WHO WAS A JEW?

by

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The Yarnton Trust
for
THE OXFORD CENTRE
FOR POSTGRADUATE HEBREW STUDIES

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Who was a Jew?

In the heated modern debate on the question "Who is a Jew?", the study of history has always played an important role. Current uncertainties have generally been explained as the product of the profound changes which have taken place in Jewish life over the past two centuries: the assimilation of European and American Jews into gentile society, the development of new forms of Judaism by reform and other progressive movements of the nineteenth and twentieth centuries, and the impact of the Holocaust and the State of Israel. Less attention has been paid in such discussions to the story of the more distant past. Most people have simply taken for granted that before the Enlightenment the definition of a Jew was not in doubt. I hope to show in this essay that this is not a view that can be maintained. It may not be possible to unravel all the complexities in establishing "Who was a Jew" in the period of the Second Temple, the Mishnah and the Talmud — insufficient evidence survives — but it does at least seem clear that the dilemmas of two thousand years ago were no less considerable than those of today. Appreciation of the past may make modern concerns more easy to bear, if not necessarily more soluble.

A good deal has been written in recent years, mostly by scholars in the United States, on Jewish identity in the period of classical antiquity.[1] Particular problems have become the focus of scholarly enquiry, reflecting both modern concerns and the emphasis of the extant sources of our knowledge. Thus, for instance, the thorny question of when and how Christians were first seen as a group entirely separate from Jews remains of perennial interest: estimates vary from the middle of the first century C.E. to the middle of the second, and there is still remarkably little agreement as to precisely what caused the rift. Among other writers there has been much speculation about the shift of opinion in Jewish society from a presumption that Jewishness was inherited through the male line to a presumption that it was inherited through the female: the change seems to have taken place at some time between the return from exile in Babylon in the late sixth century B.C.E. and the formation of the Mishnah in c. 200 C.E., but whether this was a sudden innovation in the second century C.E. or a more gradual phenomenon, and, in either case, why it occurred, is still unclear. Such questions are not merely of antiquarian interest. They are important for understanding the development of the rabbinic definitions of Jewishness which remain standard in orthodox circles today.

The issue on which I intend to concentrate here is different and, on the face of

it, logically requires to be considered before such matters. The problem which I shall pose — without, I should warn readers, having any great hope of finding a definitive solution — is that of enforcement. Assuming that changes in the definition of someone's status came about in antiquity, how did that person *know* whether he or she was Jewish? Or, to put it another way, who decided who was a Jew? And when the decision had been taken, how did any such authority ensure that its views would be accepted by the wider population?

In the ensuing pages it will emerge that there were at least five main ways of establishing the Jewishness of an individual in ancient times. Sometimes his or her affirmation that he or she was a Jew would suffice — at least to the person's own satisfaction and perhaps sometimes to that of other Jews. Sometimes some central Jewish authority, such as the High Priest in the Jerusalem Temple, would take to itself the right to define status. Local Jewish communities — the villages in the land of Israel or the synagogue authorities in diaspora cities — might decree who really belonged within the congregation and who did not. Where Jews lived as a minority among gentiles, as in the cities of Greece and Asia Minor, the gentile authorities might on occasion arrogate to themselves the task of deciding who was a Jew. Finally, the gentile state might select Jews from the general population for its own purposes: in particular, the Roman emperors, who ruled over Jews both in their homeland and in the Mediterranean diaspora from the first century B.C.E. to the end of the Talmudic period in c. 500 C.E., might find it necessary to clarify the precise people they intended to suffer from the anti-Jewish legislation that they promulgated in the centuries after 70 C.E., when one of their number, Titus, destroyed the Temple in Jerusalem.

In what follows, each of these sources of authority for defining Jewishness will be examined in turn. This is in some ways an artificial procedure, for no ancient Jew is known to have been aware that such disparate ways of establishing his status existed. But the procedure is not thereby invalidated, for there are good reasons for the lack of concern in antiquity about such matters. On the one hand, a *preoccupation* with one's identity is a modern phenomenon — not just for Jews — and it is anachronistic to seek evidence for a similar concern in the ancient world. On the other hand, in the case of most Jews it can doubtless be assumed that all sources of authority agreed on their Jewishness. It is hard, for instance, to see how the Jewish status of Rabban Gamaliel could be called in question by any Jew or gentile. The question of "Who decides?" will have arisen most often in discussions about the status of those who might be seen by some as being on the fringes of the community, when the definitions of the various perceived authorities may have differed. I shall therefore pay particular attention to the evidence for ancient attitudes to gentiles who were seen as having joined the congregation of Israel, whether as full participants

— proselytes — or as friendly and involved outsiders — the category known to modern scholarship as "God-fearers".

The role of a strong central Jewish authority in defining Jewish status is, not surprisingly, only clearly attested in this period in the land of Israel itself. In the 120s B.C.E. the Hasmonaean High Priest John Hyrcanus, the first Jewish leader after the Maccabaean revolt to achieve fully autonomous political control over the country, converted to Judaism the Idumaeans, who lived south of Judaea; his action was emulated by his son, Aristobulus I, who in c. 104 B.C.E. similarly Judaised some Ituraeans who inhabited part of Galilee. Such forced conversions, which, according to some ancient sources, involved the compulsory circumcision of the males, are highly unusual in Jewish history. They may be explained by the expansionary ambitions of the Hasmonaean rulers as they took advantage of the decay of the Seleucid state which the revolt of the Maccabees against Antiochus IV Epiphanes in the 160s B.C.E. had itself accelerated. Most relevant to present concerns is the assumption of John Hyrcanus and Aristobulus that they had the *capacity*, by unilateral action, to turn gentiles into Jews.

I would guess that, if pressed, both these Hasmonaeans would have justified their actions by reference to their authority as High Priests. Those who controlled the Temple, of whom the High Priest was the most senior, must have been required at all times to make frequent *de facto* decisions about who was to be treated as Jewish. I do not know of any evidence about how this worked in practice, but it surely must have been effected in some way. So, for instance, it is probable that some types of sacrifice could only be offered up by the priests if they had been brought by an Israelite. More drastically, Josephus recorded the permission given to the Jews to exclude all gentiles from the inner courts of the Temple on pain of death. For the sake of the purity of the Temple, mistakes could not be countenanced, for if gentiles entered too far they might pollute the sanctuary. Fragments survive of two copies of the inscription which warned non-Jews not to proceed beyond the barrier which separated their section of the Temple courtyard from that of the women.[2] Written in clear Greek letters and unambiguously threatening death, they confirm the seriousness of the matter; according to the *Acts of the Apostles* (21.28), one of the popular charges against Paul in Jerusalem was that he was believed to have infiltrated a gentile into the Temple despite this prohibition. The accusation against Paul was in fact false, since the man concerned was actually a Greek-speaking Jew, but it highlights the problem that faced the Temple authorities. As far as is known, neither dress nor language nor appearance nor accent could indicate unambiguously who was Jewish. Presumably the decisions taken by the presiding priests had to suffice.

However autocratic they may have been within the sanctuary, those who controlled the Temple never had the capacity to impose very widely outside its confines their idea of who was a Jew. Those adherents of the faith who never brought an offering to the Temple would never subject their status to their scrutiny. This category will have included most such adherents who lived in the diaspora and who, despite the biblical requirement of thrice-yearly pilgrimages, never went to Jerusalem.

There is good evidence that the priests in Jerusalem could not — perhaps did not usually try to — impose their will on the diaspora. So, for instance, a rival Jewish temple which offered cultic ceremonies similar to those of the Jerusalem shrine flourished at Leontopolis in Egypt, apparently without serious challenge, from c. 160 B.C.E. until it was closed down by the Romans in 73 C.E. as a possible centre of disaffection (Jos. *War* 7. 420-36).

At any rate, any role played by the Jerusalem priests in deciding on Jewish status came to an abrupt end with the destruction of their sanctuary and city in 70 C.E. Late rabbinic reconstructions of Jewish history affirm an immediate assumption of authority by groups of learned sages led first by Yohanan b.Zakkai, then by the descendants of Hillel and others. Such a reconstruction does not accord well with the evidence of the earliest compilations of rabbinic teaching. In the Mishnah, which reached its present form (more or less) in about 200 C.E., and the Tosefta, which probably dates to c. 250 C.E., it is taken for granted that the rabbis operate even in the Holy Land among Jews who do not take seriously many of the religious matters which were of great concern to the rabbis themselves. Such non-rabbinic Jews, termed *ammei ha-aretz* by the sages, presumably would not have taken kindly to attempts by the rabbis to impose their criteria for Jewish status on the rest of the population. I have indeed suggested elsewhere that the discussions to be found in early rabbinic legal texts about social relations between Jews and gentiles may, when they are not purely theoretical, reflect the sages' attitude to those who defined themselves as Jews but by criteria which the sages did not accept. In favour of this hypothesis (which remains unprovable) is the mass of legislation about gentile-Jewish relations in rabbinic texts from Galilee: without such an hypothesis it is difficult to explain the rabbis' concern with the practicalities of social and commercial dealings with gentiles, for near-contemporary pagan and Christian sources describe the area of Galilee as inhabited mostly, if not entirely, by Jews.[3]

In the diaspora and in remote regions of the land of Israel it could have been more feasible to leave questions of Jewish status to the authorities of local Jewish communities. For practical purposes it was hardly possible simply to rely on a decision by the Temple priests, for that decision might never be made. Jews needed to know quite often whether those with whom they came into social contact were Jewish or gentile. The need for a *minyan* of ten adult male Jews for reading the Torah

is presupposed by the Mishnah (*Megillah* 4:3) and it is easy to imagine the problems that would arise in a synagogue service if there were any doubt about the Jewish status of one of the ten. Even more serious, perhaps, were the effects of the phenomenon remarked by the Roman writer Tacitus, who composed his history in the early second century C.E: Tacitus observed quite rightly that Jews were, or were perceived to be, "separate in their meals and in their beds" (*Hist.* 5.5). Jews needed to know whether those with whom they shared their food, and those they took in marriage, shared their status as Jews.

It was separation from gentiles in the latter sphere, that is, marriage, which raised the gravest potential problems, then as now. Jews believed that they married only other Jews. In practice there appear to have been not a few exceptions (with or without the conversion of the gentile partner), at least among the Egyptian Jews, whose marriage links, recorded on extant papyri, reveal a certain amount of mingling with the gentile population. But for a marriage to be valid under Jewish law, both participants had to be Jewish. An invalid marriage contract could have disastrous consequences, not least for the financial position of the wife if she was subsequently widowed or divorced. So, who checked on the status of the man and woman who intended matrimony? Sometimes, perhaps, it was the relatives of the proposed spouse: the families of priests, for instance, who zealously recorded their lineage in special archives, would not cheerfully permit a blot on the ancestry of their descendants. More common, probably, was reliance on the verdict of a local court of pious adult male Jews. The rabbis whose teachings are recorded in the Mishnah and Tosefta assumed the operation of such courts in the sphere of marriage law and, in particular, in the granting of divorce. Interestingly, they did not assume that such tribunals necessarily needed to be composed of rabbinical sages; they were only concerned to establish a minimum number of judges. At any rate, there are good reasons to suppose that the rabbis in these particular discussions were not simply indulging in speculative legal theory, for the Jewish marriage documents of the early second century C.E. that have been found in caves in the Judaean desert employed the same legal formulas as were discussed by the sages.[4]

For some people of dubious status, it might have seemed possible to avoid putting their Jewishness to the test by avoiding marriage. But it is not clear to me how other Jews could easily leave the matter open in such a way. It is probable that most Jews believed that gentiles handling their food or drink could pollute it. Wine touched by a gentile or, according to some, left open in a gentile's care, became unfit for use. A similar attitude was taken to a variety of foodstuffs such as cheese and bread. As early as the third century B.C.E., according to Josephus (*Antiquities* 12.120), it was taken for granted in Antioch in Syria that some Jews would not use gentile olive oil, and during the great revolt in 67 C.E. Josephus' arch-rival in Galilee, John of

Gischala, made a fortune by securing a monopoly on the export of kosher oil from Upper Galilee to the north (*Life* 74). Quite why certain gentile foodstuffs should have been so fiercely prohibited is not made explicit in early texts, and later texts have an air of rationalisation after the event, but the force of the taboo seems fairly certain. How could you live in peace with your conscience if the Jewish status of associates who touched your food and drink was in doubt?

And yet the impression is that, up to the end of the first century C.E. at least, doubt must have prevailed. It is notorious that Josephus never used the term "proselyte" to describe gentiles who had become Jewish, and that the most prolific Jewish writer of the first century, Philo, used the word on only three occasions. The notion of a proselyte was familiar to them, of course, but it does not seem to have been felt important to decide whether individual gentiles had become Jews or remained as friendly outsiders. Indeed, references to friendly outsiders in texts of this period are so ambiguous that it has proved possible to assert that the notion of a specific category of such outsiders attached to synagogue communities, the so-called "Godfearers", is a figment of modern scholarship based on too literal a reading of the *Acts of the Apostles*, which should be treated as a work of theology rather than history. Whatever one may think of this approach to Acts (which, for better or worse, is now fairly standard among specialists in the study of the New Testament), it is certainly striking that neither literary sources nor inscriptions contain unequivocal attestation to the category of "Godfearers" — until, as we shall see (below, p.18), the early third century C.E.

On the contrary, texts of the first century C.E. are often astonishingly vague about the status of friendly persons who were not born as Jews. Most striking is the reference by Josephus (*War* 7.41) to gentiles in Syrian Antioch who were caught up in the anti-Jewish hysteria which got a hold on areas around Judaea when revolt against Rome broke out in 66 C.E. Josephus wrote of these gentiles that the Jews had "in a certain way made them a part of their community"; it is quite unclear whether either Josephus or the Antiochene Jews thought of these adherents as Jews or as sympathetic gentiles. In another passage, which is theologically incomprehensible (at least to me), Josephus affirmed (*Antiquities* 14.403) that the Idumaeans, whose ancestors had been forcibly circumcised in the second century B.C.E. (see above, p.7), were now "half-Jews"; the description is a trifle suspect because it occurs as part of a polemic against Herod the Great, who was Idumaean, by his rival, who wished to claim that Herod had no right to be king over Jews, but it remains significant that Josephus made no attempt to disassociate himself from this slur on the Jewishness of the current royal family of Judaea. More generally, if the new view which attributed priority to the female over the male line in fixing Jewish status by descent emerged gradually, as is probable but not certain (see above, p.5), there must

have been considerable uncertainty while the change was being introduced. How many children of mixed marriages were treated by some Jews as Jewish and by others as gentile? And why did not the confusion cause havoc at meal times when someone of dubious status poured the wine?

Where there was only one synagogue and one set of Jewish authorities in the area, *ad hoc* decisions on individual cases presumably could bring clarity. It is possible that something like this was indeed the case in much of Asia Minor, for instance, or in Alexandria by Egypt, where the Jews formed a single huge community whose leaders could at times rival the pagan civic magistrates themselves in their influence. But in the city of Rome, the names of at least ten individual synagogues are attested on inscriptions, and each synagogue seems to have been independently organized. Which community, if any, was to have the final say when status was disputed? A conflict of jurisdiction was surely inevitable.

In any case, the theory that Jewishness was fixed by local authorities is of little use in circumstances where no local Jewish community yet existed. This was the case in what is by far the most fully narrated incident of conversion to Judaism in the ancient world. In an extended passage in the *Antiquities* (20.17-53), Josephus told the story of the conversion to Judaism of the royal family of Adiabene in the middle of the first century C.E. The story received special attention partly because of the high status of the people concerned and perhaps partly because Josephus himself knew some of the main characters, who were figures of importance in Jerusalem during his lifetime. Adiabene was a small independent kingdom which lay in Northern Mesopotamia on the eastern border of the Roman Empire, uncomfortably squeezed between Rome and the rival empire of the Parthians. The conversion of the king and his mother was prompted by the teachings of a visiting Jewish merchant, reinforced by the urgings of a dream. According to Josephus, not only did the king undergo circumcision but so too did his subjects. Of crucial significance for the present argument is the result of these unilateral actions. Josephus never suggests that any Jew *authorised* the conversion, but he and other Jewish sources — Queen Helena of Adiabene crops up in rabbinic literature, too — are unanimous in portraying these converts as valid, pious, proselytes. That this view was certainly shared by the Adiabeneans themselves is proved by their actions in the great war against Rome of 66–70 C.E., in which they took a prominent part on the side of the Jews.

The story seems to imply that Jews in the first century allowed each individual to decide for himself or herself whether he or she was Jewish. Extraordinary though such a notion may seem in the light of modern attitudes, it is not impossible. At least, to put it at its weakest, one can assume that each individual would know whether he or she thought of himself or herself as Jewish in a religious sense: it is hard — though, given human capacity for irrational behaviour, not, I suppose, impossible — to

imagine someone who knew and took seriously the contents of the Torah and the requirements of the *mitzvot* being uncertain how many, if any, of the commandments applied to him or her. Proselytes were seen as those who *brought themselves* to the Jewish nation or faith or God; the word "proselyte" is derived from the Greek word *proserchesthai*, which means "to approach" or "come to". Types of proselyte described as *gerim gerurim*, who were attacked by rabbis in texts of the third century C.E. and later as not genuine converts, are believed by some scholars to have been precisely such self-made proselytes, which would suggest, of course, that such people existed (but that, for those rabbis at least, an affirmation of faith did not suffice to make one Jewish); but difficulties in interpreting this term, which can also be understood quite differently, preclude too much reliance on this argument.[5]

It might seem that the role of gentile authorities in the definition of Jewishness should have been negligible. So, doubtless, it was, in areas where there was a Jewish majority or state, as in Judaea before 70 C.E., but there were occasions when outsiders may have had some role to play. Thus, for instance, the Greek cities of Asia Minor, largely under pressure from Julius Caesar, who wished to ensure the loyalty of the Jews to his side during the Roman civil war against Pompey, offered various privileges to the Jews in their midst in the mid-first century B.C.E. They must have drawn up some criteria or list to clarify which inhabitants of the city should benefit. According to the decrees preserved by Josephus in his *Antiquities*, Jews in these places were granted, among other benefits, a special exemption from military service and from appearing in law courts on the Sabbath. It seems unlikely that anyone not previously known to be Jewish could avoid conscription by suddenly declaring his faith, or that a law suit could be temporarily postponed by an unexpected appeal by one of the parties to his privilege of not answering charges on Saturdays. Perhaps local Jewish leaders provided the civic magistrates with the names of members of the Jewish community. Perhaps some other means was used. We do not know.

There was in theory much greater potential for definitions of Jewishness imposed by the Roman state to have an effect on Jewish self-awareness, if only because here, at least, was an authority which could impose its will on the great majority of Jews: apart from the Jewish community in Mesopotamia, most of which was subjected to Roman rule for only brief periods in the second and third centuries C.E., almost all Jews, both in Israel and the diaspora, lived under the hegemony of Rome from the mid-first century B.C.E. to the end of the talmudic era. And the Roman state,too, at various times needed to know precisely who was Jewish. On the one hand, after 70 C.E. Rome extorted a special poll tax which only Jews, and all Jews, were required to pay; the effects of this tax, known as the *fiscus Judaicus*, will be discussed in detail below. On the other hand, the sons of Jews were specifically exempted after the mid-

second century C.E. from the ban on circumcision which was introduced by the emperor Hadrian, on humanitarian grounds, around the time of the Bar Kochba revolt. Hadrian equated circumcision with castration, as a barbarous practice unworthy of his enlightened rule. According to some sources, it was his prohibition of circumcision that stimulated the rebellion of 132 C.E. In any case, his successor, Antoninus Pius, felt impelled to mollify Jewish feelings by permitting the continuation of this ancestral custom, while insisting that any non-Jew who indulged in the practice would incur the death penalty. There is good evidence that people other than Jews (Samaritans, and some Arabs and Egyptians, for example) had previously been in the habit of circumcising boys, and that these non-Jews were effectively prevented from doing so thereafter. Before he imposed the ultimate sentence on an offending circumciser, a Roman judge must have had ways of knowing with some certainty that the culprit before him was definitely not a Jew.

But a concern of this kind by the Roman state to make clear who was a Jew is not attested, or indeed plausible, before the last years of the first century C.E. In the rest of this discussion I shall explore the hypothesis that the ambiguities about status, which, as has been shown, were tolerated with (to us) surprising ease before 96 C.E., gave way after that date to a new Jewish awareness of a need for greater clarity; and that this new awareness was precipitated, as so often in Jewish history, by the attitude of the outside world — in this case, the Roman state.

The immediate factor which led to change was the reform by the emperor Nerva of the exaction of the special Jewish poll tax, the *fiscus Judaicus*. As was noted above, this tax was imposed on Jews by the emperor Vespasian, following the suppression of the great revolt and the destruction of the Temple in Jerusalem in 70 C.E. The levy was intended both as a punishment for rebellion and as a means to raise money for rebuilding the temple of Jupiter on the Capitol in Rome; the temple had burned down in the civil war which accompanied Vespasian's seizure of the purple. The transfer to Jupiter of funds which had previously been paid by Jews to the Jerusalem Temple was a deliberate symbol of the Jews' defeat. The tax was collected assiduously from the start. Tax receipts written on pieces of broken pottery, which have survived in the sands of Egypt, attest that both men and women were required to pay. A state official was specially appointed to supervise collection, and at the local level designated bureaucrats drew up lists of those liable.

Vespasian and his subordinates evidently assumed that the definition of a Jew was not a problem. For Romans up to and including Vespasian's lifetime, the Jews were a people who followed peculiar religious customs: to Cicero, for instance, Jews (like Syrians) were a "nation born to be slaves" (*De Prov. Cons.* 5.10); while the philosopher Seneca (*On Superstition,* in Augustine, *City of God* 6.11) described Jews as "an accursed race" with foolish customs. The same standard description of

Jews was also presupposed by the Jewish historian Josephus, when he wrote about the imposition of the same Jewish tax in his *Jewish War* (7.218), which was published in the late seventies or early eighties C.E: "On the Jews, wherever they might be, he imposed a tax, ordering each of them to pay two drachmas every year to the Capitol." But Josephus, as we have already seen (above, p.10), was at least aware of the possibility of proselytism, although he did not use the term, whereas in gentile sources it appears that the ethnic definition was the *only* concept they had of a Jew. As far as I can tell, there is no unequivocal evidence that any gentile writer before this time was even aware of the notion that a non-Jew could become a Jew simply by a change of religious allegiance. Silence in this case can be seen as significant: for Greeks and Romans, who had their own distinctive ideas about the function of citizenship in their society and the ways it could be cautiously extended by the community, Jewish acceptance of outsiders into the body politic simply on the grounds of their adoption of Jewish religious customs was very strange. Furthermore, this silence about proselytes contrasts both with a good deal of amused or angry comment in contemporary sources about the spread of Jewish *practices* among the pagan population — the Sabbath was particularly popular — and with the vehemence and frequency of the polemic against conversion to Judaism in Latin literature of the early second century C.E., after the institution of the proselyte had become widely known for reasons to be examined below.

Such gentile certainties about Jewish identity were shattered through the actions of Domitian, Vespasian's younger son, who became emperor in 81 C.E. According to his biographer, the Roman writer Suetonius, whose *Lives of the Caesars* was published in the first half of the second century, Domitian exacted the Jewish tax in a fashion which struck contemporaries as particularly harsh. The passage (*Domitian* 12.2) is worth quoting in full:

> Besides other taxes, that on the Jews was levied with the utmost vigour, and those were prosecuted who without publicly acknowledging that faith yet lived as Jews, as well as those who concealed their origin and did not pay the tribute levied upon their people. I recall being present in my youth when a man ninety years old was inspected before the procurator and a very crowded court to see whether he was circumcised.

People were evidently compelled to pay to the *fiscus* even if they lived a Jewish life only in secret — presumably in public they behaved like ordinary pagans — or if they simply, by whatever means, concealed the fact that they had been born Jewish.

The identity of these unfortunates can be surmised with some confidence. They were not gentiles or proselytes, for we are told by the later historian Cassius Dio (67.

14. 1–3) that non-Jews who "drifted into Jewish ways" were condemned by Domitian either to death or to deprivation of their property. The charge brought against such gentiles (who included the consul for the year 95 C.E. and the consul's wife, who was a relative of the emperor) was atheism — that is, refusal to worship pagan gods out of devotion to Judaism — which may provide further confirmation that the category of a Jewish proselyte was not yet known to the Roman state. It can be assumed that Domitian could not impose a tax on such gentiles for behaviour which he himself categorised as illegal in Roman law. The people most at issue must therefore have been ethnic Jews who no longer followed their religion. Hence the plight of the old man whose humiliation was witnessed by the biographer Suetonius, quoted above. His circumcision was the one sign of his origin that he could not easily efface.

It seems that the suffering of such apostates aroused considerable resentment at Rome. It is not hard to see why: Romans were characteristically tolerant of people from other ethnic origins so long as they assimilated into Roman culture. Many who were born as Jews did precisely that. Most such are now untraceable in the historical record, for they cannot be distinguished from other citizens of the empire, but since numerous Jews were brought to the capital city as slaves and received Roman citizenship on acquiring freedom, it is likely that a good proportion of the city's population was descended, directly or indirectly, from ethnic Jews. How many of these were compelled by Domitian to pay to the collector of the *fiscus Judaicus* is impossible to discover. It would be good to know whether Domitian required both or only one parent to be Jewish to justify ascribing to them a "Jewish origin", but there is no evidence. But the career of one impressive individual which is comparatively well recorded may illustrate the sort of apostate Jew who was subjected to the humiliation of the tax. Tiberius Julius Alexander came from a leading wealthy Jewish family in Alexandria and was a nephew of the great Jewish philosopher Philo. As Josephus noted (*Antiquities* 20. 100), he "did not stand by the practices of his people". Appointed governor of Judaea and later prefect of Egypt, he helped the Romans to capture Jerusalem in 70 C.E. and enjoyed high favour with the new dynasty. Men such as he would not take kindly to being identified with the defeated and despised nation of the Jews.

The depth of the resentment is illustrated by the actions of the new emperor Nerva when Domitian was murdered in 96 C.E. Nerva had connived at, perhaps had a hand in organising, the assassination. His own right to supreme power was nebulous, and he initiated a series of measures designed to win popularity in Rome. One such measure tackled the problem of the Jewish tax. Coins were issued proclaiming FISCI IUDAICI CALUMNIA SUBLATA — "the malicious accusation with regard to the Jewish tax has been removed." The tax itself continued to be collected — it was still being

raised in the mid third century — but it was hoped that it would no longer cause such opposition.

An important reform, then — but consisting of what? The literary sources do not state, but it is a reasonable hypothesis that the main thrust was to correct the abuses which had occurred under Domitian. From now on only those Jews who continued openly in their ancestral practices were liable to the tax: that is, the definition of a Jew was by religion, not race.[6]

One result of this reform — and confirmation of its nature — was that the Roman state, and Romans in general, rapidly became aware of the Jewish concept of a proselyte. For writers of the early second century C.E. one of the most objectionable aspects of Jews, on a par with their social isolation, circumcision, and alleged proclivity to lust, was not that the Jews themselves should continue with their peculiar customs—these were at least partially justified in Roman eyes by their antiquity—but that pagans should forsake the old gods in order to become Jews. The Stoic philosopher Epictetus, quoted by Arrian (*Diss.* 2.9.20), discussed in a discourse delivered in c. 108 C.E. how "whenever we see a man halting between two faiths, we are in the habit of saying, 'He is not a Jew, he is only acting the part.' But when he adopts the attitude of mind of the man who has been baptised [*sic*] and has made his choice, then he both is a Jew in fact and is also called one." With greater contempt the satirist Juvenal (*Sat.*14.97—101) castigated proselytes who "worship nothing but the clouds and the divinity of the heavens, and see no difference between eating swine's flesh . . .and that of man, and in time they take to circumcision. Having been wont to flout the laws of Rome, they learn and practice and revere the Jewish law, and all that Moses handed down in his secret tome . . ." The historian Tacitus was most hostile of all, in the description of the Jews with which he prefaced his account of the siege of Jerusalem of 70 C.E. He wrote of "those who are converted to their [i.e. the Jews'] ways" that "the earliest lesson they receive is to despise the gods, to disown their country, and to regard their parents, children, and brothers as of little account." (*Hist.* 5.5).

How did Jews react to this new Roman definition of Jewishness as a religion to which one could convert and from one could apostatise? The defection of those ethnic Jews who had drifted away from the community must have appeared offensively blatant when it was advertised by public refusal to pay the tax. By contrast, the loyalty of gentiles who chose willingly to define themselves as Jews despite the tax burden must have looked impressive. At any rate, Jews in the Roman empire would no longer remain in doubt, as the Jews of Antioch had done in the sixties C.E., about which of the ethnic gentiles who frequented their community reckoned that they belonged fully within it. Those who had accreted to the synagogue could be presumed to think of themselves as proselytes if they paid the

two *denarii* to the *fiscus Judaicus* and gained such subsequent advantages as official permission not to attend pagan cult worship or court cases on the Sabbath.

I am not suggesting that there was instant clarity about who was a Jew — far from it. The Jewish evidence (which, from the beginning of the second century C.E., is mostly to be found in rabbinic sources or inscriptions) contains nothing explicit about the *fiscus Judaicus*, an odd omission on any understanding of the operation of the tax. The Jewish reaction described above can therefore only be surmised from probability. But it is tempting to link some of the changing Jewish attitudes which can be documented to the impact of the collection of the tax.

The most striking innovation which can be dated to this period, the second to early third century C.E., with some confidence is a new interest among Jews in defining the role and status (in Jewish eyes) of those gentiles who were perceived as being morally good without having chosen to become Jews. Jewish authors of earlier centuries did refer to gentiles, and it was a commonplace that at the end of days gentiles would come to recognise the Jewish God, but on the position of gentiles in the meantime little more was said than castigation of the idolatry to which it was assumed they all subscribed. In the second century C.E. it seems that this lack of concern about gentiles was challenged.

One strand of evidence is to be found in rabbinic texts. The Tosefta, compiled in the middle of the third century C.E., contains the earliest extant information of an attempt by rabbis of the preceding generations to lay down what behaviour should be demanded in theory from a gentile who wished to remain gentile but still achieve virtue (*Tosefta, Avoda Zara* 8 (9):4). The sages of the third century already agreed that the basic commandments which had been the law for the "sons of Noah" — that is, the ancestors of the Jewish people before Abraham — also applied to contemporary non-Jews, since they, like Noah's sons, were not bound by the covenant between God and Israel made on Mount Sinai; the rabbis debated only the precise nature of those commandments, arriving (after much discussion) at the eventual, now standard, list preserved in the Babylonian Talmud (*Sanhedrin* 56a) (prohibitions of blasphemy, idolatry, sexual immorality, murder, robbery and eating a portion of a living animal; and a requirement to set up courts of law). It has been argued by some scholars that the idea of these so-called "Noachide Laws" originated not just a generation or so before their first attestation in the third century but many centuries earlier, but this is not very plausible, for they have left no clear trace in the copious Jewish literature of the last centuries B.C.E. and the first century C.E. It seems to me at least as likely that the development of the concept reflected increased Jewish speculation about righteous gentiles as the boundaries between Jew and gentile were clarified in the second century C.E.[7]

A second strand of evidence has a wholly different origin. A recently discovered

inscription from the city of Aphrodisias in Caria (in modern Turkey) contains the names of a large number of benefactors of a Jewish institution whose precise nature remains obscure. [8] The inscription, on two sides of a large stone, was probably set up in the city's synagogue. According to the editors of the text, the most likely date for its erection is the early third century C.E. It is a most curious document. On face *a* the names listed are those of Jews; of these, three, whose names would otherwise appear to be entirely Jewish, are described on the stone as proselytes. On face *b* still more Jewish names are inscribed, but those are followed by a small gap in the list, under which is found a new heading: "And these are the Godfearers". Below this are written no fewer than fifty-two names, none of which is Jewish in origin and some of which are positively pagan; of these individuals, a number are described as city councillors, a rank which would entail participation in the pagan rites of the city for anyone not specifically exempted (as were Jews). It is not going too far to see here the first explicit evidence that Jews gave formal recognition in a religious context to a group of local gentiles whose close relationship with the Jewish community was acknowledged despite their clear determination not to become Jews. One can perhaps assume that such public Jewish acknowledgement that gentiles can achieve virtue without conversion to Judaism made all the more secure, in the eyes of other Jews, the Jewishness of those gentiles who nonetheless *preferred* to become proselytes.

Many problems and uncertainties about Jewish identity remained after 96 C.E. Presumably a gentile who simply started voluntarily paying an annual contribution to the *fiscus Judaicus* but did not change his lifestyle in any other way would not thereby find immediate acceptance as a proselyte in the eyes of a rabbi from Galilee. If someone born a Jew managed to escape the attentions of the tax authorities, other Jews might reckon him lucky rather than an apostate. Even if he found it necessary to attend pagan sacrifices to avert suspicion, some might think of him as a bad Jew rather than assume that he had left the faith altogether. But, even if clarity was not achieved after the tax reform by the Roman state in 96 C.E., a change of some sort does seem to have occurred. Jews may still in practice have been uncertain in particular cases exactly who was a Jew, but they did become more aware, perhaps for the first time, that they needed to know.

It cannot be said that the modern predicament is very different. It is a familiar phenomenon that many of those whose Jewishness is called into question by the orthodox through the application of halachic criteria evolved by the rabbis in ancient times nonetheless count themselves as part of the Jewish people because they or their relatives suffered as a result of the much wider criteria used by gentiles to identify Jews during the Holocaust. With the current controversy over eligibility under the Law of Return of the State of Israel, the problems — and the agonies — continue.

It may be of some slight comfort to realise that such perplexities are not new. It was no easier two thousand years ago to achieve a consensus on who was a Jew; and then, as now, questions of identity were often left undecided until circumstances changed, the stakes were raised, and a resolution of the problem appeared imperative.

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3. M. Goodman, *State and Society in Roman Galilee, A.D. 132-212*, 1983, pp. 41-53.
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