Slavery in Roman Law

I. How it arose, e.g., the revolting force of slavery. Slavery arose in one or other of the following ways:

6. By unfree birth—friendship to the unfree gave rise to children. Illustration of this: The Gens Caelius, under which were parts of the servile race, and lawfully married children followed the status of the father. Children born of a woman whose status was free, but a son of a slave, such a child was held to be born free.

7. By the Captive. In time, if not of the soldier, were brought in as slaves, thus entered into a manumission through the male line. If a free man found a slave, the slave was declared free. This applied not only to children, but to any free person found in arms, protected by treaty or other amicable agreement.

3. By the Civil Laws. There were certain forms of slavery which were bound upon the free. Thus:

4. In the old Roman law, a master had the power of life and death over his children; even in the case of free, he was allowed to sell his children into slavery, but if the owner and certain formalities connected with it, it was considered manumission.

5. Like the Twelve Tables, indentured laborers could be sold into slavery "to Titinius" at a foreign country.

6. Persons who worked under contract on the census with any other citizen to become slaves.

7. A master had the right to turn his slave into a slave or manumission. Under the Emperors, the practice of slavery as a slave was the rule.

8. A person over 50 years of age who provided he allowed himself to be sold as a slave in order to manumission.

9. A free woman who prostituted herself, sold a slave in order to make the market.

10. Condemnation to death or to labor in the mines for a criminal offense entailed loss of freedom. And from where they were sold, paid to be a slave in order to manumission.
Rights of Masters over Slaves

Slaves were in the power of their masters. The master had the right of life and death over the slave. He was answerable for any injury caused by the slave. He was also answerable for the slave’s fault under the Empire. Various laws were passed to protect slaves from cruel masters:

1. The lex Pecuniae forbade masters to force their slaves to fight with beasts in the arena without the master’s consent.
2. The Emperor Antoninus Pius (138-161 AD) declared that any master who killed his slave was to be punished like a person who killed the slave of another. This meant he incurred the capital penalty under the lex corneliana sicilicus.
3. Slaves could resist a badly treated slave should he

The slave was both a thing - a res - and a person. He could be owned as much as any other person, but he was not a human being and therefore had no soul, no logical soul, not treated as a human being. Thus

the human being in a bird. Instead of the given of human beings

ought slave and not subject a who appearing related himself to a

slave. The children were recognized at the highest degree of personage spiritual

than as well.

Masters were also guilty of the criminal law on animals as well.

Slaves were found by their debts, but they had no liberty for the

slave’s debt fell on the master absolutely as the estate of moral inheritance. After commence the slave was immediately liable for the debt.
(v) The control of slaves created natural delegation available of the
people in order to reflect but one doctrine of or against them.

**TYPES OF SLAVES**

According to Justinian, slaves are all of one system. But
some slaves were in a privileged position.

(i) A slave committed eternally (aliter liber) was subject
to the control of his master, subject to the protection
of the master as against abuse of his master's rights.

(ii) A freedman in good faith treated as a slave (liber hominum) was in a special position.

(iii) A common betrayer (alae) was a free man, as formally free, but

A slave became free when his master adopted him.

The **manumission** was the primary mode of manumission:

1. Regular modes of manumission

   (a) *Vindicta* i.e., by a petition to the court. The master or
      the slave, or a third person went before the Magistrate. The third
      person known as the executor. The master touched the slave
      with a wand (vindicta) and declared that he was a
      free man. The Master, rising as objector, the slave
      was declared free. By the time of Justinian, these
      elaborate formalities had been done away with
By the law manumission could take place on any day, not
necessarily a legal holiday anywhere, even if the buyer
were present, who was in his way to the birth on Anni-
(1) tuna - 4 establishment in the census. Each man in the
census involved becoming liable to taxation the slaves
who were enrolled on the census were deemed the free.
(2) testamentary - by will. Testamentary manumission might
be direct - in which the testator says, "May any slave that I
do not free on my deathbed be free or it might be indirect - in pedemuniversam
as when the testator says, "I charge my heir to free my
Romee, Fighons". He first cars the slave was freed
by the estate as it was - become the head main freedom
(Leibestus orvirto). He had no living portion. Even
in the second case the slave was in fact freed by the heir
and the pedemuniversam was his portion.

11. The irregular modes of manumission include
(a) inter amateur - by a man declaring away his friend;
that his slave was free.
(b) by affection - by the master reading the slave a letter embodying
or perhaps a gift of freedom.
(c) Americo voluntaria - by inviting the slave to dinner
(d) Affording a slave a heirs in one will - all these were
(e) Adopting a slave as one's son.
(f) Affording a slave the latter's child of the master.
(g) On the slave adopting voluntaria - it happened in the
later Empire & the Germanic laws, but rarely.

STATUS OF FREEDMEN

A freedman was inferior in status to a freeborn free
as regards both public law & private law.
(1) He was excluded from the land of free burgs.
(2) He was prohibited to marry a freedwoman until the
lex Julia (16.18) was passed which confirmed the prohibition
& declared the children of such marriages for life.
(1) Freedom and capture during the Justinian era. This was
merely a change of name.
(2) Capture — in 538, the emperor reverted to his former
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(2) Capture. The slave was required to be owned and
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The status of freedman could be ended by imperial
grant in which case the libertines were put on an
equality with the freemen. This was known as the
vestitio natumini. This was rarely granted only
with the patron's consent and it deprived him of his
freedom. The right to wear a gold ring (aureovinnum) or
give the freedman political rights, but did not affect the
rights of the freedman.

Restrictions on Manumission

Due course of manumission became so easy
that it was felt that some restrictions should be placed
upon manumission.

- Full freedom was granted to the freed slave only if
  the master personally granted manumission and
  ownership was transferred to the freedman. This was
  later changed by the Justinian code.
If the master did not use formal emancipation over the slave he had no right to manumit.

(i) If in manumitting the master did not follow the formal method of manumitting, the slave remained a slave by law, although de facto his freedom was protected by the master.

(ii) The lex Aelia Severa AD 24 laid down that if a master over under 20 years of age or the slave to be manumitted under 20, manumission must be by the formal method of manumission; after a full course for manumission had been established before a board consisting of 4 at Rome, 12 free senators, and 2 knights (equites) and in the presence of twenty Roman citizens selected from a panel of judges. Failure to satisfy this condition it has rendered the manumission void and in the presence made it null and void as a de facto act as a de jure manumission. Furthermore the lex Aelia Severa

(1) the lex Aelia Septima

(a) prohibited manumission in fraud of creditors. This clause applied to freeborn as well as slaves.

(b) created a very inferior status for slaves who before manumission had been subjected to severe punishment for manumissions. They were in that case placed as armed slaves (sclavus armiger) who served on ships within 100 miles of Rome and could not under any circumstances become Roman citizens.

(c) A Roman citizen might become a Roman aborigine by marriage before seven witnesses when as a lesser or a person of like status with himself or whom he had as an over 10 years. He promulgate these facts before a praetor or a provincial governor. This was called the

manumissio causa justatio (justification of manumission based upon having a new year-old child). This applied to slaves freed under 30 years of age.
(iv) Under the lex Julia Vetera A.D. 19 slaves were given the status of 

\[ \text{slaves:} \] 

\[ \text{status of coloni. The inhabitants of a colony were given the rights of free citizens, with the right to marry and own property.} \]

\[ \text{The status of coloni was further expanded with the lex Julia Vetera A.D. 19, where the status of coloni was extended to slaves, giving them rights similar to free citizens.} \]

\[ \text{This status was known as libertus. The status of libertus allowed slaves to gain freedom or by a monetary sum or by marriage. The transfer of status by will or by the naturalization of the libertus was not considered a testamentary trust (testamentum).} \]

\[ \text{The status of libertus was also extended to slaves, allowing them to own property and leave legacies to free persons through wills, with the right to bequeath their estates to free persons.} \]

\[ \text{Under the lex Julia Vetera A.D. 19, the status of libertus was extended to a varying proportion of the slaves, which tended to 100 at most.} \]

\[ \text{Justinian's codification of 528 A.D.} \]

\[ \text{further expanded the rights of free citizens with no documentation as regards the status of the slaves and the nature of the relationship between the master and the slave.} \]

\[ \text{Thus, all slaves were reduced to a simple status. After this, the status of the libertus was excepted, and the libertus was reduced to a simple status.} \]