the Old Testament can be added to this material from the Pentateuch.

An important one is Isa. 49.15, where exposure of a baby is considered impossible:

Can a mother forget the baby at her breast and have no compassion on the child she has borne? Though she may forget, I will not forget you!

Still more interesting is Ezek. 16.3-7, where the prophet describes the history of Israel with the help of an allegory:

This is what the Sovereign Lord says to Jerusalem: Your ancestry and birth were in the land of the Cananites; your father was an Amorite and your mother a Hittite. On the day you were born your cord was not cut, nor were you washed with water to make you clean, nor were you rubbed with salt or wrapped in cloths. No one looked on you with pity or had compassion enough to do any of these things for you. Rather, you were thrown out into the open field (וְהַשְׁלַכְתִּי אֶל-פְּנֵי הַשָּׂדֶה), for on the day you were born you were despised. Then I passed by and saw you kicking about in your blood, and as you lay there in your blood I said to you: 'Live!' I made you grow like a plant of the field.⁴⁰

This is one of the few detailed descriptions of exposure we have from the ancient world. As Boswell notes,⁴¹ this text certainly had an impact on its later readers. As seen above, Harris distinguished between two types of exposure among the Greeks and Romans. In the first of them, the parents hoped that somebody would raise the child; in the second, either they did not care, or even intended the death of the baby.⁴² In Ezekiel 16 the parents clearly did not care. Furthermore, the criticism of the Qur'an (81.8-9) still reflected the practice of abandoning girls in the Near East.⁴³ The baby in the story is not an Israelite but of Canaanite origin. Of course, this does not mean that Ezekiel considers the practice alien to Israelites. At any rate, the practice was well known to the writer.

39. Josephus wrote in Greek, but apparently did not know the interpretation in the LXX and paid attention to the mother following the Palestinian interpretation. However, he too rejected exposure, see below, pp. 35-36.

40. On the text, see Brownlee 1986: 222-24 and Block 1997: 473-77.

41. Boswell 1988: 146.

42. Harris 1994: 9.

43. See Zimmerli 1969: 349. The care described by Ezekiel, which was not given to the girl, was preserved among the Arabs until modern times; see Greenberg 2001: 331-34.

Ezekiel 16.20-21 strictly condemns the practice of sacrificing one's own children, which, according to the Old Testament, was done, for example, by Ahaz and Manasseh (2 Kgs 16.7; 2 Chron. 33.6), and which was banned by Josiah in his reforms (see 2 Kgs 23.10; cf. Jer. 7.31; 19.5).⁴⁴ Both the archaeological and the literary evidence attest that the practice was a Phoenician tradition spread along with the colonies. Curtius Rufus (4.3.23) and Diodorus (13.86.3; 20.14.4-6), for example, mention the practice, and we have a detailed, horrifying description of it in Lollianus's *Phoenicica*.⁴⁵

Some Psalms reflect views clearly relevant to this study. The singer wonders in Psalm 139 at the miracles of the Lord, among them also his own birth:

For you created my inmost being;
 you knit me together in my mother's womb.
 I praise you because I am fearfully and wonderfully made;
 your works are wonderful, I know that full well.
 My frame was not hidden from you
 when I was made in the secret place.
 When I was woven together in the depths of the earth, your eyes saw my
 unformed body.
 All the days ordained for me were written in your book before one of
 them came to me (Ps. 139.13-16).⁴⁶

Some prayers attest the thought that God helped the children to be born:

Yet you brought me out of the womb;
 you made me trust in you
 even at my mother's breast.
 From birth I was cast upon you;
 from my mother's womb you have been my God (Ps. 22.9-10).
 From birth I have relied on you;
 you brought me forth from my mother's womb.
 I will ever praise you (Ps. 71.6).⁴⁷

The texts just quoted, as well as Jer. 1.5 and Job 10.8-9, seem to assume that people exist already before their birth. This is especially important; while the prayers do not seek to promote the banning of exposure, this is the underlying point of the passages. It is understandable that the view prevailed and was developed in Early Judaism.⁴⁸ The mother of the

44. See Greenberg 2001: 338-39.

45. Henrichs (1972) edited the fragments of the romance, of which the best preserved part is the description of the sacrifice. On these sacrifices in general, see Henrichs 1972: 12-16 and below, p. 127.

46. On the passage, see Kraus 1989: II, 516-17.

47. On these passages, see Kraus 1988: I, 296; and 1989: II, 72.

48. According to Waszink (1950: 55), writers who considered the foetus a human being regarded abortion as a murder. However, the view is not valid, see p. 46.

martyred seven sons encourages them in 2 Maccabees (first half of the first century BCE),⁴⁹ saying:

You appeared in my womb, I do not know how; it was not I who gave you life and breath, not I who set in order the elements of your being. The Creator of the universe, who designed the beginning of mankind and devised the origin of all, will in his mercy give you back again breath and life (2 Macc. 7.21-23).

2 *Enoch*, written before 70 CE, apparently in Egypt,⁵⁰ emphasizes God's knowledge of every human being:

I make an oath to you 'Yes, Yes' — that even before any person was in his mother's womb, individually a place I prepared for each soul, as well as a set of scales and a measurement of how long he intends him to live in this world, so that each person may be investigated with it. Yes, children, do not deceive yourselves; for ahead of the time a place has been prepared there for each human soul (2 *En.* 49.2-3).

A similar view is very clearly present in 2 *Baruch*,⁵¹ but is now expanded so that God knew the number of every person going to be born:

For when Adam sinned and death was decreed against those who were to be born, the multitude of those who would be born was numbered (2 *Bar.* 23)

It is thus true that there is no unambiguous ban against exposure in the Old Testament. However, there is much material relevant to the theme, and it is all too pertinent to be neglected. Although a modern scholar may not include exposure in his or her historical interpretation of the passages quoted above, it cannot be excluded that they were used otherwise in Early Judaism. Everyone who criticized exposure could use this material, whatever were the primary arguments employed.

The Sibyls

The ancient world knew several shrines offering the services of oracular female prophetesses known by the name Sibyl. The Sibyl, once a mythological figure in Greek religion, was linked initially to Asia Minor and then to Cumae in Italy. Perhaps the most famous description of the Sibyl's activity appears in the sixth book of Virgil's *Aeneid*. In Virgil's times, the Mediterranean world knew of several Sibyls, Babylonian as well as Egyptian and Greek. Jews and later Christians made use of this

49. The book was apparently written before the Romans captured Jerusalem (63 BCE); see Goldstein 1983: 71-72 and VanderKam 2001: 68.

50. Böttrich 1995: 810-83.

51. The work was written between the rebellions (of 70-132 CE; see VanderKam 2001: 48).

wide tradition, having the 'Sibyl' preach their own truths.⁵² The *Sibylline Oracles*, written in traditional dactylic hexameters, are often difficult to date and are mostly composite works, which are redacted partly by a Jewish, partly by a Christian hand. Two Jewish passages deal with exposure.

The *Third Book of Sibylline Oracles* is traditionally considered a composite work that was written in Egypt, and is chiefly dated in the middle of the second century BCE.⁵³ However, recent scholarship has dated the work differently,⁵⁴ and some scholars tend to consider it a literary unity;⁵⁵ moreover, it is no longer certain that the work was written in Egypt.⁵⁶ The discussion continues, but it is unlikely that the work was written after 30 BCE; it is thus pre-Christian. The work gives a moral exhortation:

But urge on your minds in your breast and shun unlawful worship. Worship the Living One. Avoid adultery and indiscriminate intercourse with males. Rear your own offspring and do not kill it (τρέφε μηδὲ φονεύε), for the Immortal is angry at whoever commits these sins (*Sib.* 3.762-66).

Scholars disagree on the general intention of this 'Sibyl', but apparently the writer was not merely hostile to the Gentiles.⁵⁷ He tried to emphasize the universal nature of the Jewish religion and ethics and expected an eschatological conversion of the Gentiles.⁵⁸ This is the reason why the writer adopted the metre and language of a Greek prophetess and appealed to Gentiles as well as Jews. The Sibyl strictly bans idolatry (3.545-72), but it is interesting that she gives only a short list of sins which a person must never commit, and that one of these deeds is the

52. On Sibyls in general, see Walde 2001: 499-501; on 3 *Sibyl*, see Buitenwerf 2003: 92-123.

53. Lines 1-96 are generally considered to have been written about 30 BCE; see Nickelsburg 1981: 162-65 and Collins 2000: 83-87. According to Collins, the majority of the hexameters are of earlier date, from the years 163 to 45 BCE.

54. On recent proposals, partly sceptical concerning the possibilities of dating or locating the passages in 3 *Sibylline* (so especially Gruen 1998: 268-90), see Gauger 2002: 440-51 and Buitenwerf 2003: 58-60. Buitenwerf dates the work between 80 and 40 BCE (2003: 124-34).

55. That 3 *Sibylline* is a composite work is a general view, but it is rejected by Nikiprowetzky, who argues for the integrity of the work and dates it to the second half of the first century BCE; see Nikiprowetzky 1983: 460-542. According to Buitenwerf, lines 1-92 are a remnant of another Sibylline work, but otherwise he considers it a literary unity (2003: 387).

56. Buitenwerf (2003: 134) opts for the Roman province Asia and sees the aftermath of the Mithridatic wars in the work (2003: 387-88).

57. See Collins 2000: 161-62.

58. See Nickelsburg 1981: 164-65 and Collins 2000: 160-65.

abandonment or the killing of his/her own child. The ban on abandoning newborn children acquires a prominent position in the Jewish ethics considered common to all nations.

The *Second Book of Sibylline Oracles* is generally dated later than the third. The estimated date varies between 30 BCE and 250 CE, but Collins argues convincingly for the period around the turn of the era. At any rate, the Jewish passages do not deal with the Fall of the Temple.⁵⁹ Apparently the Jewish section of the *Sibylline Oracles* 1 and 2 (the ancient manuscripts do not divide these books) comes from Phrygia.⁶⁰ A characteristic feature of the work is that human history is divided into ten generations, which is used as a framework for moral exhortation.

The *Sibylline Oracles* are heavily interpolated by a Christian hand, and it is difficult to distinguish the Jewish original from the later additions. However, the pattern of ten generations is usually considered Jewish.⁶¹ When the age of the tenth generation begins and the history of humankind comes to an end, immediately before the eschatological punishment, Sibyl distinguishes between the righteous and the wicked. A part of this passage deals with exposure:

Again, those who defiled the flesh by licentiousness, or as many as undid the girdle of virginity by secret intercourse, as many as aborted what they carried in the womb, as many as cast forth their offspring unlawfully (ὅσοι τε τόκους ῥίπτουσιν ἀθέσμως) (2 *Sib.* 2.279-82).

Several scholars, including Geffcken,⁶² have considered these lines a Christian interpolation, but Collins doubts whether this can be stated with certainty.⁶³ At any rate, it is a genuine Jewish theme that humankind is strongly divided before the imminent end, and it appears, for instance, in *1 Enoch* with similar details.⁶⁴ Exposure, together with abortion, belongs to the terrible crimes, which attest the distinction between righteousness and evil.

The Book of Jubilees and the Wisdom of Solomon

The book of *Jubilees*, written between 167 and 140 BCE in Palestine⁶⁵ does not deal directly with exposure, but the following text should be noted:

59. See Collins 1983: 331-32. A similar judgment occurs in Kurfess 1940: 161-62, who dates the Christian redaction to about 150 CE; see also Gauger 2002: 438-39.

60. See 3 *Sib.* 1.96-98 and Collins 1983: 332.

61. See also Ubigli 2000: 243.

62. Geffcken 1902: 50.

63. See Collins 1983: 330 and 333.

64. See below, p. 28.

65. See VanderKam 2000: 448.

And they will make of themselves high places and groves and carved idols. And each of them will worship his own (idol) so as to go astray. And they will sacrifice their children to the demons, to every work of the error of their heart. (*Jub.* 1.11).

The same theme recurs in the *Wisdom of Solomon*, written in Egypt in Alexandria, in the first decades of the Christian era:

Instead of the fountain of an ever-flowing river, stirred up and defiled with blood in rebuke for the decree to kill the infants, you gave them abundant water unexpectedly showing by their thirst at that time how you punished their enemies (*Wis.* 11.6-8).

Those who lived long ago in your holy land you hated for their detestable practices, their works of sorcery and unholy rites, their merciless slaughter of children and their sacrificial feasting on human flesh and blood. These initiates from the midst of a heathen cult, these parents who murder helpless lives, you willed to destroy by the hands of our ancestors, so that the land most precious of all to you might receive a worthy colony of the servants of God (*Wis.* 12.3-7).

Then it was not enough for them to err about knowing the knowledge of God, but though living in great strife due to ignorance, they call such great evils peace. For whether they killed children in their initiations, or celebrate secret mysteries, or hold frenzied revels with strange customs, they no longer keep either their lives or their marriages pure, but they either treacherously kill one another, or grieve one another by adultery, and all is a raging riot of blood and murder, theft and deceit, corruption, faithlessness, tumult, perjury, confusion over what is good, forgetfulness of favours, defiling of souls, sexual perversion, disorder in marriages, adultery and debauchery (*Wis.* 14.22-26 NRSV).

These texts contain *vaticinia ex eventu* about the practices condemned by the Prophets. Cameron, for example, did not make use of *Wisdom*, because, according to him, it does not say anything about exposing, rather the sacrificing of one's own children.⁶⁶ The decision is made hastily for several reasons, and the practice of sacrificing children can hardly be excluded totally when our theme is discussed. On the one hand, it belonged already at the time of these works to the distant past. Pseudo-Philo's *Liber antiquitatum biblicarum* claims that the Gentiles ate their own children (*LAB* 25). This was a primeval crime, which could be used as an explanation of different things, including, for example, the fact that God expelled the Canaanites from the Holy Land. On the other hand, the memory of these sacrifices was never forgotten, neither among Jews nor among Gentiles, so that they still played a role in religious propaganda against various opponents. The practice was well known to Greeks and Romans; Curtius Rufus apparently claimed that the sacrifices

66. Cameron 1932: 113.

had been resumed (4.3.23).⁶⁷ Christian writers, responding to the vehement allegations that they sacrificed and ate children, attest that this theme did not belong solely to the past.⁶⁸ Tertullian still claimed that the sacrifices continued secretly among the Punic priests,⁶⁹ and Justin brought the same charge against the Jews (*Dialogue with Trypho* 19.6 [ed. Goodspeed]). Furthermore, the stern condemnation of the sacrifice of children may have a wider relevance. Waszink⁷⁰ supposes that these passages were written against abortion, and although this is not certain, the words refer to a wider range of practices.

First Enoch

A very important work in Early Judaism is *1 Enoch*, which was written in Palestine and is a part of the larger Enochian corpus. Like many Early Jewish writings, *1 Enoch* too is a composite work containing material from different periods. The anonymous writer, like many Jewish authors, considers it shameful when a woman is unable to conceive children, and seeks reasons for it.⁷¹ He also deals with exposure:

In those days, they (the women) shall become pregnant, but they (the sinners) shall come out and abort their infants and cast them out from their midst; they shall (also) abandon their (other) children, casting their infants out while they are still suckling. They shall neither return to them (their babes) nor have compassion upon their beloved ones (*1 En.* 99.5).

Several problems are present in this passage. The extant text results from a redaction dating from the time around the birth of Christ, but parts of it date from the third century BCE. It is not obvious when the passage quoted was written. Chapters 91–105⁷² form a unity, one in which the history of the world is presented in ten weeks, the writer apparently considering himself to belong to the seventh week. However, the text does not allow certain judgment as to when the sixth week started nor when it is followed by the seventh.⁷³ Consequently, some scholars consider the chapters to have been written in the age of the Hasmoneans,⁷⁴

67. See Winston 1979: 238–41.

68. See below, p. 127.

69. See Tertullian, *Apologeticum* 9.6–8 CCL 1: 102–103 and Boswell 1988: 163.

70. Waszink 1950: 58.

71. 'Why is a woman not given (a child)? On account of the deeds of her own hands would she die without children' (*1 En.* 98.5). See below, p. 46.

72. Scholars define parts of the work differently: Nickelsburg deals with chs. 92–105 (1981: 145–50), as does Horsley (2000: 101), while VanderKam (2001: 119–21) deals with chs. 91–107 (108).

73. See Elliott 2000: 528–33.

74. Delcor 1987: 430–31 and Uhlig 1984: 494.

but others date them earlier, to about 170 BCE,⁷⁵ when the setting of the passage is defined differently.⁷⁶

At any rate, the central themes in this context are the increase of evil on earth, a division between the righteous and the sinners, the illusory welfare of the wicked, the judgment in fire and an age of goodness and righteousness (1 *En.* 91). 1 *Enoch* describes humans becoming cruel and ungodly towards the end of the world. The sinners are generally heavily attacked throughout chs. 91–105, and a sign of their impiety is that they do not show mercy towards their own children.

Whoever exposed the children in this passage did so as the profane sources describe the practice, although everything is dramatized. It is obviously a practice well known to the writer, and it could hardly be condemned more severely. Moreover, all the sins are recorded and they lead to a severe post-mortem punishment of the sinners (1 *En.* 103.5–8).

1 *Enoch* is one of the most significant pseudepigraphs we know and this passage is extremely important. Yet the crucial question to be asked is who were the people exposing their own children: Were they Jews or Gentiles? The sinners are accused of idolatry precisely in 99.6–9, which implies that they were not Jews. It is thus likely that also the words on exposure point to Gentiles and not Jews. However, this is far from certain. In 99.14 the work rebukes Israelites for leaving the holy covenant. The text does not clearly distinguish between the Gentiles and Jews who abandon the covenant. A general restoration of Israel is not necessarily promised, but only of the circle of the righteous.⁷⁷ The people of the last times seem to constitute a unity, including also ungodly members of their own nation.

The Fragments of Two Lost Works

It is sad that we have lost so much important material illuminating the Early Jewish way of life. However, Christian writings have often preserved valuable material only superficially christianized. Two Early Christian texts, the *Epistle of Barnabas* and the *Didache*, use a Jewish work in two ways. This work was written shortly before the Christian era. According to the older view, the work was a catechism written for

75. Nickelsburg 1981: 149–50 and VanderKam 2001: 119–21.

76. Milik (1976: 49) considers the appropriate framework for the denouncers of this part of 1 *Enoch* 'the milieu of a prosperous Greek city where the Jews live as an economically "under-developed" minority'. Horsley considers the writer a 'near-contemporary of Ben Sira' (2000: 111), that is, he dates him in the first half of the second century BCE. Horsley denies that the writer represents any significant movement, but claims that he belonged to 'small scribal circle or clique, a circle of extremely dissident scribes' (2000: 100–15, esp. 115).

77. Elliott 2000: 532–33.

proselytes,⁷⁸ though actually we have very little evidence of proselytizing mission among the Gentiles.⁷⁹ Consequently, an intra-Jewish function of the text is far more plausible. The roots of the idea of a people at a crossroads are already present in Deut. 30.15-20.⁸⁰ Although the literary form cannot be exactly defined, it is likened to 1 QS 3.18-4.26 of Qumran, not least because it includes a short presentation of the way of light versus the way of darkness. Apparently the original, now lost, was also a type of community rule for Jewish people that was used in religious education. Because both the *Epistle of Barnabas* and the *Didache* ban exposure, the Jewish original apparently included it. This means that the ban on exposure was part of the ethical instruction in a Jewish group in Palestine.

Apparently another common source, or several sources, lies behind Philo's *Hypothetica* and Josephus's *Contra Apionem* (2.190-91). Scholars have long wrestled with the question, but although a Hellenistic-Jewish *Apologeticum* is justly postulated, it cannot be determined which sources were literary, which oral and which belonged to the common Jewish ethical heritage.⁸¹ At any rate, the several common features in Philo and Josephus include the condemnation of abortion.⁸² However, because Philo, unlike Josephus,⁸³ does not here explicitly condemn exposure (if not with the ambiguous words μή γέννημα δολοῦν),⁸⁴ it is rash to attribute this feature to the common source or sources.⁸⁵ All the same, exposure was perhaps often banned in Early Jewish ethics handbooks.

Philo of Alexandria

Philo's⁸⁶ extensive works generally offer an opportunity to define what a learned Alexandrine scholar with a good Greek education and a leader

78. Vielhauer (1975: 609-10) refers to the claims of Windisch, Dibelius and Althaus that the lost work was '(ein) jüdischer "Proselythenkatechismus"', which may have existed only in oral form. Niederwimmer does not totally exclude the view (1989: 56-59).

79. 'The idea of a Jewish mission, or of active Jewish proselytism, however, which was a virtual dogma of scholarship in the early twentieth century, has been widely discredited in recent years'; see Collins 2002: 261 with literature and documentation (262-64). See also Goodman 1992: 53-78.

80. See Audet 1996: 129-47 and Kraft 2000: 139-40. Kraft also refers to the story of Heracles at the crossroads, which was well known in classical antiquity (Xenophon, *Mem.* 2.1.21-34).

81. See Carras 1993 and Weber 2001: 236-83.

82. See Carras 1993: 24-47.

83. See below, p. 35.

84. See below, n. 87.

85. Niebuhr (1987: 42) takes Philo's words in *Hypothetica* to refer to exposure.

86. Philo was born between 20 and 10 BCE and he belonged to the privileged class of the Jewish population. He saw the pogroms in the Egyptian city and took part in a

of his own society thought about several questions, including the exposure of children. There are several passages in Philo's writings that are more or less relevant,⁸⁷ but the most important are *Spec.* 3.108-19 and *Virt.* 131-33. Scholars have traditionally and justly considered these texts the most important within Early Judaism, and passages will be cited here *in extenso*. In this chapter short notes must suffice, but we shall return to the texts later.

Philo wrote a short introduction to the Ten Commandments (*De decalogo*) and a longer work (*De specialibus legibus*), in which he goes deeper into every commandment. The shorter work does not ban the exposure of children; rather, the subject is discussed in the longer (four-volume) work, the context of the ban being the interpretation of the commandment, 'You shall not murder'. Philo starts the long passage in *De specialibus legibus*, paraphrasing Exod. 21.22-25 (cited above):

If a man comes to blows with a pregnant woman and strikes her on the belly and she miscarries, then if the result of the miscarriage is unshaped and undeveloped, he must be fined both for the outrage and for obstructing the artist Nature in her creative work of bringing into life the fairest of living creatures, man. But, if the offspring is already shaped and all the limbs have their proper qualities and places in the system, he must die, for that which answers to this description in the laboratory of Nature who judges that the hour has not yet come for bringing it out into light, like a statue lying in a studio requiring nothing more than to be conveyed outside and released from confinement (*Spec.* 3.108-109).

The starting point of the instruction is thus the exposition of Exod. 21.22-25 quoted above.⁸⁸ Colson thinks the 'LXX mistranslation' happily helps Philo to find material for the argumentation:

The exposure of children is nowhere expressly forbidden in the Law, though doubtless it would fall under the general heading of murder as Philo himself suggests in § 118, and Josephus presumably held when he says, *Apion.* ii,202, that it was forbidden by the Law. The LXX mistranslation of Exod. xxi,22 comes in happily to help Philo to clinch the point.⁸⁹

delegation to Caligula in 40 CE. The latest date mentioned in his works seems to be the year 47 CE (Borgen 1997: 14-26; Mondésert 1999: 878-79).

87. In *Mos.* 1.8-11, Philo says that Egyptians forced the Hebrews to murder their own children. In *Hypothetica* he certainly wrote on abortion (359), but it is uncertain whether μή σπέρμα ἀφανίζειν· μή γέννημα δολοῦν, which is separated from the ban on abortion by words concerning animals, should still be connected with the family ethics. The first part of the sentence could denote masturbation, but the second is obscure, unless the correction δουλοῦν is accepted. However, δολοῦν could also denote an improper treatment of a newborn child.

88. On the biblical passage in Philo, see Koskeniemi 2009.

89. Colson 1937: 545.

As seen above, it does not suffice to call the passage in the LXX a mistranslation, although it does not follow the Hebrew text. It is an interpretation made knowingly and almost surely based on a practice in the Jewish society.⁹⁰ This is the tradition Philo follows here.⁹¹ He goes on to argue for the ban he had found in the Law:

This ordinance carries with it the prohibition of something else more important, the exposure of infants, a sacrilegious practice, which among many other nations, through their ingrained inhumanity, has come to be regarded with complacency (ἀσέβεια). For if on behalf of the child not yet brought to the birth by the appointed conclusion of the regular period thought has to be taken to save it from disaster at the hands of the evil-minded, surely still more true is this of the full-born babe sent out as it were to settle in the new homeland assigned to mankind, there to partake of the gifts of Nature. These gifts she draws from earth and water and air and heaven.⁹² Of heavenly things she grants the contemplation, of earthly things the sovereignty and dominion. She bestows in abundance on all the senses what every element contains, on the mind, as on a mighty king, through the senses as its squires, all that they perceive, without them all that reason apprehends (*Spec.* 3.110-11).

Philo goes on to attack vehemently the parents abandoning the children:

If the guardians of the children cut them off from these blessings, if at their very birth they deny them all share in them, they must rest assured that they are breaking the laws of Nature and stand self-condemned on the gravest charges, love of pleasure, hatred of men, murder and, the worst abomination of all, murder of their own children. For they are pleasure-lovers when they mate with their wives, not to procreate children and perpetuate the race, but like pigs and goats in quest of the enjoyment which such intercourse gives. Men-haters too, for who could more deserve the name than these enemies, these merciless foes of their offspring? For no one is so foolish as to suppose that those who have treated dishonourably their own flesh and blood will deal honourably with strangers. As do the charges of murder in general and murder of their own children in particular the clearest proof of their truth is supplied by the parents (*Spec.* 3.112-14).

The harsh destiny of the abandoned children is described in painful detail:

Some of them do the deed with their own hands; with monstrous cruelty and barbarity they stifle and throttle the first breath which the infants draw or throw them into a river or into depths of the sea, after attaching some heavy substance to make them sink more quickly under its weight. Others

90. See above, pp. 18-21.

91. See Eyben 1980-81: 58-61.

92. Philo applies the Greek concept of elements, which was usual from Ionian philosophers and especially from Empedocles onward; on the later forms of the concept and Philo's use of it, see Koskeniemi 2005: 114.

take them to be exposed in some desert place, hoping, they themselves say, that they may be saved, but leaving them in actual truth to suffer the most distressing fate. For all the beasts that feed on human flesh visit the spot and feast unhindered on the infants, a fine banquet provided by their sole guardians, those who above all others should keep them safe, their fathers and mothers. Carnivorous birds, too, come flying down and gobble up the fragments, that is, if they have not discovered them earlier, for, if they have, they get ready to fight the beasts of the field for the whole carcase. But suppose some passing travellers, stirred by humane feeling, take pity and compassion on the castaways and in consequence raise them up, give them food and drink, and do not shrink from paying all the other attentions which they need, what do we think of such highly charitable actions? Do we not consider that those who brought them into the world stand condemned when strangers play the part of parents, and parents do not behave with even the kindness of strangers? (*Spec.* 3.114-16).

Abortion is a crime and consequently so also is exposure:

So Moses then, as I have said, implicitly and indirectly forbade the exposure of children, when he pronounced the sentence of death against those who cause the miscarriage of mothers in cases where the foetus is fully formed. No doubt the view that the child while still adhering to the womb below the belly is part of its future mother is current both among natural philosophers whose life study is concerned with the theoretical side of knowledge and also among physicians of the highest repute, who have made researches in detail of what is visible and also by the careful use of anatomy of what is hidden from sight, in order that if medical treatment is required nothing which could cause serious danger should be neglected through ignorance. But when the child has been brought to birth it is separated from the organism with which it was identified and being isolated and self-contained becomes a living animal, lacking none of the complements needed to make a human being. And therefore infanticide undoubtedly is murder, since the displeasure of the law is not concerned with ages but with a breach of faith to the race. Though indeed, if age had to be taken into consideration, infanticide to my mind gives a greater cause for indignation, for in the case of adults quarrels and differences supply any number of reasonable pretexts, but with mere babes, who have just passed into the light and the life of human kind, not even a false charge can be brought against such absolute innocence. Therefore those who gird themselves up to conspire against such as these must be judged to be the cruellest and most ruthless of men. The holy law detests them and has pronounced them worthy of punishment (*Spec.* 3.117-19).

Only a few Jewish texts containing the ban on the exposure of children have been investigated thoroughly. Fortunately, the passage of Philo was studied by Reinhartz.⁹³ According to her, Philo's hard words are not directed to the Gentiles but to the Jews in Alexandria who practised exposure. We shall return to this important thesis later in this study.⁹⁴

93. Reinhartz 1992: 42-58. See also Reinhartz 1993: 71.

94. See below, pp. 77-78.

No one Jewish writer known to us had learnt the Greek culture and philosophy better than Philo, so it is understandable that scholars have looked to his works for insight into his contemporary views on exposure. In dealing with Philo's writing, we must ask how much he was influenced by his Jewish and his Greek heritages, both of which are clearly evident in his work.⁹⁵

A second important passage by Philo is in the work *On Virtues*. He writes about the human Law, which in accordance with nature forbids the slaughter of the newborn animals and commands that they be allowed to suckle seven days (Lev. 22.27). He goes on:

Read this law, you good and highly prized parents, and hide your faces for shame, you who ever breathe slaughter against your infants, who mount your wicked watch over them as they leave the womb, watching to cast them away, you the murderers of your own children, who do what you can to make a desolation of cities and begin the destruction with your own flesh and blood, who overturn the statutes of nature and demolish all that she builds, who in the cruelty of your savage and ferocious souls arm dissolution to fight against generation and death against life? Can you not see that our all-excellent lawgiver was at pains to ensure that even in the case of irrational animals, the offspring should not be separated from their mother so long as it is being suckled? Still more for your sake, good sirs, was that order given, that if nature does not, instruction may teach you the duty of family love. Learn it from the sight of lambs and kids, who are not hindered from feasting on abundant supplies of what they need. Nature has provided this abundance in places best suited for the purpose, where those who require it will easily find means of enjoyment, while the lawgiver greatly careful for the future looks to see that none interferes with the gifts of God, which bring welfare and safety (*Virt.* 131-33).

The problem concerning the addressees is the same here as in the text quoted above: it is not obvious whether the 'good and highly prized parents' are Jews or Gentiles. Reinhartz supposes a Jewish identity, which seems to be plausible, but the problem is a long way from being solved.⁹⁶

Flavius Josephus

Side by side with Philo, Flavius Josephus is the main source for the study of the Jewish way of life in the ancient world.⁹⁷ Just as Philo's extensive writings help us generally to investigate the daily life and practices of

95. See below, pp. 77-78.

96. See below, p. 77.

97. Josephus was born in 37 or 38 CE. *Bellum Judaicum* was published between 75 and 79, *Antiquitates Judaicae* between 93 and 95, *Vita Iosephi* perhaps as an appendix to it and *Contra Apionem* after it (Bilde 1987: 79, 104-106, 113). The standard English translations will be used in the present study.

the Jews, and more precisely the inhabitants of Egypt, so too Josephus also is helpful here for scholars dealing with Palestine. His text contains a passage treating the exposure of children:

What are our marriage laws? The Law recognizes no sexual connections, except the natural union of man and wife, and that only for the procreation of children. Sodomy it abhors,⁹⁸ and punishes any guilty of such assault with death. It commands us, in taking a wife, not to be influenced by dowry, not to carry off a woman by force, nor yet to win her by guile and deceit, but to sue from him who is authorized to give her away the hand of one who is not ineligible on account of nearness of kin. The woman, says the Law, is in all things inferior to the man. Let her accordingly be submissive, not for her humiliation, but that she may be directed; for the authority has been given by God to the man. The husband must have union with his wife alone; it is impious to assault the wife of another. For any guilty of this crime the penalty of death is inexorable, whether he violates a virgin betrothed to another or seduces a married woman. The Law orders all the offspring to be brought up, and forbids women either to cause abortion or to make away with the foetus; a woman convicted of this is regarded as an infanticide, because she destroys a soul and diminishes the race. For the same reason none who has intercourse with a woman who is with child (εἰ τις ἐπὶ λεχοῦς φθορὰν παρέλθοι)⁹⁹ can be considered pure. Even after the legitimate relations of husband and wife ablutions are required. For the Law regards this act in involving a partition of the soul [part of it going] into another place; for it suffers both when being implanted in bodies, and again when severed from them by death. That is why the Law has enjoined purifications in all such cases (*Apion* 2.199-203).

Josephus summarizes the Jewish Law twice in his writings. The longer survey is in *Antiquitates Iudaicae* and does not contain a ban on exposure, although he cites Exod. 21.22-25 (*Ant.* 4.278). The shorter, quoted above, is in the apologetic work *Contra Apionem*, in which Josephus presents the Jewish belief and way of life. This passage is not exclusively Josephus's own work; he draws heavily on common Jewish traditions, both written and unwritten.¹⁰⁰ The summary of the marriage law belongs to this section and it is clearly directed towards Gentiles. It is worth noting that Josephus's passage, while admittedly romanticizing, is not meant to be prescriptive but descriptive. He is describing the common life among the Jews, and gives a Jewish ideal, which simultaneously is a part of his apology. An element proudly presented is that children were not killed, and that abortion¹⁰¹ was considered infanticide. Apparently at least the

98. The translation mirrors the decades in which it was made: τὴν δὲ πρὸς ἄρρενας ἀρρένων ἐστύγησε.

99. The translation of the difficult passage is by no means certain; see van der Horst 1978: 234-35.

100. See above, p. 30.

101. On abortion among the Jews, see below, pp. 56-58.

ban on abortion, but possibly also the ban on exposure, is derived from a source used by both Philo and Josephus.¹⁰²

Josephus thus claims that the Law bans abortion as well as exposure. The examination of this argument is an important task of the next chapter.

It is very interesting that, unlike Philo, Josephus does not seem to depend on the interpretation that is present in the LXX. He does not quote it here, and where he quotes, he makes no mention of the formed and unformed foetus. Apparently, he follows a Palestinian interpretation other than the tradition that produced the translation in the LXX.¹⁰³ Exodus 21.22-25 can admittedly not be excluded from his argumentation, but he does not refer to this passage. However, both the Philo and Josephus traditions rejected exposure, and consequently the view cannot be derived from the Greek translation of Exod. 21.22-25. It was a prevalent Jewish view that is attested in the Diaspora as well as in Palestine.

Pseudo-Phocylides

The next text cited is an interesting document illustrating the cultural struggle that life, especially in the Diaspora among the Gentiles, meant for Jewish scholars.¹⁰⁴ The text is written in hexameters in the name of Phocylides, a Greek poet who lived in sixth century BCE, and was long considered genuine until finally recognized as a Jewish product from a much later period.¹⁰⁵ The verses mention children no less than three times. One of these passages ('Do not apply your hand violently to tender children', 150) can cover anything from stealing the children¹⁰⁶ to paedophilia, but can also mean the killing of newborn babies.¹⁰⁷ On one

102. See above, p. 30.

103. See Koskeniemi 2009.

104. The *Letter of Aristeas* (second half of the second century BCE; see Collins 2000: 98) contains a passage worth noting, although it does not deal with exposure. 'On the following day (the king) seized the opportunity and asked the next guest: 'What is the worst (type of neglect)?' To this he replied: 'If a man were neglectful of children and did not use every endeavor to bring them up. For we continually pray to God for ourselves as also for our children, that all blessings may rest upon them. The petition that children may have some discretion is something which comes to pass only by the power of God' (*Arist.* 248).

105. Scaliger showed in 1606 that the verses were forged and considered them Christian (see Weber 2000: 295). The only way to set their date is to study the inner criteria. Usually scholars suppose that the verses were written about 100 CE and in Egypt; see Weber 2000: 280-81. Collins (2000: 168) is very uncertain.

106. The stealing of children is attested as early as Homer; see Boswell 1988: 97.

107. Van der Horst 1978: 213. Cf. *Barn.* 11.4 where παιδοφθορίσεις points to paedophilia, see also *Barn.* 10.7.

occasion Pseudo-Phocylides tells the reader to give back to nature what it has given:

Do not remain unmarried, lest you die nameless. Give nature her due, you also, beget in your turn as you were begotten. Do not prostitute your wife, defiling your children (175).¹⁰⁸

As the texts studied in this chapter attest, the duty to procreate is very common in the Jewish texts and it is based especially on Gen. 1.18. The thought that procreation is a virtue is not unusual among Gentiles.¹⁰⁹ It was thus easy for the anonymous writer to find common cause with Gentile philosophers.

The last passage is the only one that allows no other interpretation than exposure:

Do not let a woman destroy the unborn babe in her belly, nor after its birth throw it before the dogs and the vultures as a prey (184-85).

Pseudo-Phocylides now rejects both abortion and abandonment of the newborn children, as do also Philo and Josephus and, later, many Christian writers who connect both practices.¹¹⁰

The purpose of the work of Pseudo-Phocylides has remained a mystery, the solving of which would allow an understanding of the quoted verses.¹¹¹ A Jewish author has seemingly donned the mask of the ancient Greek writer, using his language and metre, but replacing Greek philosophical teaching with Jewish ethics, although he omits characteristic Jewish elements, such as the Sabbath and circumcision.¹¹² He does not deal with the essentials of the Jewish belief, and it is not easy to know what was his intention: Did he seek to persuade Jews, or Greeks, or both? Is it mainly an internal apology of Judaism? Or did he try to find a common basis for the ethics of Jews and learned Greeks? Is this gnomic collection meant to be a schoolbook? To be a Jew does not in his verses mean to believe something but to live in a certain way.¹¹³ Because there are no traces of a systematic order or of an attempt to cover the entirety of human life, Weber is certainly right in saying that the work is not

108. The idea that procreation was a duty was common among the Jews; see below, pp. 49-51.

109. See below, p. 50.

110. On abortion among Gentiles and Jews, see below, pp. 56-58; among Christians, see pp. 125-28.

111. See van der Horst 1978: 70-76 and Weber 2000: 188-293.

112. Eyben (1980-81: 57-58) strangely errs, dealing with Pseudo-Phocylides and 2 *Sibylline* in a chapter on paganism, although 'under strong Jewish and Christian influence'.

113. Weber 2000: 292-93.

meant to constitute a type of catechism.¹¹⁴ However, because it resembles so many other Jewish works that summarize the ethical instruction and are mentioned in this study,¹¹⁵ there is no reason to deny the similarity. Apparently we have here a typical example of what is called *interpretatio Graeca*. Jews in the Diaspora, who generally wished to separate themselves from the lower classes of natives and to approach the Greek élite,¹¹⁶ tried to secure credibility for their religion, which was often considered strange. One method of gaining acceptance was to show that every good Greek philosopher¹¹⁷ and the greatest names in the Greek literature¹¹⁸ had derived their wisdom from the Scriptures. Precisely this is the motive of Pseudo-Phocylides. He wanted to show that already the great Phocylides shared the Jewish view and banned exposure. Like Philo, he tried to universalize the Jewish Law and establish it as a norm for Gentiles as well as for Jews. It is difficult to determine whether he addressed the verses to Greeks or Jews, but surely they are a part of the cultural struggle of the Jews in the Diaspora for their place in ancient society. Most probably he wanted to help Jews who lived in a thoroughly Hellenistic environment.¹¹⁹

'Phocylides' chose the Greek language and the hexameter, but other writers used other forms briefly to present the Jewish way of life. The ban on exposure was part of this instruction. Furthermore the Jewish original used in the *Epistle of Barnabas* and the *Didache* attests the same point of view, as does Josephus, who summarized the Mosaic Law twice in his production with the help of his predecessors and intended it for a Gentile audience.

114. Weber 2000: 282-83.

115. Especially the lost original of the *Epistle of Barnabas* and the *Didache* and the Community Rule in Qumran (see p. 36), but also the summaries of the Law in Josephus (see p. 35). See also Wilson 1994: 6-9.

116. See Koskeniemi 2002: 20-24.

117. It is a common topic in early Judaism that the greatest philosophers, such as Pythagoras, Socrates and Plato, had derived their wisdom from the Torah. According to Aristobulus (second century BCE), Homer, Hesiod (Eusebius, *Praep. ev* 13.12.9-16 CGS 43) as well as Plato (Eusebius, *Praep. ev* 13.12.1 CGS 43) imitated Moses' writings. Eupolemus claimed that Moses was the first wise man and that he first taught the alphabet to the Jews and that the Greeks received it from the Jews through the Phoenicians (Eusebius, *Praep. ev* 9.26.1 CGS 43). According to Artapanus, he taught Egyptians the hieroglyphs (3.6). According to Philo, Greek legislators copied some of his laws (*Spec.* 4.61).

118. A good example is how Homer's works, the textbook for the Greek elementary instruction, was treated in early Judaism: some Jews quote him as friendly, as does Philo (for instance, *Mut.* 179; *QE* 2.102), while others (as 3 *Sib.* 3.419-34) savagely attack him (see Buitenwerf 2003: 231-32).

119. See Wilson 1994: 6.

The Greek Apocalypse of Ezra

The next texts to be discussed certainly postdate the New Testament.¹²⁰ *The Greek Apocalypse of Ezra* is a Jewish text redacted by a Christian hand, a fact that makes firm dating impossible.¹²¹ The text tells how 'Ezra' saw people punished after their death:

And the prophet said: 'Pity, O Lord, the race of Christians'. And I saw a woman suspended and four wild beasts were sucking upon her breasts. And the angels said to me: 'She begrudged giving her milk but also cast infants into the rivers'. And I saw terrible darkness and night without stars or moon. There is there neither young nor old, neither brother with brother nor mother with child nor wife with husband. And I wept and said: O, Lord, Lord, have mercy upon the sinners (*Gk. Apoc. Ezra* 5.1-3).

The Greek Apocalypse of Ezra is one of the numerous Jewish and Christian texts describing the eternal tortures of sinners, and it is very difficult to define the chronological sequence, especially because we do not know what belonged to the Jewish original and what was added by a Christian editor. *1 Enoch*, quoted above,¹²² has exposure and the post-mortem punishment in the same passage, and several Early Christian texts also make this connection.¹²³ Regardless of which of the texts was the first to make this link, it is an interesting parallel that the Graeco-Roman literature often records the post-mortem fate of the newborn children. Plato mentions them (*Rep.* 10.13 615c), and so do also Virgil (*Aen.* 6.426-29), and Plutarch (*De genio Socratis* 590-91).¹²⁴ To be sure, these texts do not say that the children were exposed, only that they only lived a very short time. However, Jewish and Christian writers¹²⁵ were not alone in reflecting on the fate of children, who lost their lives very soon after their birth.

120. *2 Baruch* is roughly contemporary with Josephus, written about 100 in Palestine. It does not contain a ban on the exposure of children, but takes it for granted that even a weak child is suckled: 'Or a woman who has conceived – does she not surely kill the child when she bears untimely? Or he who builds a house, can it be called a house, unless it is provided with a roof and is finished? Tell this to me first' (22.8). On this text, see below Section 3 of the present chapter.

121. The work makes use of Greek version of *4 Ezra*, which means that it was not written before 150. The latest possible date of the Christian redaction seems to be 850; see Stone 1983: 563. Stone's words show how difficult it is to set the date ('It most likely originated sometime during the 1st millennium, as is evident from its literary affinities' (Stone 1992: 729).

122. See above, p. 28.

123. See below, pp. 92-93.

124. See Cameron 1932: 109-11.

125. Augustine wrote on the theme in *Encheiridion* (see Koskenniemi 2009) and Gregory of Nyssa deals with it in a treatise (see below, pp. 107-108).

The Mishnah and the Tosefta

The oral legal tradition of the Jews was gathered into two early rabbinic collections, the Mishnah and the Tosefta.¹²⁶ It is interesting and also astonishing that neither of them contains an undisputed ban on abandoning newborn children, although it is sometimes clearly implied.

Foundlings are mentioned twice in the Mishnah. For instance, *m. Qid.* 4.1-2 lists different classes of Jews, who allegedly came from Babylon; among them are mentioned 'foundlings' (אִתְּפִי'ם). Answering the question, 'Who were foundlings?', the Mishnah says:

Any who was discovered in the market and knows neither his father nor his mother.

The context is the legal consequence of the birth; a priest, a Levite or an Israelite was not allowed to marry a foundling or a child who knew the identity of his mother but not of his father.¹²⁷

Another passage, *m. Makh.* 2.7, deals with a city in which Israelites and Gentiles live together. Conceivably, different occasions may appear, and the Mishnah gives the rule on what to do in different cases:

If one found in it an abandoned child, if the majority is Gentile, it is deemed a Gentile. And if the majority is Israelite, it is deemed an Israelite. Half and half – it is deemed an Israelite. R. Judah says: 'They follow the status of the majority of those who abandon babies'.

The Tosefta mainly repeats the rule of *m. Qiddushin* in *t. Qid.* 5.1, but *t. Makh.* 1.8 is an interesting expansion:

If one found in it an abandoned child – half and half – they impose upon it the stringencies of both Gentiles and Israelites. R. Judah says: 'If there was a single Gentile woman or a single maidservant, she is suspected of having abandoned the baby'.

These passages, which are mostly overlooked or marginalized by scholars,¹²⁸ are clear evidence that Rabbis knew of the possibility of exposure. The practice clearly led to legal problems, which necessarily had to be solved. However, especially the saying attributed to R. Judah clearly attest that Jewish parents were not supposed to abandon their children.

126. It is striking that Boswell (1988: 150) refers to *m. Ket.* 4.6 saying that the father is not liable for his daughter's maintenance. The text rules on the share of the inheritance, not on exposure.

127. On the regulations in *m. Qid.* 4.1-2 and *m. Makh.* 2.7, see Chilton 2001: 222-27.

128. Archer mentions the passages in a footnote, and refers to 'many possible reasons for the existence of foundlings in a society over and above any culturally endorsed system of abandonment / infanticide' (Archer 1990: 28-29); see also Ilan 1995: 48.

Some other passages are worth mentioning and may offer indirect evidence of early rabbinic views. One example is *t. Nid.* 2.4, which says that a woman's duty is to suckle a baby for 24 months regardless of whether the child is her own or given her to be suckled; she was not allowed to take another baby to be suckled at this time. Another text, *t. Mak* 2.6, refuses the status of asylum seeker to a man who had killed a small child in a crib.¹²⁹ The Mishnah and the Tosefta severely restrict contraception and especially abortion. They allowed killing the foetus only if this saved the mother's life. The texts and the material are studied below in detail.¹³⁰

The opinion of the Rabbis thus seems to be beyond dispute; apparently, they did not suppose that Jewish parents abandoned their babies. On the other hand, they seem to have known that it did happen and tried to deal with the problem. The fact that they did not directly ban it is interesting. Is it only fortuitous that we do not read a direct ban? Were the Rabbis satisfied with that which they saw and heard? Or did they live their own life with their own prescriptions without any real impact on the conduct of the common people?¹³¹ The problem is treated later in the present study.¹³²

Gentile Writers on Jews and Exposure

Not only Jewish writers report that Jews did not expose their children; the same is attested in many Greek and Latin texts. Diodorus Siculus cites *Aegyptiaca* by Hecataeus of Abdera extensively in his *Bibliotheca Historica* (40.3). Diodorus Siculus gives an account of the Exodus of the Jews in a form apparently current in pagan literature: when a pestilence arose in Egypt the strangers were expelled from the country.¹³³ Moses led his people to Judaea, where he gave them laws. Hecataeus also notes the Israelites' practice of rearing all of their children:

129. On the passage, see Salomonsen 1976: 269.

130. See below, pp. 55-58.

131. See above, pp. 73-75.

132. Some later Jewish writings explicitly condemn the practice. *The Vision of Ezra* was written between the fourth and the seventh century. Ezra sees a vision: 'And he saw in a most obscure place another furnace burning, into which many women were cast. And he said: "Who are they?" And the angels said: "They had sons in adultery and killed them". And those little ones themselves accused them saying: "Lord, the souls which you gave us these women took away". And he said: "Who are they?" And the angels said: "They killed their sons." And Ezra said: "Lord, have mercy on the sinners!"' (*Vis. Ezra* 53-55).

133. Usually, scholars have taken Josephus seriously and considered the anti-Jewish propaganda common, but Gruen challenges this view, attributing much of the alleged propaganda to 'the distorting lens of Josephus' (Gruen 1998: 41-72).

He required those who dwelt in the land to rear their children, and since offspring could be cared for at little cost, the Jews were from the start a populous nation (Diodorus 40.3.8).

Tacitus too, clearly dependent on the same sources as Diodorus, tells of the expulsion of the Israelites. He also deals with exposure:

However, they take thought to increase their numbers: or they regard it as a crime to kill any late-born (*agnatis*) child, and they believe that the souls of those who are killed in battle or by the executioner are immortal: hence comes their passion for begetting children, and their scorn of death (*Hist.* 5.5.3).

Tacitus notoriously despised the Jews, but like some of his other observations, this too is apparently meant to be taken positively.¹³⁴ Tacitus also mentions that Germans did not abandon their infants (*Germ.* 19), and appears to have been concerned about the paucity of children in Rome. This problem seems to have been urgent in these times.¹³⁵

Also Strabo, who was generally more sympathetic towards the Jews than Tacitus, knows of the same practice:

One of the customs most zealously observed among the Aegyptians is this, that they rear every child that is born, and circumcise the males, and excise the females, as is also customary among the Jews, who are also Aegyptians in origin, as I have already stated in my account of them (Strab. 17.2.5).

The texts mentioned above point in the same direction as the quoted Jewish writers, but several problems complicate the evidence. Cameron tries to derive the entire tradition from Hecataeus of Abdera and considers it unhistorical.¹³⁶ However, the argumentation is not convincing. The criticism of Reinhartz is far more important. She refers to several errors in the texts quoted: Strabo, for instance, says that the Jews 'excise' women, and Diodorus says that Moses founded Jerusalem.¹³⁷ It is easy to continue the critical remarks. For one thing, it was already traditional to describe foreign peoples in a very romantic manner. The Jews were not the only nation mentioned in the text as raising all their children. Diodorus (1.80.3) and Strabo (17.824) say the same about the Egyptians,¹³⁸ Tacitus about the Germans (*Germ.* 19), Theopompus about the Etruscan people (*FGrH* 115 F204) and Cassius Dio about the Scots (66/67.12). Cameron justly takes these romantic descriptions as evidence

134. Rokéah 1995: 289-90.

135. See below, pp. 148-52.

136. Cameron 1932: 112-13.

137. Reinhartz 1992: 43-44.

138. Tolles (1941: 72-73) presumes both religious and economic reasons for the Egyptian way of life.

of a 'certain public opinion against infanticide'.¹³⁹ Notwithstanding, the main goal was often to criticize the way of life of the author's own society by describing the practices of foreign peoples. We have every reason to ask who wrote these passages and what was their own purpose.¹⁴⁰ For instance, when Tacitus writes about the Germans his intention is to show how strong a barbaric and uncultivated nation could be compared with the degenerate Romans. An accurate historiography was not always the main theme of these writers. However, this time they strengthen the view that we already obtained from the Jewish sources.

Conclusion

To sum up, several Jewish texts deal with the exposure of infants. Although the Old Testament does not contain an unambiguous ban on the abandonment of newborn children, some passages could certainly apply, and the LXX version of Exod. 21.22-25 attributes human value to a foetus. Chronologically speaking, several early, important texts deal with the theme in the second century BCE and especially in the first century CE.

It is important to note the provenance of these works. Some of them were written in Palestine. 1 *Enoch*, the lost source of the *Epistle of Barnabas* and the *Didache* and Josephus explicitly ban the practice, and the early rabbinic sources with their indirect evidence strengthen the view that exposure was widely criticized in Palestine. But the views in the Diaspora apparently did not differ markedly from Palestinian Judaism. Several texts written in Egypt testify to a struggle with the practice. The LXX, 3 *Sibyllines* (if not written in Asia Minor), Philo and Pseudo-Phocylides share the attitude of the Palestinian authorities. 2 *Sibyllines* too, which apparently comes from Phrygia, agrees with this view. The texts of the Gentile writers quoted above attest to the critical attitude. Now it is time to analyze the arguments used by the writers in their criticism.

2.2. Notes on Argumentation

Several Jewish texts reflect the attitude of the Jews to the exposure of children, and the scholars who ignored these when investigating the practice in the Mediterranean world obviously made a mistake. Unfortunately, the texts are too few for a would-be analyst of the arguments adduced to reject the practice. It might once have been easy to construct a 'Jewish' view condemning the practice, but the scarce, fragmentary

139. Cameron 1932: 113.

140. See below, pp. 148-52.

evidence is problematic in many ways. The texts were written in the course of several centuries in different parts of the Mediterranean world, in different situations and by numerous authors, and we cannot always determine whether the words are directed to Jews or to Gentiles, or whether they mirror only ideals and not real life. Philo's and Josephus's passages are the longest, but even they only deal with individual aspects of the multifaceted phenomenon. They do not answer such urgent questions as whether the different Jewish societies offered any alternative to a woman unable to raise her baby, or imposed legal sanctions if she did not. It is not feasible to regard all the Jewish texts quoted above as a unity reflecting a monolithic way of life. But even after these reservations the questions have to be asked: Why, and with what kind of argumentation did the Jewish writers quoted above condemn the exposure of children? It is certainly useful to classify the aforesaid arguments, but it is not enough. It is also essential to identify the major ideas forming the background of the criticism.

Many Jewish texts simply say, or seem to assume, that the abandonment of the children is against the Law. As seen above, several scholars have briefly rejected this view.¹⁴¹ Although this argument was the strongest the Jews could use, it might be useful to study the others first. If we start by scrutinizing the rest of the argument, we might be able consider also this argument from a fresh perspective.

Humans Exist before Birth

As seen above, a number of Jewish texts (Pss 22.9-10; 71.6; 139.13-16; Jer. 1.5, and several later writings) assume that humans exist before birth in one way or another. The only writer to connect this view directly with exposure¹⁴² is Philo, who refers to Exod. 21.22-25, claiming that it implicitly bans exposure. Although the LXX does not deal with exposure, it certainly attributes human value to a foetus.

That a human being exists before his or her birth was by no means a wholly alien idea in the Graeco-Roman world. Of course, on the one hand, famous schools of philosophy, such as the Platonists, believed that the soul is pre-existent.¹⁴³ On the other, however, the question of the

141. See above, p. 15.

142. On these views pertaining to abortion, see Gorman 1998: 40-44. Gorman claims that a minority view of Palestinian teachers attributed legal consequences to abortion, but the scarce evidence makes this questionable. The view of 'majority' and 'minority' is based on Aptowitz's learned and influential article, which, however, being written in 1924, deals with the Jewish texts in a manner not acceptable today (see Koskeniemi 2009).

143. Philo too considered the soul pre-existent: the air is filled with spirits, of which some enter bodies, others never (*Gig.* 12).

moment at which a person acquires a soul was often discussed in classical antiquity. Some writers claimed that a foetus has a soul from the moment of conception, as did the Pythagoreans (see Diogenes Laertius 8.28-32),¹⁴⁴ while others maintained that this happened at the moment of birth;¹⁴⁵ 'gradualists' followed Aristotle (*Gen. anim.* 2.3-4 735a-737b; *Pol.* 7.15 1334b), who assumed a parallel development of body and soul and different stages of the soul, which occur partly after the birth.¹⁴⁶ These views were certainly well known to Philo¹⁴⁷ and the Church Fathers,¹⁴⁸ and offered a basis for a common debate. Although only Christian writers contrast their view *expressis verbis* with the most common Gentile belief that a person acquires a soul with one's first breath,¹⁴⁹ the contradiction is obvious and Philo was certainly not the only Jew to disagree with the Gentiles. Philo was also happy to refer to the Roman practice of not executing a pregnant woman before she had given birth to her child, this allegedly proved that the Romans also regarded the foetus as a human being (*Virt.* 139-40).¹⁵⁰

It seems therefore that Jews could find much in common with many Greek writers concerning the existence of a person before one's birth. However, most of the ideas mentioned were theoretical and did not lead the philosophers to the same conclusions as the Jews. It is a serious mistake to say, like Waszink in his classical article on abortion, that the answer to the question of whether or not the foetus has independent life decides whether or not abortion is adjudged a murder.¹⁵¹ Admittedly, Roman legal texts showed no understanding of philosophical theories but briefly stated that an unborn foetus is not a human being (*partus nondum editus homo non recte fuisse dicitur*, *Dig.* 35.2.9; *partus enim antequam edatur, muliebris portio est vel viscerum*, *Dig.* 25.4.1).¹⁵² Aristotle too preferred an early to a late abortion.¹⁵³ However, while there was no doubt that a newborn child is an independent, living being, very few

144. On the Pythagorean view, see Kapparis 2002: 39-40.

145. On these views, see Kapparis 2002: 41-44.

146. See Waszink 1954: 176-80 and Kapparis 2002: 44-52.

147. Philo says that the foetus acquires a soul at the moment of birth (see *Spec.* 3.117-18), which, of course, challenged his view that killing a foetus involves homicide.

148. See below, p. 116.

149. See below, p. 116.

150. Diodorus too (1.77.9) refers to the regulation, which he knows to exist in several Greek states, and in his commentary thereon he certainly attributes human value to a foetus. Philo either does not know, or intentionally overlooks, the tradition written in *m. Arak.* 1.4, in which execution is not postponed.

151. Waszink 1950: 55.

152. See Eyben 1980-81: 27.

153. See Koskeniemi 2009.

Greek or Latin writers regarded exposure as murder. In the Greek and Roman world it is adequate to speak about a 'social birth' separated from the biological birth. The view, however, was different in early Judaism. The problem is discussed below in detail in connection with the question of abortion.¹⁵⁴

Marriage and Children Esteemed

No Jewish text cited above directly connects the ban on exposure with the goal of marriage, but this is certainly a contributing factor. By and large, marriage was highly esteemed in Early Judaism, although the Essenes, according to Philo, never took a wife.¹⁵⁵ Many Old Testament texts reflect the great value of the family and children. To live unmarried is considered unhappy in Ben Sira (36.30), but many texts are still more critical of such a life,¹⁵⁶ and say, as formulated in *t. Yeb.* 8.4, that a man has no right to live without a woman nor a woman without a man. The Mishnah forbids an unmarried man to teach scribes (*m. Qid.* 4.13), and the Tosefta says that he may not act as judge, because he is merciless (*t. Sanh.* 7.5); this may indicate that he is claimed to have abandoned his children. An extreme saying is found in *b. Pes.* 113b, a late text stating that a man without a wife is banned from Heaven.

Being childless had been a source of shame since biblical times, as the stories about Abraham (Gen. 12–18) and Hanna (1 Sam. 1–2) attest, and even without financial worries, and this view prevailed also later.¹⁵⁷ The Mishnah regards a woman's barrenness as a legal ground for divorce (*m. Git.* 4.8a-b), the securing of a divorce on such grounds perhaps being a duty.¹⁵⁸ A secondary motivation was apparently found in Genesis, where Sarah gives Hagar to Abraham after ten years of childless marriage.¹⁵⁹ The Mishnah also says that a priest must not marry a sterile woman (*m. Yeb.* 6.5). According to the Tosefta, a man may not marry a barren or an old woman, while a woman could in fact marry a eunuch since the duty to procreate was incumbent on the man (*t. Yeb.* 8.4). Philo shares the essential features of this code of ethics: he considers it a great shame to be childless (*QE* 2.19) and regards it as wrong to continue intercourse

154. See below, pp. 56–57.

155. On Jewish marriage, see Archer 1990: 123–206; Ilan 1995: 57–96, esp. 62–65. According to Philo, none of the Essenes was married (*Hypoth.* 11.14). The reason was, according to Josephus (*War* 2.120; *Ant.* 18.21) that they considered women unreliable. On this theme, see Hübner 1970: 153–67; Mayer 1987: 59; Ilan 1995: 63 n. 27. On marriage in Qumran and among the Essenes, see Sanders 1994: 344.

156. See Archer 1990: 123–26 and Ilan 1995: 57.

157. See Ilan 1995: 111–14.

158. See Ilan 1995: 112.

159. Rengstorff 1929: 82–83, when commenting *m. Yeb.* 6.6 (see also *t. Yeb.* 8.5).

with a barren woman, indicating the view that the man only seeks pleasure (*Spec.* 3.34-36), and says for the same reason that a man must not marry an older woman (*QG* 1.27). This means that the early rabbinic view is also attested in Egypt, and thus obviously represents current Jewish family ethics.

A large family was considered God's blessing. The beautiful Psalm 128 praises the man whose sons are 'like olive shoots' around his table. A terrifying prophecy of Jeremiah warns of lack of all security: 'The mother of seven will grow faint and breathe her last' (Jer. 15.9). The birth of a baby is a subject of great joy even if life is not safe (Ps. 127). The positive view of the family and children is reflected in many later moral laws. Sons were often clearly preferred to daughters: the birth of a daughter means a loss for Ben Sira (Sir. 22.3 G). According to *Gen. R.* 45.2, 'anyone who does not have a son is as if dead'. However, although sons are preferred to daughters, exposure of the girls is never mentioned.¹⁶⁰

It is thus easy to see how much family and children were appreciated in Early Judaism, but obviously every society can produce such positive sayings. It would be an obvious error to generalize these opinions and to infer that they made exposure impossible in Early Judaism. Do they have any value at all for the present topic? The Greeks and Romans frequently regarded children as a financial burden (as do some members of modern Western societies). Is it only romantic to claim that Jews did not share this view? However, we do know that the world is still divided today: African people tend to be grateful for every child born to them, the view being that children bring wealth. Sons are seen as providers of security in old age, while daughters secure wealth in the form of a bride-price. This last point stands in contrast to the situation that prevailed in the ancient Greek world, where the girl's family was expected to furnish a dowry,¹⁶¹ so that the birth of every daughter meant a significant financial sacrifice. Philostratus tells about a man who had four daughters and was thus in serious financial difficulties because he was expected to give a dowry to each of them (*VA* 6.39). Interestingly, nothing similar to this is said about Philip, who also had four daughters, in Acts 21.9.

160. Archer 1990: 17-29 and Ilan 1995: 44-48.

161. Marriage in classical world cannot be summarized briefly, because again, the chronological and geographical factors should be observed. However, a remarkable dowry is sometimes implied. Its significance is obvious in Roman comedies. Plautus and Terence often say in their comedies that wives use the dowry as weapons to attack their husbands: *nam quae indotatae est, ea in potestate est viri; dotatae mactant et malo et damno viros* (Plautus, *Aul.* 534-35, see also Plautus, *Men.* 767-76 and Terence, *Hec.* 501-502). Although the comical features of the works must be ignored, the function of the dowry is obvious – to protect the wife from abuse.

Jews were perhaps not unique in appreciating large families. Some scholars have assumed a significant difference between Greece and Egypt. One theory is that while Greek soil could not feed all the children, in Egypt agriculture needed every healthy child, especially when the death toll of the children was, on occasions, very high.¹⁶² It is worth noting that Hecataeus of Abdera claims that 'offspring could be cared for at little cost' in Egypt (Diodorus 40.3.8), and many papyri attest that families in Early Ptolemaic Egypt were remarkably large compared to those in Greece.¹⁶³ In some societies a large number of children was thus regarded as a blessing, in others as a burden—especially if the large family was comprised of numerous daughters. What, then, do we know about the Jewish societies?

It is difficult to investigate the size of Jewish families. The sporadic sources mention both large and small families.¹⁶⁴ Literary sources imply that a large family was indeed considered a blessing rather than a burden, with family support replacing (to an extent) what public health-care systems currently offer in modern Western societies. If this is true, we can envisage a culture with a positive attitude to children. Moreover, we are somewhat better informed on the question of girls born into these families.

The giving of a bride-price is mentioned several times in the Old Testament, which certainly encouraged the raising of girls. Both legal (Exod. 22.15) and non-legal texts (Gen. 34.12; 1 Sam. 18.25) refer to *מֹהָר*, *mohar*. Apparently the practice varied during the Second Temple period. It seems that a substantial change took place, though its history is very difficult to perceive in detail.¹⁶⁵ The LXX consistently translates *mohar* with *φερνή*, 'dowry', which attests that the Greek custom was accepted, with the father of the girl giving a sum of money to the couple. At any rate, a *ketubbah*, a marriage contract between the husband and wife, takes the place of the dowry. Perhaps *ketubbah* first meant that the bride-price was paid before the marriage and given to the bride's father, who was obliged to take care of his daughter, if divorce ended the marriage. This could be the reason why, according to Ben Sira, a daughter always keeps her father wakeful (Sir. 42.10). However, a radical change enabling even poor men to marry occurred when the price was not paid before the marriage, but only after the possible divorce. The significant sum included in a *ketubbah*, which could be as much as 400 denars, hindered

162. See above, p. 8.

163. See above, p. 4.

164. See below, pp. 81-84 and 84-85.

165. Archer 1990: 165; Satlow 1993: 141-49; see also Satlow 1993: 133-51 and Ilan 1995: 88-94.

divorces, but meant that the father of the bride had no longer derived financial profit from his daughter. On the other hand, a remarkable dowry is only seldom mentioned (*P.Mur.* 115 [dating from 124 CE]; *P.Yad.* 18). To sum up, a Jewish father in the Second Temple period and later was apparently not expected to receive or give a significant sum of money when his daughter got married, although the traditional practice was for him to receive the *mohar*, which was subsequently superseded by the giving of a dowry. He was not expected to lose much money because of his daughter, as in the Greek world. This certainly influenced the treatment of female newborn children.

The Duty to Procreate

A second important attitude is evident in some of the texts quoted above: the purpose and function of sexual intercourse is to procreate. The Torah tells human beings to 'be fruitful and increase in number; fill the earth and subdue it' (Gen. 1.28). Procreation was the goal of sexual intercourse and also a religious duty.¹⁶⁶ Opening the womb is, according to Philo (*Alleg. Interp.* 2.47), a man's proper function.¹⁶⁷ Pseudo-Phocylides tells a man to 'give nature her due, you also, beget in your turn as you were begotten' (175). *Liber antiquitatum biblicarum* has the anxious Israelites quarrelling about their procreative duty in Egypt. Even in the face of such a hopeless situation, one that would leave their children faced with a hard destiny, the Israelites did not abandon their obligation to produce offspring.¹⁶⁸

The marital duty could be further defined. A man should not cease to have intercourse with his wife unless he already has children – opinions differ on the number of children fulfilling this obligation (*m. Yeb.* 6.6).¹⁶⁹ Accordingly, a woman refusing marital sex was fined (*m. Ket.* 5.7). The most detailed rules are given in the Mishnah in *m. Ket.* 5.6:

He who takes a vow not to have sexual relations with his wife – the House of Shammai say '[he may allow this situation to continue] for two weeks'. And the House of Hillel say, 'For one week'. Disciples go forth for Torah study without [the wife's] consent for thirty days. Workers go out for one

166. See Rengstorf 1929: 82-83; Archer 1990: 123-24; Ilan 1995: 105-107.

167. See also *Hypoth.* 7.7. On the duty to procreate in Philo, see Reinhartz 1993: 69-70.

168. Pseudo-Philo lets the Hebrews formulate the problem and Moses' father Amram then rejects the arguments: 'The wombs of our wives have suffered miscarriage; our fruit is delivered to our enemies. And now we are lost, and let us set up rules for ourselves that a man should not approach his wife lest the fruit of their wombs be defiled and our offspring serve idols. For it is better to die without sons until we know what God may do' (*LAB* 9.2).

169. See below, p. 51.

week. 'The sexual duty of which the Torah speaks: Those without work [of independent means]—every day: workers—twice a week; ass drivers—once a week; camel drivers—once in thirty days; sailors—once in six months', the words of R. Eliezer.

Josephus considers the wrong of abortion and exposure to be that they diminish the race (*Apion* 2.199-203). Stern supposes that the Jewish people greatly increased after the return from Babylon.¹⁷⁰ If there was a general view that the Jews should be as numerous as the stars, Josephus's words would be in accordance with it.

The Jews were not alone in considering procreation a virtue. Especially according to the Stoics, it was a common virtue to marry and to procreate. Diogenes Laertius (7.121) attributes such a teaching to Zeno, Stobaeus to Antipater (4.22d), while Seneca,¹⁷¹ Plutarch (*De amore prolis*) Epictetus (3.7) and Musonius Rufus¹⁷² also recommend marriage.¹⁷³ Seneca praised his mother for not being ashamed of her many pregnancies (*Helv.* 16.3). There were two reasons for this view, reasons that were obviously closely connected with each other. On the one hand, the state had from an early period an understandable interest in the size of the population, and the Stoic philosophers were traditionally active politically.¹⁷⁴ On the other hand, the Socratic schools were keen to deal with many similar questions. They debated, which ethical rules were justified φύσει (by nature), and which only νόμῳ (by convention), based on human conventions. That procreation is a virtue was derived from nature also among Gentiles, especially in Plutarch's treatise (mentioned above), although it obviously coincided with the good of the state.

Although it was a duty to procreate, the duty could be fulfilled in slightly different ways according to early rabbinic writings. Two boys sufficed according to the house of Shammai, a boy and a girl according to the house of Hillel:

A man should not give up having sexual relations unless he has children. The House of Shammai say, 'Two boys'. And the House of Hillel say, 'A boy and a girl', since it is said 'Male and female he created them' (*m. Yeb.* 6.6).

170. Stern 1974: 34.

171. In his *De matrimonio* (Fr. 54), Seneca rejects the view of Theophrastus, saying that a wise man should never marry. Seneca's main argument is that children preserve the memory of their father.

172. Musonius discusses the question of whether or not a philosopher should marry and, as Seneca reports, Theophrastus had answered negatively (Fr. 54). According to Musonius, wives did not prevent Socrates or Pythagoras from being philosophers (Fr. 14).

173. See van der Horst 1978: 226.

174. See below, p. 149.

The Tosefta repeats this in a slightly different form (*t. Yeb.* 8.4).¹⁷⁵ The Mishnah adds that the man is required to be fruitful and multiply, but not the woman. According to the opposite view of R. Yohanan b. Beroqah, *Gen.* 1.28 means the woman as well as the man. The death of a child restored the duty (*t. Geb.* 8.4). Grandchildren are deemed equivalent to children, but if a child dies or loses the ability to procreate, the father has the duty restored on him (*t. Yeb.* 8.4).

While only a few of the passages quoted above deal directly with exposure, they illustrate that the practice was rejected. If an abundance of offspring was regarded as positive, and if the laws supported such ideas, Early Jewish tradition most likely did not condone the exposure of children. Leaving babies without care meant that the child was unwanted, and therefore that the motivation for sexual relations had been for reasons other than procreation—chiefly, for pleasure. In general, this attitude was severely criticized.

Children are the Only Goal of Sexual Intercourse

Thus the purpose of sexual intercourse was procreation and some texts imply that this was the only honourable goal, although the Old Testament does not contain such a thought. To be sure, it was the only honourable goal in the situation of Onan (*Gen.* 38), but this is rather a story about a cruel man who misused a woman in trouble without any intention of helping her.¹⁷⁶ The Song of Songs and *Prov.* 5.15-20, telling a young man to 'drink water from his own cistern' and to 'rejoice in the wife of his youth', were not considered relevant here by Jewish authorities. On the contrary, especially Philo¹⁷⁷ and Josephus utter explicitly and often the view that the only honourable goal of sexual intercourse is procreation. This, according to Philo, is the reason why intercourse is banned at the time of menstruation (*Spec.* 3.32). Sexual intercourse without intention of procreation means, according to him, that a man acts like a pig or a goat (*Spec.* 3.112-14). According to Josephus, the Essenes ban intercourse with a gravid woman to show that the reason for it was procreation and not pleasure (*War* 2.161). He expands this view to all Jews, summarizing the Law in *Contra Apionem*:

The Law recognizes no sexual connections, except the natural union of man and wife, and that only for the procreation of children (*Apion* 2.199).

175. On the minimal size of a family, see Instone-Brewer 1992: 142-43 and Yarbrough 1993: 41-42.

176. Philo (*Deus* 16-19) uses Onan as a negative example.

177. On Philo, see Mendelson 1988: 91-94.

Josephus also forbids intercourse with a woman 'with child', as Thackeray translates εἰ τις ἐπὶ λεχοῦς φθορὰν παρέλθοι (*Apion* 2.202),¹⁷⁸ and the seems to share the view of Philo and Josephus banning the repetition of intercourse before the third day (*m. Shab.* 19.5; *m. Miq.* 6.6. 8.3)—the reason given why Leah had only six sons instead of eight was that she sought pleasure and was so punished (*T. Iss.* 2).

Scholars usually assume that Philo is influenced by common Hellenistic philosophy. Cameron once boldly derived both the Jewish and the Christian view on the legitimate goal of sexual intercourse from an 'Orphic tradition'.¹⁷⁹ Boswell writes on Josephus:

The fact that it is so closely associated with Alexandrian sexual ethics, however, may be reason to conclude that it was more a Hellenistic tradition than a Jewish one. Alexandrian moral philosophy—pagan, Jewish, and Christian—was characterized by a particularly ascetic and rigid adherence to principles of procreative purpose in sexual matters.¹⁸⁰

Boswell thus refers to 'Alexandrian sexual ethics', but quotes no ancient texts, which makes his view difficult to follow.¹⁸¹ In contrast, Kathy L. Gaca tries to take an important step further by considering the view definitely Pythagorean. Gaca is able to show that the view is attested among the Pythagoreans already before Philo's time and that Philo knew these texts, because he quotes them in other contexts.¹⁸²

Gaca is right in her attempt to determine which Hellenistic philosophy specifically influenced Jewish thought, but the problem is very complicated. Generally, the motivation for marriage was the production of offspring, yet this did not exclude other functions of sexual intercourse in the Graeco-Roman world. Aristotle recommended that the reason for marital sex be procreation only for men of a certain age and recommended other functions at other ages (*Pol.* 7.16 1335b). Hellenistic philosophers represented very different views on sexuality. On the one hand, as sexual activity inside and outside of marriage was generally not a taboo in the Greek world,¹⁸³ the early phase of the Socratic schools was

178. Josephus's words refer to a woman after the birth of the child, not a pregnant wife (λεχός = marriage-bed).

179. Cameron 1932: 112-13.

180. Boswell 1988: 149.

181. On Plutarch, see Eyben 1980-81: 39-40. The view is obvious in Musonius, see Eyben 1980-81: 40-41.

182. Gaca 1996: 22-27.

183. It is impossible briefly to define the sexual ideals in the Greek microcosmos. However, Lysias illuminates the Athenian way of life when he describes in a speech a case in which a man is charged of having struck another because both loved a young boy. In his defence, the man openly confesses his love, and states that his wife lived at home and never went out. Her role was to give birth to children, but love affairs

characterised by surprisingly radical ideas. Concerning sexual ethics too it was usual to ask which things were decided by nature (φύσει) and which only by human conventions (νόμῳ). The ideal state of the Stoic Zeno, for example, allowed incest, since this was banned only by human convention, and according to Epicurus, the Stoic Archedemus considered all women common property (2.4.10-11).¹⁸⁴ Horace refers to the advocate of the Roman conservative view, Marcus Porcius Cato, who greeted with approval a young man leaving a brothel (*Sat.* 1.2. 30-35); the correct way to practise sex was to avoid married women and to visit brothels. This is also the tenor of the entire moral satire of Horace: slave boys and girls should suffice to serve their owners' sexual needs (*Sat.* 1.2. 109-34). Cicero accepts the sexual licence of young Roman men during their *ludus*.¹⁸⁵ In *Deipnosophistae* (13.573b), Athenaeus quotes (Pseudo-) Demosthenes's speech *Against Neaira* (59.122): 'We have mistresses for pleasure, concubines for daily intercourse and wives to produce children legitimately'. On the other hand, later Stoic philosophers obviously represented a more restrictive view, which also belonged to the common, Hellenistic heritage. Cicero lets Cato summarize such views in *Cato* 39-41 and 47. Musonius Rufus (*Fr.* 12) rejected all sexual acts outside marriage, and Epictetus apparently followed his teacher (*Ench.* 33.8).¹⁸⁶ Both were influential Stoic teachers and were hardly alone with their opinions, but both lived in the period of the Roman Empire. A historical development, going towards continence, is obvious.¹⁸⁷

It is clear that Philo, generally well aware of the Greek philosophical tradition, considered procreation the reason for sexual intercourse. However, as seen above, he is not the only Jew to hold this opinion, since such a view prevailed also in Palestine. It is thus hazardous to postulate

outside the home were considered normal (Lysias 4). To be sure, Aristotle restricts extra-marital sex in his *Politics* (*Pol.* 7.16 1336a), and the critical attitude towards pleasure was also well known in Hellenistic literature.

184. This view recurs in Plato, Zeno and Chrysippus (see Huttunen 2003: 113) and is also attributed to Diogenes of Sinope (Diogenes Laertius 6.72).

185. Cicero considers it right that young men live their *ludus* (*et ipsa natura profundit adolescentiae cupiditates*), provided they do not destroy the life and homes of others (*Cael.* 28) and sets the limits of good behaviour in ch. 42 ('Let a young man be mindful of his own repute and not a despoiler of another's; let him not destroy his patrimony; nor be crippled by usury; nor attack the home and reputation of another; nor bring shame upon the chaste, taint upon the virtuous, disgrace upon the upright; let him frighten none by violence, quit conspiracy, keep clear of crime'). Although much of *ludus* consists perhaps of *inanes cupiditates*, this belongs to youth. Admittedly, Cicero is not writing a philosophical treatise, but rather a speech in defence of his client. In his satire, Varro (*Men.* 87) also reveals what belonged to *ludus*: *properate vivere pueras, quas sinit aetatula ludere, esse, amare et Veneris tenere bigas*.

186. Huttunen 2003: 117-19.

187. See below, pp. 121-22.

a common 'Alexandrian ethic' influencing Jewish thought, and Philo and Josephus are by no means the only Jews considering procreation the only acceptable goal of sexual intercourse. Although Gaca's article is perceptive and important, it is hard to believe that so strong a Jewish tradition is influenced exclusively by the Pythagoreans: apparently Philo knew the view from Early Judaism and, as he was wont, rejoiced to find it also in some Greek philosophical texts.

Contraception and Abortion Restricted

A further issue, which is closely linked with exposure and cannot be overlooked here, is the attitude to contraceptive methods and abortion among the Gentiles and the Jews.

Contraceptive methods are well attested in Classical Antiquity, and the evidence is treated below.¹⁸⁸ Notwithstanding, contraception was fully legal in the Greek and Roman worlds, the methods used being far more efficient than the scholars of the past assumed.

Early rabbinic texts discuss contraceptives but do not report an unambiguous instruction. For instance, *m. Yeb.* 6.6 says that the man is obliged to be fruitful but not the woman – thus, indirectly, female contraception seems to be permitted. However, R. Yohanan b. Berokah had a different opinion. Similarly, contraception is forbidden in the Tosefta both to a man and to a woman, but, on the other hand, R. Judah is said to have allowed birth control to women (*t. Yeb.* 8.4). The question was thus moot, the macrot texts mediating different views instead of laying down unambiguous rules for an ethical life.¹⁸⁹

Abortion is rarely mentioned in Greek and Latin sources.¹⁹⁰ The medical tradition connected with Hippocrates strongly rejected abortion, but not as categorically as was traditionally interpreted,¹⁹¹ nor did ancient medicine as a whole exclude it. Abortion is sometimes morally condemned. It may have caused cultic uncleanness, but this does not mean that it was considered wrong. However, an inscription dating from c. 100 BCE mentions it together with murder (*Ditt. Syll.* 3.985.117.21).¹⁹² Several important Greek authors, including Plato (*Rep.* 461c) and Aristotle,

188. See below, pp. 123-24.

189. On the different types of regulation in early rabbinic texts, see below, pp. 74-75.

190. On abortion in the classical world, see Waszink 1950; Brunt 1971: 147-48; van der Horst 1978: 232-34; Eyben 1980-81: 10-12; Riddle 1992: 7-10. Kapparis's work (2002) is a new handbook on the theme.

191. The Hippocratic oath circulated in different versions during Classical Antiquity; see Riddle 1992: 8; Schubert and Huttner 1999: 490-91; Kapparis 2002: 66-76.

192. μή φθορεῖον, μήτε [ἄτ]οκεῖον...ἐπιτελεῖν apparently covers different means of abortion as well as contraception.

accept abortion, and Aristotle actually requires it in his ideal state if the limit of the births allowed was reached (*Pol.* 7.16 1335b). Roman writers often mention it (Plautus, *Truc.* 201-202; Juvenal, 6.366-68; Tacitus, *Ann.* 14.63),¹⁹³ and although abortion was sometimes vehemently condemned morally,¹⁹⁴ it was legal (*Dig.* 35.2.9) – until, that is, the Severian rulers restricted it in strong terms (*crimen extraordinarium*, *Dig.* 47.11.4).¹⁹⁵ The words of Gellius (12.1.8) are clearly critical of abortion.¹⁹⁶

That exposure was legal undoubtedly reduced the number of abortions, although not embryotomies performed to save the life of the mother. The ability of ancient medicine to perform abortions should not be doubted, although Pliny confuses the issue with his magical ‘knowledge’.¹⁹⁷ Sources mention both surgery and especially medicaments that procured abortions.¹⁹⁸ In many cases it is difficult to define precisely whether the ancient author means a drug used before the intercourse (contraception) or after it (abortion). Embryotomy, called *necessaria crudelitas* by Tertullian (*De anima* 25.4 CCL 2: 818-21) and accepted by Augustine (*Ench.* 86 CCL 46: 96),¹⁹⁹ was known and practised in difficult births. Tertullian was well informed about instruments that, though extremely dangerous to the mother, were effective for the procedure. In particular, abortive medicaments often appear in the sources,²⁰⁰ and modern tests with animals have proven Soranus’s drugs surprisingly efficient: they terminated, for example, nearly 100% of early pregnancies when given to rats.²⁰¹ However, the question remains: How widely were these methods known?²⁰²

193. On the Roman view, see Brunt 1971: 147-48.

194. See, e.g., Pliny, *Nat.* 25.7.24-25. On Ovid, see Eyben 1980-81: 50-51.

195. See Waszink 1950: 55-60; Eyben 1980-81: 28-29. On possible legal restrictions in earlier times, see Eyben 1980-81: 21-22. Kapparis (2002: 167-94) deals with the question of legality, and convincingly argues that abortion was legal until the time of Severus. To be sure, *Dig.* 47.11.4 still considers the wrong in abortion to be that the woman had deprived her husband of children (*indignum enim videri potest, impune eam liberis fraudasse*).

196. On the Christian view, see below, pp. 125-26.

197. *Ovum corvi cavendum gravidis constat, quoniam transgressis abortum per os faciat* (‘pregnant women must avoid raven’s eggs, because if she step over it she will abort through the mouth’, *Nat.* 30.130). To be sure, Pliny did not write about abortifacients because he hated them (see *Nat.* 25.7.24-25). On magic and abortion, see Kapparis 2002: 27-30.

198. Kapparis (2002: 167-94) presents the different methods used to terminate a pregnancy.

199. See below, p. 126.

200. Early witnesses are Soranus and Dioscorides. Neither depends on the other, but they used common traditions; see Riddle 1992: 46-56.

201. Riddle 1992: 28-30 and Schubert and Huttner 1999: 492.

202. See Kapparis 2002: 15-16.

Abortion was thus widely known in the Mediterranean world, and Jewish sources often ban it categorically.²⁰³ Philo (*Hypoth.* 359), Pseudo-Phocylides (184-85) and Josephus (*Apion* 2.202) reject it, including the ban in lapidary lists of ethical rules. It is unclear whether Philo and Josephus used a common source, but apparently this kind of catechism of ethical instruction was so common among the Jews that it is wise to assume a broad tradition of moral teaching and multiple sources rather than a single source.²⁰⁴ However, the Mishnah allows abortion in certain circumstances and illuminates simultaneously also the view on exposure. If the birth of the baby threatens the life of his mother, the child will be aborted and embryotomy is justified:

The woman who is in hard labour—they chop up the child in her womb and they remove it limb by limb, because her life takes precedence over his life (*m. Ohal.* 7.6).

Even the Tosefta (*t. Yeb.* 9.5) emphasises the right to destroy the embryo by adding the word ‘even on Sabbath’ in such situations. This right is attested in many texts and even the unintentional death of a viable foetus does not necessarily make the physician a murderer, although the texts reveal a disagreement on the question.²⁰⁵ However, the deed was considered very serious,²⁰⁶ and if a significant part of the child is already delivered, even a dangerous situation could not be solved by killing the baby:

If its greater part has gone forth, they do not touch him, for they do not set aside one life on account of another life (*m. Ohal.* 7.6).²⁰⁷

203. Eyben (1980–81: 11) is thus wrong to consider it unknown to the Jews.

204. Karl-Wilhelm Niebuhr investigated the catechism-type passages in Early Jewish writings (1987), and also the common source behind the texts mentioned here (pp. 31–72). See also Carras 1993: 37–38, 42–47.

205. The Mishnah (*m. Ohal.* 7.6) says very clearly: ‘The woman who is in hard labour—they chop up the child in her womb and they remove it limb by limb, because her life takes precedence over his life’. But the decision was serious and it is discussed often. ‘If he intended to kill a beast and killed a man, a Gentile and killed an Israelite, an untimely birth and killed an offspring that was viable, he is exempt’ (*m. Sanh.* 9.2). See also *t. Git.* 3.9 and *t. Sanh.* 12.4). The Tosefta (*t. Mak.* 2.5) is more severe and reveals the disagreement: ‘He who chops up the foetus in the belly of the woman at the instance of a court and killed it—lo, this one goes into exile’.

206. The Tosefta says (*t. B. Qam.* 6.17): ‘He who chops up the foetus in the belly of a woman by the decision of a court and does damage is exempt from punishment by the laws of man and his case is handed over to Heaven’.

207. Here too the Tosefta (*t. Yeb.* 9.4) sharpens the word in the Mishnah, now adding ‘even on the second day [of hard labor]’. On these rulings, see Salomonsen 1976: 193, 267.

The Tosefta supposes that the decision is made in court²⁰⁸ and some texts deal with the guilt of the physician.²⁰⁹ The texts show that the Rabbis taught physicians carefully to avoid killing any child that could be saved.²¹⁰

A crucial difference from Greek and Roman thought is present here. Corbier plausibly speaks of 'biological birth' and of 'social birth': a child was not considered a human being before it was accepted into the family.²¹¹ The Roman view can be best documented. In the Roman world a child was from his birth onwards for as long he lived in his father's house totally under paternal control, and indeed, only the father's death changed the situation. *Patria potestas* incorporated the right to decide on the life and death of the children and everything in between (*ius vitae necisque*).²¹² Philo is aware of the difference and marvels that Roman laws assign absolute power over the son to the father (*Legat.* 28). The texts quoted above clearly reflect a wholly different way of thinking: after his birth, indeed already before it, the child is an independent being who has his own human value. There is no other argumentation but a prohibition on setting aside one life on account of another life. The background clearly consists of a specific Jewish concept about the value of a human life, clearly attested in the texts quoted above²¹³—namely, a newborn child is not under the complete authority of his parents, but he/she is created by God and protected by his commandments.

Jews are an Ideal Community, Who do not Abandon their Children

The context of many Christian writers who condemned exposure is that they describe Christians as an ideal people.²¹⁴ Although this motivation is markedly weaker among the Jews, it is manifest here, too. Josephus is a good example. For him, exposure and abortion do not occur among the Jews, who live according to high standards. Philo's *Hypothetica*, which is preserved only in fragments, is a second example of this attitude at least concerning abortion. This argument presupposes that raising children was considered honourable among Gentiles while their exposure was not. As a matter of fact, for several reasons, although exposure was fully legal, it was not considered a deed unambiguously approved. The act of abandoning the baby was frequently given to slaves, or the deed was

208. See *t. B. Qam.* 6.17; see also *t. Git.* 3.9.

209. The Mishnah says that a man is exempt if the deed is performed unintentionally (*m. Sanh.* 9.2).

210. See *t. B. Qam.* 12.4.

211. Corbier 2001: 53-58.

212. See below, p. 139.

213. See above, pp. 44-46.

214. See below, pp. 127-28.

done during night, with the child often found in the morning. A good example of moral values is that a slave girl who collected the abandoned children was greatly honoured (Dio Chrysostom 15.9) and that exotic peoples who allegedly never exposed their children were highly esteemed.²¹⁵ Cameron justly supposes some kind of public opinion against the practice, although it was legal.²¹⁶ All this helps us to understand why Josephus and apparently also Philo emphasized the Jewish way of life and supposed that it was worthy of praise. It was part of their mission, which did not necessarily seek the conversion of Gentiles (although Philo awaited it, *Mos.* 2.43-44),²¹⁷ but which had an apologetic character.²¹⁸ The writers tried to show that Jews were an ancient, honourable nation among its neighbours. The writers certainly assumed that their Gentile readership would honour people who did not abandon their children.

Exposure is against Nature

When rejecting exposure, Philo adduces the argument that the deed is against nature, and makes this point twice (*Spec.* 3.108-109; *Virt.* 131-33).²¹⁹ Epictetus reiterates this argument (*Epict.* 1.23) and, according to some scholars, Philo here follows the Stoic philosophers. The question is crucial because Philo serves as the chief witness for the Jewish way of life. If he followed the Greek philosophers, and the Christians accepted Jewish traditions, the entire Jewish-Christian tradition on this matter can be regarded as a part of the Graeco-Roman tradition. Cameron states that Jews generally did not devise their own ethics,²²⁰ and the same is also often said of Early Christians.²²¹ But can this view be defended here? Philo was very familiar with the traditions of Greek philosophy, and he mentions almost every prominent philosopher while commenting on

215. See above, p. 149.

216. See above, p. 43.

217. Borgen 1997: 19.

218. See Collins 2000: 261.

219. Another argument worth mentioning here was frequently used by Christians, namely, that Nature / the Creator acts like a supreme artist forming the person in his mother's womb. This occurs in Philo (*Spec.* 3.108-109), but especially among Christians; see below, pp. 128-29.

220. Cameron 1932: 113

221. Hans Conzelmann's words in the series *Das Neue Testament Deutsch* might be characterized representative: 'Die Inhalte der urchristlichen Ethik sind nur in begrenztem Umfang neu. Neu ist vor allem die Begründung und der Bezug auf das Zusammenlegen in der Gemeinde. Im übrigen übernimmt man weithin die Moral des hellenistischen Judentums, in welchem Einflüsse der griechischen Populärethik spürbar sind' (1981: 199). See also, for example, Grubbs 1995: 70-71.

their teachings.²²² Undoubtedly, he was well aware of their attitude towards exposure. Philo quotes the *Theaetetus* of Plato, where the practice is mentioned,²²³ and presumably also knew that Aristotle²²⁴ had no objections to it. The crucial issue is which came first. Did Philo adopt the criticism of the Stoics and apply it to the Mosaic Law, or did he adopt the current Jewish way of thinking and try to find arguments fitting the Greek wisdom?

The fact is that the critical statements of Stoic philosophers known to us are later than Philo in date.²²⁵ The nearest Greek writer is Plutarch, who uses φύσις as his arguments for having children. Plutarch, however, does not mention exposure nor does he say that it is against nature (*De amore proles*). Of course, it is possible that earlier Stoics condemned the practice; were this the case, however, Philo undoubtedly knew it. But Philo's words can also be attributed to his general view of Greek culture. The main line of Philo's thought is well known and he is proud of his Jewish basic view: God was the author of both the world and the Torah. Accordingly, the Law is compatible with the world and the world with the Law (*Op.* 1-3). The Mosaic Law is rational and rationality is always close to the Mosaic Law. It is understandable from this principal viewpoint that the best philosophers taught a morality similar to the Jewish way of life. No wonder that the exposure of children is condemned by Philo as being against nature, his insistence being that this should be understood by every wise person. This model of argumentation is common in the works of Philo, and flows from the basics of his thinking. It is the starting point from which he seeks contact with the Greek philosophy. He did not need to borrow the rejection of exposure from the Stoics, who could rarely compete with his favourite philosopher, Plato.²²⁶ Philo follows the tradition found in the LXX and tries in the spirit

222. Philo mentions, for example, Pythagoras (*QG* 1.17), Heraclitus (*Alleg. Interp.* 1.108), Socrates (*GQ* 2.3), Plato (*Op.* 119) and Aristotle (*Decal.* 30).

223. *Theaetetus* was a very important treatise for Philo. He adopted the Platonic view in this work, whereby life meant an escape from the visible into the invisible. Philo adapted the view to the Scriptures, using especially the Exodus allegorically to illuminate the spiritual emigration (see Koskenniemi 2005: 131-32). Philo quotes and approves *Theaetetus* (*Fug.* 63; 82; *Mut.* 121) and, because this work includes approval of exposure, he was certainly aware of Plato's view.

224. Aristotle (*Pol.* 7.16 1335b) mentions only the abandonment of malformed children. However, in this chapter he recommends a certain age of the parents when the children were expected to be born in the family. During the rest of the marriage he recommended sexual intercourse only for the reasons of health or 'other similar reasons'.

225. On Stoic philosophers, see Heinemann 1962: 392-98; Eyben 1980-81: 38-40.

226. Philo speaks of 'the sacred authority of Plato (κατὰ τὸν ἱερώτατον Πλάτωνα)', *Prob.* 13. Stoics, such as Zeno, are mentioned positively (*Prob.* 53), but Plato has a special role in Philo's works.

of *interpretatio Graeca* to render it compatible with Greek wisdom. It is difficult to decide whether he directed his words more to Jews or to Gentiles, and the question must be treated later.²²⁷ All the same it is important to consider that, in condemning exposure, Philo follows his great vision: the Jewish religion is reasonable and universal and should be accepted by every wise person.

Beasts Eat the Children

One argument among others is that an exposed child would be prey for wild beasts. Philo presents this view in particularly vivid terms in *Spec.* 3.114-16, where it was not a primary argument but a rhetorical description of the consequences of a callous deed, and also Pseudo-Phocylides incorporates it in his short verses (184-85). The eating of exposed infants by wild beasts was apparently a reality that was well known to Gentile writers, and the Christians often used it as an argument.²²⁸

Exposure Leads to Desolation of the Cities

Philo says that exposure leads to 'desolation of the cities' (*Virt.* 132), and Josephus states that abortion diminishes the race (*Apion* 2.203). Although Philo exaggerates, he was apparently aware of the intention of several cities and states to increase family size. This argument certainly found an echo also among his Gentile readers, with the state regulating the population levels from a very early period.²²⁹ Polybius in particular was very worried about the population in Greece in his own time,²³⁰ and he explicitly cites abandonment of children as his reason. Because parents only raised one or two children, who often died young, 'in our time the whole of Greece has been subject to a low birth rate and general decrease of the population'. Polybius hoped for legislation that would hinder exposure (36.17), thereby confirming that such legislation did not exist. In ancient society, the roles of state and individual were usually obvious: although the interest of the state was to control the population, the decision to raise children was made solely by the parents.²³¹ This did not prevent Philo from referring to desolation of the cities, which many responsible philosophers certainly found reasonable. Actually, it is possible that Philo uses Polybius's words to support his own view (αἱ τε πόλεις ἐξηρημώθησαν / οἱ τὰς πόλεις...ἐρεμοῦντες, *Virt.* 132).

227. See below, pp. 77-78.

228. See below, pp. 130-31.

229. See below, pp. 148-52.

230. See Eyben 1980-81: 25.

231. See below, p. 139.

Exposure is against the Heavenly Law

It is now time to return to the gravest argument against exposure in the Jewish texts, namely, that the deed is against the Law of God. Such a view is articulated only in Josephus and Philo, but may underlie the words of several Jewish writers who strictly condemn the practice. The presupposition is that exposure leads to death and that it does not reduce the wrong when others occasionally saved the abandoned child (*Spec.* 3.116).

As said above, it is usual to point out that the Mosaic Law nowhere deals with the question.²³² This is, however, only one side of the truth.

First of all, it should be asked: What did νόμος mean in Early Judaism? As a matter of fact, νόμος had several senses from the very beginnings of the Greek literature, and Jewish writers also use it differently.²³³ The first to use the word, Hesiod (*Theog.* 66) and Solon,²³⁴ used it to mean 'custom', and this sense is common also later in secular Greek (Aischylus, *Ag.* 594; Lucian, *Nigr.* 21). It could mean 'law' (Plato, *Tht.* 173d; of Mosaic Law Ps. 1.2), 'convention' (Philostratus, *VS* 503; Josephus, *War* 1.11), 'ethical rule' (νόμον κάλλιστον ἔξευρόντα, πειθαρχεῖν πατρί, Sophocles, *Trach.* 1177-78; Philo *Legat.* 62), or else an order independent of humanity, as a foetus develops κατὰ νόμον (cf. νόμος φύσεως in Philo, *Plant.* 132 and Josephus, *War* 3.370). Among the Jews, it may denote the *Torah*, as especially in Philo, referring either to the entire Pentateuch or specifically all the rules included therein.²³⁵ Yet, it also refers to the whole of Scripture, also including the Prophets, as Paul uses the word in Rom. 3.19 after quoting passages from all parts of the Scriptures. Moreover, it can refer to the unwritten Jewish Law, or simply to the current Jewish way of life (Josephus, *Ant.* 1.315). A good example of how the holy writings and the tradition were merged, is the epitome of the Law in Josephus *Ant.* 2.190-219, which incorporates several Jewish practices not included in Mosaic νόμος. The variation is not only linguistic, but also implies that the concept had shifted. It is not a coincidence that Philo, though he distinguishes between the Pentateuch and other Jewish writings, nevertheless regarded the stories of the elders among the Alexandrine Jews as a source for the life of Moses (*Mos.* 1.4). The written and the oral Law were not always distinguished as sharply as we think. According to Josephus, the Law requires that sons be taught to read (*Apion* 2.204), and, in his view, it also banned exposure. Several texts

232. See above, p. 15. Boswell 1988: 134; Reinhartz 1992: 63.

233. See Räisänen 1986: 124-38.

234. See LSJ, s.v. νόμος.

235. See Weber 2001: 33-41.

presuppose that a person exists already before birth²³⁶ or assume that a small baby will not be left to fend for itself. Together they depict a situation, in which the Law is interpreted as condemning exposure.

The first, and most serious claim that a Jewish writer rejecting exposure could use was that it is murder. Although it is not stated explicitly (many texts say only that it is cruel to abandon children, see 1 *Enoch*; and the *Greek Apocalypse of Ezra*), the indications are clear enough. The context of Philo's treatment of the problem (*Spec.* 1.112-14; 117-19) is the interpretation of the commandment 'You shall not murder'. In his view, it must be murder to kill a newborn child because it is sin to harm a part of the mother. Moreover, it is not a usual murder, but 'the worst abomination of all, murder of their own children' (*Spec.* 2.112). Josephus too equates exposure with killing (*Apion* 2.202). The lost original of the *Epistle of Barnabas* and the *Didache* used the biblical terms οὐ φονεύσεις on the theme. The most common idea was certainly that exposure was against the Decalogue.

However, it is useful to study the passages that the writers adduced to prove that exposure was against the Law. The most important is, of course, *Exod.* 21.22-25, which is quoted above. Already the Hebrew text can be considered relevant and the LXX text undoubtedly is. It is important to observe how Philo and Josephus use this text dealing with exposure in very different ways. The text is relevant only for Philo; indeed, he does not state that the Law bans exposure but that it implies the ban (ἀπειπε διὰ ὑπονοιών, *Spec.* 117). The argumentation *a fortiori*²³⁷ – if harming a foetus deserves the death sentence, it must be a worse crime to kill a newborn child – is understandable. However, it is interesting that Josephus does not refer at all to this passage in the Law. On the contrary, he totally ignores the interpretation in the LXX and follows the Hebrew version and the interpretations common in the texts written in Semitic languages.²³⁸ All the same, he claims that exposure is against the Law. Whatever were his arguments – he may only refer to the Jewish way of life – it is clear that the LXX version is not the reason for his view. The reasoning is not far-fetched, but represents a typical Jewish approach to the texts.

The second passage cited by Philo is *Lev.* 22.27, which shows mercy to newborn animals, and again, in Philo's opinion, *a fortiori* also to children: if the Law requires compassion to newborn animals, it must ban exposure of newborn humans.²³⁹

236. See above, pp. 44-46.

237. Correctly noted by Reinhartz, 1992: 45-46.

238. See Koskeniemi 2009.

239. See Reinhartz 1992: 49.

Although life after death and eschatological punishments were not an issue in all parts of the heterogeneous Early Judaism, some sources connect exposure with a severe post-mortem punishment. *1 Enoch* 99.5 and *2 Sib.* 2.279-82 do not yet define the penalties in detail, but mention exposure immediately before the eschatological judgment; only a small step was needed, before *Gk. Apoc. Ezra* 5.1-3 could describe the punishments, and Early Christian tradition implies that this was not the only text to present these consequences of exposure. Although their sin is not articulated, it presumably consisted in violating the fifth commandment.

The view that exposure was against the Law is attested not only by Philo in Egypt and Josephus in Palestine. The harsh condemnation of the practice in other Jewish texts, which are quoted above, allows us to suppose that the writers widely understood it to be forbidden in the holy Law, and, more precisely, against the Decalogue, even if the Jewish writers seldom give full argumentation.

The conclusion that exposure was considered an offence against the fifth commandment of the Decalogue thus seems to be valid. It is possible to go one step further still. Apparently, we have here a typical example of a Jewish παράδοσις τῶν πρεσβυτέρων (πατέρων), regulations which were not written in the Torah, but which were observed nevertheless, at least by some Jews. When they are mentioned in the New Testament (Mt. 15.2; Mk 7.3; Gal. 1.14) and in Josephus (*Ant.* 13.298), they refer to Pharisees, but this does not mean they alone observed unwritten regulations. Jews whipped Paul five times (2 Cor. 12.24), and although he received the maximum, he was never struck the maximum 40 times mentioned in Deut. 25.3. Because 40 was the maximum, the Jewish rule was to give only 39.²⁴⁰ The intention was to 'protect the Law with a hurdle', so that the punisher would not accidentally inflict more than 40 blows. It is unnecessary to label this traditional interpretation of the passage in the Torah 'Pharisaic',²⁴¹ because it was apparently practised in all locales where Paul was whipped, and we know virtually nothing about the Pharisees in the Diaspora. The rule was generally followed among Jews, and it is a good example of how παράδοσις τῶν πρεσβυτέρων commented on single commands in the Law. The tradition helped the Jews to honour the Law and to avoid all possible and even unintentional offences against it. Apparently the ban on the abandonment of newborn children was a common Jewish

240. See Billerbeck 1926: 3: 527-30.

241. On oral interpretation of the Torah and the Pharisaic παράδοσις, see Baumgarten 1987: 63-77. According to him, calling their own rules παράδοσις τῶν πρεσβυτέρων (πατέρων), was a Pharisaic attempt to project their regulations into the past. This may be true, but in some cases the oral, legal tradition was certainly pre-Pharisaic and also observed by other Jewish groups.

παράδοσις, which was meant to protect the Law. A man must not be killed, not even a foetus, and exposing a newborn child was, at any rate, dangerously near to murder. Wherever this early *paradosis* was formed, the view was widely accepted and became very influential in the Jewish and Christian worlds.

2.3. Medical Questions

Scholars debate strenuously how frequently normal children were exposed in Graeco-Roman antiquity, often disagreeing on some crucial points.²⁴² Yet, there is no serious doubt on the question of what happened to deformed babies. According to our sources, babies were often abandoned because they were illegitimate, of the 'wrong' gender or for financial reasons, and deformed children were in the greatest danger.²⁴³

Although much work must be done before the history of disabled individuals in the classical world is written,²⁴⁴ the view that deformed infants were often abandoned is based on eye-witness testimony from several sources. Plato (*Tht.* 160e) tells us about a family celebration, the ἀμφιδρόμια, which apparently consisted of different parts: a procession of women around the child, a sacrifice and a subsequent feast.²⁴⁵ Apparently the function of the ἀμφιδρόμια was to ensure that the child was strong enough to be accepted into the family. Plato takes for granted that a deformed baby was abandoned, even if it happened to be the firstborn, a hint that firstborn children were more rarely exposed than later children.²⁴⁶ As a matter of fact, if a gathering of relatives and not just

242. On the number of abandoned children, see above, pp. 8-9.

243. Cameron 1932: 108-109; Eyben 1980-81: 15; Patterson 1985: 113-15; Harris 1994: 12.

244. Besides other (often physical) problems, disabled individuals must face also the critical attitude of religious and popular belief. In spite of these problems, some people could break the barriers and proudly named themselves according to their defects, as did Antigonos Monophthalmus ('One eyed'). Such names were not uncommon in Rome, where noble men could be called 'blind' or 'flat-foot' (*Caecus*, *Plancus*); see Grassl 1986: 118-26.

245. We have no clear description of the feast, and the scanty sources give diffuse information. Who did the walking around (ἀμφιδρόμια), where and when is unclear. Some scholars have suggested that the father carried the baby around, others that relatives ran around the child; at any rate it seems probable that it was an inspection of the child. *Schol. Plat. Tht.* 160e mentions the fifth day, Isaeus (3.30) and Demosthenes (39.22) and *Schol. Aristoph. Lys.* 1c refer to the tenth day (see Tolles 1941: 49-50; Patterson 1985: 105-106; Garland 1990: 93-96). My view presented above leans on Hamilton's reconstruction of the sources (1984: 243-51).

246. See *Tht.* 160e-61a and Boswell 1988: 83-84. Plato did not restrict his view to deformed babies. In his ideal state, children of the nobility only were reared for eugenic reasons (see Eyben 1980-81: 32-35).

midwives had taken part in a newborn baby's inspection, it seems likely that we are dealing with a largely symbolic – the parents would likely have made their decision in the very first days after the child's birth.²⁴⁷ Aristotle comments on the understandable fact that many children could not survive the first days even if they were not exposed.²⁴⁸ But many Greek sources tell us that weak and disabled children were not given the chance of life.²⁴⁹ Plutarch reports that the Spartan state inspected all children born in families in the classical period, but this witness is too late to be credible.²⁵⁰ Although Plutarch's words are late and cannot be taken as historical fact, as Eyben and Patterson have done,²⁵¹ there is no reason to doubt that the Spartans did not hesitate to abandon unhealthy infants.²⁵² The state may have examined the children in early Athens,²⁵³ and Aristotle briefly says that a malformed child must not live (*Pol.* 7.16 1335b). Frail children should, according to Plato, be placed in some secret place (*Rep.* 460c). Abandoning a physically defective child was certainly 'a routine praxis in ancient Greece'.²⁵⁴

The Latin writers express their view very clearly.²⁵⁵ A good example is Seneca who teaches in *De ira* that wrath may not control a man. This does not mean that he cannot act reasonably, although force may be needed. He kills an animal, if needed, and resolves also a problem caused by the birth of a child:

Unnatural progeny we destroy, we drown even children who at birth are weak and abnormal (*liberos quoque, si debiles montrosique editi sunt, mergimus*). Yet it is not anger, but reason that separates the harmful from the sound (*De ira* 1.15.2).

To Seneca, the killing of disabled newborn infants was self-evident and further arguments were superfluous; he apparently expands this to mean also slightly older children.²⁵⁶ He writes theoretical ethics, but a few quotations show that the practice followed this principle. The elder Seneca described the praxis and said that many fathers abandon *inutiles partus*, and that *mulcati, infirmi et in nullam spem idonei* were cast out

247. Patterson 1985: 106.

248. Aristotle claims that most children die before their seventh day (*Hist. anim.* 7.12 8.588a). Although this sounds a very high number, a mortality of 30% is generally accepted (see below, p. 85).

249. See Tolles 1941: 78-79.

250. Plutarch, *Lycurg.* 16.

251. Eyben 1980-81: 23 and Patterson 1985: 113.

252. See also Tolles 1941: 13-34.

253. Tolles 1941: 37-56.

254. Patterson 1985: 113.

255. See Brunt 1971: 149 and Fayer 1994: 184-85.

256. On the right to kill one's own children among the Romans, see below, p. 139.

rather than exposed (*proiciunt magis quam exponunt*, *Contr.* 10.4.16). Livy tells about the birth of a child:

Relieved of their religious scruples, men were troubled again by the report that at Frusino there had been born a child as large as a four-year-old, and not so much a wonder for size as because, just as at Sinuessa, two years before, it was uncertain whether male or female. In fact the soothsayers summoned from Etruria said it was a terrible and loathsome portent; it must be removed from Roman territory, far from contact with earth, and drowned in the sea. They put it alive into a chest, carried it out to the sea and threw it overboard (27.37.5-7).

Livy reports in his works on the birth of several severely disabled children who were considered bad omens.²⁵⁷ Pliny (*Nat.* 7.34) says that hermaphrodites were formerly considered bad omens, *nunc vero deliciis*, which obviously meant that they served as sexual objects, as Justin (1 *Apol.* 27 [ed. Marcovich]) and Clement of Alexandria (*Paed.* 3.4.29.2 SC 158: 66) claim.²⁵⁸ The words of Cicero (*Leg.* 3.19) imply that the *Twelve Tables* required the exposure of the defective children.²⁵⁹

The evidence presented above makes it difficult to agree with scholars who remain in doubt whether or not the children not born healthy were generally abandoned. According to Boswell, there is 'virtually no evidence about what families under the Empire did with such offspring'.²⁶⁰ Corbier considers Seneca's words an insufficient basis for us to determine whether or not the practice was systematic.²⁶¹ Admittedly, Garland and Harris also recommend caution,²⁶² but actually there is no evidence

257. See Livy 24.45.7; 34.45.7. Dionysius of Halicarnassus's comment (2.15.2) that Romulus ordered his citizens to raise all male and the first female children, except for the disabled, is not historical. However, it reflects the ideals of later times, and protection of disabled children was not among them (see Fayer 1994: 140-45).

258. The practice of keeping children called *delicia* (or *delicati* / *delicatae*), 'pet children', was investigated recently by Laes, who collects the literary and the epigraphical evidence. These children were the favourites of their masters, and also Roman ladies used to own them. They were not necessarily sex objects, and Laes justly warns of too modern a definition of sexuality (2003: 320). However, we also have strong evidence that these children could be used sexually (Laes 2003: 317-20). The Roman mind sought out the curious; there was a market for 'human monsters', and, according to Justin, hermaphrodites could serve in brothels.

259. Cicero, *Leg.* 3.19; see Brunt 1971: 149 and Fayer 1994: 184-85. According to Boswell (1988: 59) the Law 'allows' exposure of the crippled children, but apparently required it (*cum esset cito necatus tamquam ex XII tabulis insignis ad deformitatem puer*). The problem is, however, that the text is obscure (*codd. legatus / necatus*); see Harris 1994: 12.

260. Boswell 1988: 106.

261. Corbier 2001: 60.

262. Garland 1990: 87-89 (Greeks); Harris 1994: 12 (Rome). According to Eyben, concerning malformed children, 'the praxis (sc. infanticide) was routine' (1980-81: 15).

to the contrary, as the killing of the malformed infants is often mentioned as a self-evident fact, and at any rate their abandonment or killing was possible and permitted. There is no doubt that obviously sick, weak and disabled children were generally exposed – though this does not, of course, mean that they *all* were.

Graeco-Roman ethics thus allowed, if not required, the exposure of the weak and disabled children, but what was the practice among the Jews? The question is crucial and could show a significant difference between them and Gentiles. If the Jews raised children, who according to the common view of scholars were in the greatest danger, they presumably also raised healthy children on many occasions, which the Greeks and Romans would not have done. But the question is very difficult in many ways.

References to disabled people rarely appear, either in the Graeco-Roman or in the Jewish sources. It was generally not a matter which the writers, belonging mostly to the upper classes, were willing to discuss. Moreover, it is difficult to distinguish between people born disabled and those crippled later, unless the source tells the reason. We have only very few sources and are forced to a cautious deduction.

What kind of defects can we assume as manifest in a newborn child? We read in John 9 about a man born blind, but in such cases the parents could hardly realize the fact during the first days of life: blindness can be diagnosed at birth, but this requires knowledge which most individuals even today do not possess.²⁶³ Deafness, too, was and is obviously too difficult to be recognized by the inexperienced. Ancient medicine could define the criteria of a healthy child very accurately, which is shown by Soranus of Ephesus, the physician who lived in Rome about 100 CE:²⁶⁴

The midwife should also consider whether it is worth rearing or not. And the infant which is suited by nature for rearing will be distinguished by the fact that its mother has spent the period of pregnancy in good health, for conditions which require medical care, especially those of the body, also harm the foetus and enfeeble the foundations of its life. Second, by the fact that it has been born at the due time, best at the end of nine months, and if it so happens, later; but also after only seven months. Furthermore by the fact that when put on the earth it immediately cries with proper vigour; for one that lives for some length of time without crying, or cries but weakly, is suspected of behaving so on account of some unfavourable

263. Harris (1994: 12) makes an uncharacteristic mistake in an otherwise excellent article. Although we cannot exclude the fact that some people were skilful enough to identify congenital blindness in a newborn (which I generally doubt), nobody was able to diagnose dwarfism.

264. Soranus of Ephesus, about 100 CE, was one of the most important physicians of Classical Antiquity. His *Gynecology* (Περὶ γυναικείων παθῶν) is the most significant ancient work on the theme. On Soranus, see Reus 2001: 739-41.

condition. Also by the fact that it is perfect in all its parts, members and senses; that its ducts, namely of the ears, nose, pharynx, urethra, anus are free from obstruction; that the natural functions of every member are neither sluggish nor weak; that its joints bend and stretch; that it has due size and shape and is properly sensitive in every respect. This we may recognize from pressing the fingers against the surface of the body, for it is natural to suffer pain from everything that pricks or squeezes. And by conditions contrary to those mentioned, the infant not worth rearing is recognized (*Gynecology* 2.6 [ed. Temkin]).

Some problems with the health of the newborn could be recognized even without advanced medical training and knowledge. They include missing or defective limbs, failure to thrive or worse problems. Although there are obvious differences between ancient Near Eastern and modern Western European societies, it is perhaps useful to say that less than one percent annually of children born in Finland present such problems. A very easy weakness to define is that child is born prematurely and is too small to have a strong start in life. About 6% of children are born premature in Finland (the criteria being that the child weighs less than 2.5 kg and is born before the 37th week of pregnancy). The percentage among the Jews presumably differed little from this, and such a number means that the children born prematurely were a well-known phenomenon. A baby of normal size may be obviously too weak to survive, the reasons for which being traceable to different organic disabilities or injuries inflicted at birth. Soranus gives his advice to remove the problem ('not worth rearing'), but what do the Jewish sources tell us about the treatment of children not born healthy?

Some sources speak about premature children. 'Baruch' takes for granted that a mother does not kill such a baby:

Baruch, Baruch, why are you disturbed? Who starts a journey and does not complete it? Or who will be comforted making a sea voyage unless he can reach a harbor?... Or a woman who has conceived—does she not surely kill the baby when she bears untimely? Or he who builds a house, can it be called a house, unless it is provided with a roof and is finished? Tell this to me first (2 Bar. 22).²⁶⁵

265. The translation seems to imply killing of prematurely born children, but the text is problematic. I owe thanks to Dr Grant White, who assisted me with a grammatical problem in the text (*la mʿattel*, is *pa'el* masc. sg. active participle, i.e. 'it/he does not murder', but *qatla leh l-'olah*, 'she kills her foetus', speaks of a woman). The text might be difficult to translate, but the context makes the sense clear: a premature birth causes the death of the child, and renders the conception as senseless as making a journey without reaching the harbour or building a house without the roof. Exposure or infanticide is thus not allowed and the section does not deal with abortion either (see Bogaert 1969: 2: 54).

Premature children are not killed, but their care is completed as people are willing to complete everything in this world. LAB 23.8 says in passing that Isaac was born in the seventh month, though life was still granted to him.²⁶⁶ According to Philo, a piece of evidence showing the number seven as holy is that a foetus of seven months survives, while a younger one does not (*Op.* 124). An interesting detail is the precept in the Mishnah not to circumcise a sick child:

An infant who is sick – they do not circumcise him until he gets well (*m. Shab.* 19.5).

The surprising nature of this rule should be observed. The written, unambiguous commandment of the Torah to circumcise male children on the eighth day (Gen. 17.12) is set aside so as not to risk a sick child's life.²⁶⁷ This shows a markedly different attitude from the aforesaid Graeco-Roman texts and proves that even a sick child was considered valuable.

No Jewish text known to me refers to Siamese twins or deformed but living babies, although deformed dead children are often mentioned.²⁶⁸ A class of disabled children well known especially in early rabbinic sources but also in Pseudo-Philo (*De Deo* 3)²⁶⁹ are *טומטום*, *tumtom* and *אנדרוגיניס*, *androginos*. Undoubtedly *tumtom* means cryptorchid (a condition where the testes have not descended); it is far more common than *androginos*, being diagnosed in some degree in between 1 and 5% of male children today. The term *androginos* is clearly a Greek loan (ἀνδρογύνος) and means a person having the genitals of both sexes. Actually they were not hermaphrodites, but pseudohermaphrodites, female children with a clitoris resembling the male genitals (about one child in every 14,000 displays this condition in Finland) or male children with female-type external genitals (about one child of 20,000). Both problems are easily seen soon after the birth.

Both words, *tumtom* and *androginos*, occur often in the Mishnah and the Tosefta. It is interesting that a pseudohermaphrodite, who from the medical point of view is clearly a woman, is in the Mishnah often considered a man. They were circumcised (but not on the Sabbath)²⁷⁰ and

266. Ilan 1995: 115. Since this is also attested in rabbinic traditions, the interpretation of the obscure passage is apparently correct (see Jacobson 1996: 720-21).

267. The Tosefta also contains the ruling and adds stories shedding light on the practices; see *t. Shab* 15.7-8.

268. Malformed but dead children occur, for example, in *m. Bek.* 8.1; *m. Ker.* 1.3.

269. The work is preserved only in an Armenian translation and translated into German by Siegert (1980).

270. 'If the sexual traits of the infant are a matter of doubt, or if the infant bears the sexual traits of both sexes (*androginos*), they do not violate the Sabbath on his

could act as priests²⁷¹ or marry,²⁷² while sexual intercourse with them was regarded as homosexuality for men.²⁷³ In some texts, however, they were treated as female.²⁷⁴ They are mentioned in different contexts. If a man vows to be Nazir and he begets a child, the character of the vow decides whether or not the birth of an *androgynos* or *tumtom* binds him.²⁷⁵ A sign of uncertainty²⁷⁶ is attested in the fact that a woman who had produced a *tumtom* or *androgynos* had, like a wife who had produced male and female twins, to sit out the days of uncleanness for both a female and male (Lev. 12). The regulations concerning when pseudo-hermaphrodites do or do not inherit the property of their parents are recorded in *m. B. Bat.* 9.2.

People with serious genital problems also occur in the Gospel of Matthew (Mt. 19.12), where Jesus speaks of people 'who are eunuchs because they were born that way'.²⁷⁷ The passage is theologically very important, because it excludes the duty to procreate. However, for our purpose the 'eunuchs because of the kingdom of Heaven' are not interesting, while 'eunuchs' from the womb of the mother (εἰσὶν γὰρ εὐνοῦχοι οἵτινες ἐκ κοιλίας μητρος ἐγεννήθησαν οὕτως) are. It is thus supposed that there were adult individuals who were not able to marry because of their physical defect and that this was clear from the very beginning of their life.²⁷⁸ Luz infers that the word Jesus used was סרִיסִים, 'castrate' (cf. סרִיסִים שְׂמִים),²⁷⁹ and although it may be correct, *tumtom* and *androgynos* are certainly meant by 'eunuchs from the womb of their mother'.

account. And R. Judah permits it in the case of an infant bearing the traits of both sexes' (*m. Shab.* 19.3).

271. 'A priest, a eunuch by nature, who married an Israelite girl, feeds her heave offering. R. Yose and R. Simeon say: "A priest who bore sexual traits of both sexes who married an Israelite girl feeds her heave offering"' (*m. Yeb.* 8.6; see also *t. Yeb.* 10.2).

272. 'R. Judah says: "A person lacking revealed sexual traits who was torn and turned out to be a male should not perform the rite of halishah, for he is deemed equivalent to a eunuch". A person bearing traits of both sexes marries but is not taken in marriage' (*m. Yeb.* 8.6; see also *t. Yeb.* 10.2).

273. 'R. Eliezer says: "Those who have sexual relations with a person bearing traits of both sexes are liable on his account for stoning as is he who has sexual relations with a male"' (*m. Yeb.* 8.6). However, the Tosefta defines further the nature of the sexual relationship and sees a possibility that the man is exempt (*t. Yeb.* 10.2).

274. See *m. Sot.* 4.3.

275. See also *m. Arak.* 1.1 and *m. Nid.* 3.2.

276. See the criteria for 'eunuch by nature' in *t. Yeb.* 10.6.

277. Apparently Justin does not quote Matthew but an independent source in 1 *Apol.* 15 (ed. Goodspeed): εἰσι δὲ οἱ ἐγεννηθησαν εὐνοῦχοι, see Gnllka 1988: 151.

278. See Gnllka 1988: 155.

279. Luz 1997: 108-11.

The numerous occurrences of cryptorchids and pseudohermaphrodites in the Jewish sources seem to make clear that Jews did not necessarily expose their children even if they knew that they were not healthy. This conclusion, however, should not be drawn too hastily. The rabbinic sources can display a marked interest in a phenomenon which none of the writers had ever seen. A purely theoretical matter could lead to a controversy between the two famous schools.²⁸⁰ A human being can be male, female or something in between, and the Law had to answer all questions, even if there circumstance was merely theoretical and no one had ever seen such a child. Could this also explain the occurrence of the cryptorchids and pseudohermaphrodites? Probably not. The Rabbis saw virtually every child born among the Jews and cryptorchidism is far too common to be considered as a merely theoretical possibility. Moreover, although pseudohermaphrodites are rare, at least one a year would have been born in Israel. It is understandable that the Mishnah deals with their rights and duties.

To sum up, the Jewish sources quoted above reflect a practice differing markedly from the Greek and Roman way of life. While the Greeks and Romans apparently abandoned children not born healthy, Jewish texts deal with the problems which were recognized immediately after the birth. Jewish texts never mention that a disabled child is exposed. This is compatible with the view common in the texts quoted above: human life stands under God's protection and no one has the right to terminate it.

2.4. *Only Sweet Dreams? Social and Juridical Questions*

One of the crucial questions in the investigation of exposure has been the balance between ideals and the reality of daily life. Some Greek philosophers condemned exposure,²⁸¹ but their philosophical discussions had apparently little or nothing to do with daily life. Children were exposed regardless of the theoretical writings of the philosophers, because the reason for their abandonment was not ideological but financial.²⁸² The same question has to be asked concerning the Jewish texts: Numerous texts condemning the practice were presented in the first section of the

280. 'Beth Hillel said to Beth Shammai: Surely you acknowledge with us concerning one who sees blood on the 81st evening that she is unclean'. A woman was unclean for 40 days after the birth of a male and 80 days after a female child, and after that she gave her offering. The assumed coincidence is nearly impossible, see Instone-Brewer 1992: 126-29.

281. See below, pp. 148-50.

282. Cameron 1932: 114.

present chapter, but do these have any relevance to the daily life of the common people? Did ordinary Jewish families follow the ethical instruction or their own judgment, adapting to the practice of other nations?

The question is broad and does not concern exposure exclusively. What was generally the popular role of the teachers? We have texts from different times and different geographical areas which cannot be treated summarily. They may have been written in Palestine before or after the Fall of the Second Temple, or in the Diaspora, or collected and redacted by early Rabbis. The social circumstances varied enormously among Jews in different areas and times. Moreover, the exposure of children was a multifaceted phenomenon and generalizations are hazardous. Today we can no longer regard Judaism as a consistent, monolithic unity, but as a religion with considerably more variation than was previously realized. All the same the difficult question must be asked.

Many of the texts quoted above (*Jubilees*, 1 *Enoch*, the lost original used in the *Epistle of Barnabas* and the *Didache*, the works of Josephus and 2 *Baruch*) were written by individuals brought up in Palestine of the Second Temple or shortly after the Fall of Jerusalem. For the scholars of the past this would have been evidence enough to prove that exposure was condemned and was not practised among the Jews in their own state. Unhappily, though, the reality is more complicated, both generally and specifically.

A constitution in the modern sense did not exist in Palestine, and we know little of the juridical praxis of Palestinian Judaism, either before or after the Fall of Jerusalem.²⁸³ The Jewish state was traditionally ruled by the High Priests, but under the Hasmoneans the state increasingly resembled other Hellenistic kingdoms. But although the government was no longer based on peasant religious zeal,²⁸⁴ which prevailed in Maccabean Israel, and still less under the Herods, ethical values certainly changed slowly. The Roman practice was to rule nations through the local elite,²⁸⁵ and their direct influence on the legislation was minor. According to Josephus (*Ant.* 14.190-95), Caesar permitted Jews a level of autonomy, which may have included not only religious matters, but also their own law enforcement. However, scholars disagree on how much home rule was allowed to the Jews.²⁸⁶

Thus we do not know even the principles of Jewish jurisdiction around the turn of the era, which means that complex problems, such as

283. Marshall and Russell (2002: 418-28) briefly present the evidence of the governance and legislation in Galilee, Samaria and Judaea.

284. See Goodman 1987: 29-31.

285. See Goodman 1987: 29-30.

286. On the question, see Pucci ben Zeev 1998: 50, 430-50.

exposure, require cautious deduction. E.P. Sanders wrote a challenging chapter entitled 'Who Ran What?' in his book *Judaism. Practice and Belief* 63 BCE–66 CE. In this work Sanders perpetuates the mistakes of the early historians who merged different views from different ages. It is impossible to start with the Mishnah and the Tosefta, equate the associates with pre-seventy CE Pharisees and claim that everyone did what the Pharisees said.²⁸⁷ Although Sanders does not cite the statements on exposure as his example, he could indeed have done so. Palestinian texts together with early rabbinic texts may not be used summarily: the situation postulated in *Jubilees*, Josephus and the Mishnah varied. So how should the Palestinian material concerning the exposure of children be evaluated?

The only juridical hint pointing to the time before Jerusalem's Fall is the following passage from Josephus:

The Law orders all the offspring to be brought up, and forbids women either to cause abortion or to make away with the foetus; a woman convicted of this is regarded as an infanticide (τεκνοκτόνος),²⁸⁸ because she destroys a soul and diminishes the race (*Apion* 2.202)

Although Josephus does not refer to Exod. 21.22-25 and does not distinguish between a formed and an unformed foetus, he follows an interpretation that is in accord with this distinction: the foetus already has the status of a human being and its killing incurs a punishment similar to that for murder. This may not have been the view of only the Pharisees – if Josephus really was a Pharisee as he says²⁸⁹ – but also the practice in the courts of the Jews in their own state, as far as they could administer their own laws. The lost original used in the *Epistle of Barnabas* and the *Didache* apparently served as a type of community rule inside a Jewish group, and also the passage in *1 Enoch* implies such a use. But the district of Galilee, for instance, included big cities, such as Sepphoris, that were inhabited largely by Gentiles.²⁹⁰ How much could Jews enforce their jurisdiction under the rule of Agrippa?

The texts in the Mishnah and the Tosefta were not a law code for everyone and the texts contain very different material, from description

287. Sanders 1994: 458-60.

288. Although exposure was allowed in the Graeco-Roman world, killing one's own children was considered a different matter. Although the Roman view of *patria potestas* principally included even the right to kill children, the question is complicated, see below, p. 139.

289. Josephus says in his last work that he was a Pharisee from youth (*Life* 11). However, many scholars have wondered why he needed several decades to remember his ties to this movement and assume that he simply recognized that the Pharisees had become leaders of the people after the catastrophe in 70 CE. On Josephus and Pharisees, see Mason 1991: 372-75.

290. On Sepphoris in different ages, see Horsley 1995: 163-69.

to prescription.²⁹¹ It would be a mistake to suppose that the Rabbis controlled the entire society. A tension between the rabbinic ideology and social reality is to be expected. This tension begins to slacken during the tenure of Judah the Patriarch,²⁹² who enjoyed strong Roman support and could certainly control the society better than his predecessors.²⁹³ According to Sanders, the Rabbis (1) codified the Law as it was actually practised, (2) applied the biblical law, (3) issued rules intended only for members of their own groups, (4) stated that most people acted otherwise, (5) gave regulations applying to another, perhaps ideal age, (6) introduced their own innovations sometimes accepted among the population, and (7) openly disagreed on many matters.²⁹⁴ To which categories do the words on exposure belong?

As seen above, there is no explicit ban on the abandonment of children in the Mishnah or the Tosefta, although several passages imply disapproval. For instance, *m. Baba Qam.* 5.4 applies the biblical law (category 2) and is moderate: there are no signs of dissatisfaction *vis-à-vis* the people (category 4). Moreover, there are overt disagreements, for example, concerning the duty of procreation and contraceptives (category 7). However, exposure is not a theme producing vehement attacks on offenders. The texts deal with the problems of when and under what circumstances abortion was allowed, and how children, who were seemingly disabled from birth, should be treated. The tenor of the texts is seldom aggressive, but rather practical, and several views are presented.

In some cases the birth of a baby could lead to a juridical problem, as illustrated in the passages in *m. Makh.* 2.7 and *m. Qid.* 4.2. Should a foundling be considered an Israelite or not, and would he/she be allowed to marry an Israelite? The teachers were forced to form a legal innovation (category 6): the child was considered an Israelite if the majority of the citizens consisted of Israelites, but not if it consisted of Gentiles; however, the rights of a foundling were limited, as were those of an illegitimate child or a *mamzer*.²⁹⁵ The stricter rule of R. Judah in the Tosefta (*t. Makh.* 1.8) assumed that no Jewish woman would abandon her child.

291. See Cohen 1999: 967-71.

292. According to the Early Jewish tradition, the first patriarch was Hillel the Elder (20 BCE–20 CE), but recent scholars, such as Goodman and S. Stern suppose that Judah the Patriarch was historically the first to bear this title. On Judah the Patriarch, see Goodman 2000 and Stern 2003: 194-200.

293. See Cohen 1999: 975-77 and Stern 2003: 209-10.

294. Sanders 1994: 464-71.

295. On the concept of *mamzer*, see Chilton 2001: 222-27.

But this was not the only juridical problem a birth could cause. A difficulty would also arise when a woman entering upon a levirate marriage was already pregnant (*m. Yeb.* 4.2) or, for example, when a man remarried a woman whom he had previously divorced (*m. Yeb.* 4.2). The solution of the problem is never exposure of the baby, even if he/she is characterised as *mamzer*. Moreover, the birth and the death of a baby could also constitute another kind of problem in Israel: The firstborn enjoyed a special status in Mosaic Law, but was a son firstborn if his elder brother had been exposed? The texts do not deal with such problem, but they do imply another. Generally a child born dead did take the position of the firstborn; however, so *m. Bek.* 8 informs us, if the dead foetus was very seriously malformed, the next son acquired the privilege. A seriously malformed foetus was not considered a dead firstborn. Moreover, *m. Yeb.* 7.3 states the rules according to which a foetus did or did not inherit from his father. Everything seems to lead to the conclusion that the Rabbis here codified the Law as it was indeed practised and did not describe a utopian situation. They only seldom deal with the juridical consequences of exposure, and they hardly considered it common.

We are presumably correct in postulating a significant social and perhaps also juridical control in Palestine, making exposure of children difficult for Jews in the Holy Land, before as well as after the Fall of Jerusalem. The line goes from 1 *Enoch* to the early Rabbis. Between them we have, besides the lost original of the *Epistle of Barnabas* and the *Didache*, Josephus's witness, which, although apparently idealistic, is hardly an individual opinion, but reflects a legal consequence of exposure. There is no need to assume a break in the tradition. It is worth noting that the regime of Judah the Patriarch enabled the Rabbis to expand their authority, but the early rabbinic works do not assume anything which could be interpreted as tension because of some new restrictions concerning exposure. R. Judah supposed that a foundling was not abandoned by Jews if there was a single Gentile woman in the city (*t. Makh.* 1.8). Another matter is that Palestine was inhabited not merely by Jews but also by Gentiles. In Galilee, for instance, they lived under the same administration. Generally a Greek *polis* allowed plenty of room for different ethnic groups and allowed them to build their own *πολίτευμα*, which greatly helped the daily life of Jews in the Mediterranean world. It is conceivable that this model was applied in the bilingual and culturally mixed Palestine. If this is true, the jurisdiction, whatever it was, was limited to the Jewish part of the population.

Gentiles certainly practised exposure and it is hard to believe it was punishable, for example, in Sepphoris or other thoroughly Hellenized cities. In these regions the Jews may have been content with a social and not juridical control over their own people, and the situation undoubtedly resembled the circumstances outside Palestine.

The second important area to be considered is the Diaspora. The scope for Jewish self-legislation was, surprisingly, greater than in Roman-controlled Palestine. A Hellenistic city generally allowed considerable freedom for different groups of its population. They could build their own *πολίτευμα* with their own way of life. Jews also could build their own Jewish society and follow the way of the Torah. But here too the situation in which a Jew lived could vary widely: some, for example, had to live 'in Meshech and Kedar' (Ps. 120) with very few fellow Jews, while others lived in a strong Jewish society with old traditions in a great Hellenistic city, such as Antioch or Ephesus. Generally, we are better informed about the circumstances that prevailed in Alexandria; in the case of the exposure of infants, this is undeniably the situation also.

The Jews of Alexandria were not a negligible minority. They were favoured by the Ptolemies²⁹⁶ and could build a strong, Jewish society led by their own ethnarch;²⁹⁷ they inhabited no less than two of the five citadels of the city according to Philo (*Flacc.* 55).²⁹⁸ Only a few of them were citizens of Alexandria, yet they enjoyed an intermediate position between the Greeks and the native Egyptians. The life of the community meant a continuous struggle concerning their status, which was unclear: they could live according to their traditional customs, but, although, for instance, Josephus claims that Alexander the Great had given them equal rights with the Greeks (*Apion* 2.36; *War* 2.487), that was not their real status.²⁹⁹ Claudius reminds the Jews that they did not live in their own city and that they should not expect more privileges than they possessed (*CPJ* 153).³⁰⁰ Nevertheless, their own courts were among their privileges. So, did the Jews in Alexandria ever expose their children?

296. See Collins 2000: 113-19 and Koskenniemi 2002: 20-23.

297. Josephus quotes Strabo, saying that the Jewish ethnarch led the Jews 'just as if he were the head of a sovereign state' (*Ant.* 14.117). However, Augustus apparently abolished the office of ethnarch in 11 or 12 CE and replaced it with a *γερονσία*. Notwithstanding, the Jews could still live according to their own traditions and their status was not drastically altered (Collins 2000: 114).

298. See Koskenniemi 2002: 22.

299. On the legal status of Jews in Alexandria, see Weiss 1978: 262-64; Kasher 1985: 18-19, 74-105; Grabbe 1994: 399-401.

300. On the discussion of Claudius's vague words, see Collins 2000: 120-21.

Many important texts we have were written in Egypt. The first witness is the LXX, which, though hardly offering an innovation, does reflect the ethical views of the community.³⁰¹ Philo, as well as Pseudo-Phocylides, 3 *Sibyllines* (if written in Egypt) and perhaps also *Wisdom* condemn exposure. But why did they treat the theme? Did they intend to speak to Gentiles or to Jews or to both? Reinhartz studies the passages written by Philo and, like others before her, asserts that the intended audience were Alexandrian Jews who practised exposure.³⁰² The question of the intended audience is very difficult. On the one hand, Philo obviously included also Gentiles among his readers, and expected all nations to reject their way of life and accept the Mosaic Law (*Mos.* 2.43-44).³⁰³ This is an element that Reinhartz overlooks. Philo certainly directed his words also to Gentiles, either to some of them or even to all of them. On the other hand, it is hard to believe that the 'guardians' (*Spec.* 3.112), 'parents' (*Virt.* 131) or 'good sirs' (*Virt.* 133) were solely Gentiles. Philo was obviously familiar with exposure and nowhere does he say that it did not occur among the Jews. He seems to offer a desperate plea not to abandon babies and addresses it to Jews.

While Reinhartz' article is important, it is merely the beginning of the problem. If Alexandrian Jews practised the exposure of babies, who perpetrated it? How, and how widely was it practised? Did Philo have any other means to oppose it than by writing and preaching? Again, we must deplore the scarcity of the sources and can only hesitantly ask, What can be said?

The practice of exposing children cannot be treated separately from other sexual ethics, not least because a significant reason for abandoning a baby among the Gentiles was illegitimacy.³⁰⁴ Although there is no reason for idealism, sexual discipline was undoubtedly stricter among individuals with a strong Jewish identity, although perhaps looser in the more assimilated circles. Philo (*Ios.* 40-43) has Joseph explain to Potiphar's wife the strict Jewish sexual ethics, which prohibited premarital sex. As also in the Greek world,³⁰⁵ Jewish girls married early, which considerably reduced the number of premarital children. The rabbinic texts give twelve as a good age for marriage, but the scarce non-literary evidence supports the view that a later age was not

301. See above, pp. 19-21.

302. Reinhartz 1992: 42-58.

303. The Gentiles studying the Torah were not merely imaginary, but many non-Jews did take part in a yearly festival remembering the translation of the Hebrew Old Testament in Greek, see Borgen 1997: 18-19.

304. See above, p. 4.

305. See Kreemer 1993: 104-105.

unusual.³⁰⁶ Another reason for exposure, that the father was not the husband of the woman, may have occurred sporadically. If Jews practised exposure, the main reasons may have been medical and financial, so that families did not raise disabled children. Another possibility is that they did not want another child, perhaps of the 'wrong' gender. What can we suppose?

We have considerable literary evidence against the practice from Egyptian Jews. Philo was clearly not the only writer who condemned it. The passages in Philo, Pseudo-Phocylides, *Sibyllines* and *Wisdom* were not merely personal opinions but undoubtedly reflected a wider Jewish view. Unhappily we know very little about the social relationships among the Alexandrian Jews. Undoubtedly the life in a minority among Gentiles had much in common with the life of all minorities in the world in all times: some people assimilated less and some more to the way of life of the majority. Although the Diasporan Jews were nowhere as well organized as in Alexandria, the Gentile way of life tempted people also here. The upper class was prohibited by Claudius in 41 CE from participating in the games at the gymnasia, which implies that this was allowed before.³⁰⁷ Classical education and perhaps also full citizenship necessarily meant compromises and the risk of adaptation and assimilation. Philo is aware of the dangers of Hellenistic education.³⁰⁸ Conceivably, the life of the Jewish lower classes was no less easy. No one should regard a Jewish society as a monolithic unity practising only the way of the Torah.³⁰⁹ It was possible for everyone to go more or less consciously the way chosen by Tiberius Alexander.³¹⁰ This relative of Philo and later governor of Judaea, according to Josephus, 'left the paternal way of life'.

The non-literary evidence provides only a few hints that point in opposite directions. This evidence is scrutinized in the next chapter. But the strong literary evidence against the practice implies a social control, which undoubtedly was considerable and could not be disregarded by individuals with a strong Jewish identity. We cannot exclude the possibility that the social control also had juridical consequences. However, it was always possible to cut off roots and accept estrangement. Moreover, while it was strictly forbidden for a Jewish woman to marry a Greek, teachers actually knew how to deal with the reality and not only with the

306. See Archer 1990: 151-53; Kraemer 1993: 105; Ilan 1995: 65-69.

307. See CPJ 153 and Tcherikover *et al.* 1957: 37-39; Sandelin 1999: 367.

308. As Borgen notes, the treatise *De congressu quaerandae eruditionis gratia* is *inter alia* Philo's warning directed to the Jewish youth because the studies also threatened their beliefs. The dangers of secular studies concerned Philo even in *All.* 3.167; see Borgen 1997: 162-65.

309. Heinemann 1932: 393 and Stern 1974: 1: 33.

310. On Tiberius Alexander, see Grabbe 1994: 438-39.

ideology. It happened, and the rule was to circumcise the children from these marriages. Timothy in Acts 16.1-3 is a good example of a phenomenon, which should not have existed. Timothy was the son of a Jewish mother and a Greek father, and Luke reports that Paul circumcised him.³¹¹ The situation with exposure was analogous, as was the solution: it was forbidden but practised to an extent we cannot determine, and if the city was mainly inhabited by Jews, the child was considered a Jew. The only way to prohibit it was continuous teaching. Every text mentioning exposure also attests that the practice was known and considered acceptable. That so many texts written by Egyptian Jews deal with the practice shows the effort to save the life of the Jewish children. The Gentile world continuously challenged the entire sphere of Jewish sexual ethics, and the ban to expose children was not an exception.

2.5. Contrary Evidence?

The texts quoted above reveal a strong Jewish opposition to the practice of abandoning or killing newborn babies. However, as seen above, some scholars familiar with the texts still claim that the practice was more or less common among the Jews: although the religious teachers banned exposure, people used their own judgment and disregarded the rules, just as Greek philosophers could criticize exposure but it was always practised notwithstanding. We have investigated the question from the medical, juridical and social points of view. We may suppose that the critical texts imply that some Jews exposed, or were at least tempted to expose, their children. After all this, it remains to ask whether we have any direct or indirect evidence of the Jewish way of life which contradicts the texts cited or supports them.

The Jewish family, a long-neglected theme, has been a subject of intense research during the last twenty years. The non-literary evidence too is widely used and many important works also deal *en passant* with exposure.³¹² Nevertheless, it is almost impossible to use this evidence to find a certain answer to the question of whether or not Jews exposed their children. It would be essential to study the practice of exposure among the Jews and Gentiles by examining the number of children in the

311. Many scholars doubt the historicity of the story, but it is unimportant for our theme; see Levinskaya 1996: 12-17; Cohen 1986: 251-68; Fitzmyer 1998: 574-75. However, some scholars deny that a son born to a Jewish woman would have been considered a Jew, which would mean that the Lucan story would not reflect real life in Asia Minor in the first century at all (see Fitzmyer 1998: 574-75). But *m. Qid.* 3.12 certainly proves that a situation mentioned in Acts was observed at least a little later.

312. The main works are Mayer 1987; Archer 1990; Cohen (ed.) 1993; Ilan 1995, 1999.

families and comparing the Jewish families with the pagans. If this were feasible, it would be easy to arrive at the number of exposed children. However, the definition of the size of the families is well nigh impossible. The documents do mention families, both Jewish and pagan, with many or few children. In most cases we do not know whether all children are mentioned, whether the family was young and later had several children, or whether it had lost children without exposing them. No comparison can be made, but some remarks are possible. We must examine in particular the non-literary evidence. Some of it consists of the papyri, especially the papyri from Elephantine, and the useful collection of Jewish papyri, *Corpus Papyrorum Judaicarum*. Moreover, some references in the literature may help us further. Although the direct evidence is meagre, we read about several large, but also about very small families.

Direct evidence?

A document that can serve as direct evidence of the Jewish exposure of children is the CPJ 1.156d (= *P.Cairo* 10448), a fragment of *Acta Isidori et Lamponis*. Isidorus, the anti-Jewish gymnasiarch³¹³ in Alexandria and a petty demagogue according to Philo (*Flacc.* 128-35), was sued because of his cruel deeds at the court of Claudius (41 CE). *Acta Isidori* reported on this trial and on the hard struggle between Claudius and Isidorus. Because of his frivolous attacks, Isidorus was sentenced to death; yet this did not end his assaults, which were now directed against the Emperor himself:³¹⁴

Claudius Caesar: 'Isidorus, you are really the son of a girl-musician'.
Isidorus: 'I am neither a slave nor a girl-musician's son, but gymnasiarch of the glorious city of Alexandria. But you are the cast-off son of the Jewess Salome! (σὺ δὲ ἐκ Σαλώμης) [τῆς Ἰουδαίας ὑιὸς] [ἀπό]βλητος) (*P.Cairo* 10448.11).

The reading of the mutilated papyrus is doubtful.³¹⁵ However, if it is correct, Isidorus counters the verbal attack of the Emperor (meaning simply that he was 'a son of a bitch'), with a frivolous reference to the sister of Herod, who was a friend of Livia, the mother of Tiberius (Josephus, *Ant.* 18.31; *War* 2.167). Although the Greek philosophical tradition knows of many philosophers who dared to oppose their rulers,³¹⁶ this report is hardly historical.³¹⁷ Moreover, whatever Claudius was, he certainly was not the cast-off son of a Jewish woman.

313. On the office of gymnasiarch, see Welwei 1998: 19-20.

314. See Tcherikover *et al.* 1960: 66-81.

315. See Tcherikover *et al.* 1960: 81.

316. See Koskeniemi 1991: 33-34.

As seen above, the Mishnah twice mentions foundlings (*m. Makh.* 2.7 and *m. Qid.* 4.2) and the Tosefta repeats the rulings with a crucial expansion.³¹⁸ The first reference is general, but the second is significant. The Mishnah deals with a legal problem: Should a foundling be judged an Israelite or a Gentile? These passages are direct evidence that exposure sometimes occurred among Israelites, although religious teachers tried to prevent it. However, the direct evidence is meagre.

Large Families and Unexpected Newcomers

The typical Gentile family was small, for several reasons.³¹⁹ The death rate of newborn is thought to have been very high in the ancient world. Hopkins estimates that 28% of children died at birth, and that a half of the survivors lost their lives during their first two years.³²⁰ If this statistic is valid, it means that, on average, only three or four of 10 children born in a family saw their third birthday. Moreover, if the methods which Soranus and Dioscorides advocated in their works, and which Riddle proved to be very effective were practised, birth control was much more successful than presumed by earlier scholars.³²¹ Whatever the reason, families were small. According to Tarn and Griffith, judging by the non-literary material, more than one daughter was practically never raised,³²² and this agrees with Longus's words that two boys and a girl sufficed (4.24).

This does not mean that large families were impossible in the ancient world. They did exist. Early Ptolemaic officials could have three or even four daughters,³²³ and especially some Christian fathers came from families that were very large.³²⁴ If Jews did not use to abandon children, such families should also appear in Jewish texts. Indeed, the sources sometimes refer to Jewish families that are remarkably large. Such testimony can be found in both literary and non-literary sources.

The literary sources often mention families which are significantly large. 2 *Maccabees* gives the well-known account of seven brothers who confessed their belief and were all tortured to death. Perhaps these famous seven brothers were a model for some other families of seven

317. See Tcherikover *et al.* 1960: 81.

318. The passages are noted by Tcherikover *et al.* (1960: 205), but not included by most of the scholars who deny that exposure ever occurred among Jews (see above, p. 41).

319. See Brunt 1971: 146-55 and Eyben 1980-81: 7-8.

320. Hopkins 1983: 225 and Schubert and Huttner 1999: 495.

321. See below, pp. 123-25.

322. Tarn and Griffith 1953: 100-102

323. See Pomeroy 1986: 161-62.

324. On Origen, see below, p. 103, and on Basil the Great, see pp. 105-106.

sons. Josephus tells the story of a father who killed all his seven children in a militarily desperate situation and finally also his wife and himself (*Ant.* 14.429-30). Luke mentions the seven sons of the High Priest named Sceva (Acts 19.13-20) who apparently were neither sons of a Jewish High Priest nor brothers.³²⁵ The Sadducees ridiculed the belief in the resurrection, telling a story of seven brothers (Mk 12.18-27). Luke also reports (Acts 21.9) that Philip had four daughters, a situation which had ruined the economy of the man mentioned by Philostratus (VA 6.39).

The scarce evidence collected from the non-literary sources also mentions some Jewish families, which were significantly large. The mercenaries in Elephantine formed an interesting community, which is known to us from the papyri translated and commented upon by Bezalel Porten and his colleagues.³²⁶ The documents are very early (the contracts date from 495–400 BCE),³²⁷ and so do not represent the Judaism known to us from Philo's or Josephus's works or from the rabbinic writings. Their religion included many syncretistic elements. It is interesting that the community consisted of mercenaries who lived in the Diaspora, because, as mentioned above, the Milesian mercenaries in the inscriptions seem to have abandoned a great number of their daughters.³²⁸ Although the population was certainly not a typical Jewish one, the documents illuminate the daily life of these Jewish families.

The documents do not deal directly with exposure and give no direct information about the size of the families. There is, however, a document relevant to our purpose. TAD A2.7 (Porten B7) contains an interesting greeting:³²⁹

Greetings, my sisters Esweri and Zababu and Kiki. And now, I am relying upon you. Do look after those children.

This document, dated from late sixth to early fifth century BCE, mentions three sisters. While a family with four children is not big enough to surprise, three daughters are worth noting. This family had not, like the Milesian mercenaries, exposed their girls.

Corpus Papyrorum Judaicarum, a collection of the Jewish papyri compiled, translated and commented upon by Viktor Tcherikover and his colleagues, contains several documents that must be treated in the present work.

325. See Twelftree 1994: 32.

326. *The Elephantine Papyri in English. Three Millennia of Cross-Cultural Continuity and Change* (1996). A short summary of the papyri is to be found in the *Anchor Bible Dictionary* (Porten 1992).

327. Porten 1992: 450.

328. See above, p. 3.

329. Porten 1996: 106

A Jewish family with pagan leanings³³⁰ is mentioned in CPJ 3.486a-b (P.Mich. 465-66, dating from 107 CE). The Graeco-Egyptian family had acquired Roman citizenship by virtue of the fact that its members had served in the Roman army. Julius Apollinarius had two sisters, Julia and Sarapias, and a brother, Sempronius, so that the family had four children.

An in many ways interesting document is CPJ 3.518c (=The Archive of Aurelius Isidorus 77, 320 CE), which mentions a Jewish woman, Aurelia Tales, daughter of Palemon:

When my father died...fifteen years ago leaving me and another sister of mine, Koulilla by name, as his heirs, the two of us divided the legacy and each managed the arurai that fell to her share. Koulilla then married Aion, of the same village, and the two of them died, both my sister and her husband, and left behind two small daughters.

The document not only sheds light on several juridical questions, but also reports on two Jewish couples that had only two daughters. Not only the first but also the second daughter was raised. They were to be the only children to inherit from their parents.

The material is thus very sparse, but some large families are mentioned in Jewish sources. They attest that large families, which were not common among Gentiles, appeared among Jews. However, although a complete lack of such evidence would strongly suggest that the Jewish way of life did not differ from the Gentile one, sporadic references to individual families do not prove that exposure was not practised among Jews.

Small Families

The meagre evidence of Jewish families also indicates the existence of small families. The humiliating fact that Jews were forced to pay two denars to Jupiter Capitolinus after the Fall of Jerusalem could provide an opportunity to study the size of the Jewish families ('Ιουδαϊκὸν τέλεσμα, τιμὴ δηναρίων δύο Ἰουδαίων). Josephus (*War* 7.216-18) and Cassius Dio (66.7.2) mention the tax, and we have a number of documents from Egypt confirming it. It was paid by every Jew, male and female, from the age of 3 to 62 years (CPJ 2.421). In Egypt the annual rate was 8 Egyptian drachmai and 2 obols.³³¹ Unhappily, almost all of the extant documents concern only one or a few individuals, and so they do not help us further. Some taxation documents, however, may prove enlightening.

330. 'The pagan character of the family is attested by the casual mention of Sarapis and the "gods"' (Tcherikover *et al.* 1964: 64).

331. See Tcherikover *et al.* 1960: 112-19.

The most important text is *CPJ* 2.421 (= *P.Lond.* 2.260-61, dated to May 16th, 73 CE). This extensive papyrus mentions a woman aged 61 and five other women and their husbands. However, the document lists only four children. This led Tcherikover to ask whether the families had abandoned a number of their children. On the other hand, he also offered alternative explanations, such as suckling, which reduces fertility, or the high mortality rate.³³² The age of the women is legible in four cases and all were young (18, 20, 22 and 22 years, respectively). On the other hand, they had married early and only one of them (Philous, 22 years old) had two children.

Another taxation document is *CPJ* 3.485 (= *P.Hamb.* 60A, dated to 90 CE). It describes an entire Jewish family:

In accordance with the orders of the most excellent prefect Mettius Rurus, I declare, for the house-by-house survey of the ninth year of Domitian Caesar the lord: myself, the above-mentioned Pascheis, son of Kapais and grandson of Sambatheios, mother Cheanoupis daughter of Pascheis: ...years old. Harpaesis, my son, a doctor, mother the same: 20 years old, a scar on the forehead. Grandchildren: a son of Inarous, Tothes, mother Tapsotis daughter of Diskas, one year old... taseus my daughter: 17 years old... tanarous another daughter: 14 years old. I swear by the Tyche of Imperator Caesar Domitianus Augustus Germanicus that there is no house or other landed property belonging to me, and that I have no other sons or anyone else undeclared apart from those mentioned above.

Pascheis's family consisted of a son and two daughters, all between 14 and 20, and this time we happen to know that he had no more children. What makes the family atypical is the ratio of daughters to sons. However, it can also be asked why he had only three children and whether the answer is that the remainder were abandoned. However, no wife is mentioned and we do not know when the marriage had ended. Pascheis's son, 20 years old, already has a one year-old son, and thus he married his wife at the age of 18 at the latest.

All in all, many small families are mentioned in the sources, and it is understandable that Tcherikover did not exclude the possibility that Jewish families had abandoned a number of their children. Mayer gives a list of 35 families and makes some important observations. These families had averaged 2.7 children and about twice as many sons as daughters.³³³ There are, however, several grounds for caution.

For one thing, the counted average 2.7 sounds small; however, the number of children in these Jewish families is based on empirical data and we do not usually know whether or not more children were born to

332. Tcherikover *et al.* 1960: 205.

333. See Mayer 1987: 72-73. The male-female ratio is treated below.

them. The study of Jewish skeletal remains shows a very high infant and child mortality rate. The Herodian period French Hill cemetery, perhaps used by the wealthier classes, suggested a mortality rate of 30%, while up to 47% of the individuals at Meiron died before the age of eighteen.³³⁴ Such a rate means that out of ten children only five survived. The average is thus high rather than low. By contrast, the ratio between males and females has to be explained.

If exposure constituted a means of family planning it certainly was not the only method used. Although teachers disagreed on the number of children, they gave instructions concerning when the religious duty to procreate was fulfilled.³³⁵ We do not know what happened after that, but the rabbinic sources reveal that teachers had different opinions on contraceptive method,³³⁶ and that these means were obviously used. Moreover, if the children were nursed until the age of two years, which seems to have been usual,³³⁷ the women's fertility would diminish considerably. Sexual continence is, of course, not excluded.

Male / female ratio

As shown above, the Greeks and Romans clearly preferred sons to daughters, and girls were undoubtedly abandoned more often than boys.³³⁸ It is important to remember that Jewish texts, from the Old Testament on, share the view that the birth of a son is preferred to the birth of a daughter.³³⁹ Abraham hopes for a son, not a daughter. Ben Sira formulates his view:

It is a disgrace to be the father of an undisciplined son, and the birth of a daughter is a loss (Sir. 22.3).

The view of these writers is obvious. However, did Jewish families hoping for sons abandon their daughters? Some scholars, well aware of the fact that sons were preferred, claim that daughters were not abandoned regardless.³⁴⁰ Again, we regret that we have insufficient statistical data to find a sure answer. However, the fragmentary evidence we have is astonishing, and points in diagonally opposite directions.

334. See Smith and Zias 1980: 109-15.

335. See above, p. 51.

336. See above, pp. 54-55.

337. Nursing a child was considered a duty (see *m. Git.* 7.6 and Yarbrough 1993: 46); *2 Macc.* 7.27 mentions that children were nursed for three years. On different views concerning how long it was allowed to suckle a child, see Ilan 1995: 120-21.

338. See above, pp. 3-4.

339. Comprehensive surveys of the evidence are found in Archer 1990: 17-29 and Ilan 1999: 44-48.

340. Archer 1990: 17-29 and Ilan 1995: 47-48.

On the one hand, Mayer analyzed Jewish families and found that sons are mentioned twice as often as daughters.³⁴¹ This result would indicate that Jewish parents abandoned their daughters as frequently as Gentiles did – contraception and abortion cannot explain the imbalance.

Yet, on the other hand, archaeologists have excavated human bones from Jewish cemeteries and although regulations imposed by the modern state of Israel severely limit the opportunities to examine the finds, they have been able to investigate the number of children and adults, and even of males and females. Ilan surveys the skeletal remains found in ossuary tombs in Second Temple Palestine, and finds that the numbers of females (78) and males (77) are strikingly close in cases in which the gender was successfully identified. When other datable individuals from the period were added, the palaeoarchaeologists could identify 182 males and 226 females. Because the evidence also shows a significantly higher death rate of young girls than boys, there is no proof that newborn girls were exposed.³⁴² However, it is wise to remember that the fragmentary evidence was collected in Palestine and not in the Diaspora. Nevertheless, a clear difference from the Gentile practice may be postulated.

Conclusion

The fragmentary sources cannot give a final answer to the question of whether or not Jewish parents abandoned their children. Some large families appear, but this only proves that these had not abandoned their children. Small families appear too, but in most cases we cannot determine whether or not the family was still going to grow larger. The male/female ratio seems to attest that girls were not abandoned more often than boys, although sons were preferred.

Some scholars, such as Stern, Archer and Ilan state categorically that Jewish families did not abandon their children.³⁴³ Actually, almost all contrary evidence is lacking and this enables Ilan to remain sceptical 'until a Jewish source is discovered, which deals with this matter, or until it can be proved from existing Jewish sources that Jews did in fact abandon daughters'.³⁴⁴ Although she has every reason to emphasize that there is very little direct evidence of exposure among Jews – either of daughters, sons or disabled children – a more cautious formulation

341. Mayer 1987: 72-73.

342. See Ilan 1999: 195-214. Ilan and Kraemer (1993: 108) explain the high mortality of girls with illnesses, noting that they were on the bottom of the priority list for food when it was scarce.

343. Stern 1974: 1: 33-35 and Archer 1990: 27-29.

344. Ilan 1995: 48.

should be preferred. The critical words of the ancient Jewish writers quoted above imply that they were not satisfied with what they saw. The *Sibyllines*, 1 *Enoch*, Philo and Pseudo-Phocylides did not describe an exclusively Gentile way of life when they strongly attacked the practice. They did so because they encountered the problem on a scale we cannot determine. The passages on the status of foundlings in the Mishnah and the Tosefta should not be overlooked. However, the ethical instruction given among Jews did everything to prevent exposure. It was considered a major sin that only an ungodly and merciless people could commit. A social control but maybe also juridical sanctions apparently strongly reduced exposure among Jews, yet it is going too far to say that it never happened.

Chapter 3

EARLY CHRISTIANITY

Jewish texts have all too often been overlooked when exposure in the Mediterranean world was investigated. It is now time to turn to the Christian texts, which are often far better known. However, the traditions and links to the Jewish view have only been considered *en passant*. In the present chapter, the texts are first collected and quoted in context and then the arguments are analyzed.

3.1. *Texts and Preliminary Notes*

3.1.1. *Before Nicaea*

The New Testament

The New Testament does not explicitly ban the exposure of children.¹ Side by side with the mention of Moses' exposure (Acts 7.19) one passage in Ephesians should be considered:

Fathers, do not exasperate your children; instead, bring them up in the training and instruction of the Lord (Eph. 6:4).

The text does not say παιδεύετε but ἐκτρέφετε αὐτὰ ἐν παιδείᾳ. The verb ἐκτρέφειν means 'bring up from childhood' as well as 'rear'.² Only after this is 'instruction' (παιδεία) possible.³ The writer does not simply ban the well-known practice because he would have formulated it more precisely; he outlines the duty of the father and thereby reflects the way of life in which the children were raised.⁴

1. Most texts from the New Testament quoted by Boswell (1988: 152-56) have nothing to do with the exposure of the newborn children. His view of 'abandonment' involves a far wider perspective (see above, p. 13).

2. LSJ, s.v. τρέφω. After van Unnik's detailed study (1973), the verb ἀνατρέφω used in Acts 22.3 plays a major role when pre-Christian Paul is investigated. It does not refer to Paul's education, but to his childhood. Without the prefix the verb has a very concrete sense.

3. Thurén 1995: 196.

4. The longer version of Ignatius's *Epistle to the Philadelphians* contains similar words: '[Fathers,] bring up your children in the nurture and admonition of the Lord', *Ep.* 8). However, this version was written c. 380 CE (see Altaner and Stuiber 1980: 48, 256).

A further text is certainly worth noting. Luke describes a meeting between two pregnant women, Elizabeth and Mary, during which, upon hearing Mary's greeting, the baby inside the pregnant Elizabeth leaped for joy (Lk. 1.44). Paul too, equating himself with Jeremiah (Jer. 1.5), says that God had chosen him in his mother's womb to serve him (Gal. 1.15). Luke and Paul therefore reflect the Jewish view, documented above,⁵ that persons exist in a certain sense before their birth. Understandably, a view so vividly represented in both parts of the Bible and in Early Judaism was also prominent in Early Christianity.⁶

The Epistle of Barnabas and the Didache

The *Epistle of Barnabas* and the *Didache* contain similar passages on the two ways, the way of lights and that of darkness, the reason being the Jewish original which was used in both of them.⁷

The *Epistle of Barnabas*, a pseudonymous work, was written soon after 100 CE.⁸ Like the *Didache*, it also includes a ban on exposure in the passage dealing with the two ways. Exposure is treated twice in this passage. Describing the way of light the author writes as follows:

Do not abort a foetus or kill a child that is already born (Οὐ φονεύσεις τέκνον ἐν φθορᾷ οὐδὲ πάλιν γεννηθὲν ἀνελεῖς) (*Barn.* 19.5, trans. Ehrman).

Reciprocally, the way of darkness is described in dark colours, one feature of it being that men kill their children.

For they love what is vain, and pursue a reward, showing no mercy to the poor nor toiling for the oppressed; they are prone to slander, not knowing the one who made them; murderers of children and corruptors of what God has fashioned (*Barn.* 20.2).

5. See above, pp. 44-46.

6. Clement (*Ecl.* 50 CGS 17: 150-51) refers to an unnamed earlier 'elder' (πρεσβύτης) giving a detailed explanation of how the soul enters the fruit of the womb at the moment of conception. Tertullian also vehemently attacks the view of Plato and Stoic philosophers that a person receives one's soul at birth and claimed that a foetus (but not an unformed one) is a human being (see Tertullian, *De anima* 25 CCL 2: 818-21) and Koskeniemi 2009).

7. See also above, p. 30.

8. The crucial passage for the dating of the work is 16.3-4, on temples, but scholars have made various suggestions. Altaner and Stuiher set the *terminus post quem* either at 115 or at 130 (1980: 53-55). According to Carleton Paget (1994: 17-30) the passage fits Nerva's times (96-98), but Hvalvik (1996: 18-23) supposes the years between 130 and 132 (see also Drobner 1994: 29-30). Earlier scholars thought that the work was written in Egypt, but now the geographical location is uncertain (see Hvalvik 1996: 35-42). Finally, Carleton Paget (1994: 30-42), after thorough argumentation, considers Alexandria probable, although not certain.

When a manuscript containing the *Didache* was discovered in 1873, scholars soon realized that the wording of *Barn.* 18.1–20.2 resembles that of the presentation of the two ways in *Didache* 1–6, illustrating that the two writings were partly identical. A fervent scholarly debate led to the conclusion, which is now generally accepted, that the *Epistle of Barnabas* did not directly use the *Didache*, nor vice versa, chiefly because there are few, if any, allusions between the works outside the present passage. It seems, rather, that both writers drew on a common source now lost.⁹ This source was likely a Jewish work superficially Christianized in the *Epistle of Barnabas* and the *Didache*. The original was used in religious education, and, contrary to the older view, not in proselytizing mission but in intra-Jewish instruction.¹⁰ Actually, the affinity with the verses of Pseudo-Phocylides on family ethics implies that also this work apparently served similar purposes.¹¹

The main theme of the *Epistle of Barnabas* is the relation between the Jews and Christians, and the writer adopts an interesting position: on the one hand, he denies that Jews were or ever had been in covenant with God because they already rejected the Law when it was given them by Moses (4.8). On the other, however, he uses every method of Jewish exegesis, and far from rejecting the Old Testament, as did Marcion, he gives instructions which clearly show his dependence on the Jewish heritage.¹² A part of this heritage was the ban on the abandonment of children.

The *Didache* contains very Early Christian traditions, but it is now clear that the work was redacted later than was initially believed in the excited atmosphere after its publication. The work was redacted between 110 and 120 CE, probably in Syria or Palestine,¹³ and twice deals with exposure. Like the *Epistle of Barnabas*, the *Didache* too presents two ways, the way of light and the way of darkness. The traveller on the way of light receives much advice:

Do not steal, do not practice magic, do not use enchanted potions, do not abort a foetus (οὐ φονεύσεις τέκνον ἐν φθορᾷ) or kill a child that is born (οὐδὲ γεννηθὲν ἀποκτενεῖς) (*Did.* 2.2; trans. Ehrman).

A long list of terrible, evil deeds committed on the way of death also includes infanticide:

9. See Carleton Paget 1994: 80-81; Prostmeier 1999: 106-11.

10. See above, p. 31.

11. See above, pp. 37-38.

12. Vielhauer 1975: 601-607.

13. Altaner and Stüber (1980: 79-82) and Köster (1980: 593) still suppose that the work was written in the late first century, but see Niederwimmer 1989: 78-80; also Drobner 1994: 46-47.

...For they love what is vain and pursue a reward, showing no mercy to the poor nor toiling for the oppressed nor knowing the one who made them; murderers of children and corruptors of what God has fashioned... (Did. 5.2).

Because the verbal agreements are generally rare, it is clear that the two Christian writers did not use the Jewish treatise in an identical form. The history of the Jewish original, which is also reflected in other Christian works, can only be hypothetically envisaged.¹⁴ At any rate—which is important to our theme—the original was written in a pre-Christian period and included a ban on the abandonment or killing of newborn children. The texts apparently repeat the original because the words are almost identical (Οὐ φονεύσεις τέκνον ἐν φθορᾷ οὐδὲ πάλιν γεννηθὲν ἀνελεῖς / οὐ φονεύσεις τέκνον ἐν φθορᾷ...οὐδὲ γεννηθὲν ἀποκτενεῖ). A strong Jewish influence can be perceived in the *Epistle of Barnabas* and the *Didache*.

Consequently, the passage dealing with the two ways (chs. 1–6), to which the quoted words belong, was not composed by the writer of the *Didache*. It is important to realize that Early Christianity very soon adopted an approach to teaching which resembles later catechisms.¹⁵ More precisely, *Didache* 1–6 is considered to be a baptismal catechism, not least because 7.1 describes the baptism that will be performed when the instruction contained in the text is complete.¹⁶ It is obvious that the reason why the Jewish passage is also quoted in the *Epistle of Barnabas* is that the treatise was used in ethical instruction. This means that the treatise about the two ways soon found a role in Early Christian education. The ban on the exposure of children, mentioned twice, was a part of this ethical teaching in the *Didache*.

The Apocalypse of Peter

We have only fragments of *The Apocalypse of Peter*, a text written before 180, but after about 100 CE.¹⁷ A fragment was discovered in 1886/87 at Akhmim in Egypt, and an Ethiopian version soon came to light (published in 1910). The two versions differ markedly from each other, and most scholars consider the Ethiopian version to be closer to the original; this view is strongly advocated by Buchholz in his new edition of the

14. See Niederwimmer 1989: 55–64.

15. See Köster 1980: 593–94.

16. See Niederwimmer 1989: 11.

17. Altaner and Stuiber 1980: 141–42. The writer seems to have known 4 *Ezra* (about 100 CE), and is quoted by Theophilus of Antioch (about 180). Buchholz considers it to be a product of the Johannine circles which opposed the high Christology. According to him, ch. 2 refers to Bar Kokhba as the false Messiah, and the work dates from between 132 and 135 CE (Buchholz 1988: 428–29).

Ethiopian text and the commentary thereon.¹⁸ However, the framework of the work is clear enough: the disciples ask and the Lord answers concerning the Last Judgment. The text describes the punishments that the sinners will suffer after death. The passage interesting to our theme is given in both versions and Clement of Alexandria too refers to this section. The Ethiopian fragment reads as follows:

Near this fire is a huge pit, very deep. All sorts of punishments flow into it from everywhere, loathsome menstruations. The women there are swallowed up to their necks, tortured with intense agony. These women abort their children, wiping out the work, which God has moulded. Facing them is another place where the children live, those children, which they kept from living. 'When the babies call out to God, lightning comes out from them, boring into the eyes of the women who managed their destruction with this adultery.

Above there, other men and women are standing naked. Their children stand facing them in a delightful place. As the children wail, they groan and call out to God against their parents: 'They neglected us and cursed us, and violating your commandment, they put us to death. They cursed the angel who formed us, and they hung us up. They begrudged us the light which you gave to everybody.' Their mothers's milk runs from their breasts. It thickens and becomes putrid. Meat-eating animals are in it, and they go in and out of it, and they are punished forever, with their husbands. For they abandoned the Law of God, when they killed their children. But the children will be given to the angel Temlakos. Their killers will be punished for ever, because God has required it (8.1-10, trans. Buchholz).

The Akhmim fragment contains a short form:

And near that place I saw another strait place into which the gore and the filth of those who were being punished ran down and became there as it were a lake: and there sat women having the gore up to their necks, and over against them sat many children who were born to them out of due time, crying; and there came forth from them sparks of fire and smote the women in the eyes: and these were the accursed who conceived and caused abortion (Akhmim fragment 24, trans. ANF).

An interesting feature of the text is the mention of the angel who formed the children. Several Jewish texts quoted above described the post-mortem punishment of the sinners and this text joins the tradition. Sometimes these texts mention angels who take care of children, such as Temlakos here; sometimes it is an angel punishing the parents. However, here an angel who formed the children is also mentioned. The angels share in God's creative work; to be sure, the fullest account of it is given in a Gnostic text considering the angels evil and the creation a crime (*Apocryphon Johannis* 15-17). However, one unjust deed among others to

18. On two different opinions, see Buchholz 1988: 107-109. Buchholz presents his own view in 1988: 376-430.

be severely punished is the ill-treatment of children. Abortion is mentioned in both versions of *The Apocalypse of Peter*, but the second group, named only in the Ethiopian text, had obviously exposed their children ('they put us to death')¹⁹ and receive their punishment.²⁰

Justin Martyr

Justin Martyr, martyred between 163 and 167,²¹ was born in Samaria (see 2 *Apol.* 15.1 [ed. Marcovich]). This well-educated Christian wrote the first apologies known to us and addressed them to the emperors Antoninus Pius, Lucius Verus and Marcus Aurelius, and to the Roman Senate. His works show a deep knowledge of both the Old Testament and the Graeco-Roman philosophic tradition. The man, a middle Platonist before his conversion, was willing and able to defend Christian belief in debates with Greek scholars. He is one of the first theologians to combine the Jewish, Greek and Christian traditions into one great river in his writings. This makes him a pillar of Christian theology concerning the way of teaching Christian beliefs and morals. In his *First Apology*, written about 156 CE,²² Justin defends the Christians against the accusations that they ate children at their holy meals. He goes on:

But as for us, we have been taught that to expose newly-born children is the part of wicked men; and this we have been taught lest we should do any one an injury, and lest we should sin against God, first, because we see that almost all so exposed (not only the girls, but also the males) are brought up to prostitution. And as the ancients are said to have reared herds of oxen, or goats, or sheep, or grazing horses, so now we see you rear children only for this shameful use; and for this pollution a multitude of females and hermaphrodites (ἀνδρογύνων ... πλῆθος), and those who commit unmentionable iniquities, are found in every nation. And you receive the hire of these, and duty and taxes from them, whom you ought to exterminate from your realm. And any one who uses such persons, besides the godless and infamous intercourse, may possibly be having intercourse with his own child, or relative, or brother (1 *Apol.* 27.1-3 [ed. Marcovich, trans. ANF]).

When writing the *First Apology*, Justin was perhaps concerned about some recent incidents. The situation was generally dangerous for the Christians and apparently Polycarp of Smyrna had recently been martyred.²³ The rumours that Christians ate children could not be passed

19. See Gray 2001.

20. On the Ethiopian passage, see Buchholz 1988: 316-22.

21. On Justin, see Quasten 1950 (1986): I, 196-219; Altaner and Stüber 1980: 65-68; Köster 1980: 779-83; Grant 1988: 50-55; Drobner 1994: 58-64; Rokeah 2002: 1-11.

22. See Grant 1988: 52-53.

23. Scholars disagree about the date of the *First Apology*; for example, Drobner dates it between 153 and 155 (Drobner 1994: 60).

over in silence, but could prove deadly; Tertullian reports that similar charges led to the crucifixion of Punic priests.²⁴ But also recent incidents prompted Justin to dwell on the strict sexual morals of the Christians.²⁵ He goes on to emphasize the continence of the Christians:

And again [we fear to expose children], lest some of them be not picked up, but die, and we become murderers. But whether we marry, it is only that we may bring up children; or whether we decline marriage, we live continently (*1 Apol.* 29.1 [ed. Marcovich, trans. ANF]).

Justin thus claims that sexual relations occur among Christians only to procreate children (*1 Apol.* 29.1 [ed. Marcovich]). His words are a typical example of how early Christians—as also early Jews—endeavoured to present themselves to Gentiles as an ideal people. Now the reason was not that Justin sought philosophical debate, but the feared imminent threat of martyrdom among Christians. A part of the apology consisted of the claim that, unlike the Gentiles, the Christians did not abandon their children and that they practised sex only in marriage and only to produce children. Such passages were, of course, not descriptions of the daily life in the congregations, the goal of the presentation being to defend and praise persecuted Christians. However, it is important to observe that Justin emphasizes the chain of the tradition: Christian people lived and taught according to what they were taught to do.

Athenagoras

The tradition of the apologists flourished after Justin. One of them was Athenagoras, who wrote his work *The Supplication for the Christians* between 176 CE and 180 CE, addressing it to Marcus Aurelius and Commodus. Like Justin, he was a well-educated man by no means hostile to the Greek philosophy.²⁶ He also deals with exposure:

24. See below, p. 127.

25. Justin reports an important passage concerning a young Christian man willing to go to a surgeon to make himself a eunuch. When the governor refused the permission required, the man remained single (*1 Apol.* 29.2-3 [ed. Marcovich]). In the *Second Apology* Justin also deals with a case in which a young Roman man notified the authorities that his wife's teacher was a Christian; the teacher was duly sentenced to death (*2 Apol.* 2 [ed. Marcovich]). Apparently both these incidents confused the atmosphere, which was heated enough already without them; see Grant 1988: 66-73.

26. On Athenagoras, see Quasten 1950 (1986): I, 229-36; Schoedel 1972: 9-34; Altaner and Stuiber 1980: 74-75; Grant 1988: 100-11; Drobner 1994: 67-70. Boswell (1988: 155) claims that Athenagoras 'was the first of the "Fathers of the Church" to offer a substantive comment on the topic'. He thus overlooks all the previous work, except Justin's, whom he wrongly considers Athenagoras's contemporary.

Again, what sense does it make to think of us as murderers when we say that women who practice abortion are murderers and will render account to God for abortion? The same man cannot regard that which is in the womb as a living being and for that reason an object of God's concern (καὶ τὸ κατὰ γαστρὸς ζῶον εἶναι καὶ διὰ τοῦτο αὐτοῦ μέλειν τῷ θεῷ) and then murder it when it has come into the light. Neither can the same man forbid exposing a child that has been born on the grounds that those who do so are murderers and then slay one that has been nourished. On the contrary, we remain the same and unchanging in every way at all times: we are servants of reason and not its masters (δουλεύοντες τῷ λόγῳ καὶ οὐ κρατοῦντες) (*Leg.* 35.6 [ed. Schoedel]).

Like Justin, Athenagoras too defends the Christians against charges that they practised incest and that they killed and ate children. This is a major issue in his apology, mentioned in the preface (2.6–3.1) and treated extensively in chs. 31–37. The oration of Fronto, the former advisor of the emperor, may have given prominence to the charges, but they were not his own inventions.²⁷ Athenagoras's argument is that such an act is not possible without a murder and the Christians are famous for defending human life. One example thereof is that they avoided gladiatorial shows,²⁸ another that they did not expose their children nor allow abortion. Sexual continence is self-evident among the people who consider procreation the only reason for marriage, for whom a second marriage is but a respectable adultery, while many of them refrained from sexual intercourse (*Leg.* 32–33 [ed. Schoedel]).²⁹

The Epistle to Diognetus

An anonymous work called the *Epistle to Diognetus*, written at the end of the second century CE,³⁰ follows the apologetic tradition. The apology was written about 176 CE and is sometimes ascribed to Pantaenus, the teacher of Clement.³¹ The work is addressed to one Diognetus,³² a Gentile keen to study Christian faith. The *Epistle to Diognetus* stands in the tradition attempting to give answers to philosophically educated Gentiles,

27. See Grant 1988: 102. According to Minucius Felix (9.6; 31.2), Fronto had attacked Christians and claimed that they ate children. On Fronto, see Schmidt 1979: 616–17; on the charges of sacrificing children, see below, p. 127.

28. Christians were not the first to avoid gladiatorial shows. The Tosefta (*t. Abod. Zar.* 2.7) is very critical and lists the situations in which it is permissible to attend such a show—for example, to appeal for life for the loser and to witness that a man is certainly dead. Other reasons mean that a spectator is complicit in bloodshed.

29. See Grant 1988: 106. One prominent, early teacher who totally rejected marriage was Tatian, see below, p. 117.

30. See Altaner and Stuiber 1980: 77–78; Grant 1988: 178–79; Drobner 1994: 56–58.

31. See Grant 1988: 178.

32. Scholars have proposed different identities for 'Diognetus'; see Grant 1988: 178–79.

although the work does not indicate any deep knowledge of Greek philosophy. It attacks Gentile idolatry, but also the Jewish religion. The Christianity offered to 'Diognetus' is above all a righteous way of life presented especially in ch. 5. The writer also mentions exposure:

Every foreign territory is a homeland for them, every homeland foreign territory. They marry like everyone else and have children, but they do not expose them once they are born. They share their meals but not their partners (*Diogn.* 5.5-7, trans. Ehrman).

Christian ethics are illustrated very briefly, the tenor being the same as in Justin: the Christians are, for apologetic reasons, presented as an ideal community. It is interesting that one of their distinctive features is that Christians do not practise exposure. The strong position given to marriage is worth noting.

Tertullian

Justin and Athenagoras had a positive view of Graeco-Roman culture. Although Tertullian (about 160–220 CE)³³ held the opposite view, even the most vehement attacks against pagan philosophy and way of life could not undo his good education. This is clear also when he launches a counter-attack on the pagans who had criticised Christians. Two important passages are included in the work *Ad nationes*:

Meanwhile, as I have said, the comparison between us does not fail in another point of view. For if we are infanticides in one sense, you can also hardly be deemed such in any other sense; because, although you are forbidden by the laws to slay newborn infants (*legibus quidem prohibemini*), it so happens that no laws are evaded with more impunity or greater safety, with the deliberate knowledge of the public, and the suffrages (*tabellis*) of this entire age (*unius aetatis*).

Yet there is no great difference between us, only you do not kill your infants in the way of a sacred rite, nor (as a service) to God. But then you make away with them in a more cruel manner, because you expose them to the cold and hunger, and to wild beasts, or else you get rid of them by the slower death of drowning. If, however, there does occur any dissimilarity between us in this matter, you must not overlook the fact that it is your own dear children, whose life you quench; and this will supplement, nay, abundantly aggravate, on your side of the question, whatever is defective in us on other grounds. Well, but we are said to sup of our impious sacrifice! Whilst we postpone to a more suitable place whatever resemblance even to this practice is discoverable amongst yourselves, we are not far removed from you in voracity. If in the one case there is

33. On Tertullian, see Quasten 1950 (1986): II, 246-340; Altaner and Stuiber 1980: 148-63; Drobner 1994: 124-30 and esp. Osborn 1997. From the year 213 CE he belonged to the Montanists, a movement that originated in Asia Minor in 170s CE (see Drobner 1994: 92-95).

unchastity, and in ours cruelty, we are still on the same footing (if I may so far admit our guilt) in nature, where cruelty is always found in concord with unchastity. But, after all, what do you not do in excess of us? I wonder whether it be a small matter to you to pant for human entrails, because you devour full-grown men alive? Is it, forsooth, only a trifle to lick up human blood, when you draw out the blood, which was destined to live? Is it a light thing in your view to feed on an infant, when you consume one wholly before it is come to the birth? (*Ad nationes* 1.15.3-8 CCL 1: 33-34, trans. ANF).³⁴

In the first place, when you expose your infants to the mercy of others, or leave them for adoption to better parents than yourselves, do you forget, what an opportunity for incest is furnished, how wide a scope is opened for its accidental commission? (*Ad nationes* 1.16.10 CCL 1: 35, trans. ANF).

The situation in which Tertullian wrote *Ad nationes* was confused and dangerous. After Commodus, both Septimius Severus and Niger were hailed as emperors, and soon also Albinus. A bloody battle ended the open war in 197. In this situation Tertullian defended the Christian religion in the first book and attacked the Roman in the second, but he considered it wise to leave his work unfinished.³⁵ However, the first book shows how deeply indebted he was to his predecessors who had written in Greek, and this is also true concerning exposure. At any rate, Tertullian defends Christians with an emotional counter-attack, repeating the charges presented by Justin, namely, incest and utmost cruelty, when Gentiles abandoned their children.

Very soon, but in a slightly changed situation, he wrote the following in his *Apology*, addressing it to the Roman provincial governors:

But in regard to child murder, as it does not matter whether it is committed for a sacred object, or merely at one's self-impulse – although there is a great difference, as we have said, between parricide and homicide – I shall turn to the people generally. How many, think you, of those crowding around and gaping for Christian blood, – how many even of your rulers, notable for their justice to you and for their severe measures against us, may charge their own consciences with the sin of putting their offspring to death? As to any difference in the kind of murder, it is certainly the more cruel way to kill by drowning, or by exposure to cold and hunger and dogs. A mature age has always preferred death by the sword. In our case, murder being once for all forbidden, we may not destroy even the foetus in the womb, while as yet the human being derives blood from other parts of the body for its sustenance. To hinder a birth is merely a speedier man-killing; nor does it matter whether you take away a life that is born, or destroy one that is coming to the birth. That is a man which is going to be one; you have the fruit already in its seed. (*Apologeticum* 9.6-8 CCL 1: 102-103, trans. ANF).

34. On this passage, see Schneider 1968: 67-68.

35. See Grant 1988: 186-87.

The situation was still far from peaceful when Tertullian wrote his work—Severus's administration still tried to hunt their opponents in civil war. Against this setting Tertullian tried to defend the life of the Christians. This work too depends heavily on his predecessors—generally,³⁶ as well as concerning exposure. The Christians are defended against the charges of incest and child murder, and the method of defence is a vehement attack on exposure.³⁷

It is not fortuitous that Tertullian, like so many apologists, addressed his words to the leaders of the nation, although they initiated few persecutions if any. As in persecutions of Jews, the agent was the mob on the streets, which found first the Jewish and then the Christian religion offensive. Tolerance and the will to peace prospered mostly among the higher classes of the society, if anywhere. Tertullian claims that many Christians lived at Severus's court. He tells that a Christian physician named Proculus Torpacio had healed Septimius Severus *per oleum*, and that Caracalla was *lacte christiano educatus* (*Ad Scapulam* 4.5 CCL 2: 1130-31).³⁸ It was reasonable to seek help from this quarter, and many apologists tried it.

The passages in Tertullian are very important and we shall return to many of his arguments later. One interesting detail is worth noting. Tertullian claims that people were forbidden by the laws to kill the newborn children. He unambiguously addresses his words to Gentiles, not to Jews or Christians. What kind of laws does he mean? We are not aware of any non-religious law banning exposure. Does Tertullian mean God's Law covering also the Gentiles? Or does he refer to a local ordinance, or to the practice of the Egyptians? The problem is treated below.³⁹

Clement of Alexandria

Clement of Alexandria was born in Athens between 140 and 150 CE and died in 215/216 CE in Cappadocia. He is often called the first Christian philosopher⁴⁰ and he showed the way that Origen would follow. None of

36. See Grant 1988: 187-88.

37. On Tertullian's view on abortion and his distinction between the formed and unformed fetuses see Koskeniemi 2009.

38. Caracalla was born in 188 CE in Gaul, where Septimius Severus acted as governor. The Church in Lyon was severely persecuted about ten years earlier. Nine of the ten martyrs whose names we know had Greek names. Birley (1971: 124-25) assumes that the nurse in the house of the Syrian governor belonged to the part of the population that spoke Greek.

39. See below p. 134.

40. His full name was Titus Flavius Clemens. On Clement, see Quasten 1950 (1986): II, 5-36; Altaner and Stuiber 1980: 190-97; Drobner 1994: 107-11.

the Church Fathers known before him cited biblical passages, his predecessors or the Greek writers anything like as frequently as Clement.⁴¹ This means that he is certainly a good mediator of the traditional Early Christian view, probably also concerning exposure. Several works by Clement are preserved: *The Exhortation to the Greeks* (*Protrepticus*), *Paedagogus*, *Stromateis*, *Excerpta ex Theodoto*, *Eclogae propheticæ* and a sermon on Mk 10.17-31 (*Quis dives salvetur?*). Clement's writings contain several passages relevant to the present study.⁴² In *Paedagogus*, he writes as follows:

And though maintaining parrots and curlews, they do not receive the orphan child; but they expose children that are born at home, and take up the young of birds, and prefer irrational to rational creatures; although they ought to undertake the maintenance of old people with a character for sobriety, who are fairer in my mind than apes, and capable of uttering something better than nightingales; and to set before them that saying, 'He that pitieth the poor lendeth to the Lord'; and this, 'Inasmuch as ye have done it unto the least of these my brethren, ye have done it to me' (*Paed.* 3.4.30.2-3 SC 158: 66-68, trans. ANF).

The passage is typical of *Paedagogus* and it here draws a dark picture of women who love this world and are dangerous company for new Christians. They live in luxury and associate with adulterers, and their abandonment of babies shows lack of care. Occasionally, Clement here mentions the temples of gods, which would refer to Gentile women. However, this rhetoric does not allow us to conclude whether Clement charged only Gentile women with exposure or whether he warned of worldly women generally.

The next passage directly mentions Greeks. In *Stromateis*, Clement writes:

Let the Greeks, then, feel ashamed, and whoever else inveighs against the law; since it shows mildness in the case of the irrational creatures, while they expose the offspring of men; though long ago and prophetically, the law, in the above-mentioned commandment, threw a check in the way of their cruelty. For it prohibits the progeny of the irrational creatures to be separated from the dam before suckling, much more in the case of men does it provide beforehand a cure for cruelty and savageness of disposition; so that even if they despise nature, they may not despise teaching. For they are permitted to satiate themselves with kids and lambs, and perhaps there might be some excuse for separating the progeny from its dam. But what cause is there for the exposure of a child? For the man who

41. According to Quasten (1950 [1986]: II, 6), Clement alludes to the Old Testament in no fewer than 1500 passages and to the New Testament in 2000, and quotes the classics in 360 passages.

42. On passages in Clement, see Boswell 1988: 158-59. On his family ethics generally, see Brown 1988: 122-38.

did not desire to beget children had no right to marry at first; certainly not to have become, through licentious indulgence, the murderer of his children (δί' ἡδονῆς ἀκρασίαν παιδόκτονον γεγενέσθαι). Again, the humane law forbids slaying the offspring and the dam together on the same day. Thence also the Romans, in case of a pregnant woman being condemned to death, do not allow her to undergo punishment till she is delivered. The law, too, expressly prohibits the slaying of such animals as are pregnant till they have brought forth, remotely restraining the proneness of man to do wrong to man. Thus it also has extended its clemency to the irrational creatures; that from the exercise of humanity in the case of creatures of different species, we might practice among those of the same species a large abundance of it (*Str.* 2.18.92-93 SC 38: 105-106).

Like several Christian writers Clement also adduces the argument that exposure could lead to incest:

Alas for such wickedness! Besides, the wretches know not how many tragedies the uncertainty of intercourse produces. For fathers, unmindful of children of theirs that have been exposed, often without their knowledge, have intercourse with a son that has debauched himself, and daughters that are prostitutes; and licence in lust shows them to be the men that have begotten them. (*Paed.* 3.3.21.5 SC 158: 50)

It is notable that Clement, like Philo, here leans on the Mosaic Law, which forbids taking the offspring of animal before it has suckled for seven days (Exod. 22.30; Lev. 22.27). A concrete ruling of the Pentateuch is thus invoked in a Christian setting, and the argumentation is *a fortiori*: if the offspring of an animal may not be taken from the dam, it is still more forbidden to abandon a newborn child. Clement also repeats another argument used by Philo, namely, that Romans did not execute a pregnant woman before she had given birth to her child.⁴³

A very interesting passage occurs in the *Eclogae*. The nature of the *Eclogae* explains that it is not easy to separate Clement's own words from his quotations.⁴⁴ However, Clement refers to the words of the *Apocalypse of Peter* quoted above that a fire comes from the infants and blinds the women who rejected their children:

Scripture (γραφῇ) says that infants which are exposed are delivered to a guardian angel (τημελούχῳ παραδιδόσθαι ἀγγέλῳ), and that by him they are trained and reared. 'And they shall be,' it says, 'as the faithful in this world of a hundred years of age'. Wherefore also Peter, in the Revelation, says: 'And a flash of fire, leaping from those infants, and striking the eyes of the women'. For the just shines forth as a spark in a reed, and will judge the nations (*Ecl.* 41 CGS 17: 149).

43. On Philo and these arguments, see above, p. 45.

44. See Quasten 1950 (1986): II, 15.

The text also contains another passage relevant to our theme:

For instance, Peter says in the *Apocalypse*, that aborted infants shall share the better fate; that these are committed to a guardian angel (ἀγγέλῳ τημελούχῳ παραδίδόσθαι), so that, on receiving knowledge, they may obtain the better abode, having had the same experiences which they would have had had they been in the body. But the others shall obtain salvation merely, as being injured and pitied, and remain without punishment, receiving this reward (*Ecl.* 48 CGS 1: 150).

According to Clement, the Scriptures say that the abandoned children are given to the angels to be nursed and that they will live 'about hundred years'. The angel is now a guardian angel, surely the 'Temlakos' mentioned in *Apoc. Petr.* 8.1-10. Apparently the text, to which Clement refers with the 'hundred years', is Isa. 65.20 (cf. also 65.23):

Never again will there be in it an infant who lives but a few days,
or an old man who does not live out his years;
he who dies at a hundred will be thought a mere youth;
he who fails to reach a hundred will be considered accursed

Thus Clement freely applies the words on the New Jerusalem to the question about exposure, and again shows the flexibility of the patristic exegesis. When exposure is considered a sin, the banned practice can be found in many biblical texts.⁴⁵ Clement's texts thus mention both abortion and exposure and thereby confirm that, in his view, the *Apocalypse of Peter* condemned both.

Clement thus often deals with exposure, and he is well aware of the earlier Christian tradition. He already collects the work of his forerunners and illustrates Early Christian argumentation against the practice. An important feature in his theology is the strong defence of matrimony.⁴⁶ However, exposure is, in his opinion, only child-killing after people have sought pleasure.

Minucius Felix

Minucius Felix wrote some decades after Tertullian,⁴⁷ his work shaped in the form of three friends discussing the Christian religion. The person first accusing the strange religion savagely attacks Christianity but is converted after a long apology by his friend. A part of this apology reads as follows:

45. Clement strongly condemns abortion, see below p. 124.

46. See Cantalamessa 1976: 445-47 and Quasten 1950 (1986): II, 34-35.

47. Most scholars assume that Minucius wrote after Tertullian; see Becker 1968: 74-97 (giving years 212-246/249). On Minucius, see Altaner and Stuijver 1980: 146-48; Drobner 1994: 131-32; Kytzler 1994: 1-3. On this passage, see Gorman 1998: 58-59.

While going in search of promiscuous love adventures, begetting children here and there, and abandoning even those begotten under your own roof (*dum Venerem promisce spargitis, dum passim liberos seritis, dum etiam domi natos alienae misericordiae frequenter exponitis*), you necessarily must come across your own stock again, and, because of this erratic course, stumble upon your own offspring. Thus, you contrive a tragic plot of incest even when you are not aware of it. We, on the other hand, prove our modesty not by external appearance but by character; so that with a good heart we cling to the bond of one marriage; in our desire for offspring we have only one wife or none at all (31.4 [ed. Pellegrino, trans. ANF]).⁴⁸

All Christian apologists had consciously or unconsciously targeted their intended audience. Minucius's use of literary models, his references to Gentile literature and the good style of his work confirm that his intention was to instruct the Gentiles.⁴⁹ In the passage quoted above, he obviously follows the tradition that is already known to us. The apologetic treatise defends Christians against the charges that they practice incest at their meetings. The crux of the defence is again the counter-attack: Minucius will show that incest is usual among Gentiles because they abandon their children and visit brothels. Christians are described as an ideal counterpart of the godless Gentiles, the evidence being that the Christians only have one wife and that the goal of sexual intercourse is procreation. The charge of incest is senseless, because some Christians 'blush even at the idea of a chaste union'. To abandon children means that they are given *alienae misericordiae*.⁵⁰

Origen

The extensive literary production of Origen (about 185–253 CE),⁵¹ the firstborn of a family of seven children before the father was martyred,⁵² does not often deal with exposure. However, some passages certainly indicate his view. Origen clearly belongs to the tradition in which Lk. 1.44 and Jer. 1.5 attest the existence of the person before one's birth (*Hom. in Jer.* 1.11 SC 232: 220). He also deals extensively with Exod. 21.22–25 in a sermon (*Hom. 1–13 in Ex.* 10 SC 321: 306–25), showing that he was well

48. On the context of the passage, see Becker 1968: 46–50.

49. See Becker 1968: 101–102.

50. Cyprian does not exactly deal with exposure when he reports that the schismatic Novatus had caused a miscarriage by his kick; however, when considering him a murderer, he is apparently influenced by Exod. 21.22–25 and attributes human value to a foetus (*...pedibus quibus filius qui nascebatur occisus est*, *Ep.* 52.2.5 CCL 3B: 248; see Gorman 1998: 60, 110).

51. On Origen, see Quasten 1950 (1986): II, 37–101; Crouzel 1989: 1–54; Drobner 1994: 111–19.

52. Origen was only 17 years old when his father was martyred, but already had no fewer than six brothers and sisters; see Brown 1988: 149.

aware of different problems that were treated in Jewish exegesis.⁵³ However, the main content of the sermon is the allegorical interpretation of the passage.

However, Origen also deals explicitly with exposure at least once. It is possible but not certain that some Christian apologists answered Celsus's attacks on the Christians already in the second century CE, but Origen responded about 70 years later, in 248 CE, in his work *Contra Celsum*. Celsus challenged the Christians, among others, requiring them to make a choice, either to refuse to serve Gentile gods and to partake in the earthly life and consequently die as soon as possible leaving no offspring to live after them, or to enjoy the common life and honour the gods that watch over it. Origen responds that the Christians are not allowed to leave the earthly life of their own accord, and goes on:

But God has allowed us to marry, because all are not fit for the higher, that is, the perfectly pure life; and God would have us to bring up all our children, and not to destroy any of the offspring given us by his providence (*Cels.* 8.55 SC 150: 300, trans. ANF).

It is obvious that Origen⁵⁴ represents the view, which was gaining ground in Early Christianity, that marriage and procreation are not a duty but a divine concession to people not able to meet the higher spiritual standards.⁵⁵ To Origen, sexual intercourse belonged exclusively to the present age and was by no means necessary.⁵⁶ In any case, he rejects exposure as vehemently as any Christian teacher.

The Apocalypse of Paul

The Apocalypse of Paul (*Visio Pauli*) was written, perhaps, in Egypt in the third century and redacted after 388 with a preface.⁵⁷ Like many Jewish and Christian writers, 'Paul' sees many terrible punishments of the wicked condemned to eternal torture. He also sees men and women punished for exposure:

But I sighed and wept, and I asked and said: Who are these men and women who are strangled in fire and pay their penalties? And he answered me: These are women who defiled the image of God when bringing forth

53. On the passage in Origen, see Gorman 1998: 59 and Koskenniemi 2009.

54. On Origen's sexual ethics, see Crouzel 1989: 137-49; Brown 1988: 160-77; Clark 1997: 97-102.

55. On this view, see pp. 119-20; on Origen, see Scaglioni 1976: 286-87 and Clark 1997: 97-102. Even this concession is a major admission by a man who, according to Eusebius (*Hist. Eccl.* 8: 1-3 SC 41: 95-96), castrated himself because he interpreted Mt. 19.12 literally. Chadwick (1966: 67) doubts Eusebius's words; but see Brown 1988: 168.

56. See Brown 1988: 168.

57. See Silverstein 1935: 3-4, and on the complex history of the text, pp. 20-63.

infants out of the womb, and these are the men who lay with them. And their infants addressed the Lord God and the angels who were set over the punishments, saying: Cursed be the hour to our parents, for they defiled the image of God, having the name of God but not observing His precepts: they gave us for food to dogs and to be trodden down of swine: others they threw into the river. But their infants were handed over to the angels of Tartarus (*angelo Tartarucho*) who were set over the punishments, that they might lead them to a wide place of mercy: but their fathers and mothers were tortured in a perpetual punishment (*Visio Pauli* 40, trans. James).

This *Apocalypse* is one of the many Jewish and Christian works describing the post-mortem punishments of sinners. The traditional elements are obvious and appear, for example, in the *Apocalypse of Peter*: parents had destroyed the image of God and an angel appears again; however, it is neither a guardian angel ('Temlakos') nor an angel, who had formed them, but a avenging angel.

Methodius

Methodius, probably a bishop and martyr at the end of the persecutions,⁵⁸ imitated Plato's famous dialogue with his *Symposium*. The theme, however, is not ἔρως, but ἀγνεία.⁵⁹ Methodius praises virginity and does so in bold terms. God revealed his truth step by step and humankind is portrayed as a child growing towards adulthood: the first men did not realize what shame it was to marry their own sisters before God informed them; next they abandoned polygamy, and finally Christ taught virginity (1.1-5). However, men should not despise marriage, not least because the order to increase and multiply (Gen. 1.28) still stands, although one day it will be abolished (2.1). But, for now, God still forms men in wombs of women. This also includes illegitimate children, who should not be killed:

Whence, also, we have received from the inspired writings, that those who are begotten, even though it be in adultery, are committed to guardian angels (τημελούχοις ἀγγέλοις). But if they came into being in opposition to the will and the decree of the blessed nature of God, how should they be delivered over to angels, to be nourished with much gentleness and indulgence? and how, if they had to accuse their own parents, could they confidently, before the judgement seat of Christ, invoke Him and say, 'You did not, O Lord, begrudge us this common light; but these appointed us to death, despising your command?' 'For', He says, 'children begotten of unlawful beds are witnesses of wickedness against their parents at their trial' (*Symp.* 2.6.45 SC 95: 82-85, trans. ANF).

58. The traditional view is that Methodius was both bishop and martyr, but the evidence for both is weak; see Patterson 1997: 16-21.

59. On Methodius, see Quasten 1950 (1986): II, 129-37 and Patterson 1997: 1-34. On this passage, see Boswell 1988: 158-59 and Patterson 1997: 74-75. On his sexual ethics generally, see Brown 1988: 183-89.

The text is interesting in many ways. Methodius here praises God ('the Supreme Artist') who forms the foetus and thus follows the way of Philo and Clement of Alexandria.⁶⁰ Unlike many earlier writers, he does not draw an idealistic picture, but deals with the fact that illegitimate children were born and also killed. This results, of course, in a harsh post-mortem punishment, where the murdered children act as witnesses. It is not clear what Methodius means by the 'inspired writings'. He may have in mind Mt. 18.10, or a common interpretation thereof, but it is obvious that *τημελούχοις ἁγγέλοις* (now also in the plural) refers to the Jewish tradition present also in *Apocalypse of Peter*,⁶¹ which is included in the inspired writings. Clement too refers to the 'Scripture', meaning *Apocalypse of Peter*.

3.1.2. Constantine and Post-Constantine Christianity

As seen above, the Early Fathers often deal with exposure. After Constantine, the most influential Christian writers continued the teaching, both in the East and in the West.

3.1.2.1. The East

Basil the Great

The most famous of the Eastern fathers treated exposure in their writings, as did in particular Basil the Great⁶² (329/330–379), one of the three great teachers of the Eastern Church.⁶³ Basil was a bishop with strong ascetic ideals but also with a strong social responsibility. When he was baptised he sold all he had and gave the money to poor people. A church, a monastery, a hospital and houses for the poor grew together into 'a new city' containing the seat of the bishop (Gregory of Nazianzus, *Or.* 43.63 SC 384: 260–261). Basil strongly condemns exposure, and two passages are especially relevant. In this context, it is worth noting that he was the son of wealthy parents with ten children.

One of the many influential works of Basil was his *Hexaemeron*, in which he presents the wonders of Creation, consciously preferring the literal interpretation to the allegorical (*Hex.* 9.1 SC 26: 478–80). In this work Basil praises birds, which God created and made good natured. The storks help their parents and serve as a model for men (8.5 SC 26: 454). Similarly, some birds take care of their little ones:

60. See Gorman 1998: 60–61 and Koskenniemi 2009.

61. See above, p. 92.

62. On Basil, see Fedwick 1981: 1–19 and Drobner 1994: 225–31.

63. On the passages in Basil, see Patrucco 1976: 161–63 and Boswell 1988: 164–66.

The eagle shows the greatest injustice in the education which she gives to her young. When she has hatched two little ones, she throws one on the ground, thrusting it out with blows from her wings, and only acknowledges the remaining one. It is the difficulty of finding food which has made her repulse the offspring she has brought forth. But the osprey,⁶⁴ it is said, will not allow it to perish, she carries it away and brings it up with her young ones. Such are parents who, under the plea of poverty (ἐνι προφάσει πενίᾶς), expose their children, it is just that they should equally and without preference furnish them with the means of livelihood. Beware of imitating the cruelty of birds with hooked talons. When they see their young are from henceforth capable of encountering the air in their flight, they throw them, pushing them with their wings, and do not take the least care of them (*Hex.* 8.6 SC 26: 460, trans. *NPNF*).

It is possible that this text does not deal with exposure of newborn infants, but only with the correct way to treat all the children born into the family. However, the next text to be considered certainly treats exposure. In the famous *Canonical Letter* (*Ep.* 217.52), Basil tells what to do with the sinners in the congregations. The rules were not his own, but based largely on ecclesiastical traditions.⁶⁵ One of several rules speaks about women, who had exposed their children:⁶⁶

Let the woman who neglected her newborn child on the road, if, though able to save it, she contemned it, either thereby to conceal her sin or scheming in a manner altogether beastly and inhuman (ἢ ὅλως θηριώδει καὶ ἀπανθρώπῳ λογισμῷ χρησαμένη), be judged as for murder. But if she could not care for it, and it died both on account of the wilderness and the lack of necessities, the mother is to be pardoned (*Ep.* 217.52 [ed. Deferrari]).

Another letter repeats the rule:

Let the woman who gave birth on the road and took no care of her offspring, be subjected to the charge of murder (*Ep.* 199.33 [ed. Deferrari]).

Exposure is thus considered murder, which means a long period of repentance before a person could be accepted back into the congregation.⁶⁷ After an intentional homicide, the offender was excommunicated for twenty years:

64. 'Osprey' is an arbitrary translation of φήνη, which was perhaps a kind of vulture (see LSJ, s.v.).

65. On similar rules in early Canons, see below, pp. 146-48.

66. Boswell quotes only a part of the text, leaving out crucial parts of it (1988: 166).

67. Basil strongly condemns abortion in his First Canonical Letter ('A woman who deliberately destroys a foetus is answerable for murder', *Ep.* 188.2 Deferrari). Kapparis (2002: 48) overlooks the entire Jewish and Christian tradition, which preceded Basil, when he considers his view acclimatization to the late Empire (see Koskenniemi 2009).

for four he ought to weep, standing outside the door of the house of prayer...after four years he will be admitted among the hearers, and during five years will go out with them. During seven years he will go out with the kneelers, praying. During four years he will only stand with the faithful, and will not take part in the oblation (*Ep.* 217.56 [ed. Deferrari]).

Although unintentional homicide was punished with only ten years, equating exposure with murder means a very strong condemnation of the practice.

Yet another feature of the text is also very interesting. Basil, the builder of hospitals and houses for the poor, seemingly had much understanding for those who simply did not have the means to feed their children and themselves. He had certainly experienced such times: in the great famine in Caesarea (369 CE) he showed a marked social activity, urging the rich people to help the poor.⁶⁸

Basil was neither the first nor the last Christian writer to condemn the practice of exposure. However, his influence can hardly be overestimated. After him, the Christian view in the eastern parts of the Church was practically fixed.

Gregory of Nyssa

The destiny of children who died very early had traditionally interested Greek and Latin writers.⁶⁹ Gregory of Nyssa (born 338/339 CE, died soon after 394 CE)⁷⁰ followed tradition and wrote a treatise titled *De infantibus qui praemature abripiuntur*. Although his main concern was to explain the seemingly meaningless birth and death of these children,⁷¹ he sometimes mentions exposure in this treatise. He is aware that newborn children die, either exposed or strangled (ἡ ἔκτεθεις ἡ καταπνιγείς, *Infant.* 73.10 Hörner; almost similarly in *Anim. et res.* 140.13: περὶ δὲ τῶν ἀρτιγενῶν νηπίων τῶν τε ἐκτιθεμένων καὶ τῶν καταπνιγομένων). Gregory leaves no doubt about his own view:

Well, if you are thinking of all those infants who are proofs of illicit connections, and so are made away with by their parents, you are not justified in calling to account, for such wickedness, that God who will surely bring to judgement the unholy deeds done in this way (*Infant.* 87.16-22, trans. ANF).

68. See Bonis 1981: 292-93.

69. See above, p. 40.

70. On Gregory of Nyssa, see Dörrie 1983: 863-95.

71. The same problem is treated by John Chrysostom in *Hom.* 1-90 in Mt. 9.1, where he deals with the text about the children killed by Herod in Bethlehem.

The passage deals with the main theme of the work, namely, to explain why newborn children occasionally die. A part of the answer is that God must not be blamed if people are wicked enough to abandon their children and that he will one day judge such deeds.

Gregory uses harsh words when describing the lifestyle of the childless:⁷²

Often, too, the Arranger of this Feast of Life exposes by such-like dispensations the cunning device of the 'constraining cause' of money-loving, so that this vice comes to the light bare of all specious pretexts, and no longer obscured by any misleading screen. For most declare that they give play to their cravings for more, in order that they may make their offspring all the richer; but that their vice belongs to their nature, and is not caused by any external necessity, is proved by that inexcusable avarice which is observed in childless persons. Many who have no heir, nor any hope of one, for the great wealth which they have laboriously gained, rear a countless brood within themselves of wants instead of children, and they are left without a channel into which to convey this incurable disease, though they cannot find an excuse in any necessity for this failing. But take the case of some who, during their sojourn in life, have been fierce and domineering in disposition, slaves to every kind of lust, passionate to madness, refraining from no act even of the most desperate wickedness, robbers and murderers, traitors to their country, and, more execrable still, patricides, matricides, child-murderers (παιδοκτόνοι), mad after unnatural intercourse; suppose such characters grow old in this wickedness; how, some one may ask, does this harmonize with the result of our previous investigations? (*Infant*. 90–91 Hörner, trans. *NPNF*).

The target of the text is the avarice of such people and Gregory describes how this vice is combined with several others. In this work, attention is paid especially to childless people who were not willing to have children. Gregory does not say which kind of family planning is thought to have been used: contraception, abortion and exposure are all possible. At any rate, such people are flatly called child-murderers.⁷³

John Chrysostom

John Chrysostom (349–407 CE)⁷⁴ sharply warns against feasts with excessive drinking together with women companions in *Hom. 1–32 in*

72. It is certainly worth noting that Gregory, like some Jewish writers, tried to defend Moses' parents, emphasizing their care of him with unbiblical additions (Μωυσῆς δὲ ὁ μέγας βρέφος...ἐξετέθη πρὸς ταῖς ὄχθαις τοῦ ποταμοῦ οὐ γυμνός, ἀλλ' ἐμβληθεὶς λάρναι, *Bapt. Chr.* 232.26 [ed. Gebhardt]).

73. παιδοκτόνος is a word, which Gregory of Nazianzus uses of Herodes in *Orat.* 38 (PG 36: 332); Gregory of Nyssa also says that Abraham almost became a child murderer (PG 46: 569).

74. On Chrysostom, see Brändle and Jegher-Bucher 1998: 426–503. On his strong social responsibility, see 1998: 433; 481–83. On Chrysostom and marriage, see Clark 1997: 84–90; Brändle and Jegher-Bucher 1998: 474–75.

Rom. 24.4 PG 60: 626-27. In this passage he clearly reveals his view of contraceptive methods, albeit now dealing with extra-marital relations. In addition, he writes that this kind of feast leads to drinking, adultery and child-killing. According to Chrysostom a man does not allow a prostitute to remain a prostitute, but makes her a murderer: the woman tries to kill the child before its birth, which is, according to Chrysostom, worse than killing it after (μᾶλλον δὲ καὶ φόνου τι χεῖρον). Although Chrysostom's target is now adultery and abortion, the passage clearly condemns exposure.

Chrysostom sometimes also deals with people who killed their children. When telling the biblical stories, he does not hide his opinion. The story of Moses being abandoned is mentioned in *Stag.* PG 47: 472, and Chrysostom often speaks about Abraham whom God almost made a child-murderer, for example, in *Hom.* 1-90 Mt. PG 57: 263.

However, an interesting feature must be noted. Chrysostom does not cite these passages to condemn exposure, but, rather, he seems to take for granted that this is forbidden and uses the terrible crime as a device to attack other targets. Men who are indifferent to the correct education of their children are the worst kind of child-killers, as was Eli (cf. 1 Sam 2.21-25). To feed children means a correct education (*Hom. in 1 Tim.* 5:9, PG 51: 327, cf. Eph. 6.4), and taking children to theatre means a worse treatment than the Canaanites did in killing their babies (*Theatr.* [sp?] PG 56: 552). Like Justin, Chrysostom too could attack Jews and claim that they killed their children (*Jud.* PG 48: 907; *Exp. in ps.* PG 55: 114). But even these cruel charges do not trigger an ethical instruction in which exposure is condemned. In his view, the answer to the question of exposure was self-evident and there was no need for argumentation.⁷⁵

3.2.2.2. The West

Lactantius

A western Christian teacher whose attacks on exposure were both heavy and significant was Lactantius. Lactantius, like Tertullian, was a native of Northern Africa and a man who wrote his works around the time of the conversion of Constantine. Diocletian summoned Lactantius to teach rhetoric in Nicomedia where he took the decisive step of joining the Christians some time around 303 CE, during the persecution. Lactantius resigned his office and chose a life of poverty, but was not forced to leave Nicomedia. Constantine engaged him in 317 CE to teach his son Crispus. Lactantius was a master of style and language, but is not usually

75. Chrysostom deals with Jesus' words on the father betraying his child and putting him to death (Mk 13.12) and interprets them as meaning that people will be child-killers.

considered a deep theologian.⁷⁶ His work, *Divinae institutiones*, the first attempt to compose a *summa* of Christian theology, was written during the persecutions, in answer to attacks by Gentile writers. Book Six includes a passage dealing with exposure:

Therefore let no one imagine that even this is allowed, to strangle newly-born children, which is the greatest impiety; for God breathes into their souls for life, and not for death. But men, that there may be no crime with which they may not pollute their hands, deprive souls as yet innocent and simple of the light which they themselves have not given. Can any one, indeed, expect that they would abstain from the blood of others who do not abstain even from their own? But these are without any controversy wicked and unjust. What are they whom a false piety⁷⁷ compels to expose their children? Can they be considered innocent who expose their own offspring as a prey to dogs, and as far as it depends upon themselves, kill them in a more cruel manner than if they had strangled them? Who can doubt that he is impious who gives occasion for the pity of others? For, although that which he has wished should befall the child—namely, that it should be brought up—he has certainly consigned his own offspring either to servitude or to the brothel. But who does not understand, who is ignorant what things may happen, or are accustomed to happen, in the case of each sex, even through error? For this is shown by the example of Oedipus alone, confused with twofold guilt. It is therefore as wicked to expose as it is to kill. But truly parricides complain of the scantiness of their means, and allege that they have not enough for bringing up more children; as though, in truth, their means were in the power of those who possess them, or God did not daily make the rich poor, and the poor rich. Wherefore, if any one on account of poverty shall be unable to bring up children, it is better to abstain from the marriage than with wicked hands to mar the work of God (Lactantius, *Inst.* 6.20 PL 6: 708-709, trans. ANF).

Lactantius's *Divinae institutiones* was intended for Gentile readers and the general theme of the sixth book, published during the persecution before the year 311 CE, is that one needs two basic attitudes, namely, *religio* towards God and *humanitas* towards others. Thus this passage illustrates Lactantius's general ideas well. Immediately before the quoted passage, the writer savagely attacks gladiatorial shows, expanding his criticism also to capital punishment and warfare:

Therefore, with regard to this precept of God, there ought to be no exception at all but that it is always unlawful to put to death a man, whom God willed to be a sacred animal (*sacrosanctum animal*) (Lactantius, *Inst.* 6.20 PL 6: 708-709, trans. ANF).

76. On Lactantius, see Quasten 1950 (1986): I, 392-410; Altaner and Stuiber 1980: 185-88; Wlosok 1990: 370-74.

77. The words on false piety apparently refer to bad omens at the moment of the birth; see above, pp. 4-5. However, it is not excluded that it refers to heretical Christians; see below, p. 147.

The passage dealing with exposure, which is very traditional and incorporates most of the arguments presented by the earlier writers, thus belongs to a section in which Lactantius strongly emphasizes the value of every human life. The words about exposure attest that the writer considers the practice to be condemned in the Decalogue. In the *Epitome* of the work (*Epitome* 57 SC 335: 220), which Lactantius himself wrote, he warns of *libido extra legitimum torum*; however, he does not mention exposure but focuses his attention on gladiatorial shows.

As mentioned above, Lactantius wrote the passage while Christians were still being persecuted but suddenly he became the teacher of Constantine's sons. He was thus the first Christian writer able to exploit the new situation after the Constantine Conversion. Moreover, he was able to work and write in the inner circles of the ruler. This means that the Emperor was certainly aware of Lactantius's view of the value of every human being, a view which perhaps also extended to newborn children.

Ambrose

A western writer deeply impressed by the *Hexaameron* of Basil was Ambrose of Milan (whose dates are approximately 339–397 CE).⁷⁸ His work was also entitled the *Hexaameron* and the tenor follows that of Basil's work.⁷⁹ The life of birds here also serves as a model for the life of men. Birds offer examples of hospitality and care for their parents but also of love for their children. Humans may provide examples of the opposite:

the females of our species quickly give up nursing even those they love or, if they belong to the wealthier class, disdain the act of nursing. Those who are very poor expose their infants and refuse to lay claim to them when they are discovered. Even the wealthy, in order that their inheritance may not be divided among several, deny in the very womb their own progeny. By the use of parricidal mixtures they snuff out the fruit of their wombs in the genital organs themselves. In this way life is taken away before it is given (*Hex.* 5.18.58 *PL* 14: 245, trans. *FC*).

Ambrose follows the way that Basil led, but not without crucial additions. Like Basil, he deals not only with exposure but also with the inequitable treatment of children. However, abortion and exposure are also condemned. Like Basil, Ambrose also uses *phene* — an unidentified

78. On Ambrose, see Mara 1986 144–80 and Drobner 1994: 257–67. On his views on marriage and virginity, see McLynn 1994: 60–68. On the passages in Ambrose, see Boswell 1988: 167–69.

79. Unlike Augustine, Ambrose knew Greek very well. After him the contacts between the East and West steadily weakened, see Drobner 1994: 257–56.

bird, which he calls in Greek φηνή and in Latin, absurdly, *fulica* – as an example, and Ambrose, too, distinguishes between the poor and the rich. Whereas this bird adopts the nestling of an eagle and exercises maternal care over it, people ‘show excessive cruelty when we abandon our own children’ (*Hex.* 5.18.61 *PL* 14: 246). But, surprisingly enough, he defends the eagle repudiated by Basil (*Hex.* 8.6 *SC* 26: 460): for Ambrose, the eagle is not cruel, but shows soundness of judgment when it has two little ones: it tests whether a baby eagle is strong enough and rejects it if it is not. These words in the context of exposure prompt the question of whether Ambrose also meant that a weak child is justly rejected.

Augustine

Augustine (354–430 CE)⁸⁰ sometimes deals with exposure and leaves no doubt as to his view. It is certainly useful first to observe his personal history, because it leads to significant questions. Augustine was not the only young man from a mediocre family who looked for a good career and who was therefore unwilling to marry a woman of his own class. This was the reason why he lived with a concubine for 13 years.⁸¹ This fact confirms that such a life was possible for young men. It is worth noting, however, that Augustine was not a Catholic Christian at that time, but a Manichaean. The fact that the relationship with the concubine resulted in only one son, Adeodatus, already suggests that some kind of birth control was used.⁸² However, Augustine’s works seem to make the case clear. Later, he often refers to Manichaean moral instruction, which was not only aware of contraceptive methods and allowed them,⁸³ but considered extra-marital intercourse with contraception a better alternative than marital sex with children.⁸⁴ The reason was a new adaptation of the old Greek concept in which the body was considered a prison for the soul. Later, after he departed from his unnamed mistress, while betrothed to a young girl, he took yet another concubine (*procuravi aliam*, *Conf.* 6.15 [ed. O’Donnell]). Augustine describes his concubinage and says that in such a relationship children are born ‘against our wills’

80. On Augustine, see Schindler 1979: 646–98.

81. On this concubinage, see Madec 1986: 87–90.

82. See Brown 1988: 389–90.

83. *Prolem ante omnia devitari a concumbentibus iubet*, *C. Faust.* 22.30 *CSEL* 25.1: 624. See also *Mor.* 2.65 *CSEL* 90: 146–47 and Wermlinger 1986: 6–10.

84. *C. Sec.* 21 *CSEL* 25: 939. But although Augustine strictly attacks the use of contraceptive methods and the theology inherent therein (*vestra lege metuentes, ne particulam dei sui sordibus carnis afficiant*), likening it to killing, he does not use the opportunity to claim that Manichaeans exposed their children (*C. Sec.* 15.7 *CSEL* 25.1: 430). Titus of Bostra confirms the Manichaean practice of contraception and abortion (*Man.* 2.33 *PG* 18: 1197; written after 363); see Noonan 1965: 113–19.

(*proles etiam contra votum nascitur*, *Conf.* 4.2 [ed. O'Donnell]). It is perhaps not too bold to assume the use of contraceptives, which were rarely distinguished from abortifacients, but not exposure. Did all this influence Augustine's moral teaching?⁸⁵

In a letter Augustine answers a question about small children who were led by adults either to idols or to baptism. He writes as follows:⁸⁶

Sometimes, even children who have been exposed by their parents are rescued and fed by others, often enough by the consecrated virgins (*Ep.* 98.6, *CSEL* 24: 527-28; trans. FC).

This sentence is interesting because Augustine writes it *en passant* when dealing with other matters; as such, it is neither a rule nor an idealistic picture of the life of the Christians. It seems to allow the following conclusions.

First, Augustine was clearly aware that people exposed their children. What we do not know is whether these individuals were Christians or Gentiles. The number of the abandoned children is not stated, but it was likely high enough for the question Augustine was answering not to have been theoretical.

Second, 'consecrated virgins' rescued children 'often enough'. This means that charity in the Church is assumed to exist. At the same time, it seems not to have been systematic and organized. The reference is not to oblation, giving children to monasteries,⁸⁷ but to exposure.

In *De nuptiis et concupiscentia*, Augustine writes briefly about exposure. He speaks of people who have sexual intercourse based on carnal desire not because they want to have children. This means, in Augustine's opinion, that matrimony is a pretext for adultery. Augustine goes on:

Having also proceeded so far, they are betrayed into exposing their children, which are born against their will. They hate to nourish and retain those whom they were afraid they would beget. This infliction of cruelty on their offspring so reluctantly begotten (*Itaque cum in suos saevit, quos nolens genuit tenebrosa iniquitas*), unmasks the sin, which they had practised in darkness, and drags it clearly into the light of day. The open cruelty reproves the concealed sin (*et occulta turpitudine manifesta crudelitate convincitur*). Sometimes, indeed, this lustful cruelty, or, if you please, cruel lust, resorts to such extravagant methods as to use poisonous drugs to secure barrenness; or else, if unsuccessful in this, to destroy the conceived seed by some means previous to birth, preferring that its offspring should rather

85. On Augustine's view of the human value of the foetus, see Koskenniemi 2009. On his sexual ethics in general, see Noonan 1965: 119-39; Lodovici 1976: 212-72; Harrison 1997: 95-99; Lamberigts 1997: 152-61. See also the second section of the present chapter.

86. See Boswell 1988: 170.

87. On oblation, see Boswell 1988: 228-55.

perish than receive vitality; or if it was advancing to life within the womb, it should be slain before it was born. Well, if both parties alike are so flagitious, they are not husband and wife; and if such were their character from the beginning, they have not come together by wedlock but by debauchery. But if the two are not alike in such sin, I boldly declare either that the woman is, so to speak, the husband's harlot; or the man the wife's adulterer (*Nupt. et conc.* 1.15.17 CSEL 42: 229-30).

In *De ordine* Augustine writes on the good God's order in the world; he also happens to refer to exposure:

Whosoever will have glimpsed this beauty...when will it ever trouble him why one man, desiring to have children, has them not, while another man casts out his own offspring as being unduly numerous; why one man hates children before they are born, and another man loves them after birth... (*Ord.* 2.19.51).

The context is obvious: the world is full of iniquities which trouble a just person. However, when one has recognized God's providence, one is able to meet these problems, one of which is that somebody hates one's own child and exposes it.

These quotations make clear what Augustine thought about exposure.⁸⁸ He again attests that it happened, although it was already illegal,⁸⁹ stating that it is a cruel practice and that 'manifest cruelty' is used to cover a 'secret sin'. Augustine seems to refer to extra-marital relations that produce children who are not wanted.

Augustine's words on abortion certainly also reveal his view on exposure. In his view, the foetus was not a part of its mother but is called *infans* (*C. Iul.* 6.43 PL 44: 86), and he rejects abortion as well as exposure with strong words (*turpitudine, crudelitas*, *Nupt. et conc.* 1.17, CSEL 42: 230). He twice wrestles with the question of the destiny of aborted foetuses.⁹⁰

88. It is not easy to understand Boswell's chapter on Augustine and exposure. He is aware of the critical passages quoted above (on this page), but claims, 'He did not characterise even abortion, much less contraceptive sexual practices, as murder...and he seems fairly clearly to have regarded the latter two as much more serious than abandonment, which he adduces as the ordinary recourse of parents who have unwanted children' (1988: 197). Boswell does not quote any evidence for his view and neglects the words about 'cruelty'. He may consistently confuse exposure with the selling of a man's own children, or with their oblation.

89. See below, p. 151.

90. Augustine deals with the problem of resurrection and asks whether the foetuses aborted share in it. Like the LXX and people using it, he distinguishes between formed and unformed foetuses and is uncertain of their destiny, although he believes that all men will rise again – even the children not allowed to be born. His conclusion is that a foetus is a human being since it can die (*Ex quo autem incipit homo uiuere, ex illo utique iam mori potest*); it is therefore an heir of the future life. The view he presents in *Quaestiones Exodi* 80 (CCL 33: 110-12) is that if the foetus was *non*

His answer is less certain in *Ench.* 85 CCL 46: 95-96 than in *De Civitate Dei* (*Civ.* 22.13 CCL 48: 833); in the former text he states that unlike the unformed foetuses, formed foetuses will share in the resurrection.⁹¹ Augustine, then, attributed human value to the foetus, and, though not mentioned directly, this line of reasoning illuminates his view of exposure.

It is thus obvious that, although he had lived according to different ideals in his youth, Augustine followed faithfully the way of his predecessors. This bishop, after whom the view of the western Church was practically fixed, defends marriage but recommends virginity, especially in *De bono conjugali* and *De nuptiis et concupiscentia*. Augustine repeats the most important moral views presented frequently prior to his writing, condemning contraception, abortion and exposure.⁹² These two works were very influential in late antiquity and in the Mediaeval Church. What Basil was in the East, Augustine was in the West. The Christian theology about the goal of sexual intercourse and the status of marriage were formed.

3.2. Notes on Argumentation

The earliest Christian texts that pertain to exposure are the passages in *Ephesians*, the *Didache* and the *Epistle of Barnabas*. It is very interesting that the earliest passages against exposure are succinct and contain no arguments whatsoever. We read only the ban, perhaps repeated almost word for word in the texts. They obviously only summarize the current Christian ethics commonly taught in the congregations. This teaching was apparently widespread and commonly known both among Jews and Christians because its echo is heard in significantly many texts. The lapidary way to repeat the ban briefly without further arguments strongly resembles Jewish ethical instruction. But also the arguments, when they were written down, resemble those used by Jewish writers.

A Person Exists before One's Birth

As seen above, according to the Jewish view, a person exists before one's birth and has the value of a human being.⁹³ This view is never challenged in Early Christianity, although the Church Fathers may discuss the moment at which a foetus was considered a human being with a soul.

deformatus, the incident does not refer to *homicidium*. Indeed, Augustine seems to mean that if the foetus was fully formed, such a *homicidium* is venial.

91. See Koskeniemi 2009.

92. See below p. 116, 120 and 124.

93. See above, pp. 44-46.

We do not read only theoretical treatises on the theme. The passages in Lk. 1.44 and Gal. 1.15 sufficed to mediate the old Jewish view to the Christians. Clement of Alexandria (*Ecl.* 50 CGS 17: 150-51) attributes this belief to Lk. 1.44, and Tertullian strongly attacks the Graeco-Roman view that humans do not receive a soul before the moment of birth, explicitly referring to Luke and Jeremiah (*De anima* 26.4).⁹⁴ Augustine's texts in *Confessiones* (1.6-7 [ed. O'Donnell]) well represent the Early Christian view, adopted from Judaism.

The traditional Jewish view is also explicitly combined with the ban on the abandonment of children. According to Athenagoras, who defends Christians against the charges of murder, the same person cannot regard that which is in the womb as a living being, therefore an object of God's concern (καὶ τὸ κατὰ γαστρὸς ζῶον εἶναι καὶ διὰ τοῦτο αὐτοῦ μέλειν τῷ θεῷ, *Leg.* 35.6 [ed. Schoedel]), and kill a newborn child. According to Tertullian, to prevent a birth means merely a speedier homicide and to expose a child when he or she has come into the light, a murder (*Apologeticum* 9.6-8 CCL 1: 102-103).

Although Greek and Roman writers often debated the question of when and how the soul enters a human person so that it is easy to find links with Gentile views, the Jewish and, later, the Christian idea of a foetus as a human being was generally strange to them. This explains why abortion was seldom restricted: the Roman view considered the foetus a part of the mother. Perhaps the best evidence of how theoretical the philosophical reflections were is to be found precisely in the idea of the 'social birth'.⁹⁵ The radically different attitudes did not, of course, prevent Clement of Alexandria from borrowing Philo's argument according to which the Romans shared the Jewish and Christian view that a pregnant woman should not be executed before she had given birth to her baby (*Str.* 2.18.93.2 SC 38: 105).

Marriage – New Ideas

Early Christian writers preserved many characteristic Jewish elements, but others are more or less wholly absent. As seen above, a strong Jewish tradition interpreted Gen. 1.28 as a duty to be fulfilled and strongly criticized the unmarried and the childless. This view is only seldom present in Early Christian texts.⁹⁶ 1 Timothy 2.15, one of the most enigmatic texts in the eyes of modern scholars, certainly contains a genuine Jewish view.⁹⁷ Admittedly, *The Protoevangelium of James*⁹⁸ (*Protev.* 1-2

94. See above, p. 125.

95. See below, p. 140.

96. See above, pp. 49-51.

97. On childbearing in the context of 1 Timothy, see Winter 2003: 109-12.

[ed. de Strycker]) also describes Joachim's shame because he had not produced offspring in Israel. However, as early as in the New Testament, Jesus respects single people and did not require marriage (Mt. 19.12),⁹⁹ and Paul considered marriage problematic because of the approaching persecutions (1 Cor. 7). Some Early Christian heterodox writers regarded matrimony as a sin and, although marriage was defended, the single life was more or less explicitly preferred. Although it is impossible to describe multiple Christian views in the few pages that space allows here, especially when the opinions of the writers may have developed and assumed new forms, the change from current Jewish beliefs is obvious.

According to an Early Christian view, one that is rejected already in the New Testament, it was a sin to marry (1. Tim 4.3).¹⁰⁰ The traditionally best-known later advocates of this view are Marcion¹⁰¹ and Justin's pupil Tatian,¹⁰² and many Encratite sects followed suit. Sexual intercourse as such, even within matrimony, was often considered a consequence of the fall and a sin, especially in ascetic Gnostic movements.¹⁰³ The numerous defenders of marriage, quoted below, attest that these views were common. The radical renunciation of procreation allegedly led Manichaeans to contraception and abortions (see below), and undoubtedly such a view also supported exposure. Perhaps these ideas are echoed when Lactantius warned of 'false piety'¹⁰⁴ and the Synod in Gangra (340/341 CE) threatens with anathema parents who did not take care of their children.¹⁰⁵

However, the defence can only sometimes¹⁰⁶ be characterized as zealous. It is hard to find a positive function for marriage in Tertullian's

98. The *Protoevangelium of James* was written in the latter half of the second century in Egypt (Drobner 1994: 18).

99. See above, p. 71.

100. On these views, see Brown 1988: 83-102.

101. See Brown 1988: 86-87.

102. On Tatian, see Quasten 1988 (1950): I, 220-28; Beatrice 1976: 48-54; Drobner 1994: 64-67.

103. Clement of Alexandria names Iulius Cassianus (*Str.* 3.17.102 GCS 15: 243). On the *Acts of Judas Thomas*, written in Syria about 220, see Brown 1988: 97-102. On the critical view in the *Acts of Peter* 10 and in the *Acts of John* 68, see Gärtner 1985: 167-68.

104. See above, p. 110.

105. See below, pp. 147-48.

106. A very strong defence of the marriage is to be found in the first Canon of the Synod at Gangra (340/341, Baus and Ewig 1973: 201): 'If any one shall condemn marriage, or abominate and condemn a woman who is a believer and devout, and sleeps with her own husband, as though she could not enter the Kingdom [of heaven] let him be anathema'. See also Canons 9 and 10, which preserve something of the duty of procreation.

view that it is not possible to marry without first looking upon a woman with lust and that 'only virginity is free from any connection with fornication' (*Exhortation to Chastity* 9, CCL 2: 1027-29).¹⁰⁷ Many texts, however, reflect a markedly more positive view. *Epistle to Diognetus* 5.6, quoted above, presents the ideal of the Christian family life. A man like Clement, a teacher not holding severe ascetics in high esteem, strongly attacked people considering marriage a sin (*Str.* 3.6.49 CGS 15: 218-19). Although he was himself unmarried 'out of love for God' (*Str.* 3.7.59.4 CGS 15: 223), he regarded marriage as holy (ἁγίου δὲ ὄντος τοῦ νόμου ἅγιος ὁ γάμος, *Str.* 3.12.84 CGS 15: 234), recommended it and considered the married couple to act in co-operation with the Creator (*Paed.* 2.10.83.2 SC 108: 164). He is the only Father who once said in his anti-Gnostic polemics that marriage excels over virginity (*Str.* 7.12.70 SC 428: 220-21).¹⁰⁸ Moreover, he did not consider procreation the only goal of marriage (*Str.* 3.10.68 GCS 15:226-27).¹⁰⁹ Generally, however, the defence of matrimony used other arguments. According to Jerome, although virginity is gold, there is no reason to deprecate the silver of marriage (*numquid argentum non erit argentum, si aurum argento pretiosius est?*, Jerome, *Adversus Iovinianum* 1.3 PL 23: 223).¹¹⁰ God had, according to Eusebius's influential words, given two ways of life to his Church: one which is above nature, and the other which is more humble (*D. e.* 1.8 PG 22: 76-77).

Indeed, the growth of the ascetic ideals also encountered opposition among Christians. The silent majority of Christians were married, and theologians also opposed the view that marriage was inferior to virginity. Jerome, who strongly disagreed with Helvidius in *Contra Helvidium*,¹¹¹ was at odds with the Roman clergy because of his ascetic propaganda, and Ambrosiaster, strongly supporting marriage and rejecting the view that sexual intercourse is derived from original sin, took part of this struggle.¹¹² Julianus of Eclanum, the well-known opponent of Augustine,

107. *De exhortatione castitatis* belongs to the period in which signs of Montanism begin to appear in Tertullian's theology; later writings, such as *De monogamia*, are still more critical of marriage (see Gärtner 1985: 164-65; Osborn 1997: 9-10, 211-12).

108. Cantalamessa 1976: 445-47.

109. See Quasten 1950 (1986): II, 34-35.

110. The longer, spurious version of Ignatius's letter to the Philadelphians, written about 380 CE (see Altaner and Stuiber 1980: 48. 25), strongly criticizes the view that marriage is forbidden (6.3). In Methodius's opinion, the evil lies in the use of the thing, not in the thing itself and he applies this to marriage (see Patterson 1997: 74-75).

111. On this struggle, see Kelly 1975: 104-15.

112. Hunter (1989: 283-99) considers Ambrosiaster a Roman *clericus* and one of the people to whom Jerome refers in his critical comments in *Ep.* 22, 27 and 45. At any rate, *De peccato Adae et Evae* is an extraordinarily strong defence of marriage for non-clerical Christians.

claimed that he had remained very much a Manichaean.¹¹³ This struggle is indicated when Ambrose writes ironically of 'new Epicureans' willing to revile virginity (*Ep.* 14.8 CSEL 82.3).¹¹⁴

But although the view that matrimony was a sin was rejected, the ideal of staying unmarried replaced the idea that procreation is a duty.¹¹⁵ Origen already interpreted Gen. 1.28 allegorically: it concerned the duty to increase good thoughts and inclinations (*Hom. 1 in Gen.* 14–15 GCS 29: 18–19).¹¹⁶ Although people flatly renouncing marriage were heavily attacked, and Gen. 1.28 was used for that end,¹¹⁷ Jerome considered the verse no longer relevant (*Comm. Eccles.* 3:5 CCL 72: 275) as did, for example, Augustine (*B. coniug.* 2 [ed. Walsh]) and Basil, who interpreted it in terms of 'spiritual growth' (*Or.* 2.2 PG 30: 44).¹¹⁸ The view that marriage was not mandatory but allowed 'because all are not fit for the higher, that is, the perfectly pure life' (Orig. *Cels.* 8.55 SC 150: 300), or that it belongs to a stage that should be left behind along with incestuous marriages and polygamy (Methodius, *Symp.* 2.6.45 SC 95: 82), grows rapidly stronger.¹¹⁹ Jerome was one of the teachers who taught that all sexual intercourse was impure (*omnis coitus immunda sit*, *Adv. Jov.* 1.20 PL 23: 249).¹²⁰ Gregory of Nyssa was married until his wife died (381 CE),¹²¹ but he recommended a 'spiritual' matrimony. According to Augustine (*C. Faust.* 22.30 CSEL 25:1), whose austerity mellowed in later life,¹²² a Manichaean polemicist claimed that there were more virgins in the congregations than married women, although the teachers allowed marriage. Gregory of Nyssa equated the celibate life with the chaste relations of the Father, the Son and the Holy Spirit (*Virg.* 2.1 SC 119: 262–65), and according to his ideal a human should be without passions, as God is (*Virg.* 2.2 SC 119: 266–69). According to John Chrysostom,

113. See Lamberigts 1997: 152–55.

114. See Noakes 2001: 121–24.

115. Clement of Alexandria interprets Gen. 1.28 literally and considers procreation a duty (*Paed.* 2.10.83.2 SC 108: 164), as also Methodius (*Symp.* 2.6.45, SC 95: 82–85). See Brown 1988: 65–82.

116. According to Origen, only 'Sadducees' would take literally such texts as Ps. 128.3, praising the fertility of the mother in the family (*Hom. 1–39 in Lc.* 3. SC 87: 452–54). On Origen's view, see Crouzel 1989: 137–49 and Clark 1997: 97–102.

117. Chrysostom, *Hom. in Cor* 7.2, PG 51: 213 uses Gen. 1.28.

118. See Eyben 1980–81: 64 and Clark 1999: 180–81.

119. On these views, see Scaglioni 1976: 286–87.

120. See Clark 1997: 90–97. Origen, indeed, had already adjudged marital sex impure, although not sinful (see Crouzel 1989: 138–39).

121. See Dörrie 1983: 866; on Gregory of Nyssa and marriage, see Barnes 2001: 12–20.

122. Harrison 1997: 94–95.

however, the reason for marriage is original sin.¹²³ Several writers, such as Gregory of Nyssa, Ambrose and Jerome considered matrimony, in one way or another, the result of Adam's fall.¹²⁴

A totally different view is present in the Jewish *Liber Antiquitatum Biblicarum*, where many of the Hebrews suggest ceasing procreation because the Egyptians killed the sons and took the girls to serve as slaves. However, Moses' father stubbornly retains the duty to procreate (LAB 9.2). It is interesting to note that Early Christians accepted only a part of the Jewish argumentation against exposure but obstinately preserved what they had taken. The Jewish heritage included some traditions critical of marriage generally, but the main line considered procreation a duty. But Gen. 1.28, so important for the Jewish teachers, was to be a vexing argument used by the opponents of the Fathers, and the verse long remained a source of controversy between the Fathers and their opponents.¹²⁵

Children are the Only Goal of Sexual Intercourse

Jews considered Gen. 1.28 a rule imposing a duty to procreate and often used the argument that the purpose of intercourse is procreation, often regarding this as the only legitimate goal of sexual relations.¹²⁶ The argument recurs in Christian writers:¹²⁷ Justin claims that Christians generally married only to get children and tells of a young man who was willing to submit to castration to show that he did not seek pleasure (1 *Apol.* 29.2-3 [ed. Marcovich]). Moreover, Lactantius (*Inst.* 6.23 CSEL 19: 564-571)¹²⁸ and Athenagoras write that children are the only goal of marriage (*Leg.* 32-33 [ed. Schoedel]). Clement of Alexandria makes use of the same argument (*Str.* 2.18 92-93 SC 38: 105-106) and bans sex during pregnancy and lactation; according to him, people acting otherwise offend the Law of Moses.¹²⁹ The *Apocalypse of Peter* severely attacks

123. The texts in Scaglioni 1976: 285-86. Chrysostom seems to have revised his view on marriage through the years; while he initially praised only virginity, later he could also find positive traits in marriage; see Brändle and Jegher-Bucher 1998: 474-75 (with documentation and literature).

124. See Brown 1988: 399-400.

125. See Clark 1999: 181.

126. See above, pp. 51-54.

127. On this view in general, see Lodovici 1976: 225-30.

128. Lactantius, unlike several Jewish writers, does not ban intercourse with a pregnant wife; rather, he considers it God's good creation that the woman wishes to continue having relations with her husband, thereby reducing his temptation to stray (*Inst.* 6.20; see Grubbs 1995: 92).

129. Clement uses very strong words. That Moses bans intercourse with a pregnant woman is a view typical of Early Judaism, see above, p. 52. According to Clement, people who have sex for enjoyment live like pigs and goats. A man is not

people who practised adultery and subsequently aborted their children (8.1-10). Clement says that a man exposing his child has no right to marry at all (*Str.* 2.18.92-93 SC 38: 105-106) and Lactantius repeats the argument (*Inst.* 6.20 PL 6: 709). According to John Chrysostom, the function of matrimony is not procreation, but chastity, avoiding adultery (cf. 1 Cor. 7.2).¹³⁰ All these writers strongly connect the ban on the abandonment of children with the rest of their family ethics.

As seen above, people in the Graeco-Roman world often considered children the principal but by no means the only purpose of sexual intercourse. The idea that it was an honourable goal became dominant later. Moreover, most Jews abandoned the ideas occurring in Prov. 5.15-20, and claimed that procreation was the only reason for the Jewish marriage.¹³¹ That Early Christians' proud insistence that it was not lust and desire that caused them to marry implies that they expected a strong positive response to their views. The apologists certainly knew what they were doing. Their targets were neither Gentiles, like the Cupiennius mentioned by Horace, who did not want to be praised because he had left married wives alone, nor like Horace himself who tells people to satiate themselves with slave-girls and boys instead of married women (*Sat.* 1.35-36, 109-34), but rather people with growing ascetic ideals. These ideals had been a part of Graeco-Roman culture for years (see, for instance, Cicero, *Cato* 39-41 and 47). Unlike the people in classical Athens, or of Rome, Musonius Rufus and perhaps also Epictetus did not countenance extra-marital sex.¹³² Although men like Plotinus and Porphyry did not condemn all sexual relations, their views are generally concordant with the ideas of Christian teachers accepting marriage. Like eating, sex too was to be practised in moderation.¹³³

It is both impossible and unnecessary to present here a history of the ascetic ideas in the Mediterranean world and how they impinged on Christian marriage. Paul's words in 1 Cor. 7.1-7 remain exceptional: he does not consider procreation the only goal of sexual intercourse but speaks of the marital duties of both spouses who ought not to deprive each other 'except by mutual consent and for a time'. For our theme, it is enough to see that the Jewish and Christian ethics coincided more and

expected to act as a bad sower on the fields and cast his seed summarily, but to plant the seed in a proper time (*Str.* 2.23.144 SC 38: 142; 3.11.71-72 GCS 15.228). The metaphor of a sower appears also in Augustine's thought (*Civ.* 14.23 CCL 48: 446).

130. On the passages in Chrysostom, see Scaglioni 1976: 284-85; many positive passages are cited in Clark 1997: 84-90. On the development of his view, see above, n. 123.

131. See below, pp. 51-54.

132. See above, p. 53, and Grubbs 1995: 70-71.

133. Brown 1988: 178-83.

more with the secular world, in which continence was increasingly appreciated. Augustine's words became normative in the western Church. He unambiguously denied that marriage is a sin, also condemning his Manichaean past. In *De bono coniugali*, which would long be the principal work concerning family ethics in the West, he even denies that procreation is the only (although an important)¹³⁴ function of sexual intercourse, but the natural companionship between the sexes is needed to avert adultery; sex without the idea of procreation is a sin, but in marriage it is a venial sin (*B. coniug.* 6 [ed. Walsh]). Augustine speaks warmly about marriage, in which, after the couple had produced all their children, their sexual life is ended by mutual agreement (*B. coniug.* 6 [ed. Walsh]; *Adult. coni.* 2.20.21 CSEL 41: 409). Augustine's critical letter to a noble lady named Ecdicia (*Ep.* 254), who had left her husband after the sexual life was terminated, proves that he did not consider sexual life but the *sacramentum* the abiding essence of matrimony.¹³⁵

Augustine is perhaps not treated unjustly if it is alleged that this view was not based wholly on theoretical reflections but partly on his own experience: he had lived 13 years in concubinage, taking another woman later, when he had to depart from the first. The reason for this was not his desire for legitimate offspring but sexual need.¹³⁶ He then lived the rest of his life celibate. This certainly influences his views on sex and procreation. Unlike several Early Jewish texts, Augustine does not consider the barrenness of the wife an appropriate ground for divorce (*B. coniug.* 17 [ed. Walsh]). However, in this work, as well as in *De nuptiis* (*B. coniug.* 12 [ed. Walsh]; *Nupt. et conc.* 1.16 CSEL 43: 229), lust and sexual desire are sins but venial ones in marriage.¹³⁷ In this way of thinking, sexual needs are likened to food that is necessary for man and tastes delicious but that can lead to improper desires.

A marriage without sexual intercourse after the desired number of children achieved seems not to have been unusual among Christians. Neilus of Ancyra (*Narr.* 2. PG 79: 600-601) and St. Melanie the Younger (*Vita S. Melaine*, SC 90: 132) lived in such a marriage. It is not always explicitly stated that procreation is the only goal of sexual intercourse; however, it seems to be true in most quotations cited here. In *nuce*, Augustine's words say what many Christian teachers thought about sex without intention to procreate: it made the man an adulterer, the wife a

134. See Cantalamessa 1976: 443-44.

135. See Brown 1988: 403-404 and above, pp. 112-13.

136. See Brown 1988: 389-90.

137. Augustine uses 1 Cor. 7.6 both in *Nupt. et conc.* 1.16 CSEL 43: 229 and in *Ench.* 78 CCL 46: 92 to prove that sexual desire also within marriage is a sin, because Paul speaks of *venia*.

prostitute and the father-in-law a pimp (*Nupt. et conc.* 1.15.17 CSEL 42: 230).

Contraception and Abortion Restricted

Many Christian teachers shared the predominant view that marriage was inferior to virginity. Whereas we are not able to say what, for example, Julianus thought about family planning,¹³⁸ an obvious consequence of the belief that marriage is only a concession given for the weak and only for the purposes of producing children is a highly critical view of contraception and abortion.

Classical antiquity knew many contraceptive methods. Traditionally, most scholars have considered these methods inefficient, and there are good reasons for accepting this view.¹³⁹ Ancient medical tradition unanimously errs concerning the most fertile days, which implies that the rhythm method, although it was often practised, was ineffective.¹⁴⁰ *Coitus interruptus* is only seldom mentioned in the sources, which means that this method, which is impossible without the man's active role in family planning, was rare in the ancient world.¹⁴¹ Magical tricks that are suggested in some sources, such as wearing amulets, made it easy for scholars to laugh at ancient methods. Some scholars have been more cautious, remembering that contraception was a matter for women, while men wrote most of the extant literary texts; male writers, it is claimed, would have refrained from discussion of such topics.¹⁴² However, John Riddle's work *Contraception and Abortion from the Ancient World to the Renaissance* (1992) turned the tables, showing that the ancient methods were up to 100% effective in preventing pregnancy when they were tested with animals. After Riddle's book, the crucial question is no longer whether or not the ancient medicaments were effective, but how widely the methods suggested in medical handbooks were known.¹⁴³ Because many ancient

138. On Julianus, see p. 118.

139. Brunt (1971: 146-47) deals with the theme only briefly, summarizing his view as follows: 'It must, however, be regarded as doubtful whether any form of contraception was either usual or effective in limiting families in ancient Italy'. According to Garland (1990: 48-51), it is 'extremely doubtful whether [contraception was] particularly efficient. Eyben (1980-81: 7-9) was cautious enough to ask the right questions. He did not exclude the influence of the methods, but asked how widely they were known. Harris (1994: 14-15) knows and accepts Riddle's results.

140. Riddle 1992: 5-7.

141. Riddle 1992: 4-5.

142. See Brunt 1971: 146-47 and Eyben 1980-81: 8.

143. Schubert and Huttner 1999: 491-92 answer the question positively, while Kapparis (2003: 15-16) is more cautious. Kapparis refers to the lack of clinical tests and waits for further scientific analysis. In his view, the ancient world had some knowledge of contraception, though it was imperfect and its success was sporadic.

authors, Gentile, Jewish and Christian alike,¹⁴⁴ mention contraceptive drugs and assume that they work, there is no reason to say that only a small segment of the society was familiar with them. People did not learn the contraceptive methods from books; rather, the reverse prevailed: the knowledge of the physicians was based on popular practice which was undoubtedly widely known.

Nevertheless, the view of Early Christian writers is not in doubt. The Jewish heritage restricted the use of contraceptive methods but did not unanimously ban them.¹⁴⁵ In Early Christian sources we find only critical comments,¹⁴⁶ although the first reference occurs as late as in Minucius.¹⁴⁷ Indeed, it is not always easy to distinguish between the use of contraceptive methods within marriage and within adulterous intercourse. Moreover, few writers were able to differentiate contraception from abortion because the same drugs were apparently used for both. Hippolytus (died 235 CE) condemns women using drugs to produce sterility or to procure an abortion as equivalent to committing adultery and murder at the same time: this in the context of extra-marital relations (*Haer.* 9.12 GCS 26.250-51). According to Jerome (*Ep.* 22.13 CSEL 54: 160-61), women who tried to avoid pregnancy or procure an abortion murdered an unborn child (*necdum nati filii parricidae*). John Chrysostom considers contraception worse than murder (*Hom.* 1-32 in *Rom.* 24.4, PG 60: 626-27). Augustine condemns strictly contraceptive potions (*sterilitatis venena*, *Nupt. et conc.* 1.15.17 CSEL 42: 230) and compares intercourse involving contraception with adultery in marriage. Apparently he here condemns something he had himself also done.

Jewish writers often condemn abortion and early rabbinic writings allow it only when the mother's life is in danger.¹⁴⁸ The Christian writers followed the example of their Jewish predecessors and it is an error to overlook their use of Jewish heritage.¹⁴⁹ The first important passages are

Although also this is more than, for example, Brunt believed, I do not believe that Riddle's results can be dismissed so lightly.

144. The Jewish sources quoted above deal with potions; see above, pp. 54-55. On Gentile sources, above all Soranus (*Gynaecology* 1.19.64-65), see Riddle 1992: 16-45.

145. See above, pp. 54-55.

146. See Eyben 1980-81: 70-74.

147. Minucius's text is obscure (*sunt quae in ipsis visceribus medicaminibus epotis originem futuri hominis extinguant et parricidium faciant antequam pariant*, 30.2 Pellegrino). Because the ancient medicaments could be contraceptives as well as abortifacients, only a few ancient writers distinguished between them, as Soranus did.

148. See above, pp. 56-57.

149. Brunt offers a good example of neglecting totally the Jewish heritage when he deals with abortion ('It was denounced only by the Christians with their new conception of the value of the foetus', 1971: 148). According to Kapparis, Basil

early and the Jewish roots are obvious, as in *Barn.* 19.5, *Did* 2.2, the *Apocalypse of Peter* (both the Ethiopian and the Akhmim fragment) and Clement of Alexandria (*Ecl.* 48 CGS 17: 150). Nevertheless, the Christian writers add new arguments.¹⁵⁰

As described above, the most important philosophers believed that a person received one's soul with one's first breath and yielded it up with one's last; the Jewish view, albeit inconsistent, was that already the foetus was a human being.¹⁵¹ Tertullian discusses the theme in *De anima*¹⁵² and rejects the view of the philosophers, considering the foetus a living being but only when it was fully formed (*De anima* 25 CCL 2: 818-21).¹⁵³ Hippolytus condemned abortion together with contraception (*Haer.* 9.12 GCS 26: 250-51) and Ambrose did the same even more severely (*Hex.* 5.18.58 PL 14: 245). Epiphanius claims that Barbelognostics did not allow children to be born but practised abortion and ate the foetuses (*Panar.* 26.5 CGS 25: 281-82). The charge was common in ancient propaganda.¹⁵⁴

The debate about the moment at which a person receives a soul continued. Jerome was the first to state unambiguously that killing only a formed foetus is tantamount to murder.¹⁵⁵ This is, of course, very difficult to reconcile with his opinion that contraception means murder,

'actively defied the authority of the Bible' and followed Gentile ethics of late antiquity in rejecting abortion (2002: 48).

150. On Christian writers and abortion, see Riddle 1992: 20-23.

151. See above, pp. 44-46.

152. Like Philo, Tertullian too is led into inconsistency when he considers only a fully formed foetus to be a human being, the obvious reason being that he follows the LXX version of Exod. 21.22-25 (*Ostendit enim animam de semine induci, quid curari monet, non de prima aspiratione nascentis, De anima* 25.9 CCL 2: 821; *ex eo igitur fetus in utero homo, a quo forma completa est, De anima* 37.2, CCL 2: 839). Indeed, the inconsistency is slight. The context of the former passage is that Tertullian criticizes the view that man receives a soul with his first breath. Without emphasizing the moment at which it is considered a human being, Tertullian tries to prove that the foetus is a living being and has a soul in the womb.

153. Tertullian is the first Christian writer to distinguish between a foetus that is developed and one which is not: 'The embryo therefore becomes a human being in the womb from the moment that its form is completed. The law of Moses, indeed, punishes with due penalties the man who shall cause abortion, inasmuch as there exists already the rudiment of a human being, which has imputed to it even now the condition of life and death, since it is already liable to the issues of both, although, by living still in the mother, it for the most part shares its own state with the mother' (*De anima* 37.2 CCL 2: 839, trans. ANF).

154. See Gärtner 1985: 161-62 and p. 126.

155. *Sicuti enim semina paulatim formantur in uteris: et tam diu non reputatur homicidium, donec elementa confusa suas imagines membraque suscipiant* (Ep. 121.4 CSEL 56: 16).

and it is more difficult still to deduce that he allows abortion.¹⁵⁶ Augustine followed the same path in dealing with the case described in Exod. 21.22-25. If the foetus was *non deformatus*, the incident does not involve a *homicidium* (Ench. 85 CCL 46: 95-96; *Quaestiones Exodi* 80 CCL 33: 110-12).¹⁵⁷ Basil rejects all these distinctions ('With us there is no nice enquiry as to its being formed or unformed', *Ep.* 188.2 [ed. Deferrari]).¹⁵⁸ However, all these writers condemned abortion and none of them unambiguously accepts it. There is an early exception in that several writers, like Jews before them, allowed embryotomy to save the life of the mother.¹⁵⁹ Otherwise, abortion is treated as a horrible crime equated with murder. All the foregoing must be taken into account when studying Early Christian views on exposure.

Christians Do Not Sacrifice or Eat Children but are an Ideal Community

The context of the early criticism is often that the writers are defending Christians against the charge that they ate their own children (Just. 1 *Apol.* 26.7 [ed. Marcovich]; Tertullian, *Ad nationes* 1.15.3-8 CCL 1: 33-34; *Apologeticum* 9.6-8 CCL 1: 102-103; Athenagoras, *Leg.* 35.6 [ed. Schoedel]; Minucius Felix 31.4 [ed. Pellegrino]). It is difficult to determine whether the reason for this topos is simply that the apologists were diligently quoting their predecessors. If it is not, the charge seems to have been common. As stated above, Fronto, the former advisor of Marcus Aurelius and a famous rhetorician was one of those promulgating the charge.¹⁶⁰

Christians were not the first group to be accused of sacrificing human beings. The Jews rejected all Gentile sacrifices in their Temple and excluded all non-Jews. They did not take part in common religious services among the Gentiles. This exclusive nature of the Jewish religion was a source of speculation and hatred, especially after the Maccabean

156. According to Kapparis (2002: 48), 'a number of them (sc. of Christian scholars) were prepared to follow the LXX version of *Exodus* and adopt a gradualist approach, according to which abortion should be treated as homicide only after formation'. Although he refers to Nardi and Noonan, I know of no Early Christian Father who allows abortion and motivates it with Exod. 21.22-25 LXX. To be sure, some of them (see Koskeniemi 2009) deal with the case mentioned there and do not consider as a murderer the man who unintentionally causes a miscarriage.

157. On Augustine's view, see also the important passage in *Nupt. et conc.* 1.17 CSEL 42: 230.

158. According to Basil, abortion leads to penance of ten years, 'whether the embryo were perfectly formed, or not' (*Ep.* 188 Deferrari).

159. Tertullian calls it *necessaria crudelitas* (*De anima* 25.4) and Augustine says *Nam negare vixisse puerperia quae propterea membratim exsecantur et eiciuntur ex uteris praegnantium ne matres quoque, si mortua ibi relinquuntur, occidant, impudentia nimia uidetur* (Ench. 86 CCL 46: 96).

160. See above p. 95.

revolt had provoked a cultural counter-attack by the Seleucids.¹⁶¹ Damaratus reported that the conquerors found a Greek man waiting in the Temple to be sacrificed (Josephus, *Apion* 2.89-102).¹⁶² Actually, even Justin claimed that Jews ate their children (*Dialogue with Trypho* 19.6; 46 [ed. Goodspeed]) and Epiphanius (*Panar.* 26.5 CGS 25: 281-82) says it of the Barbelognostics. Rumours of the sacrifice of children could also be connected with Punic priests, and apparently not without justification. Greek and Roman authors unanimously say that Phoenicians (and Carthaginians) traditionally sacrificed children. Tertullian tells how the soldiers of his own father nailed Punic priests to their holy trees because of such sacrifices and claims that the sacrifices continued secretly. The accusations were thus commonplace and could result in the crucifixion of individuals who were suspected of such religious practices.¹⁶³

These stories apparently found a new target and were applied to the Christians. The Christian answer was, as the Jewish had been earlier, to present themselves as ideal people who obviously rejected all inhuman deeds attributed to them. Sometimes writers, such as Tertullian, are obviously guilty of double dealing: the man making everyday life very difficult with his rigid restrictions now emphasizes how ordinary and ideal the Christian way of life was (see *Apologeticum* 4 CCL 1: 92-94). But although Tertullian's voice generally does not match the others, the main force of his apology was in all respects to present the Christians as an ideal people who would not commit murder. Justin uses this argument and so does Athenagoras, who takes it to extremes ('and at this day what is said about us amounts to only the low and untested rumour of the populace, and no Christian has yet been convicted of evil', *Leg.* 2.1 [ed. Schoedel]). The topos also appears in *Diogn.* 5.6, Tertullian and Minucius Felix. Moreover, many Christian writers answer with a counter-attack, accusing Gentiles of the murder of their own children when they abandon them. That the Christians were not allowed to cast their children out is thus the crux of the Christian defence. It also explains why exposure is mentioned so often. It implies too that exposure must have played a significant role in internal Christian debate, which certainly reduced the number of abandoned children.

Exposure is against Nature and Cruel

Philo once wrote that exposure is against nature – a view which was in accord with the ideas of some Gentile writers and philosophers, particularly those of Plutarch in his treatise *De amore proles*, and of Epictetus

161. See Gabba 1989: 644-47.

162. Rokéah 1995: 286-87.

163. See Henrichs 1972: 12-16.

(1.23). However, as presented above, there hardly was any strong, pre-Philonic, Gentile argument saying that exposure was wrong and against nature.¹⁶⁴ The reason why Gentile philosophers criticized exposure was the welfare of the state; they rarely state that the practice was wrong *per se*.

Early Christian writers often criticized exposure because they held that a baby (or even a foetus) is a created being,¹⁶⁵ but more precisely they sometimes also said that the practice is against nature. In particular, the famous *Hexameron* of Basil involves an important step. When describing the six-day creation, he combines much ancient biological knowledge with the biblical account. The tenor of the entire work is the good order God created in the world and precisely this explains why also humans should take care of the old, the poor and the helpless. A good example is how the birds look after their young. Just as birds do not abandon their young, so humans are not allowed to expose their children. At the same time, Basil warns of imitating the cruelty of birds with hooked talons (*Hex.* 8.6 SC 26: 460). Ambrose used and amplified Basil's arguments. Men should follow the example of the *phene*, which takes care of other bird's young. If men, in contrast, abandon their own children, they reveal their 'excessive cruelty' (*immitis crudelitas*, *Hex.* 5.18.61 PL 14: 246).

But although the word 'nature' may not appear, Christian writers significantly often use an argument very close to the claim that exposure was against nature. God is likened to an 'artist' already in Philo (*Spec.* 3.108-109). The idea occurs in Methodius (*Symp.* 2.6.45 SC 95: 82), *The Apocalypse of Paul* 40 ('for they defiled the image of God') and very strongly in Lactantius, *Inst.* 6.20 PL 6: 709. In this context, to act against nature means to act against God, the Creator.

The view that the exposure of children was inhuman and cruel appeared often in the Christian texts. Although Clement does not explicitly state that exposure is against nature, he could have said so, not only because he borrowed so much from Philo but also because he emphasized the gentleness that the Mosaic Law says men should show to animals. His account of the human attitude to suckling animals (*Str.* 2.18.92.2-4 SC 38: 105) is concordant with the views expressed in Basil's and Ambrose's texts. That nature teaches us to avoid 'excessive cruelty' and raise all children seems to have been an alien concept in the Graeco-Roman world. Even the philosophers who criticized the practice did not completely reject it. Epictetus maintains that it is better to abandon a child than to be a bad father (3.322. 74) and Musonius Rufus says that a

164. See above, p. 59.

165. See above, pp. 116-17.

man should raise most of his children (Fr. 15–16). Of course, we also have several texts proving that exposure was a sad necessity which was often practised against the will of the mother.¹⁶⁶ However, that it was cruel was an argument used by Jews and Christians. The Roman view is illustrated by *Controversiae* 10, where the elder Seneca lets people discuss different cases and the subsequent life of the abandoned children. A man who severely maimed children whom he collected for his own purposes was considered cruel—not only cruel to the children, but also and especially to the parents who occasionally recognized their own offspring and witnessed their sufferings. The parents too were indeed considered to have acted cruelly, not because they abandoned them, but because they did not allow them to die (*his tu mori non permittis*, *Contr.* 10.4.5). Seneca quotes several writers who observed that, in some cases, it is far more dangerous to be reared than to be cast out (*Contr.* 10.4.21). The tenor of the passage is that only a life with some quality is worth living. The patron was more cruel leaving the children alive than killing them (*Contr.* 10.4.7). Although this passage from *Controversiae* generally certainly includes assumptions that clearly belong to declamatory exercises and which were used to support the most paradoxical arguments,¹⁶⁷ it undoubtedly also incorporates views that were to be observed. Plutarch says that the poor abandoned their children to save them their poverty (*De amore proliis* 5 497d-e), while slaves were reluctant to beget children who would share their slavery.¹⁶⁸ In fact, they preferred the death of their children to bringing them to a life, which they did not consider worth living.¹⁶⁹

The Fate of the Children: Wild Beasts, Slavery, Brothels and Incest

The cruel fate of the abandoned children is a central argument in the early Christian Fathers. Their fate could be a terrible death but also a terrible life.

Christian writers mostly infer that abandoned children were not killed, although also this is sometimes mentioned (Lactantius, *Inst.* 6.20 PL 6: 708). The babies are assumed to be put out and left without care, which is presented as a callous act. Many texts mention wild beasts eating exposed infants. Tertullian often uses the argument of their cruel death and emphasizes that men prefer the sword to cold, hunger and

166. See above, p. 7.

167. See Corbier 2001: 67–68.

168. See Dio Chrysostomus 15.8 and Harris 1994: 14.

169. A similar problem makes Callirhoe in Charito's romance wrestle with the question of whether she should give birth to a child who would live in slavery or procure an abortion, see Charito 2.8.6 and Kapparis 2002: 121–24.

dogs (*Ad nationes* 1.15.3-8 CCL 1: 33-34; *Apologeticum* 9.6-8 CCL 1: 102-103; see also *Visio Pauli* 40). Lactantius too says that the babies are set out as prey for dogs (*Inst.* 6.20 PL 6: 708).

The argument is, as already stated, common also among the Jews. Pseudo-Phocylides and Philo use it to describe the terrible crime of exposure. According to R. Judah, this was the destiny of aborted Samaritan offspring, who were not buried but thrown out to wild beasts (*m. Nid.* 7.4). In the Tosefta, the question is treated in *t. Ahilot* 16.112-13. Aborted fetuses were not buried, nor were they subject to the law of contaminated soil. An aborted foetus was thrown into a cistern and 'the weasel and panther drag[ged] it away forthwith.'

There is no doubt that the danger was real.¹⁷⁰ Carnivorous animals undoubtedly visited dunghills regularly. Human corpses were believed to be eaten by wild animals, and not only in Jezebel's time (2 Kgs 9.34-36) but also later, when a Rabbi prevented the burial of a heretic butcher on the Sabbath (*t. Moed* 2.15-16). A newborn child might survive for several days during the summer, although not in the Mediterranean winter, and wild animals were indeed a threat: the fate of children not rescued by others is depicted by the elder Seneca (*ferae serpentesque et inimicus teneris artibus rigor et inopia*, *Contr.* 10.4.21) and Pseudo-Quintilian (*nudum corpus, sub caelo, inter feras et volucres*, *Declamationes minores* 306.23) and Firmicus Maternus (*consumetur a canibus*, 7.2.11). Although the harsh destiny was supported by every critic of the practice, the argumentation is also traditional and borrowed from the Jewish records.¹⁷¹ To be sure, Tertullian developed the theme, saying sarcastically that it was better that Kronos ate his children than that wolves did (*Ad nationes* 2.12.14 CCL 1: 61).

Some Early Christian writers assume that abandoned children were raised to be slaves. Lactantius claims that they were led either to servitude or to brothels (*Inst.* 6.20 PL 6: 709).

The words on slavery are true enough. Plautus tells of a man seeking a child early in the morning for this purpose (*Cas.* 39-44). Hermas, the writer of the *Shepherd*, states that he was a foundling raised to be a slave (1.1). The fate of M. Antonius Gniphos seems to have been typical, *ingenuus in Gallia natus, sed expositus, a nutritore suo manumissus* (Suetonius,

170. According to Corbier (2001: 62), the accusations of the Christians are 'merely an exaggeration designed to condemn both exposure and infanticide without attempting to distinguish between them'. Although it is certainly true that Christian writers attacked both practices on every ground they could find and that they used the worst alternatives to illuminate the utmost cruelty of the practices, there is enough evidence to confirm that the danger was real.

171. See above, pp. 60-61.

De grammaticis 7). Trajan, answering Pliny's letter, briefly mentions that exposed children were led to slavery (*deinde sublatis a quodam et in servitutem educati sunt*, *Epist.* 10.66). The literary sources thus offer much evidence of the enslavement of exposed children. Scholars consider foundlings to have formed a considerable part of the population of Italy. Brunt, in his classical *Italian Manpower*, writes:

Many slaves originated from Italy, and if some were the children of ancillae born there, a high proportion may have been foundlings, and have been sold, though illegally, by their parents.¹⁷²

Motomura refers to a list of slaves manumitted in Delphi between 53 BCE and 20 CE. In this text, birth or purchase information is supplied for less than half of the 43 slaves listed; apparently, these slaves were once exposed children.¹⁷³ Martial (1.58.1-2) refers to a dealer in slaves who sold a boy for 100,000 sesterces, the price being so high because the youth was to be used sexually. There seems to be no question that a remarkably high proportion of exposed children survived and were raised to live as slaves. However, there were apparently periods in which the slaves were so cheap to buy that the exposed children were seldom raised but faced death.¹⁷⁴

Nevertheless, according to the Christian writers, not all the rescued children were lucky enough to serve as slaves in families or in agriculture. Slavery could mean a much harsher destiny. Many Christian texts assume that the abandoned children survived and were led to brothels. Some texts speculate on the possibility of a frequenter of brothels eventually unwittingly performing incest with one of his offspring. Justin says that the brothel was the destiny of 'almost all' abandoned children, both the girls and the boys (1 *Apol.* 27.1 [ed. Marcovich]). Tertullian (*Ad nationes* 1.16.10 CCL 1: 35), Minucius (31.4 [ed. Pellegrino]) and Lactantius (*Inst.* 6.20 PL 6: 709) use the same topos. A common claim is that the practice resulted in unwitting incest, which was a terrible thing in the Greek and Roman view. Justin (1 *Apol.* 27.4 [ed. Marcovich]), Tertullian (*Ad nationes* 1.16.10 CCL 1: 35), Clement (*Paed.* 3.3.21.5 SC 158: 50) and Minucius Felix (31.4 [ed. Pellegrino]), as well as Lactantius (*Inst.* 6.20 PL 6: 709), refer to the possibility of incest when the children are led either to servitude or to a brothel.¹⁷⁵

172. Brunt 1971: 152; Harris 1994: 6.10. 18-19; Corbier 2001: 67.

173. Motomura 1988: 412-13, referring to Westermann 1955: 86. Tolles (1941: 66) gives a list of the relevant epigraphs known to him.

174. See Harris 1994: 7.

175. Boswell strangely concludes from this traditional criticism that exposure was so common among the Christians that the Christian Fathers must be reminded of

Although the Christian writers liked to speculate on the outcome of the worst possible coincidences, the words on brothels were not speculation. Both the literary and the non-literary evidence attest that abandoned children were often led to brothels. (Pseudo-)Demosthenes claims that the prostitute Neaira was, like other prostitutes, exposed by her parents and raised by a Corinthian woman who made her serve in the brothel (59.18). Terence's *Heautontimorumenoi* mentions a child reared by a prostitute, though it remained chaste. But Pliny tells of hermaphrodites who served as *deliciae*, apparently in brothels,¹⁷⁶ and Pseudo-Quintilian (*Decl.* 278.8) said that pimps and gladiator-trainers collected abandoned children. Unlike in modern societies, in the ancient world the open market, rather than the laws, decided when a girl or a boy was old enough to start a career in a brothel.

A dramatic discovery in Ashkelon sheds light on these questions but also raises new problems. The bones of nearly 100 infants were found under a fourth-century bathhouse was in use until 500 CE. Patricia Smith and Gila Kahila studied the skeletons carefully,¹⁷⁷ concluding that they belonged to newborn children who were thrown into the sewer of the bath immediately after birth. Kahila and Smith extracted DNA from 43 left femurs. Of 19 successful analyses, the results show that 14 of the infants were male, while only five were female. It is not difficult to decipher the meaning of the numbers: the bathhouse likely offered a full service, including sex with prostitutes, to its customers. This is exactly what Clement of Alexandria had in mind in his warnings in *Paed.* 3.5.32 SC 158: 72 and it reveals the reason why the Canons of Laodicea (*Can.* 30) from between 343 and 381 CE¹⁷⁸ spoke against the practice of men and women bathing together ('for this is the greatest reproach among the Gentiles'). Although female infanticide generally outnumbered that of males, the opposite statistic at Ashkelon suggests that the boys were more likely to be killed, while the girls were raised to serve in the brothel, as their mothers likely did.¹⁷⁹ Though the number of skeletons seems to be large, if the bathhouse was frequented for a period of a hundred years, the figure, in fact, is rather small, averaging out at one child a year. This figure itself, perhaps, attests that the women well knew how to prevent pregnancies from going full-term. Of course, we do not

this danger (1988: 3-4). However, the words of Justin and Tertullian are not directed to Christians but to Gentiles in these apologetic writings.

176. *Gignuntur et utriusque sexus, quos hermaphroditos vocamus, olim androgynos vocatos et in prodigiis habitos, nunc vero in deliciis* (Pliny, *Nat.* 7.34).

177. Kahila and Smith 1997: 212-13.

178. Baus and Ewig 1973: 341.

179. On the baths in Ashkelon see Stager 1991.

know how many women served in this bathhouse, nor whether this was the only place in which the children were cast out.

The words on incest seem to consist of the worst sort of speculation and deal with only theoretical possibilities.¹⁸⁰ It seems that such events were possible only in tales, as in that of Oedipus. However, unintentional incest was feasible also in real, ancient world. Actually, Tertullian tells such a story and claims that the prefect Fuscianus had to deal with the case.¹⁸¹ Fuscianus happens to be mentioned in an inscription,¹⁸² but, of course, this does not give information about this incident. If it really happened, the case would certainly have been regarded as scandalous in the Roman world. Apuleius tells how a wife tried to avert incest (*Met.* 10.23). Yet the striking fact remains that people who had abandoned their children did not know where they were, and understandably could not help thinking about them. The elder Seneca reports that people gave alms to beggars, so avoiding the cruel possibility that they passed by their own sons, who needed help (*Contr.* 10.4.10). He also quotes Adaeus the Rhetorician, Blandus, Moschus and Arellius Fuscus describing weeping women giving alms to beggars because they could not exclude the possibility that they were their own children (Seneca, *Contr.* 10.4.19-20). The worst option was that they recognized their own children (10.4.1), and Arellius Fuscus also mentions the terrible uncertainty: 'Poor woman, if she knows it to be hers, poor woman, if she does not know' (*Sen. Contr.* 10.4.20). Although the Christian arguments referring to incest were speculative, they obviously aroused the anguish of parents who had exposed their own children.

Share the Means and Help the Helpless!

As seen above, economics was a major reason for the abandonment of children in the classical world.¹⁸³ It is interesting to study how Christian teachers reacted to this argument. Was their reasoning influenced by the fact that most of the post-Constantine Fathers in particular came from wealthy families who were able to feed their children? While this may be the case, it is important to note that not only the poor but even the rich abandoned children because they were unwilling to divide their property (Polybius 36.17.7, Hierocles in Stobaeus 4.24.14). How did the Christian writers deal with the financial reasons cited in cases of exposure?

180. On Boswell's view that Justin and other Christian writers warned Christian parents, see p. 132 n. 176.

181. Tertullian gives an account of an exposed son who was bought from the slave market by his own parents (*Ad nationes* 1.16.14-19 CCL 1: 35-36).

182. On C. Allius Fuscianus see *CIL* 3.118 and van Rohden 1894: 1586.

183. See above, pp. 2-3.

It took time before the first Christian writer dealt with the question. The early writers followed the manner of their Jewish predecessors and repeated the ban without asking whether or not people could feed their children. Clement (*Str.* 2.93.1 SC 38: 105) and Lactantius (*Inst.* 6.20 PL 6: 709) consider the economic reasons a pretext; the only advice they gave to those who doubted that God is able to make people rich and poor was to abstain from marriage.¹⁸⁴ Basil, in contrast, and Ambrose, following him, take the challenge very seriously. Although Basil also says that poverty is not a valid reason to abandon children (ἐπὶ προφάσει πενίας, *Hex.* 8.6 SC 26: 460), he speaks about God's nature teaching people to help each other and to share what they have (*Hex.* 8.6 SC 26: 460). His own life attests that his words were not merely lip service. He personally refused his inheritance, gave it to the poor and exhorted the wealthy to help the poor. He also showed deep compassion for those unable to feed their children. In one moving passage, he writes about a father choosing which of his children he would sell.¹⁸⁵ On the other hand, Basil, like Ambrose (*Hex.* 5.18.58 PL 14: 245), knew that the wealthy also abandoned their children and on this point his criticism is very bitter. Gentile philosophers, such as Musonius Rufus, shared his critical view. Polybius too considers avarice the reason for the low birth rate in the Greece of his own time (36.17.5-10).

Exposure is against Earthly Laws

Tertullian claims that the practice of abandoning children was illegal (*legibus quidem prohibemini, sed nullae magis leges tam impune, tam secure sub omnium conscientia unius aeditui> tabellis eluduntur, Ad nationes*, 1.15.3-8 CCL 1: 33). He does not, however, distinguish the law to which he refers. Did he mean a Roman law?

As a rule, when distinguishing between public and private spheres, ancient societies attributed most of the family ethics to individuals. The State often showed a strong interest in the development of the population, but the size of the family was traditionally a matter that was decided by the parents.¹⁸⁶ However, this division of the spheres was challenged when rulers saw fit to regulate the population by stronger means in the fourth century CE.¹⁸⁷ On the other hand, there is also some evidence that exposure was restricted earlier, and Tertullian's words may be part of this evidence.

184. Aelian (*Var.* 2.7) claims that extreme poverty was the only accepted reason for exposure in ancient Thebes. Although the comment has hardly any historical value, it certainly says something about Aelian's own view.

185. *Homilia ad illud Lucae Destruam* 4 PG 31: 268-69; see Boswell 1988: 166.

186. See below, pp. 138-40 **138**.

187. See below, pp. 148-52.

The first pieces of evidence consist of passages in which ancient writers referred to a period that belonged already to the past. Although they did not directly refer to the laws of their own time, and few scholars believe that they mediated reliable historical knowledge about the ages of which they wrote, these passages reveal that the governing classes were increasingly concerned about exposure.¹⁸⁸ Aelian (*Var.* 2.7) says that the exposed children were brought to the magistrates and given to people for a small fee in Thebes. Plutarch (*Fr.* 69) claims that exposure was forbidden in Ephesus unless there was famine in the city. Although even some prominent scholars, such as Eyben,¹⁸⁹ express no doubts, a certain amount of scepticism seems appropriate: the peoples living in the past could be described romantically, as could foreign nations. The target was the writers' contemporary readership.

The second piece of evidence consists of laws that indeed existed in the Roman Empire. The governing class was increasingly worried about depopulation and intended to impose stricter regulation on birth control. However, the problem is that we do not know in detail the history of these ordinances. We have information about them from the times of Augustus, Trajan, Severus and Constantine, but cannot exclude even local rules given by lower administrations.¹⁹⁰

But does Tertullian refer to the past or to his present time? There are several possibilities.¹⁹¹ He may refer to a rule that Romulus allegedly gave to his people, namely, that they were obliged to raise all males and the first female born to them (Dionysius of Halicarnassus 2.15.2). Although this was not a law, Mommsen believes that it was a religious obligation.¹⁹² It may have been known to Tertullian. More or less *bona fide*, he adduced all the evidence he could to support his view. Eyben suggests that Tertullian's words refer very broadly to Augustus's marriage laws.¹⁹³ Or, as Cuq supposes,¹⁹⁴ Tertullian means statutes given by the *decemviri* which were easily overruled. A further possibility is that he refers to the practice of the native Egyptians who traditionally abandoned children to a lesser extent than the Greeks, if at all. But it is also possible that Tertullian gives the first indication of what began to

188. Isocrates mentions exposure in some cities in his own time and condemns the practice (*Panath.* 122).

189. Eyben 1980–81: 23–24.

190. See below, pp. 148–52.

191. Harris suggests that Tertullian refers to the secular law punishing murderers (1994: 16), but this suggestion lacks conviction. For further discussion, see Fayer 1994: 140–43.

192. Mommsen 1899: 619

193. Eyben 1980–81: 20.

194. Cuq 1904: 47.

happen soon after him. The Severian rulers certainly restricted abortion and possibly also exposure: so, chronologically, Tertullian fits the new legislation, which we do not know in detail. Moreover, local restrictions may have antedated the general ones. At any rate, the foundlings, who appeared often in papyri in Egypt, are no longer mentioned after 111 CE, and the reason was probably new legislation.¹⁹⁵

Exposure is against Heavenly Law

The strongest argument that the Jews could use was that exposure is against the Law. The Mosaic Law is rarely explicitly cited in Early Christian texts as an argument against exposure. To be sure, Tertullian, Basil, Jerome and Augustine explicitly refer to Exod. 21.22-25 in their literal interpretations and follow the principle laid down in the LXX, attributing human value to a foetus.¹⁹⁶

But although Moses is not mentioned, it is clear that they claim that the Law banned exposure. The sinners have rejected God's 'commandment' (*Apoc. Petr.* 8.1-10; *Visio Pauli* 40; Methodius, *Symp.* 2.6.45 SC 95: 82-85), which is seldom specified. It is hard to imagine that the writers meant by this 'commandment' something other than the Old Testament material in its Early Jewish interpretation.

There is sometimes confusion about which 'commandment' is meant, but it often seems to be indisputable. The first and clearest argument against the abandonment of the newborn children is that it was considered murder. This is an obvious reference to the Decalogue. Moreover, the words in the *Epistle of Barnabas* and the *Didache*, Οὐ φονεύσεις τέκνον ἐν φθορᾷ οὐδὲ πάλιν γεννηθὲν ἀνελείς/οὐ φονεύσεις τέκνον ἐν φθορᾷ...οὐδὲ γεννηθὲν ἀποκτενεῖς, are, as in the Jewish original, taken directly from the Decalogue (οὐ φονεύσεις in Exod. 20.15 and Deut. 5.18). Consequently, both Justin (*1 Apol.* 29.1) and Athenagoras call exposure murder (*Leg.* 35.6 [ed. Schoedel]). Tertullian says it is a 'speedier homicide' (*Apologeticum* 9.6-8 CCL 1: 102-103), Origen that it means 'destroying' (ἀναιρεῖν) the offspring given by God's power (*Cels.* 8.55 SC 150: 300) and Lactantius (*Inst.* 6.20 PL 6: 708-709) mentions exposure when dealing with different ways of breaking the fifth commandment. As in Jewish texts, exposure is thus considered homicide, and Exod. 21.22-25, as interpreted in the LXX, is certainly a bridge between the Scriptures and early Christian interpretation, although the Mosaic Law had lost the role it had among the Jews.

195. See below, p. 150.

196. See Koskeniemi 2009. As seen above, the Vulgate, however, follows the Hebrew text and does not deal with the foetus.

Although not every Christian writer explicitly argues that exposure is against the Mosaic Law, more precisely against the Decalogue and Exod. 21.22-25, the reasoning is obvious: they closely follow the Jewish view, based on some Old Testament passages, according to which the foetus is already a human being. Several writers, as the *Epistle of Barnabas*, the *Didache*, the *Apocalypse of Peter*, Athenagoras, Hippolytus (*Haer.* 9.12 GCS 26.250-51), Augustine¹⁹⁷ and Basil (*Ep.* 188.2 [ed. Deferrari]) expand the view to cover abortion. Minucius Felix (30.2 [ed. Pellegrino]),¹⁹⁸ Hippolytus (*Haer.* 9.12. CGS 26: 250-51), Jerome (*necdum nati filii parricidae*, *Ep.* 22.13 CSEL 54: 160-61), and John Chrysostom (*Hom.* 1-32 in *Rom.* 24.4. PG 60: 626-27) also include contraception.

A special case among the Christian writers is Clement of Alexandria, who, unlike other Fathers, applies the Mosaic Law against exposure in diverse ways. God's Law enjoins people to show mercy to animals. It prohibits separating the progeny of the animals from their dam before the eighth day (Exod. 22.30; Lev. 22.27), as well as slaying the offspring and the dam together on the same day (*Str.* 2.18.92 SC 38: 104-105). It is easy to trace the source for his arguments.¹⁹⁹ Clement was familiar with the works of Philo: for example, he not only follows Philo's argumentation defining classical studies as a handmaid of the 'real' Jewish/Christian philosophy but also directly refers to Philo's witness (see, e.g., Philo, *Mos.* 1.5-20/*Str.* 1.23.153 SC 30: 155). Clement's argumentation here is so similar that he has obviously taken much from Philo.²⁰⁰ Now first Philo and then Clement use this view and argue *a fortiori*: if God tells us to treat animals well, a human child should not indeed be left without care.

If the suggestion made above, according to which the ban on the abandonment of children is based among the Jews on a common *paradosis*, is accepted,²⁰¹ the *paradosis* soon found its way into the Christian Church. Although the Mosaic Law does not contain a specific rule on exposure, the fifth commandment was interpreted, obviously in the light of several other Biblical passages, so as to cover exposure. This interpretation was

197. Augustine distinguishes between a foetus which is formed and one which is not, see Koskeniemi 2009.

198. On reservations concerning this passage, see above, p. 124.

199. Moreover, the use of Isa. 65.40 (*Ecl.* 41 CGS 17: 149) as an argument against exposure may be borrowed from Jewish writers.

200. Philo, for his part, was not alone in rejecting cruelty to animals, although he is the only Jew known to us who adapts this to condemn the exposure of children. When Philo and Josephus summarize the Jewish way of life, this either belonged to their common sources or was a general view in early Judaism; see Carras 1993: 38-39.

201. See above, p. 64.

never challenged in the Early Church; instead, it was tacitly accepted, and soon took its place in the Early Christian catechisms, just as it once had been a part of those of their Jewish predecessors.

Created by God and Not in Parents's Unrestricted Control

Apparently the principal difference between the Christian (and Jewish) and the Graeco-Roman view was how absolute they considered the right of the parents to decide the fate of their newborn children. The Graeco-Roman world assumed that the parents have every right to do as they wished with their newborn children. This view is obvious in both the Greek and the Roman world. Although the state often considered it deplorable that healthy babies were abandoned and so tried to encourage people to rear their children,²⁰² the decision was made at the individual level and exposure was fully legal.

Although the Greek view cannot be expressed as precisely as the Roman, there is no doubt that the parents had the right to abandon children whom they did not want to raise. This is illustrated by an anecdote told about Aristippus, a pupil of Socrates.²⁰³ A woman brought a child to him and asked what she should do. The philosopher told her to cast the baby out. 'But it is from you!' cried the woman. The philosopher spat and said 'so is also that but I have no use for it' (Stobaeus 4.24b, 30). Although the formulation is sufficiently extreme to be reported in an anecdote, the view on parents' (or the father's) right freely to decide the destiny of their newborn children in the Greek world can hardly be questioned. It is taken for granted in Plato and Aristotle and was seldom if ever curtailed. The only Gentile writer known to me who says the opposite and seems to condemn the practice in most if not all situations, is Musonius Rufus. According to him, a man abandoning or killing a newborn baby is ἁσεβής and commits a sin against Zeus (ἀμαρτάνει, *Fr.* 15a).

The Roman concept of *patria potestas*, found so strange by Philo,²⁰⁴ included the life and death of members of the family (including

202. See below, pp. 148-50.

203. On Aristippus, see Döring 1996: 1103-104. The story is told in different versions and seems to have been common in traditions concerning him, which are collected in Diogenes Laertius (see Mannerbach 1961: 23-24). Generally, he is said to have cohabited with prostitutes (Diogenes Laertius 2.74; 2.81). In Diogenes's form, the story runs as follows: 'Someone accused him of exposing his son as if it was not his offspring. Whereupon he replied, "Phlegm, too, and vermin we know to be of our own begetting, but for all that, because they are useless, we cast them as far from us as possible"' (2.81). However, Diogenes Laertius mentions Aristippus's son and daughter (2.72), so he reared at least two children.

204. See above, pp. 57-58.

slaves).²⁰⁵ It was very difficult to limit this right in conservative Roman legislation.²⁰⁶ According to Dionysius of Halicarnassus, Romulus's law enjoined citizens to raise all sons and the first daughter if they were healthy (Ant. 2.15.2; 11.15.2; 9.22.2), but this is hardly historical, because *patria potestas* was a strong, ancient principle in Roman life and could hardly be restricted.²⁰⁷ The passage in the elder Seneca is quoted often in the present work because it gives valuable information about many details of the multifaceted phenomenon. The main question discussed in Seneca offers clear insight into his opinion: a man had collected exposed children, who thus belonged to his *patria potestas*, had maimed them cruelly and sent them to beg in the streets to collect money for him. The main theme of the passage consists in the moral and legal issues relating to this case. Everyone, of course, with few exceptions, considered the man extremely cruel. But first, his action was formally fully legal (*Contr.* 10.4.12), and secondly, some even defended him: he did not harm the state and he did only what was within his right. His behaviour could be a subject of moral but not legal criticism. The parents had, in the Roman view, every right to make the decision whether they wanted to rear their children, kill them, give them away or abandon them.²⁰⁸

A term often mentioned in the present study is the concept of 'social birth' a phrase first coined by Corbier. Although the term may be new, the concept is well known.²⁰⁹ Biological birth did not mean that a child

205. *Ius vitae necisque* basically included even the right of a *pater familias* to kill his own children. However, we have very little evidence of this practice (Harris 1994: 3) and it is a different phenomenon (see Patterson 1985: 105). The murder of one's own older children was regarded as a terrible crime among the Greeks, as the story of Medea shows (Euripides, *Medea*). Boswell (1988: 59) claims that it was still accepted in Republican Rome, his argument being based largely on Virgil's praising of Lucius Iunius Brutus (*Aen.* 6.819-23), who has exercised his right as *pater familias*. However, a man from the mythological past cannot be compared with Virgil's fellow Romans (and, moreover, Virgil calls Brutus *infelix*). To be sure, the Twelve Tables allowed it but required *iusta causa* (Fayer 1994: 163-78). The father was, apparently, not punished in all cases. Even Augustus is said to have considered punishing his own daughter Julia with death (*etiam de necanda deliberavit*, Suetonius, *Aug.* 65.2). On the question, see Eyben 1991: 121-24.

206. See Eyben 1980-81: 26-27; 1991: 114-16; Harris 1994: 5; Fayer 1994: 140-43; Corbier 2001: 58-60.

207. The passage is traditionally considered unhistorical. Weiss (1921: 466) already regarded it as a 'hellenistische Fälschung' in his article in *PRE* (1921: 466); for discussion, see Eyben 1980-81: 26-27. A very strict (and justified) view against the authenticity occurs in Harris (1994: 5).

208. On the practice of selling one's own children, see above, p. 14.

209. On the practice involved in 'social birth' in Roman family, see 2001: 53-58. Kaser's famous handbook on Roman civil law has a chapter titled '*Der Eintritt in die Familie*' (Kaser 1955: 57-60). Biological birth did not mean that laws protected a child from death.

had a place in the family, in either the Greek or the Roman world. It was a free decision of the parents whether or not to raise a child. If the parents decided to raise the newcomer both Greek and Roman cultures held a family feast. The Greeks called it *amphidromia* or *decate* and it included a formal examination of the baby.²¹⁰ The Roman feast was called a *lustratio*, a purification ceremony, which was followed by *nominis impositio*.²¹¹ Social birth was then complete.

This view was contrasted with the Jewish belief that humans were created by God, that every individual is under his protection and that this protection starts even before a person's birth. Gerhard von Rad once formulated the view of the Covenant Code, the oldest Hebrew legislation, with the words 'all life belongs to God',²¹² which was a specific Jewish idea in the classical world. Christian teachers simply adopted this view, and this idea carried weight as far back as we can trace. A newborn child is, according to the *Epistle of Barnabas*, created by God. Athenagoras says that a newborn child is 'an object of God's concern'. *The Apocalypse of Peter* accuses the parents of corrupting the work of God who created the children and also *Visio Pauli* says that killing a child means a defiling of God's image. The words of Lactantius reveal a view diametrically opposed to Aristippus's behaviour described above. According to Lactantius, a human is *sacrosanctum animal*. This means that Lactantius applies a traditional Roman term to illustrate his view. A *tribunus plebis* was *sacrosanctum*,²¹³ that is, it was not permitted to anyone to touch him or hinder him in his duties. In a similar manner, humans are holy and under God's protection. They may not be killed in the amphitheatre or executed, but also not abandoned when they are little children. A Jewish writer may have used different words and allowed a Jewish mother to speak of the life and breath, which she herself had not given to her children (2 Macc. 7). However, the Christian view, distinctly different from the usual Graeco-Roman attitude, is directly borrowed from Judaism.

3.3. Contrary Evidence?

As seen in the Introduction, some scholars, especially Cameron (1932) and Boswell (1988), claimed that Christian parents, regardless of the texts quoted, also exposed children. A problem in Boswell's book must be recalled. In his definition he incorporated different ways in which

210. See above, p. 65.

211. See Fayer 1994: 180 and Corbier 2001: 55-56.

212. Von Rad 1987: 45.

213. On the term *sacrosanctum*, see Eder 2001: 1203.

families gave away their children, one of which was the gifting of a child to a monastery.²¹⁴ However, both scholars also considered that Christian parents exposed their children in the sense defined in the introduction. But do we have evidence thereof?

If it is difficult to study the Jewish population, it is almost impossible concerning the Christians. Early literary sources are scanty indeed, and have very little to say about the daily life in Early Christian families. Jews lived in their own communities and had their own cemeteries, but what about, for example, the Christians in Corinth? Early archaeological evidence does not illuminate the life in the Christian families.

The first extensive non-literary evidence of Christian family life is to be found in inscriptions. Two studies are particularly valuable. Evelyn Patlagean examined Christian inscriptions in Asia Minor between 250–550 CE, and according to her study the average Christian family had no fewer than six children, four of whom survived more than five years.²¹⁵ This means that the Encratite teaching had not influenced married couples, although, admittedly, we do not know how many remained single. The high number also makes it less probable that couples often abandoned their children.²¹⁶

Another important work was concerned with inscriptions written on tombs in Christian cemeteries. Jos Janssens, who investigated Roman Christian epitaphs prior to the seventh century CE,²¹⁷ located references to a considerable number of foundlings (*alumni*, *alumnae* or θρηπτοί / θρηπταί). Interestingly, foundling epithets was often used and most of its bearers were not slaves²¹⁸ but held the status of freedmen.²¹⁹ From 331 CE, the individual who rescued an exposed child was allowed to define its legal status and, according to Janssens, they were often considered to be sons or daughters, although their origin was recorded, at least if there were other children mentioned in the inscription. If there were no other children, the foundlings apparently omitted their origin. The words used in the epitaphs are emotional, both when foundlings honoured their rescuers and when a Christian proudly mentions that he had raised an abandoned child. They clearly attest that Christians appreciated individuals who took care of unwanted babies.

214. See Boswell 1988: 138-39.

215. Patlagean 1978: 180-84.

216. Grubbs 1995: 85-86.

217. See Janssens 1981: 181-90.

218. Janssens only mentions two such inscriptions (*ICUR NS 1.1048*; *ICUR 1.4.12727*) and considers both doubtful as evidence (Janssens 1981: 184-85).

219. The evidence is in Janssens 1981: 185-89.

This evidence reveals much about the Christian view on exposure, but – which is typical of our sources – leaves the most important question unanswered. We know that there were exposed children reared among Christians in Rome, but we do not know who had exposed them. Similarly, we have seen that several Church Fathers, such as Methodius and Gregory of Nyssa, mention exposed children but never say whether Christian people had abandoned them. Christians were a minority for a long time and Gentile practices were of long duration. Although it is not possible to apply the words of R. Judah, according to which the child was abandoned by Gentiles if there was a single Gentile woman in the city, it is impossible to determine whether or not the children in the baths of Ashkelon had Christian fathers. Similarly, nobody knows whether or not the abandoned children that the ‘sacred virgins’ collected (Augustine, *Ep.* 98.6) were born to Christian families.

Above all, it is inappropriate to speak of ‘Christians’ abandoning or not abandoning children; further differentiation is certainly necessary. Socially, the small groups in the first or the early second century differ markedly from the large, organized Church that was in existence when the persecutions ended. We know very little about these early, small groups but also the Christian crowds in the congregations are likely to remain an anonymous throng who only seldom tell us about their way of life. The majority of them were married. Theologically, these masses hardly shared the more or less critical views of sexuality that prevailed during the first four hundred years of Christianity. The situation in Rome was heated in the fourth century and Jerome’s enthusiastic asceticism apparently encountered strong opposition.²²⁰ However, the words on virginity also found a broad echo. A Manichaean opponent claimed that there were more unmarried than married women in the congregations,²²¹ and despite all possible exaggeration, this certainly reflects the real situation. Still less than Early Judaism, Early Christianity cannot be treated as a unity when the problems of the family ethics are investigated. Ascetic movements inside the Catholic Church, especially the Encratitic sects, taught significantly different family ethics from those which the first Christians inherited from Early Judaism. Manichaeans allowed contraception to prevent the worst outcome, the birth of a child. Geographical specifications should be added to chronological, social and theological dimensions. These complexities make it very difficult to speak with certainty about Christian attitudes to exposure and its related practices.

220. See above, p. 119.

221. See above, p. 120.

We have been left with the written sources analyzed above. Do they give us reason to believe that Christian people abandoned their children as Gentiles did? They do and they do not.

The self-evident reason to repeat the ban again and again is that Christian teachers considered exposure a sin which was committed all too often. This issue should not be treated as an isolated ethical question. Christian teachers often deplored the daily life of their fellow Christians, a good example being John Chrysostom. No matter, whether he preached in Antioch, where the Catholic Church was only one of several Christian movements, or in Constantinople, where he represented an established, strong Church, Chrysostom is justly characterized as a partisan in the big cities. He strongly criticized the ethics of the population and an important part of his criticism concerned sexual ethics.²²² It is difficult to say which part of all this should be attributed to his rhetorical skills, and which part to the fact that he was a famous *castigator morum* in the Church, which had left the period of the persecutions behind it. At any rate, he disapproved of the sexual ethics in his cities²²³ and he was not the only Christian teacher to hold this opinion. This undoubtedly covered also the exposure of children. The vehement attacks by individual writers and the resolutions of the Synods²²⁴ attest that Christians did abandon their children, regardless of the instruction given by their teachers. As seen above, the situation in which Philo lived was analogous to that of most minorities in the world.²²⁵ The religious authorities confront the challenge of the non-Christian way of life as regards exposure as well as all other aspects of sexual and family ethics.

But how eagerly did the teachers meet the challenge? Their response certainly varied. Several facts should be brought to mind in an attempt to reduce idealism whenever Early Christian sexual ethics are studied. Augustine, for instance, took another concubine when the first was sent to Africa, and it should be asked what else was silently tolerated.

Unfortunately, we have very little about children born disabled. Frustratingly, the few passages we do possess point in opposing directions. On the one hand, Ambrose defends the alleged practice of the eagle: according to him, the eagle is not cruel when exposing its young, but merely testing it, thereby ensuring that it does not accidentally accept a weak offspring. This passage fits all too well the common Greek and Roman understanding. On the other hand, Jerome says that parents

222. See Hartney 2001: 527-34.

223. See Boswell 1988: 305-22.

224. See below, pp. 145-48.

225. See above, pp. 78-79.

abandoned deformed children to monasteries (*Ep.* 130.6 [ed. Labourt]). It may not be too bold to suggest that both texts are representative. The scanty evidence on the theme implies that Christian teachers did not attack the Gentile practice strongly enough to avert the abandonment of malformed children; later, however, the helping hand of the Church may have provided an alternative, as do Basil and Ambrose when he writes about *phene*, the bird that adopts the little ones abandoned by the eagle.

Nevertheless, the Christian teachers did take the challenge of exposure seriously. Far more strongly than was formerly thought, they had inherited from Judaism a ready-to-use weapon with which to attack the practice. As far as we know, Early Christian teaching tried to avert the threat of exposure by means of short, catechism-type instruction. The *Epistle of Barnabas* and the *Didache* use a Jewish source which becomes a part of the baptismal catechism in the *Epistle of Barnabas*. Most of the major Christian writers condemn the practice with arguments borrowed from the Jews. They were not able to invoke legal sanctions and it is not until the Synod of Ancyra (314 CE),²²⁶ that we read an unambiguous ecclesiastical rule, equating the treatment of the woman who had exposed her children with the treatment of a murderer. But even before the formulation of this rule, it certainly was not easy to abandon a child in a family with strong ties to the Church.

Christian teachers were not the only ones worried about the destiny of abandoned children. The Roman state too was increasingly critical of the practice and tried to restrict it. The reason was not merely, as traditionally thought, the Christian belief of the Emperors, which offered a barely Christian solution to parents unable to feed their children. The sale of one's own offspring, which Boswell unnecessarily conflates with exposure,²²⁷ was made legal and this certainly reduced the number of children who died because of exposure and lessened the pressure to abandon offspring in Christian congregations.

It is thus probable, because the practice is continually attacked, that Christians abandoned children. However, it would be rash to claim that abandonment was 'apparently as familiar as it had been among pagan Romans', as Boswell writes.²²⁸ Some of the evidence he presents is

226. See below, p. 147.

227. The conflation is obvious, for example, in the following passages: 'All the available evidence suggests that very widespread abandonment and sale of children persisted, and perhaps increased, throughout the fourth century' (1988: 163). Describing individuals selling their offspring, he refers to *De Tobia* 1.8.9 PL 14: 769-70) and says: 'Ambrose did view poverty – temporary or permanent – as justification for abandonment' (1988: 168-69).

228. Boswell 1988: 177. The view is briefly rejected in Harris, 1994: 17.

inaccurate, even distorted,²²⁹ and he also conflates with 'exposure' several means by which families rejected their children.²³⁰ Nonetheless, the influence of Christian teachers should not be underestimated. Their sermons were certainly heard and they changed the world around them. Only one sermon by Augustine was needed for a traditional feast to be cancelled.²³¹ As far we know, the way the Christian teachers tried to prevent the practice was more effective than the few critical remarks from the Gentile philosophers quoted above. The Christian teachers really did regard exposure as a crime and the ecclesiastical rule of Basil was not mere theory. If a modern scholar claims that this activity had little or no effect, the burden of proof lies on his or her shoulders.

229. His claim that Justin supposed exposure so common among the Christians that he warned them against the possibility of incest when visiting brothels, overlooks totally that the criticism, like the entire *First Apology*, was directed to Gentiles, not to Christians (Boswell 1988: 177).

230. See above, p. 13.

231. See *De doctrina christiana* 4.53 and Bonner 1964: 104-13.

Chapter 4

THE PRACTICE BANNED

The present study has shown how the exposure of newborn children was once, in general, morally accepted although not appreciated and fully legal for the Gentiles of the Mediterranean world. The course of events whereby it came to be morally condemned and illegal has been examined by earlier scholars and so a brief summary here suffices. The former view was that the good Christian Emperors made a formerly accepted practice illegal. Although there is no need to exclude the Christian influence from the Constantine legislation,¹ this simplistic view has rightly been revised. The Roman Empire pursued its own interests which partly coincidentally was parallel to the view of the Christian Church.

4.1. *The Church*

As stated above, the Early Fathers of the Church soon began to preach against exposure. This continued throughout the centuries so that the Christian view of exposure was practically fixed in the West after Augustine and in the East after Basil. One of Basil's canonical letters (Letter 217) contains detailed ecclesiastical punishments to which individuals who had exposed their children were sentenced. The local Synods partly anticipated and partly followed the path of Basil and other authoritative teachers, and so condemned exposure.

The earliest Canons of interest stem from Elvira and date from between 306 and 312 CE:²

If a woman conceives in adultery and then has an abortion, she may not commune again, even as death approaches, because she has sinned twice (*Can. 63*).

1. See Baus 1962: 468-69.

2. Baus and Ewig 1973: 217.

A catechumen who conceives in adultery and then suffocates (*praefocaverit*) the child may be baptized only when death approaches (*Can.* 68).

The English translations obviously interpret both Canons as dealing with abortion, which is only partly true. The first Canon runs as follows:

De uxoris quae filios ex adulterio necant: Si qua per adulterium absente marito suo conceperit, idque post facinus occiderit, placuit nec in finem dandam esse communionem, eo quod geminaverit scelus.

It possible that these words refer to abortion, but *necant* and *occiderit* certainly pertain also to the individuals who kill their newborn children. *Praefocaverit* in the latter Canon seems to carry its usual meaning ('suffocate'). If this be true, an early local Synod had already forbidden exposure and imposed severe ecclesiastical sanctions. There is no need to exclude abortion, as Eyben does,³ but the first target is certainly exposure.

Another Synod with a similar rule was held in Ancyra in 314 CE:

Concerning women who commit fornication, and destroy that which they have conceived, or who are employed in making drugs for abortion, a former decree excluded them until the hour of death, and to this some have assented. Nevertheless, being desirous to use somewhat greater leniency, we have ordained that they fulfil ten years [of penance], according to the prescribed degrees (*Can.* 21, trans. NPNF)

The translation seems only to have abortion in mind, but this remains uncertain. The 'women ἀναιρουσῶν τὰ γεννώμενα' apparently refer to those killing the newborn, although σπουδαζουσῶν φθόρια ποιεῖν certainly denote those who procure abortions. Exposure and abortion are thus again criticized together.

Apparently Canon 15 of the Synod of Gangra (in 340/341 CE),⁴ which threatened with anathema people who neglected their children because of ascetic ideals, should also be mentioned here.⁵

If anyone shall forsake his own children and shall not nurture them, nor so far as in him lies, rear them in becoming piety, but shall neglect them, under pretence of asceticism, let him be anathema.

It is obvious that it was sometimes difficult to distinguish between ascetic ideals, which were supported, and views wholly rejecting marriage, which were condemned as heretical.⁶ Perhaps Lactantius's 'false piety'⁷ also refers to people who considered it right to abandon newborn

3. Eyben 1980–81: 73.

4. Baus and Ewig 1973: 201.

5. See Karpp 1959: 1214.

6. See above, pp. 117–20.

7. See above, p. 110.

children, because some sects considered contraception and abortion preferable to allowing children to be born.

The subsequent Canon threatens with anathema people who because of their religion leave their parents. Thus both Canons tried to restrain ascetic movements from setting their ideals above obedience to traditional Christian rules. Apparently several different views on marriage and children⁸ gave Christian teachers reason to emphasize that exposure was not a solution open to Christians.

A Synod explicitly condemning exposure was held at Vaison (442 CE).⁹ The Synod laments the fate of children who are not only left at the mercy of strangers but also of dogs (*eos non misericordiae iam, sed canibus exponi*). The problem is obviously considered very serious. The Synod tries to help individuals who rescued exposed children. It seems clear from the Synod records that these individuals had been accused of stealing the children; thus, apparently, the saving of the lives of exposed babies was not without risks. The Synod harshly attacks these calumniators who prevented people from rescuing abandoned children and proclaims that they must be regarded as 'killers of human beings'. The Synod considered the case common enough to justify detailed rules. Anyone who had found a child must tell the Church and the pastor should announce it from the altar. The parents of the child then had ten days to take the child back; if they did not, the finder was allowed to retain the child and reclaim the costs of the temporary care from them or of the permanent care from God (*collector pro iposrum decem dierum misericordia, prout maluerit, aut ad praesens ab homine, aut in perpetuum cum Deo gratia persolvenda*). In this phase, Christians were already able to refer to *statuta fidelissimorum piissimorum augustorum et principum* (Can. 9–10). The Synod of Arles (443/452 CE, Can. 51) repeats Canons of the Synod of Vaison. It is followed by a series of further Synods, each of which issued rules for family ethics. Generally, they did not distinguish between exposure and abortion, and contraception was later added to the forms of birth control that were banned.¹⁰

4.2. The State

The influence of the Christian Church was important but was not the only factor making exposure illegal. Many states were concerned to encourage people to raise their children; the reasons for this were not moral but the public interest. Plato already took for granted that the state regulated the number of citizens by different methods because it should

8. See below, pp. 117–20.

9. On the Synod and its Canons, see Hefele 1908: 454–60

10. See Gaudemet 1969: 350–51 and Eyben 1980–81: 73–74.

neither have too many nor too few citizens (*Rep.* 2.12 372b; 5.8 459b).¹¹ Although it is perhaps not proven that Ephesus and Thebes restricted exposure¹² that belief attested that Greek political ideologists frequently had an interest in the size of the population. The Hellenistic civilizations apparently often wrestled with the problem of decreasing populations and Polybius was anxious because the low birth rate had led to a general decline in numbers, prompting a law forcing the citizens to rear children (36.17).

The criticism of the Latin writers and the Greek philosophers¹³ is obviously often linked with this *commune bonum*. The ruling classes were increasingly anxious about the paucity of children. It is significant that also Tacitus (*Germ.* 19) admired the barbarians for not exposing their children. Children were supposed to be raised because, as the sternest critic of the practice Musonius Rufus says (*Fr.* 15a), everyone should observe the needs of his own city. He also uses the words ἀσεβής and εἰς τοὺς πατρώους ἀμαρτάνει θεούς concerning the practice and says that raising many children is an honourable and profitable act.¹⁴ Epictetus also declares that abandoning children is against nature,¹⁵ and although Plutarch before him did not use precisely those words, he describes how nature ensures that animals take care of their young (*De amore prolis*). Hierocles criticises people who do not raise their children because of the love of money (Hierocles in Stobaeus 4.24.14). When Philo said that exposure had led to desolation of the cities (*Virt.* 132) he could expect widespread applause. Later Themistius said that exposure was a crime against the state (ὅτι ἀδικοῦσι τὴν πόλιν, *Or.* 26.325a).

As stated above, Dionysius of Halicarnassus wrongly ascribed to Romulus the rule that the citizens should raise all males and the first female child (2.15.2).¹⁶ Interestingly, Dionysius's words reveal more about the concerns of his own times than about archaic Rome.¹⁷ However, it is also the case that the Roman state was early aware of the demographic danger of exposure.¹⁸ We obviously do not know all the regulations that were intended to support families and, apparently, also to diminish birth control. *Alimenta* were meant to feed the poor and this

11. Boswell 1988: 81 and Gorman 1998: 21.

12. See above, p. 135.

13. On this criticism, see Harris 1994: 15-17.

14. On the passages in Musonius, see Gorman 1998: 29-30.

15. Epictetus criticizes Epicurus for telling parents not to raise their children (*Diss.* 1.23). The Epicureans apparently had no objection to the practice of exposure and the view of the Cynics was even more disinterested (on Aristippus see, above pp. 138-39).

16. See above, p. 139.

17. Boswell 1988: 59.

18. On the tendency in Rome, see Eyben 1980-81: 20.

encouraged them to raise their children.¹⁹ After bloody civil wars which had lasted more than a century Augustus was strong enough to control the population.²⁰ His new regulations included small administrative changes, such as precedence in office and rapid promotion. Such rules undoubtedly greatly influenced the common ideas, while other ordinances were enacted to increase the size of the families. Three children (the origin of the name *ius trium liberorum*) exempted the father from various legal duties in the city of Rome; four were required in the rest of Italy and five in the provinces—apparently the birth rate was at its lowest in Rome.²¹ On the other hand, single men and childless couples were punished in various ways, chiefly with respect to inheritance. All in all, Augustus's legislation involved a serious attempt to boost the size of families. Apparently, he did what he could despite the limitations of the treasury.²²

However, the size of families continued to concern the Caesars after Augustus although we do not know the details of the legislation, especially on the provincial level. Pliny praises Trajan because his subjects had sufficient faith in the future to raise their children.²³ Musonius Rufus refers to the lawgivers who 'forbade women to suffer abortions and imposed a penalty upon those who disobeyed: for this reason they forbade them to use contraceptives' (*Fr.* 15). Musonius obviously refers to Augustus when mentioning the rewards for large families and the penalties for childlessness. However, he partly speaks about laws we cannot identify. The sudden omission of foundlings from Egyptian papyri after 111 CE perhaps indicates that the local administration disapproved of exposure.²⁴ However, the influence of the policies of Augustus and Trajan was later considered insufficient.²⁵ The Severian rulers severely punished those who sold abortifacients, apparently partly to protect women, but partly because they were worried about the small number of children (*Dig.* 48.19.38.5);²⁶ they also, perhaps, tried to restrict exposure. To be sure, the legal passage, which is attributed to Iulius

19. See Harris 1994: 16.

20. See Tacitus, *Ann.* 3.28.6; Dio Chrysostomus 54.16.2; Suetonius, *Aug.* 34; Noonan 1965: 20-25; Brunt 1971: 558-66; Treggiari 1996: 886-89; and extensively Raditsa 1980: 278-339, who is very critical of the laws. The laws were enacted in 18 BCE and revised in 9 CE (*Lex Iulia de maritandis ordinibus* and *Lex Papia Poppaea* were given).

21. Brunt 1971: 562.

22. Brunt 1971: 562.

23. On Trajan's policy, see Brunt 1971: 154; Boswell 1988: 62-64; 104

24. See above, p. 136, and Harris 1994: 16.

25. On the process generally, see Fayer 1994: 200-209.

26. See Brunt 1971: 148; Eyben 1980-81: 28-29; Harris 1994: 19.

Paulus, a jurist under Alexander Severus, is usually considered an interpolation.²⁷ The legal status of parents who had abandoned their children was worsened by Diocletian who did not allow a couple to take back their daughter before they had paid the compensation to the individuals who raised her (*Cod.* 5.4.16). This rule is similar to those that Pliny encountered in Bithynia but which were not included in Roman archives; inasmuch as Diocletian adopted several local verdicts from Asia Minor, this perhaps was already the practice there.²⁸

The first to take the necessary further steps after the stormy third century was Constantine who was strong enough to adopt new measures to increase the population. Abortion was restricted under Constantine, a crucial innovation being that the sale of one's own children was made legal in 331 (*Cod.* 5.10.1); this appears to have provided a solution to people who could not afford to feed their offspring.²⁹ Financial assistance was offered to people unable to raise their children; the first piece of evidence concerns Africa in the year 322 CE (*Cod.* 11.27.2), but the second pertains to Italy (*Cod. Th.* 11.27.1).³⁰ In 331 CE, it was stated that anyone who reared an abandoned child was allowed to decide whether he received the status of a child or of a slave. Indeed, this established in law what occurred in practice,³¹ but now the biological father had lost his right to reclaim the child (*Cod.* 5.9.1).³² The regulation was obviously intended to increase the population, and especially the number of slaves, by giving other options than exposure.

Exposure was finally banned by Valentinian, Valens and Gratian in 374.³³ The law considered the killing of a child a capital offence (*C. Th.* 9.14.1), and another statute promulgates the main principle:

Everyone is obliged to raise his own child (*unusquisque subolem suam nutriat*). If anyone exposes it, he will be subject to the stipulated punishment (*Cod.* 8.51.2).

The punishment meant is apparently the death penalty.³⁴ At any rate, Justinian, who confirmed the Laws enacted in the fourth century, called exposure an inhuman crime which should not be believed to occur even

27. *Dig.* 25.3.4. See Eyben 1980–81: 31.

28. Weiss 1921: 469.

29. See Kaser 1959: 89.

30. See Harris 1994: 20.

31. See the correspondence between Trajan and Pliny (Pliny, *Ep.* 10.65–66) and Corbier 2001: 67.

32. See Eyben 1980–81: 30; Harris 1994: 20–21. *C. Th.* 21.27.1 calls exposure *parri-cidium*, but *C. Th.* 5.10.1 allows the father take the child back, if he pays a fee.

33. See Eyben 1980–81: 29–32; Corbier 2001: 59.

34. Harris 1994: 21–22.

among barbarians and ordered it to be punished with death in 541 CE (*Nov.* 153).³⁵

The laws did not end the practice, however. Gregory of Nyssa and Augustine, for example, still mention foundlings and also that children could be killed immediately after birth. However, the laws certainly reduced it to a lower level which we are not able to define. The excavations at Ashkelon³⁶ are only one example attesting that the life of a newborn child was not guaranteed in Early Christian Europe. However, the practice of exposure was now banned both by the Church and the State.

35. See Eyben 1980–81: 31–32.

36. See above, p. 132.

Chapter 5

CONCLUSIONS

Every generation has to rewrite the past, the past becoming a mirror revealing much about the periods in which it is composed. This is also true concerning the exposure of newborn children in the ancient world. One hundred years ago, abortion was still generally banned in Christian countries. Accordingly, scholars were disposed to associate abortion with exposure, as early writers had traditionally done, and to consider it a triumph of the Christian religion that both practices were banned by the State as well by the Church. Modern, pluralistic and self-centered society tends to emphasize the plurality of the ancient world and the significance of individual decisions. Concerning our theme, this is justified, because both Early Judaism and Early Christianity were markedly more pluralistic than the scholars of the past thought. Jews, as also Christians, lived in different circumstances, different geographical areas and at different times, and their social situation varied greatly. Moreover, the literary sources are mainly concerned with the life and ideals of a small élite, meaning that the majority often remains unknown and amorphous. However, we must also be aware of the danger of projecting our individualistic society onto ancient Jewish and Christian societies. A modern, Western person may not obey religious teachers but perhaps the people of antiquity sometimes did.

Children were seemingly abandoned by Gentiles for economic reasons, or because the newcomer was of the 'wrong' gender, or illegitimate or from the 'wrong' father. It was apparently routine that seemingly disabled children were killed or exposed. Bad omens may have led to exposure, or perhaps a child was simply not wanted. It is very difficult to estimate the number of exposed children because some of those abandoned survived exposure — which may well have been the parents' intention. But others were quickly killed, and the remainder encountered a life, as Juvenal says, which Fortuna bestowed on each of them, the alternatives being a good home, slavery or worse.

It is surprising, however, how little attention modern scholars have devoted to the Jewish sources. Although the Old Testament does not contain an unambiguous ban on the exposure of children already the LXX version of Exod. 21.22-25 was of crucial significance and it is simply wrong to marginalize it as a 'mistranslation'. However, because this interpretation does not appear in the texts written in Hebrew and Aramaic, it does not explain why also Jews who did not use the LXX banned exposure in their writings. It is not the starting point of the practice, but a part of the tradition. The ban is included in various texts. It is common in Palestine, from where 1 *Enoch*, Josephus and the lost original of the *Epistle of Barnabas* derive, and the practice is implicitly forbidden also in the Mishnah and the Tosefta. But it was also known in the Diaspora, where Philo, Pseudo-Phocylides and 3 *Sibyllines* attest it. We have every reason to believe that it was an Early Jewish *paradosis* explaining the fifth commandment.

Like the Old Testament, the New Testament does not include an unequivocal prohibition concerning the exposure of children. This fact brings into question the reason why so many Christians unambiguously reject the practice. A brief ban is included already in the *Epistle of Barnabas* and the *Didache*, both of which follow a Jewish original. All the major early apologists deal with the theme (Justin, Athenagoras, the *Epistle to Diognetus*, Tertullian, Minucius Felix). The *Apocalypse of Peter* and the *Apocalypse of Paul* echo the ban. Clement of Alexandria deals with it extensively, Origen and Methodius more briefly. The view was fixed in the west after Lactantius, Ambrose and Augustine, in the east after Basil. The Synods of the Church condemned exposure, and finally the State criminalized it in 374 CE.

It is striking that the Christians, when rejecting exposure, adopted the argumentation used by the Jews. Despite some substantial deviations, it is reasonable to summarise the arguments of the mother religion together with those of the daughter.

Jewish texts often reflect in one way or another the view that humans exist before their birth. It is sometimes the starting-point of a prayer, as in the Psalms, or it motivates the mission of Jeremiah. 2 *Enoch* 49.2-3 and 2 *Baruch* 23, however, also assume that God had prepared a place for every human soul. This view was simply adopted in Early Christianity. In the New Testament, Luke describes the meeting of Mary and Elizabeth and reports how John the Baptist rejoiced in Elizabeth's womb (Lk. 1.44), while Paul was, according to Gal. 1.5, destined for his office before his birth, as was the prophet Jeremiah. No further passages were needed to incorporate the Jewish view into Christian doctrine. Jewish and Christian teachers could find, and indeed found, contacts with

Greek thought, from Pythagoras and Plato onwards. However, Greek and Roman philosophers did not draw similar conclusions; on the contrary, Plato, for example, accepted the abandonment of children.

An interesting change takes place concerning the role of marriage. Early Judaism not only approved of marriage and children but considered marriage and procreation a duty ordered in Gen. 1.28. Unmarried life was often harshly criticized and even an impossible situation did not remove the duty to be fruitful. This duty could indeed be accurately defined. In contrast, the New Testament appreciates the single life and the words of Jesus (Mt. 19.12) and Paul (1 Cor. 7) meant a significant innovation. The single life became increasingly esteemed, and although marriage is defended against teachers who labelled it as sin, the defence was sometimes half-hearted. The single life was considered golden, which did not mean that the silver, marriage, should be reviled. However, marriage and children were increasingly considered, in the words of Origen, a concession by God to those who could not live according to higher standards. Genesis 1.28, once so important for Jews, was often considered problematic or interpreted allegorically. Although this view strongly influenced congregations so that the number of unmarried women could be high, as Augustine's Manichaean opponent record, it does not mean that the masses of the Christian believers lived or were meant to live according to these ideals.

The Christian attitude that marriage was a concession rather than a duty of course influenced the view of the purpose of sexual intercourse. Early Judaism had already increasingly considered children to be not only the goal but also the only honourable goal of marriage. This view is present in Philo and Josephus but also in other Early Jewish writings which, for example, consider it wrong to continue a marriage with a barren woman or to marry an old woman. Christian teachers willingly adopted some of these views. Early on, Justin and Athanagoras emphasized that children are the only reason for sexual intercourse among Christians and Clement repeats Philo's argument that only some vile animals act otherwise. Augustine, in his influential work, says that marital sex without the intention to procreate meant that the woman, the wife, was in some sense her husband's prostitute and the man her adulterous lover (*Nupt. et conc.* 1.15.17 CSEL 42: 230). Although these views differed from Prov. 5.15-20 and 1 Cor. 7.1-7, they diverged still further from the current Graeco-Roman view, which mostly did not consider sex, not even extra-marital sex, to be taboo. To be sure, the era in which Athenian men openly had mistresses or young boys for pleasure or in which Cicero allowed *ludus* for young men started to fall into decline in the time of the Fathers. Sexual continence, which had its

early traditions in the Mediterranean world, gained ground, and when the apologists emphasized it among Christians they certainly expected a broadly positive response.

The abandonment of newborn children is not necessarily mentioned when the views presented above are expressed. However, the consequences are obvious, and even more so when contraception and abortion were restricted among Jews and Christians. Contrary to the opinion of earlier scholars, the ancient drugs successfully limited fertility and also resulted in early abortions, which modern tests with animals prove. Jewish teachers did not totally reject contraception but allowed it in some situations. Christian teachers, however, condemned it from the time of Minucius Felix onwards, with their words becoming increasingly severe. To be sure, it is usually difficult or impossible to determine whether the writer condemned adultery or contraception or both. Many Christian teachers, including Hippolytus (*Haer.* 9.12 GCS 26: 250-51), Jerome (*Ep.* 22.13 CSEL 54: 160-61) and John Chrysostom (*Hom.* 1-32 in *Rom.* 24.4 PG 60: 626-27), equate contraception with murder. Similarly, an abortion is so often sternly condemned in Jewish sources that they obviously reflect a consensus of opinion in Early Judaism. Christian teachers adopted this view as far back as we can trace: the *Epistle of Barnabas* and the *Didache* take it directly from a Jewish original and numerous writers reject abortion with harsh words. However, both Jewish and Christian writers accepted embryotomy when the life of the mother was in danger, though early rabbinic rules strictly regulate the procedure even in this situation preventing the killing of a child if the head has emerged. There is direct evidence of their view on the killing or abandonment of a baby already born. But both Jewish and Christian writers occasionally expressed their arguments more clearly.

Both Jews and Christians often lived under heavy pressure and Gentile writers accused them of terrible crimes. Both countered the charges with apologies that were intended to present their society as highly principled, and both adduced as evidence the fact that they did not abandon newborn children. Josephus writes the claim directly (*Apion* 2.199-203) and it was perhaps also stated in Philo's *Hypothetica*, of which only fragments are extant. At any rate, this is a usual topos in Christian apologies. Justin uses it (*1 Apol.* 27 [ed. Marcovich]) and so do Tertullian (*Adv. nationes* 1.15.3-8 CCL 1: 33-34; *Apologeticum* 9.6-8 CCL 1: 102-103), Athenagoras (*Leg.* 35.6 [ed. Schoedel]) and Minucius Felix (31.4 [ed. Pellegrino]). The counter-attack shows how well aware the apologists were of their predecessors. However, it also illustrates the apologists's assumption that their words would find a broad echo among their Gentile readers. It attests that although exposure was legal, it was seldom, if ever, a practice to be proud of.

Philo was the first to use the argument that exposure is against nature (*Spec.* 3.108-109; *Virt.* 131-33). Although Christian writers did not repeat this argument precisely in this form, some passages came close to it when they condemn the practice as cruel and inhuman. Clement of Alexandria emphasizes how the Mosaic Law enjoined the humane treatment of animals (*Str.* 2.18.92 SC 38: 104-105), but especially Basil's and Ambrose's works, both entitled *Hexaemeron*, presented birds as ethical models for humans in that they do not reject their young and even sometimes collect those of others. The argument that exposure is against nature appears also among Gentile writers (Musonius Rufus, Epictetus, also Plutarch) writing after Philo and it is far from certain that he borrowed it from his Gentile predecessors. In contrast, Basil and Ambrose are so close to Musonius's arguments that they probably knew his work.

Early Christian teachers did not deal with the economic reasons that were perhaps the main cause of exposure among Gentiles. Clement of Alexandria and Lactantius briefly dismiss them as pretexts and recommend that couples abstain from sex if there is no money to feed the children. Basil, on the other hand, who generally had sympathy for the poor, observed that some fathers were unable to feed their children and required that rich people should help them.

The destiny of exposed children was an easy target for everyone who criticized the practice. Pseudo-Phocylides says only that wild beasts eat them (184-85), while Philo describes this vividly (*Spec.* 3.14-116). However, Philo cannot compete with the Christian teachers who repeat and expand the argument. They only seldom claimed that a baby was killed and exposed; cold, hunger and dogs are sometimes mentioned, however (Tertullian, *Ad nationes* 1.15-16 CCL 1: 33-34; *Apologeticum* 9.6-8 CCL 1: 102-103; *Visio Pauli* 40; Lactantius, *Inst.* 6.20 PL 6: 708). This was not a matter of the imagination of the writers; the danger was real and several ancient sources assume that animals ate unburied corpses. Yet Lactantius (*Inst.* 6.20 PL 6: 709) also says that abandoned children were raised to slavery, which seems to have been common, although the price of the slaves was sometimes so low that people were reluctant to rear a child for this purpose. But Christian writers also often claimed that abandoned children were saved so that they could be forced to work in brothels. The use of foundlings in brothels, they argued, led to incest among the Gentiles (Justin, *1 Apol.* 27.1-3 [ed. Marcovich]; Tertullian, *Ad nationes* 1.16.10 CCL 1: 35; Minucius Felix 31.4 [ed. Pellegrino]; Clement of Alexandria *Paed.* 3.3; Lactantius, *Inst.* 6.20 PL 6: 709). The Graeco-Roman sources attest that the words on brothels were wholly realistic, and although the claim of frequent incest at first seems to be pure speculation, it certainly touched Gentile readers. Several sources attest that

parents could not forget their abandoned babies, but were anxious lest they recognize them among begging children.

Attacking the practice of exposing children, Philo claimed that it leads to desolation of the cities (*Virt.* 132), while Josephus uses the same argument, saying that abortion and exposure 'diminish the race' (*Apion* 2.203). This was certainly an argument that rang true to Gentiles. Early on, Greek cities considered it essential to control the number of their citizens and although the early examples usually indicate that the danger was overpopulation, Polybius was anxious about depopulation in Greece in his day. Several Greek and Roman philosophers, thinking of the welfare of the State, considered marriage and procreation virtues, and later, Themistius regarded exposure as treason against the State. Early Christian writers apparently were too far away from the administration to use this argument. However, Tertullian was happy to claim that earthly laws forbade exposure. However, it is unclear whether he refers to a law in the past, a local law, new restrictions in his own time (of which we do not know in detail) or very broadly to Augustan legislation that sought to enlarge the size of the families.

The principal reason why Jewish writers rejected exposure was that it was considered to be against the Mosaic Law. Although the Law does not contain an unambiguous ban, the passages in the Scriptures quoted above were enough to apply the fifth commandment to exposure. Exposure means homicide. This argument is obvious in Philo, who deals with exposure when writing on this commandment, in the lost original of the *Epistle of Barnabas* and the *Didache*, in Josephus and in the *Greek Apocalypse of Ezra*. As stated, in my opinion, we here encounter an old Jewish *paradosis* that was commonly accepted. Christian writers soon adopted it for the *Epistle of Barnabas* and the *Didache* repeat *verbatim* their Jewish original, rejecting the practice with the words of the fifth commandment. Precisely this is the main difference between the Judeo-Christian and the Gentile view. According to the current Gentile view, the parents had the right freely to decide whether or not to rear a child. This was a parental privilege. A biological birth did not mean a social birth, but the parents made the decision whether or not the newcomer would be taken into the family. In contrast, in the Jewish and Christian view, humans are created by God and exist already before their birth, meaning that no one has the right to kill or abandon them after their birth. As noted above, Gerhard von Rad once formulated the heart of the Covenant Code with the words 'all life belongs to God'.¹ This view also included newborn children and it was a principle so strong that the Christians adopted it without question. Although neither the Old nor the

1. Von Rad 1987: 1: 45.

New Testament contain an unambiguous ban, both Early Judaism and Early Christianity considered killing or exposing a newborn child to be murder, a horrible deed, and several writers assumed that it leads to a terrible punishment after death.

Some scholars have claimed that neither Jewish nor Christian writers could prevent people from abandoning their children. It is inadvisable to consider Jews or Christians as monolithic blocks unanimously acting as recorded by the literary sources. A distinction must be made between Palestine and the Diaspora, between the small, Early Christian congregations and the established Church, between rich and poor, and between people more and less bound by their heritage. It is very difficult to investigate 'real life' among the Jews and impossible to do so among Christians during the first three centuries CE. However, the religious teachers did all they could to hinder the practice of abandoning newborn children, and although exposure unquestionably occurred among both Jews and Christians, the ethical instruction certainly considerably reduced it. Among the Gentiles, it was a well-known attribute of the Jews that they did not abandon their children. A Jewish mother could express her belief in the words of *2 Macc.* 7.21-23, saying that it was not she who gave her sons life and breath but the Creator of the universe. A Christian equivalent of this is reflected in Lactantius's words, according to which a person, including a newborn child, is *sacrosanctum animal*, protected by the Creator and not in the unlimited power of his/her parents.

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