

## The Will of Others

### *Coercion, Captivity, and Choice in Late Antiquity*

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**ABSTRACT** Scholarly reflections on the concept of the will as it is articulated in late ancient texts have centered on the male individual and the difficulties he faces as he tries to train or direct his intentions. By contrast, in this article we seek to explore late ancient concepts and negotiations of the will by considering a cluster of ancient Jewish and Christian narrative scenarios in which women are under the threat of sexual assault. Rather than a split between warring parts of one person, these narratives treat moments when the will of one actor is in conflict with the will of another. Thus, these scenarios raise questions that cannot otherwise be accessed about human intention, agency, and subjectivity, and their limitations by social and cultural realities. We argue that these cases should be viewed not as the marginal troubles that sometimes happen to women, but as expressions of the fundamental problems at the heart of the theories of the will embraced within late ancient Judaism and Christianity. **KEYWORDS** Will, Early Christianity, Ancient Judaism, Sexual Assault, Women

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### 1. INTRODUCTION

In Jewish and Christian writings from the ancient world, the will is a troubled thing. When we confront it in the most well-attended sources from these traditions, it is baffling, unruly, divided. Already in the first century, Paul the apostle was wondering what he should do when he found himself acting against his interests, and even his own explicitly stated desires. “I do not understand my own actions,” he wrote, “for I do not do what I want, but the very thing that I hate” (Rom 7.15). Later Christian writers identified with Paul, taking up and elaborating his lament about the impossibility of harnessing the human will.<sup>1</sup> As early as the second century, Jewish texts began to describe a similar situation, in which an inclination, resident in the body, leads one to act against one’s

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1. Charles M. Stang, *Apophysis and Pseudonymity in Dionysius the Areopagite: “No Longer I”* (Oxford: 2012), for one example.

interests. This inclination, or *yetzer*, was not entirely uncontrollable, but could, at least in early rabbinic thought, be trained in some way; later sources were less optimistic, picturing the *yetzer* as a demonic force that inhabited the human being and claimed his faculties in part.<sup>2</sup> At the same time as the demonic cast of the *yetzer* was taking shape in rabbinic discussions, Augustine of Hippo, the prolific North African Christian writer, was himself thumbing the edges of the troubled will. In his view, an undisciplined nature existed in each human being, empowering actions and words that took human beings toward their baser needs and away from God and all that was best to serve God.<sup>3</sup> Despite their disparate temporal and geographic contexts, these three lines of psychological exploration converged: they agree that the central issue in the contemplation of the will is that of self-control, namely, the inability to muster it when it is necessary.

Scholars of the ancient world often write about these explorations as if they were intended to elaborate a problem common to all human beings. It is clear, though, that this is to grant too much. The late ancient authors who reflected on the troubled will held no such universality in mind. The problem that interested them—instability and division—only arose in certain circumstances, for certain persons. The limits of the problem as they conceived it are visible in the choices they made to illustrate their points. Paul, for example, hoped that his will might finally be ruled when he stopped “being a slave to the law of sin” and became instead a “slave to the law of God” (Rom 7.25). That Paul could take slavery as a metaphor for his internal difficulty points up the obvious fact: Paul was neither a slave nor a master, but a free man.<sup>4</sup> For their part, the writers who discuss the *yetzer* imagine it to be a distracting force, specifically something that removes a person from study and potentially incites to illicit sex. The person who must weather such distractions is the person who has a life of study to be distracted from, who in ancient Judaism was necessarily a free man.<sup>5</sup> Augustine’s ruminations on his desires to commit petty thievery (or his musings on the uncontrollable movements of his members) show us clearly what kind of

2. Ishay Rosen-Zvi, *Demonic Desires: “Yetzer Hara” and the Problem of Evil in Late Antiquity* (Philadelphia: University of Pennsylvania Press, 2011); Adam Becker, “The ‘Evil Inclination’ of the Jews: The Syriac *Yatsra* in Narsai’s Metrical Homilies for Lent,” *Jewish Quarterly Review* 106.2 (2016): 179–207.

3. Susanna Elm, “Sold to Sin through *Origo*: Augustine of Hippo and the Late Roman Slave Trade,” *Studia Patristica* 98 (2017): 1–22.

4. Our own life circumstances tend not to appear as metaphors in our thought—we reach elsewhere for structures to clarify what we are experiencing.

5. See especially Chapter 4 of Rosen-Zvi, *Demonic Desires*: “Coming of Age: Amoraic *Yetzer*” (65–86).

subject Augustine has in mind when he speaks about the instability of the will. Augustine the writer was not a thieving boy; the rabbinic compilers were not men lacking the discipline to study; Paul was not a slave. Yet, their choices to imagine their failings of will through these particular situations impress upon us that their explorations were limited to one kind of human being. Recent work to investigate the role of non-human actors in human regimes of discipline have expanded this subject a bit beyond its normal bounds, adding angels or demons as co-actors, but such scholarship has not displaced the traditional subject that was thought to experience the troubles of the will: a free male adult.<sup>6</sup>

The constricted nature of ancient reflections on the will and its subject has long been acknowledged by scholars and critics, but awareness of this limitation has not moved scholarly approaches to the will; Paul, Augustine, and the rabbis who wrote on the *yetzer* remain the primary *loci* of investigation. Perhaps this is the result of their status as “classics” within their traditions; what else could be read to grasp the shape of the will as ancient people imagined it? There are, in fact, many other resources available from the ancient world from which we can learn. To access them, we need to detach from philosophical discussions of the will and turn to narratives about the exercise of or the establishment of the will, particularly in those cases of human beings who are not free, male, or adult. Such scenarios often appear to be hypothetical, but we submit that they are no more or less real than the constructed struggles of the troubled man who cannot discipline himself to do what he should. Through such narratives, we can grasp thought about the will being aired and at times exorcised.

In this article we consider one cluster of narrative scenarios that appear in late ancient Jewish and Christian writings of a variety of genres, in which women are somehow under the threat of sexual assault. As we will show, this one circumstance reveals the deficiencies in the usual assumptions about the will, exposes disconnections of thought about human nature and agency, and demonstrates the pervasiveness of the notion of the troubled will in late ancient thought. Historians who wish to understand ancient conceptualizations of the will, and consequently, the person, would do well to view these cases not as the marginal troubles that sometimes happen to women, but as expressions of

6. Ellen Muehlberger, *Angels in Late Ancient Christianity* (Oxford: Oxford University Press, 2013), especially chapter 4; David Brakke, *Demons and the Making of the Monk: Spiritual Combat in Early Christianity* (Cambridge, MA: Harvard University Press, 2006); Rosen-Zvi, *Demonic Desires*, which depends rather closely on Brakke's study.

the fundamental problems at the heart of the theories of the will embraced within Judaism and Christianity. In short, this is not an article about women's issues; it is about the historical topic of the will as it can be explored through some of the most fungible subjects depicted in Late Antiquity, namely, women.

The texts that guide our inquiry range in date from the early third century to the mid-sixth century C.E., and traverse different regions of the late ancient world, from Milan in the west to Sasanian Babylonia in the east. These texts include legal codices, scholastic discussions, theological treatises, sermons, letters, and homilies. Our purpose is not to draw a direct line of historical development through the period, nor to trace connections of derivation or literary influence between the different texts: such connections are for the most part highly unlikely or, at the very least, unverifiable. Instead, our premise is that the problem of the will, and particularly of the will's force and function in sexual contexts, is shared among late ancient Jews and Christians because of a common Jewish-Hellenistic heritage that coupled the biblical injunction to avoid illicit sex (*porneia* or *zenut*) with the Greek ethos of controlling one's passions.<sup>7</sup>

When Jews and Christians in Late Antiquity debated the question of will and agency in sexual encounters, they were not necessarily responding to each other as much as they were responding to a shared paradigm according to which control of sexual behavior and of sexual desire is a manifestation of the inner truth of one's piety and virtue. As we will show, this paradigm is challenged and disrupted when women's involuntary sexual encounters are raised for consideration and come under scrutiny in Late Antiquity. The similarities in response to this challenge present in texts from coeval but disparate contexts speak to the pervasiveness of the underlying paradigm, more so than to any possible acquaintance or continuity between those contexts. As we explain in the conclusion, our study demonstrates the value of approaching late ancient sources with methods that exceed the traditional concerns with tracing textual influence, establishing priority, or showing historical dependence.

## 2. SEXUAL COERCION AND THE PROBLEM OF THE WILL

"Rape is a most detestable crime," wrote the distinguished British judge Sir Matthew Hale in the 17<sup>th</sup> century, "but it must be remembered that it is an accusation easily to be made and hard to be proved,"<sup>8</sup> because the crux of this

7. See Ishay Rosen-Zvi, "Bilhah the Temptress: *The Testament of Reuben* and the Birth of Sexuality," *Jewish Quarterly Review* 96.1 (2006): 65–94, esp. 90–94.

8. Sir Matthew Hale, *The History of the Pleas of the Crown* (London: E. Rider, 1800), vol.1, 635.

felony lies in the ephemeral and intangible realm of will and consent. Hale's statement puts forth the juridical principle that guided the English and American court systems for centuries: that in rape cases "it is the victim, not the defendant, who is on trial."<sup>9</sup> Both in order to inculcate the attacker and in order to exonerate the victim from the guilt of illicit sex, the victim must prove in every way possible that she *truly and genuinely* did not want the sexual contact. But how can "will" or lack thereof, ostensibly an inner state, be established in a court of law? If the line between guilt and guiltlessness is drawn in the subjective workings of the victim's mind, is it possible to re-draw this line as an objective fact?

This question has been confounding legislators and jurists for at least 3500 years, as is evident by the law codes of the Ancient Near East, Greece, and Rome.<sup>10</sup> Consent was usually immaterial in cases of sex with an unmarried or unbetrothed woman, which until the first centuries of the Common Era were adjudicated as proprietary offenses against that woman's guardian and were remedied strictly through monetary compensations.<sup>11</sup> However, in cases of illicit sex with a married or betrothed woman, which had criminal as well as proprietary repercussions, the question of the woman's consent or lack thereof emerges time and again as the hinge on which both the perpetrator's and the woman's fates hang (assuming the woman in question was free, and not a slave or a prostitute whose consent was entirely inconsequential). The assumption that underlies these law codes' treatment of sexual coercion is that the victim's own testimony regarding her consent is immaterial. Whether a given juridical system does not even allow women to attend courts or give

9. Cassia C. Spohn, "The Rape Reform Movement: The Traditional Common Law and Rape Law Reforms," *Jurimetrics* 39.2 (1999): 119–130, at 119.

10. See Marten Stol, *Women in the Ancient Near East* (Berlin: de Gruyter, 2016), 254–267; Daniel Ogden, "Rape, Adultery, and Protection of Bloodlines in Classical Athens," in *Rape in Antiquity: Sexual Violence in the Greek and Roman Worlds*, ed. Susan Deacy and Karen F. Pierce (London: Bloomsbury, 2002), 25–41; Jane F. Gardner, *Women in Roman Law and Society* (Bloomington: Indiana University Press, 1986), 117–136; Nghiem L. Nguyen, "Roman Rape: An Overview of Roman Rape Law from the Republican Period to Justinian's Reign," *Michigan Journal of Gender and Law* 13.1 (2006): 75–112.

11. It is only in late ancient Jewish and Christian legislation that the rape of virgins, and not only of married or betrothed women, emerges as a crime—and not a crime against the woman's father but rather (or also) as a crime against *her*. See Judith Hauptman, *Rereading the Rabbis: A Woman's Voice* (Boulder, CO: Westview Press, 1998), 80–98; Judith Evans Grubbs, "Virgins and Widows, Show-Girls and Whores: Late Roman Legislation on Women and Christianity," in *Law, Society, and Authority in Late Antiquity*, ed. Ralph W. Mathisen (Oxford: Oxford University Press, 2001), 220–41; Hina Azam, *Sexual Violation in Islamic Law: Substance, Evidence, and Procedure* (Cambridge: Cambridge University Press, 2017), 39–52.

testimonies, considers women's testimonies to be automatically suspect and unreliable (since a woman has much to lose if she fails to prove that the illicit sex was forced upon her), or simply sees the victim's and perpetrator's testimonies as cancelling each other out (what is known as "he-said-she-said") — it is assumed that the court must determine the victim's will without much or any regard for what the victim *says* she did or did not want.

To this day, the reluctance to rely on the victim's own testimony means that her subjective will must be determined using ostensibly objective factors, and only if a sexual assault meets those "objective" requirements does it qualify as what Susan Estrich called "real rape." According to Estrich, both among legal professionals and in the larger public, the "realness" of a rape charge is assessed based on (1) the force exercised by the rapist, (2) the violent and visible resistance of the victim, and (3) the level of acquaintance between the rapist and the victim. "Real rape" is thus associated with one quintessential scenario: a stranger (preferably a stranger whose race is different from the victim's) forcefully penetrates a woman (preferably a virgin), presumably while threatening to kill her, while she resists in every way — screaming, scratching, biting, hitting — for as long as she can, hopefully with witnesses to corroborate that.<sup>12</sup> Failure to show resistance, previous acquaintance with the attacker, or lack of evidence for the use of force immediately raise the question (among police officers, judges, relatives, media consumers, and not least of all the victim herself) whether the case at hand indeed qualifies as "rape" and oftentimes lead to lesser charges, if not altogether to a dismissal of the case.<sup>13</sup>

Similar attempts to establish what we will call here "mechanisms of measurement" for the victim's will or lack thereof can be traced in a host of ancient legal texts. To determine whether a woman in a given case consented or not, legislators scrutinized factors like violence, distance from the woman's home, relation to the offender, evidence of resistance, and other variables. At stake in establishing the woman's consent were not only the repercussions for the attacker, but also and usually more urgently repercussions for the woman herself, notably if she was married or betrothed. In those cases the question of the woman's mental disposition vis-à-vis a sex act with a man other than her husband or fiancé charted the line separating innocence from adultery, and hence often the line

12. Susan Estrich, *Real Rape: How the Legal System Victimizes Women Who Say No* (Cambridge, MA: Harvard University Press, 1987).

13. There have been steady attempts to reform this approach to rape in recent decades, with varying and debatable success. See Stacy Futter Jr. and Walter R. Mebane, "The Effects of Rape Law Reform on Rape Case Processing," *Berkeley Women's Law Journal* 16.1 (2001): 72–139.

between her life and her death. The book of Deuteronomy, for example, makes this distinction especially clear when distinguishing between two cases: a betrothed woman who was ravished by another man “in the town,” who is to be put to death because she presumably did not cry loud enough for others to come to her rescue, and a betrothed woman who was seized “in the field” who is considered innocent, because her cries would have been in vain (Deut 22.23–27). We may say, then, that while the determining factor in matters of sexual coercion is ostensibly the victim’s will, in truth the determining factor is the ability to externalize and reify the victim’s will through established mechanisms of measurement.

Does this quest for objective mechanisms of measurement for one’s will change at all in texts from Late Antiquity? One could expect that the newfound emphasis on intentionality in this period would remap the discourse on sexual coercion, and would generate an interest in the victim’s mental experiences more so than in the physical circumstances of the attack.<sup>14</sup> We argue that such emphasis on mindset and mental drama can indeed be traced in late ancient texts on sexual coercion: as we will see, several texts do offer deliberations on the vicissitudes of women’s will in the course of sexual encounters and on the machinations of their inner drama – deliberations that are without precedent in earlier discussions of sexual assault. However, these deliberations on women’s subjective will do not result in a stronger confidence in the victim’s agency, interiority, or volition. Instead, this emphasis ultimately introduces new mechanisms of measurement, or new “objective” criteria for “real rape.” We contend that late ancient authors’ attempts to establish such criteria are propelled by a categorical problem. On the one hand, these authors maintain that free women have a will of their own (if they do not, they cannot be held to moral and religious standards). On the other hand, they realize that sexual coercion cases necessarily mean that a woman’s will can be forcibly overturned by the will of another. The notion of a free and willing agent who is nonetheless not entirely free — not because of inner constraints but because

14. Changing attitudes toward virginity in the course of the fourth and fifth centuries serve as an interesting point of comparison here. As Michael Rosenberg noted, during this period we see a gradual shift from a physiological definition of virginity, which focuses on the intactness of the hymen, to a mental approach that scrutinizes the woman’s spiritual prowess and commitment to chastity. Rosenberg rightly identifies Augustine as the most avid proponent of the latter approach; see Michael Rosenberg, *Signs of Virginity: Testing Virgins and Making Men in Late Antiquity* (New York: Oxford University Press, 2018), 182–205. However, as we shall see, in matters of rape Augustine does not distinguish the mental and the physical from each other quite so neatly.

of outer constraints — creates a conundrum for those authors, which they attempt to resolve in several ways, as we now turn to demonstrate.

### Rape and coercion in late ancient texts: models of objective subjectivity

A free status and sexual autonomy were deeply intertwined in the ancient world.<sup>15</sup> Whereas a free man exercised his status through open sexual access to those subordinate to him (men and women alike),<sup>16</sup> for a free woman, sex was a manifestation of virtue, and virtue was a manifestation of freedom itself.<sup>17</sup> A woman demonstrated her virtue and thereby her freedom through her chastity, either by reserving herself for her husband only or by remaining a virgin. In both Christian and Jewish late ancient texts we see men taking upon themselves the “womanly” model of sexual autonomy, namely, demonstrating their freedom — and more importantly, the freedom of their will — by abstaining from sex altogether or at least abstaining from all forms of *porneia* or *fornicatio* (that is, sex with anyone but one’s own wife).<sup>18</sup> For men, however, the decision to practice sexual virtue as well as one’s success or failure in keeping this decision were primarily or exclusively a matter of grappling with one’s own conscience. In contrast, women’s failures to maintain their chastity, whether willful or not, had a profound impact on their lives and the lives of those around them.

Women who were raped were often reviled by their husbands, relatives, and communities, and relegated to the status of prostitutes.<sup>19</sup> Such repercussions were particularly common in the aftermath of captivity or military invasion.<sup>20</sup>

15. On the chastity of free women as opposed to female slaves, see Jennifer Glancy, *Corporeal Knowledge: Early Christian Bodies* (New York: Oxford University Press, 2010), 101–162; Kyle Harper, *Slavery in the Late Roman World, AD 275–425* (New York: Cambridge University Press, 2011), 281–325.

16. See Jonathan Walters, “Invading the Roman Body: Manliness and Impenetrability in Roman Thought,” in *Roman Sexualities*, ed. Judith P. Hallett and Marilyn B. Skinner (Princeton, NJ: Princeton University Press, 1997), 29–43.

17. See, for example, Suzanne Dixon, *The Roman Family* (Baltimore: Johns Hopkins University Press, 1992); Rebecca Langlands, *Sexual Morality in Ancient Rome* (New York: Cambridge University Press, 2006).

18. For several notable studies on this this topic see Peter Brown, *The Body and Society: Men, Women, and Sexual Renunciation in Early Christianity* (New York: Columbia University Press, 1980); Aline Rousselle, *Porneia: On Desire and the Body in Antiquity*, trans. F. Pheasant (Oxford: Basil Blackwell, 1993); Kyle Harper, *From Shame to Sin: The Christian Transformation of Sexual Morality in Late Antiquity* (Cambridge, MA: Harvard University Press, 2013).

19. See Sagit Mor, “The Status of Jewish Captives upon their Return to the Community in Rabbinic Literature,” *Jewish Studies* 42 (2003–4): 107–18 (in Hebrew).

20. See Nguyen, *Roman Rape*, 86; Sara Elise Phang, *Roman Military Service: Ideologies of Discipline in the Late Republic and Early Principate* (Cambridge: Cambridge University Press, 2008), 92–97;



Sexual assault was common enough in times of peace, but it was par for the course in times of war, in which the conquest of land is routinely accompanied by conquest of the enemy's women, whose bodies were considered both loot of war and outlet for aggression.<sup>21</sup> Late Antiquity was a time rife with violence, as part of which women were taken captive, abused, and sold on a regular basis,<sup>22</sup> and their "violation" by outsiders was not a personal problem of recovery and reckoning, but a problem of families, villages, churches, and courts. A woman who was "defiled" by the enemy was a victim, but she also carried in her very body the traces of the enemy. To be sure, not only women but also men (especially young, attractive men) were taken captive and were used as sexual playthings in situations of war or conquest.<sup>23</sup> Late ancient texts that address this phenomenon certainly regard it as devastating, but it nonetheless does not hold the same set of long-term consequences for the victims, since men were not incorrigibly despoiled by illicit sex as women were thought to be.

In an array of late ancient sources that address the issue of sexual coercion, the "official" line is clear: a woman (whether a virgin or married) who was forced into a non-marital sexual act against her will bears no moral responsibility whatsoever and should not suffer any negative consequences as a result. Augustine introduces this principle in the clearest terms when he discusses the issue of Christian women who were brutally raped during the sack of Rome in 410 C.E. "There will be no pollution, if the lust is another's; if there is pollution, the lust is not another's," he wrote, maintaining that since one's purity is a virtue of mind and not body, it cannot be lost when the body is attacked unless the mind is consenting.<sup>24</sup> Augustine continued to mock the Romans' admiration

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Kathy L. Gaca, "Girls, Women, and the Significance of Sexual Violence in Ancient Warfare," in *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights*, ed. Elizabeth D. Heineman (Philadelphia: University of Pennsylvania Press, 2011), 73–88.

21. As discussed in Susan Brownmiller, *Against Our Will: Men, Women, and Rape* (New York: Ballantine Books, 1975), 31–113.

22. Captivity of women was so common in antiquity that it served as potent cultural and religious imagery and narrative trope. For several examples, see David Stern, "The Captive Woman: Hellenization, Greco-Roman Erotic Narrative, and Rabbinic Literature," *Poetics Today* 19.1 (1998): 91–127; C.M. Chin, *Grammar and Christianity in the Late Roman World* (Philadelphia: University of Pennsylvania Press), 82–97; Andrea Sterk, "Mission from Below: Captive Women and Conversion on the East Roman Frontiers," *Church History* 79.1 (2010): 1–39.

23. For a discussion of select sources, see Joshua Levinson, "Captured by Texts: Travel Tales of Captivity in Rabbinic Literature," *Journeys* 17.1 (2016): 75–95.

24. Augustine, *City of God* 1.18, trans. Henry Bettenson (London: Penguin Classics, 1984), 27. For dedicated studies of Augustine's approach to rape, see Margaret R. Miles, "From Rape to Resurrection: Sin, Sexual Difference, and Politics," in *Augustine's City of God: A Critical Guide*, ed. James Wetzel

for Lucretia, Collatinus's wife who was coerced into sexual relations with King Tarquin's son and, after confessing what happened, proceeded to kill herself.<sup>25</sup> He asserts that there are only two possibilities: either Lucretia truly did not consent to the act, in which case she is guilty of murdering an innocent woman when committing suicide, or she did in fact consent to the act, in which case she is an adulteress. Either way, Lucretia is the only one who can know which of these two options is true (*ipsa tantummodo nosse poterat*). While Augustine is guided here primarily by his strong anti-suicide agenda,<sup>26</sup> it is important to observe that he describes rape as matter ultimately given to the judgment of the victim's conscience: only she knows if she consented or not, and only she can determine the repercussions for herself, which for Augustine means either exoneration or penance.

Like Augustine, late ancient Jewish and Christian legal authors maintained that if a woman *truly and genuinely* did not desire a sex act, she is entirely innocent. "All those who are coerced are exempt [from punishment]," determines the Midrash *Sifre* on Deuteronomy (composed in Roman Palestine in the third century C.E.),<sup>27</sup> and Basil of Caesarea asserts: "Women who have been corrupted by force should be deemed guiltless."<sup>28</sup> But unlike Augustine, several such authors make the point that the question of what the woman truly wanted is very much a matter of public concern and is not limited to her own conscience. In particular, the question of rape as opposed to consensual sex is pertinent in assessing whether a woman can go back to her husband or fiancé in the aftermath of abduction or captivity.

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(New York: Cambridge University Press, 2012), 75–92; Melanie Webb, "Rape and Its Aftermath in Augustine's *City of God*" (PhD diss., Princeton Theological Seminary, 2016).

25. See Dennis Trout, "Re-Textualizing Lucretia: Cultural Subversion in the *City of God*," *Journal of Early Christian Studies* 2.1 (1994): 53–70; Virginia Burrus, *Saving Shame: Martyrs, Saints, and Other Abject Subjects* (Philadelphia: University of Pennsylvania Press), 125–129; Melanie Webb, "On Lucretia who slew herself: Rape and Consolation in Augustine's *De ciuitate dei*," *Augustinian Studies* 44.1 (2013): 37–58.

26. See Michael Gaddis, *There Is No Crime for Those Who Have Christ: Religious Violence in the Christian Roman Empire* (Berkeley: University of California Press, 2005), 111–119; Brent Shaw, *Sacred Violence: African Christians and Sectarian Hatred in the Age of Augustine* (New York: Cambridge University Press, 2011), 721–770.

27. *Sifre Deuteronomy* 243, ed. Louis Finkelstein (New York: Jewish Theological Seminary, 1969), 273.

28. Basil, Canonical letter 199, 49 (trans. Andrew Radde-Gallwitz), in *The Cambridge Edition of Early Christian Writings, vol. 2: Practice*, ed. Ellen Muehlberger (Cambridge: Cambridge University Press, 2017), 161.

According to the Mishnah, a Jewish legal codex compiled in Roman Palestine in the early third century C.E., a woman who was raped or taken captive (the latter of which was assumed to entail rape) is allowed to go back to her husband (or more accurately: her husband is allowed to take her back). This is provided that her husband is not a priest (*kohen*), who according to Levitical law may not be married to a woman who has had sex with anyone but him. Moreover, according to the Mishnah, the *Kettubah* writ (marriage agreement) customarily entails the clause “if you will be taken captive, I will redeem you *and restore you as my wife*,” which suggests that a layperson *must* take his wife back.<sup>29</sup> The Tosefta, a contemporaneous or slightly later compilation, leaves this decision to the husband’s discretion: it rules that the husband must redeem his wife only if she was taken captive for the purposes of ransom (in which case her captors are less likely to have raped her), but if she was taken captive “by the empire” — that is, on account of political upheaval, which almost necessarily entails rape — he does not have to redeem her. In either case, it is up to him whether to restore her as his wife or not, but he must pay her the marriage settlement if he is to let her go.<sup>30</sup> Similar considerations can be found in Christian sources: The Council of Ancyra of 314 C.E. decreed that “virgins who have been betrothed, and who have afterwards been carried off by others, shall be restored to those to whom they had formerly been betrothed, even though they may have suffered violence by the ravisher.”<sup>31</sup> Basil, making the same ruling in his letter to Amphilocheus from 375 C.E., mentions that it is the fiancé’s choice in each case whether he wishes to accept the woman or separate from her.<sup>32</sup> These rulings clearly convey both the general conviction that a woman who was raped is (in principle) faultless, and the acknowledgment that this woman is likely to suffer grave consequences when attempting to return to her previous life despite her faultlessness.

Yet when late ancient authors venture to assess what constitutes sexual coercion, and what kinds of cases of illicit sex render the woman blameless or blameworthy, they are confronted with a problem that is not only juridical, but also and perhaps primarily philosophical: how can a woman be seen as possessing

29. Mishnah Kettubot 4.8.

30. Tosefta Kettubot 4.5. See Sagit Mor, “The Laws of a Captive Woman: A Change of Values in Jewish Culture between the Second Temple and Talmudic Periods,” *Hebrew Law Annual* 23 (2005): 193–224 (in Hebrew).

31. Council of Ancyra, Canon 11, cited in Judith Evans Grubbs, *Women and the Law in the Roman Empire* (New York: Routledge, 2002), 179, who considers a possible Jewish influence here.

32. Basil, Canonical Letter 199, 22, in *Cambridge Edition of Early Christian Writings* 2:156.

free will and devoid of free will at the same time? Obviously, if she is to be punished only when she wanted the sexual act, she is considered to be a free willing subject; but the very idea that the sexual act took place despite her will and that she could do nothing to prevent it suggests that she is *not* in fact a free willing subject. Put differently, if a woman's autonomy is measured by her sexual chastity, then it must be assumed that she is fully in charge of her sexual chastity; but if we exonerate her in the case of rape it means that her sexual chastity, and hence her autonomy, are not in her own hands. To be sure, rape is quintessentially different from other violent crimes, such as robbery or assault, since robbery victims do not operate within a system in which their free status is encapsulated in their willful determination not to be robbed. More importantly, in other violent crimes it is not the victim who must establish their state of mind at the time of the attack, and it is not on the question of the will and on the will's ability to be known that the case hinges.

What makes the texts we will discuss below stand out is not their engagement with the question, "How can we know the woman's true will?" – indeed, this question has been asked by legislators and jurists for millennia before and after Late Antiquity – but rather their engagement with the question of *whether* women have free will in sexual matters and what is the nature of this will. In other words, we see these texts, for all their generic, chronological, and geographical variety, as engaging in a shared cultural attempt to map the sexual experiences of women onto paradigms of autonomy, subjectivity, and self-determination conjured for free men. Such attempts, to the best of our knowledge, cannot be discerned prior to the third century.

The debates, rulings, and anecdotes to which we now turn should not simply be read as practical guidelines for handling evidence or testimonies in rape cases, but as attempts to resolve or undo the conundrum that such cases present, namely: How can a woman, in what concerns her sexuality, be regarded a willing subject and a will-less object at the same time? We first examine texts that resolve the conundrum by effectively eliminating the category of rape almost altogether, suggesting that more or less all sexual encounters in which women partake are ultimately willful. Then, we turn to the opposing model, in which the notion of women's free will is relinquished, and women are presented as lacking mental autonomy in matters of sexuality. Finally, we argue that the motif of women's suicide to avoid being raped reflects an attempt to undo the problem by transposing the conflict from the encounter between the woman and the attacker to the confines of woman's own mind.

## Maintaining free will at the expense of rape

On the face of it, the conundrum we introduced above is easily resolved if one maintains a firm categorical separation of body and mind. Will and consent are features of the mind, whereas sexual assault targets the body: thus the body as object may be violated (in the same way that a wallet may be stolen), but the mind as subject can remain free and guiltless if it *truly* does not consent. This is indeed Augustine's approach to the issue of rape and sexual coercion: "Now purity is a virtue of the mind. . . what sane man will suppose that he has lost his purity if his body is seized and forced in the satisfaction of a lust that is not his own?"<sup>33</sup> However, later in the same text, when discussing Lucretia, Augustine introduces a new variable to the equation that traverses the neat body-mind divide he upholds earlier: pleasure. He entertains the possibility that Lucretia killed herself not because she was innocent but because she was guilty, and her guilt derives from the fact that while being violently abused by Sextus, she was so overcome by her own desire (*sua libidine inlecta*) that her initial resistance turned into consent.<sup>34</sup> Augustine envisions sexual pleasure as originating in the body despite one's will but then becoming *tantamount* to one's will.<sup>35</sup> Thus a woman who ultimately enjoyed a coerced sexual encounter should be regarded as guilty of adultery rather than rape.

The very same scenario of resistance that eventually turns into pleasure, and thereby transforms a sex act from coerced to consensual, appears several times in Talmudic sources. The question that is debated in these sources is not whether this can happen — it is clear to the rabbis that sexual desire can naturally and unwittingly emerge in the woman during a coerced sex act — but whether such involuntary pleasure truly counts as consent and renders the woman culpable. In the Babylonian Talmud (compiled around the sixth century C.E., but containing an abundance of earlier material), a rabbi identified as "Shmuel's father" (who can be dated without certainty to the early third century) makes the ruling that any married woman who was raped, even the wife of a layperson, *cannot* go back to her husband. The reason provided — probably by a redactor later than

33. Augustine, *City of God* 1.18. Augustine may well be alluding here to Lucretia's own words as they are narrated by Livy in *Ab urbe condita* 1.58: "Only my body has been violated, my mind is innocent (*ceterum corpus est tantum violatum, animus insons*)."

34. *City of God* 1.19. See Margaret R. Miles, *Carnal Knowing: Female Nakedness and Religious Meaning in the Christian West* (Boston, MA: Beacon Press, 1989), 72.

35. Webb ("On Lucretia") attempts to reject this reading of Augustine, but is not entirely convincing.

Shmuel's father – is that “we are to fear that while she was coerced in the beginning, she was willing in the end” (*tehilata be-ones ve-sofa be-ratzon*).<sup>36</sup> Shmuel's father, or the redactor who explains his opinion, has no qualms about the principle that when a woman truly did not desire a sex act she is innocent and can return to her marriage: he has qualms about the notion that the woman's will can be assumed to be stable throughout the entire act. Even if it can be verified without doubt that the act was initiated entirely against the woman's will, how can we know that she did not *ultimately* consent to it in her heart? For Shmuel's father, as for Augustine, pleasure (even involuntary pleasure) is an iteration of free will.

The anonymous Talmud later on inquires whether there is any case at all that qualifies as “real rape” (one that would allow a woman to go back to her husband) according to Shmuel's father, and replies that that would only be a case in which “there are witnesses that she screamed from beginning to end.” The anonymous Talmud puts forth an extreme, not to say impossible, mechanism of measurement to assess a case of sexual coercion as rape. The likelihood that any real-life rape case would ever comply with this harsh standard is so miniscule that the very category of rape is effectively nullified. The assumption put forth here is that if a sex act took place, then on some level or other the woman wanted it.

Although not concerned with the overlap of pleasure and will, Constantine's harsh ruling on the abduction of virgins from 320 C.E. subscribes to the same principle — namely, that if a sex act took place the woman should be regarded, at least to some extent, as a willing agent. While Constantine maintains that a young girl who was raped (*rapuerit*) against her will should not suffer a punishment so grave as one who was willingly seduced (*volentem abduxerit*), he decrees that even rape victims cannot go entirely unpunished, because if they *truly* wanted to avoid being raped “they could have kept themselves chaste at home up to the time of their marriage and when, if the doors were broken by the audacity of the ravisher, the girls could have obtained the aid of neighbors by their cries and could have defended themselves by all their efforts.”<sup>37</sup> Constantine's concern is not

36. Babylonian Talmud Kettubot 51b.

37. *Codex Theodosianus* 9.2.4.1–2. Translation quoted from *The Theodosian Code and Novels, and the Sirmundian Constitutions*, ed. and trans. Clyde Pharr with Theresa Sherrer Davidson and Mary Brown Pharr (Princeton, NJ: Princeton University Press, 1952), 245. On this law, see Judith Evans Grubbs, “Abduction Marriage in Antiquity: A Law of Constantine (*CTh* ix.2.4.1) and Its Social Context,” *Journal of Roman Studies* 79 (1989): 59–83.

whether the rape victim ultimately enjoyed it (and thereby, presumably, consented), but rather whether she did everything possible to avoid being raped (which she obviously did not, because if she *had* done everything possible she would not have been raped). Both the Talmud commenting on Shmuel's father and Constantine thus create impossible scenarios of "real rape" in which the victim is innocent, and either assume or detect an element of willingness — or insufficient *lack* of willingness — on her end in all other cases.

Each one of these three texts grapples with the question of how a woman can be a willing subject and a will-less object at the same time, and establishes stringent mechanisms of measurement to maintain the notion that women are autonomous willing subjects. Whereas Augustine utilizes a strict mind/body division in order to maintain that a woman can be both, his discussion of bodily pleasure as a particular formation of will collapses and blurs the very division he tries to uphold. For Shmuel's father and his anonymous interpreters, ultimate consent due to sexual pleasure is the presumed default in a case of rape, and therefore a woman is to be considered willing until proven otherwise. Constantine, on his end, puts forth that the very fact that a sexual assault took place assumes some level of willfulness. In all three cases, the assumption that a woman is possessed of will and sexual autonomy leads to a significant limitation or even effective abrogation of the category of rape.

#### Maintaining rape at the expense of free will

Shmuel's father's view that involuntary sexual pleasure is tantamount to will was not the only rabbinic view on the matter. An anonymous ruling in the Palestinian Talmud (compiled around 400 C.E.) presents a position according to which a woman who was "coerced in the beginning but willing in the end" is permitted to return to her husband, that is, is not guilty of adultery. A poignant anecdote immediately follows to illustrate this ruling: it is told of a woman who came to Rabbi Yohanan and said that she was raped. When he asked her "and did you not enjoy it?" she replied: "If a man dips another's finger in honey and places it in his mouth on the Day of Atonement, is it not bad for him, but in the end is it not pleasant for him?" Rabbi Yohanan accepted her answer (and presumably allowed her to go back to her husband, assuming that this was the legal matter at hand).<sup>38</sup> The woman in this anecdote does not deny that she

38. Palestinian Talmud Sotah 4.4 (19d).

enjoyed the sexual act that was forced upon her. Rather, she asserts that her enjoyment is not tantamount to will and does not turn her into an adulteress: one can sometimes enjoy something *against one's will*, she says, like one being forced to taste something sweet on a holy fast day.

In the Babylonian Talmud, the fourth-century rabbi Rava expresses the same ruling even more forcefully: “Whoever was coerced in the beginning and willing in the end, even if she says: ‘leave him [the rapist] alone’ and that if he would not claim her she would hire him – is permitted [to return to her husband]. What is the reason? He [the rapist] took over her with desire (literally: he clothed her with desire, *yetzer albesha*).”<sup>39</sup> According to Rava, even a woman who explicitly *pronounces* her ongoing desire for her rapist is considered a victim of “real rape” and is innocent of adultery.

It is easy to dismiss these discussions of women “coerced in the beginning but willing in the end” or women taken with desire as evidence of male fantasies that women actually enjoy being raped, or of a misogynistic premise that women’s libido is so gargantuan that they cannot help being overcome by it. While these elements may certainly be present here, it is important to note that these discussions also present conflicting and troubled deliberations on the questions of what the will is, how the will works, and how the will can be truly known. Whereas Shmuel’s father (and Augustine) claim that pleasure, even if involuntary, counts as “will,” and the woman in the Palestinian Talmud suggests that the will and pleasure are two separate categories, Rava (or, again, the anonymous redactor interpreting his position) maintains that pleasure *nullifies* the will. In the apt words of Ishay Rosen-Zvi, “the very appearance of desire turned the act from volitional to coerced [. . .] the man who raped the woman forcefully ‘clothed her’ with desire, and made her want the rest of the act reluctantly. Her will itself turned into [a form of] rape.”<sup>40</sup> The range of these positions significantly complicate the view that the will is fully controllable, or even fully knowable, by the individual who possesses it.

Whereas the anecdote in the Palestinian Talmud presents a woman as a legal agent who is capable not only of accounting for herself but also of shrewdly arguing her own case, Rava’s position in the Babylonian Talmud is conveyed

39. Babylonian Talmud Kettubot 51b.

40. Ishay Rosen-Zvi, “Do Women Have a *Yetzer*? Anthropology, Ethics, and Gender in Rabbinic Literature” (in Hebrew), in *Spiritual Authority: Struggles over Cultural Power in Jewish Thought*, eds. Howard Kreisel, Boaz Huss, and Uri Ehrlich (Be’er Sheva: Ben Gurion University Press, 2010), 21–34, at 27–28 (trans. M. Balberg).



through an extreme case of a woman who continues to be infatuated with her attacker even after the sexual act is over, a woman who, he ascertains, cannot be taken at her word. A rape victim, according to Rava, is not someone who was involved in a sex act despite her will but one who in the process lost her will altogether, such that her self-report about her will is inconsequential. Rava, then, resolves the conundrum of a willing subject/will-less object in the opposite manner to that of Shmuel's father: whereas Shmuel's father dismisses the category of rape in order to maintain the notion that women have free will, Rava dismisses (or significantly limits) women's ability for free will in order to maintain the category of rape.

Here too we can find resonance (although, in all likelihood not any direct connection) between the position of a Babylonian rabbi and that of a Roman imperial legislator. Justinian's ruling on rape from 528 C.E. similarly suggests that rape victims should be seen as devoid of agency, because their own will was effectively taken over by the will of the attacker: "no reproach can be brought against the woman, whether she gave her consent or not. . . For unless a man solicited her, and deceived her by his detestable arts, he did not induce her to submit to such dishonor."<sup>41</sup> Justinian's guiding assumption is diametrically opposed to that of Constantine: whereas Constantine holds that passive unwillingness still implies willingness, Justinian, like Rava, holds that even active willingness is a form of passive unwillingness. Although Justinian does not speak specifically about sexual pleasure taking over the woman, but rather about deceit and trickery on the man's side, his view is similar to that of Rava insofar as both question women's ability to know what they really want, or perhaps even to want anything truly freely – at least when it comes to sex.

Again, we do not purport to argue that there is any direct connection or even acquaintance between the Talmudic rabbis and the Roman legislators. In fact, we find those resonances interesting specifically because such connections can hardly be assumed. Rather, we propose that the reverberations between those texts speak to the ubiquity of the problem that underlies them in disparate late ancient cultures: How is it possible for the free will of one person to be overcome by the will of another person? The two solutions conjured, simplistically put, are that either one's will is always one's own (and so there is scarcely such a thing as real rape), or that the person whose will was overcome did not possess true free will to begin with.

41. *Codex Justinianus* 9.13.1. Quoted from Samuel P. Scott, *The Civil Law*, vol.3 (Cincinnati: The Central Trust Company, 1932).

## Suicide and the inner drama of free will

The texts we have seen share the premise that women's own testimony regarding their consent to a sexual act should be weighed with much suspicion and doubt or not be taken into account at all. Consent must ultimately be assessed through objective criteria, which we have called here "mechanisms of measurement." The problem is that within a paradigm of free will, will translates into action: if one truly wants to remain sexually chaste, one *would* remain sexually chaste. The most objective criterion through which to assess a woman's will is therefore her actions, and since her actions are, at the end of the day, an illicit sexual encounter, her will is identified with these actions until conclusively proven otherwise.

If coerced participation in a sexual act is seen either as indication of implicit willingness to do so or as indication of lack of free will, there is only one way in which one may prove beyond doubt that she truly and genuinely wanted to maintain her chastity, and that is not to allow herself to be coerced in the first place. In late ancient texts, this scenario is played out through the theme of elective suicide to avoid sexual defilement. Suicide emerges as a way to circumvent the problem of free will in conjunction with rape, because it introduces a dimension of choice into a choiceless situation. It is the ultimate and most reliable mechanism of measurement for one's state of mind vis-à-vis a sexual encounter, since it substitutes incongruence of will and action with congruence of will and action.

The motif of women's willingness to be killed by others in order to maintain their chastity is prevalent in late ancient (as well as medieval) Christian literature, with Thecla serving as the most quintessential example.<sup>42</sup> Various sources, however, indicate that when a Christian woman, particularly a virgin, is facing rape in a situation of war or captivity, it is legitimate and indeed heroic for her to take her own life. In *Against Jovinian* Jerome relates at length and with great approval a series of stories of Greek and Roman virgins who killed themselves (or one another) to avoid sexual defilement, and in another place he asserts explicitly: "In persecutions it is not lawful to commit suicide *except when one's chastity is jeopardized*."<sup>43</sup> Similarly, Ambrose writes to his sister Marcellina about "the merits of those who have thrown themselves from heights or

42. See, for example, Jane Tibbets Schulenburg, *Forgetful of Their Sex: Female Sanctity and Society*, ca. 500–1100 (Chicago: University of Chicago Press), 1998; Judith M. Bennett, "Death and the Maiden," *Journal of Medieval and Early Modern Studies* 42.2 (2012): 269–305.

43. Jerome, *Commentary on Jonah*, in Y.-M. Duval, ed., *Jérôme, Commentaire sur Jonas*, Sources chrétiennes 323 (Paris: Éditions du Cerf, 1985).

drowned themselves in a river in order not to fall into the hands of their pursuers” and asserts that “with respect to virgins placed in a situation of constraint, we have a clear judgment [that their suicide is legitimate], since this is a case of martyrdom.”<sup>44</sup> He continues to relate in detail the stories of Pelagia of Antioch and his own relative Soteris who killed themselves during the persecutions of Diocletian so as not to be abused by slaves or soldiers. The motif of suicide to avoid rape and compromise of chastity also recurs in the writings of Eusebius, who does not limit it to virgins but mentions married or widowed women as well, from Domina and her two daughters Berenice and Prosdocia<sup>45</sup> to the brave Christian wives of Roman senators during the treacherous reign of Maxentius.<sup>46</sup>

While rabbinic texts are unequivocal that one should always choose death over violation of sexual prohibitions,<sup>47</sup> they usually do not explicitly endorse suicide in such cases like the Christian texts we mentioned above.<sup>48</sup> One notable narrative, however, does idealize suicide as a heroic way to prevent sexual violation. The Palestinian version of the story appears in Midrash Lamentations Rabbah, commonly dated to the late fifth century C.E. It is told that in the aftermath of the Jewish revolt Vespasian filled three boats with men and women of Jerusalem, who were destined to be placed in a brothel in Rome. The men asked the women: “is that what you want?” to which they responded with a resounding “no!” The men then said: “if they, who are accustomed to it (i.e., to sex with men), do not wish for it, all the more so we [should avoid it].” The captives then raise the question whether they will still have a place in the World to Come if they throw themselves into the sea, and God responds by reminding them of the verse “I will bring them back from Bashan, I will bring them back from the depths of the sea” (Psalm 68:22). The men and women then all proceed to throw themselves off the boat.<sup>49</sup> In the Babylonian version of the story, it is not men and women but young boys and girls who choose

44. Ambrose, *On Virgins* 7.32, in Boniface Ramsey O.P., *Ambrose*, Early Church Fathers (New York and London: Routledge, 1997), 114.

45. Eusebius, *Church History* 8.12, in *Nicene and Post-Nicene Fathers*, 2nd Series, ed. P. Schaff and H. Wace (repr. Grand Rapids, MI: Wm. B. Eerdmans, 1955), I, 332–333.

46. Eusebius, *Life of Constantine* 1.33–35. See Averil Cameron and Stuart G. Hall, trans., *Eusebius: Life of Constantine*, Clarendon Ancient History Series (Oxford: Clarendon Press, 1999), 82–83.

47. Sexual prohibitions are grouped in this context together with idolatry and shedding of blood. See *Tosefta Shabbat* 15.17; *Palestinian Talmud Shev’it* 4.2 (35a); *Babylonian Talmud Sanhedrin* 74a.

48. On rabbinic positions on suicide, see Sydney Goldstein, *Suicide in Rabbinic Literature* (Hoboken, NJ: Ktav, 1989).

49. *Lamentations Rabbah* 1.45.

suicide over the brothel, with the girls jumping into the sea first and the boys following their lead.<sup>50</sup> In a much later Jewish text, Abraham Ibn Daud's *Book of Traditions* from the 12<sup>th</sup> century, this narrative receives a new iteration, telling of four Jewish captives who were traveling on a ship to be sold as slaves. When the wife of one of the four realizes that the captain of the ship intends to rape her, she asks her husband whether one who throws oneself into the sea would be resurrected, in response to which he quotes the same verse from Ps 68.<sup>51</sup> The woman immediately drowns herself, thus creating a role model for generations of Jewish women.<sup>52</sup>

To be sure, exemplary narratives of women who killed themselves to avoid rape are by no means a novel late ancient phenomenon. What is remarkable about the championing of such narratives by late ancient Jews and Christians is, first, the fact that their authors usually object to suicide on any other grounds, and second, the fact that these authors subscribe in theory to the notion that rape victims are not blameworthy. In idealizing women who choose to kill themselves rather than be raped, late ancient authors are not only indicating that in their view rape is a fate worse than death: they are also bypassing the problem that sexual coercion poses within a paradigm of free will that rests on a notion of a free, masculine subject. Suicide to avoid rape transposes the drama from the outer realm to the inner realm: instead of one person's will being subdued and overcome by the will of another, we have a single "will" negotiating two options — rape or death — and actively and independently choosing one of them. Thereby, potential rape victims can be located alongside Christian martyrs or Jewish "sanctifiers of the name," heroes who are heralded for a brave choice they made, for the victory of their own agency and free will. Ironically, being subject to a threat of a will-less encounter was exactly what transformed these women into legibly will-full agents, paragons of the free will at its noblest forms.

### 3. CONCLUSION

As historians who work most closely with Judaism and Christianity, we could have parsed the stories and rulings about women under the threat of sexual assault according to their respective religious contexts. As we have noted, the

50. Babylonian Talmud Gittin 57b.

51. The *Book of Traditions* was edited and translated by Gerson D. Cohen, *A Critical Edition with a Translation and Notes of the Book of Tradition (Sefer ha-Qabbalah) by Abraham Ibn Daud* (Philadelphia: Jewish Publication Society of America, 1967), 63–67.

52. See Nomi Levenkron, "Death and the Maidens: Prostitution, Rape, and Sexual Slavery during World War II," *Theory and Criticism* 32 (2008): 15–44 (in Hebrew).

premise behind most of the rulings on Christian wives subject to assault could be framed as a reflection of the importance of chastity in early Christianity. Similar themes emerge when the stories of Jewish women are considered within the bounds of Jewish culture: we could easily place all the Jewish women discussed in a tradition of Jews who opt out of shameful acts for the “sanctification of the name,” even at great cost to themselves. In that mode of scholarship, both collections of sources could, in theory, do a version of what they do in the traditions they inhabit. They could represent an essential feature of the tradition by distilling an idealized piety that encapsulates what Judaism is, or will be, or what Christianity is, or will be. Yet we chose not to prioritize the religious tradition in which each of the narratives we discussed had been transmitted.

We made that decision in part because of what we wished to investigate. Piety, as a concept, bears in it a shadow of what also characterizes the discourse of the troubled will—a centering of the individual. Most scholars of Late Antiquity acknowledge that this period is marked by the rise of “inner subjects” whose mental dramas and whose private vicissitudes of will define their personhood, identity, and piety.<sup>53</sup> Both Jews and Christians scrutinized the individual, constructing it and blurring it in their writings, and their turn to this facet of human experience seems to offer a certain depth, even a kind of modernity, to late ancient thought. Yet, if this turn to the interior was an enrichment of discourse, it also came at a price. The fact that so many of the surviving texts that even glancingly consider ethical action focus on this one kind of dilemma—the drama of the divided subject—means that other kinds of dilemmas are treated meagerly, if at all. As the texts we have reviewed in this essay make clear, late ancient writers lacked the resources, and perhaps the inclination, to contend with malevolence, or assault, or harm to persons beyond themselves. Ostensibly, the women in these hypothetical situations had been acted upon, but the habits of thought in late ancient considerations of rape did not allow

53. On the importance of the will in late ancient Judaism, see Howard Eilberg-Schwartz, *The Human Will in Judaism: The Mishnah's Philosophy of Intention* (Atlanta: Scholars Press, 1986); Joshua Levinson, “From Narrative Practice to Cultural Poetics: Literary Anthropology and the Rabbinic Sense of Self,” in *Homer and the Bible in the Eyes of Ancient Interpreters: Between Literary and Religious Concerns*, ed. Maren Niehoff (Leiden: Brill, 2012), 245–267; Mira Balberg, *Purity, Body, and Self in Early Rabbinic Literature* (Berkeley: University of California Press, 2014); Ishay Rosen-Zvi, “The Mishnaic Mental Revolution: A Reassessment,” *Journal of Jewish Studies* 66.1 (2015): 36–58. On the importance of the will in late ancient Christianity, see Albrecht Dihle, *A Theory of Will in Classical Antiquity* (Berkeley: University of California Press, 1982), 99–144; Michael Frede, *A Free Will: Origins of the Notion in Ancient Thought* (Berkeley: University of California Press, 2011), 102–174; Harper, *From Shame to Sin*, 80–190.

for or include engagement with the forceful exercise of one person's will over another person's will. Instead, the crux of the problem, as late ancient Jews and Christians alike imagined it, lay with discerning the assaulted woman's will, her interiority—an advancement of sorts, and yet still a failure.

By pointing out the places where late ancient reflections on the will in these traditions are shallow, or insufficient to the task, we may seem to be unwittingly committing the sin historians try so hard to avoid, namely presentism. However, late ancient Jews and Christians themselves had a notion of sexual assault; they agreed, in principle, that a wrong occurred when a woman was forced to have sex against her will. We have argued that their explorations of that wrong, their mitigations of it, reveal as much about their conceptions of the will as do the more traditionally-studied texts about the subject, and perhaps more. Our accounting of Jewish and Christian imagined scenarios of sexual assault also reveals that a fuller range of sources can be explored to grasp late ancient ethical reasoning; the texts that display failures and weaknesses in a system of thought are as valuable for comprehending it as are the texts that project the system's control of a problem.

More important than even the ancient awareness of the wrong of sexual assault, though, is this question: what harm does it do to fathom the shallow points of an ancient system of ethical thought? Why would either of these traditions need to be defended from a critical engagement with what they were able to visualize and what they were not able to visualize, whom they were able to grant indelible agency and whom they were not? As the imaginations and ways of knowing in ancient cultures become more and more subjects for our study, the peculiarity of just who could be a willing, or an unwilling, subject in these systems should also be a part of our investigations. ■