



Figuring Racism in Medieval Christianity

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CHAPTER

1 *Servitus Judaeorum* Biblical Figures, Canon Law, and the Construction of Hereditary Inferiority

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Abstract

This chapter focuses on a status of hereditary inferiority that emerges out of typological interpretations of Jews as slaves to Christians. Paul's reading of the servility of Esau and Hagar as figuring a lesser spiritual status shapes Augustine's formulation, which adds Cain and Ham, to identify these types as Jews punished with enslavement to Christians for the (alleged) crucifixion of Jesus. This curse continues to affect contemporary Jews in their subjection to the Christian Roman Empire. Medieval exegetes draw on Matthew 27:25 to reformulate the *servitus Judaeorum* into perpetual slavery. In emphasizing the generational consequences of this condition, these texts develop a racial idea of hereditary inferiority. The figures of Cain and Hagar/Ishmael also enter into canon law directives to justify the legal subordination of Jews. The racist status of perpetual enslavement defines Jews as ontologically inferior to Christians and facilitates the realization of their degradation in discriminatory laws.

Keywords: Jews, typology, Augustine, Innocent III, canon law, racism, slavery, hereditary inferiority

Subject: Religious Studies, History of Christianity

THE CHRISTIAN CONCEPT of *servitus Judaeorum*, enslavement of the Jews, appears in Scripture, exegesis, theology, canon law, and secular law, although its definitions and effects are multiple and disputed.¹ It emerges in the form of Biblical figures, the interpretation of persons and episodes in the Hebrew Bible as presaging events in Christian history; in this context it signifies a spiritual inferiority. Paul's citation from Genesis of Esau and Ishmael, two older brothers deprived of their primary status and supplanted by their siblings, establishes a hierarchy that links the first-born with bondage and Jewish law and the younger with freedom and faith. In the patristic period, Augustine includes Cain and Ham in these examples to construct and represent a servile status inflicted upon the Jews as a punishment by God for their rejection and (alleged) crucifixion of Jesus. Augustine's invocation of the historical circumstances of the Roman conquest of Israel subtly modifies this punishment from an entirely spiritual condition; in reading the subjection of the Jews in terms of their current domination by the Christian Roman Empire, he focuses on the political consequences of their status. Although the *servitus Judaeorum* does not signify actual enslavement of Jews to Christians, it relegates Jews as a group to a position of inferiority that persists, transferring from one

generation to the next. Nevertheless, the social and political implications of the concept remain merely theoretical until the medieval period, when the discourses of medieval ecclesiastical and secular law begin to employ variations on the term in legislation regulating Jewish–Christian relations.

- p. 20 The civil law of the Christian Roman Empire grants Jews the status of citizens roughly on a par with Christians, a position that early Church Councils confirm in ecclesiastical law (Mathisen; Simonsohn vol. 7, 94–5).² The view of Jews as spiritually inferior to Christians initially exists in contrast to the two groups' equal legal status, but over time, as theologians emphasize Jewish servitude, it enters into ecclesiastical law. From the ninth to the eleventh century, clerics, notably Agobard, Amulo, Hrabaunus Maurus, and Peter Damian, react to the perceived preferential treatment accorded Jews relative to Christians by arguing vehemently for the degradation of the former. Each theologian cites the *servitus Judaeorum* as a rationale for challenging alleged Jewish superiority and in calling for the subordination of the Jews to Christians (Simonsohn vol. 7, 97). Alexander II introduces the idea of Jewish servitude into legal discourse when the canon law incorporates his eleventh-century letter citing this status to justify projection of Jews (Simonsohn vol. 7, 97–8). A clear articulation of the theological argument for Jewish subordination appears in canon 26 of the Third Lateran Council (1179). One section of the law overturns a practice that has allowed Jews to serve as witnesses against Christians in secular courts while preventing Christians from testifying against Jews:

And we decree that those who in this matter want to give Jews greater privileges than Christians shall be placed under anathema, for the only fitting condition is that Jews be placed below Christians, and that they be treated kindly by the latter solely because of humanitarian reasons. (Grayzel 1966, 297)

In permitting Jews a privilege not enjoyed by Christians, the civil law courts violate the principle of *servitus Judaeorum*, which moves here from a merely spiritual idea to one that alters the position of Jews in law.³ However, Pope Innocent III develops the most definitive and influential statements of Jewish slavery in a series of letters promulgated in the first decade of the thirteenth century. He transfers a full theological account of the concept—including Jewish guilt for the death of Jesus and biblical figures supporting this claim—into legal discussions which concern the relative position of Jews and Christians. One of the most stringent of these pronouncements, the 1205 ruling *Etsi Judaeos*, is incorporated into the official codification of canon law produced at Pope Gregory IX's behest in 1234 (Kisch 151).

- p. 21 While most scholars concur that this idea translates from theology and ecclesiastical law to secular legislation, they disagree about its significance for the status of medieval Jews. Many studies focus on the import of this concept within the structure of secular law and politics. Guido Kisch argues that shortly after the canon law codifies the *servitus Judaeorum*, it appears in the form of *servitus camerae* (chamber serfdom) in German civil law, which he sees as ultimately serving to degrade the Jews' status to one of unfreedom by the fifteenth century (Kisch 152, 129–68 passim). Salo Baron also focuses on Germany to consider the development of the idea of “Jewish serfdom” in the context of the conflict between the papacy and the Empire, and in relation to the development of nationalism. He argues that the status of Jews as “serfs of the emperor's Chamber [was] intended to benefit, not humiliate them” (1972b, 307) and “was employed by the medieval rulers when they wished to protect the Jews” (1972a, 320). Langmuir shifts the focus to England and France to challenge the notion that the German notion of “serfdom” applies in other countries. He disputes the use of the term “serf” to approximate the status of medieval Jews; he sees the use of the term “servi” in secular law as a ruler's attempt to assign them a unique status under his or her control and exclusive jurisdiction. He also argues that the *servitus Judeorum* as delineated in theology and canon law differs from the status of Jews in secular law (189–94 passim; see also Watt 1991). More recently, David Abulafia revisits the German development of “cameral servitude” to show its relevance for the status of Jews—and Muslims—in medieval Sicily and Spain; although he views this form of unfreedom as balanced

by the honorable connotation of service to a ruler, he concludes that it is ultimately degraded by the theological concept of perpetual servitude (700, 714). Anna Sapir Abulafia considers the broader concept of Jewish service, which includes servitude, and its mixed influence on medieval Christian–Jewish relations (2011, 2013). In his survey of the scholarship, Simonsohn argues that in civil law, “in a strictly legal sense Jews were never defined as serfs, nor was their legal position tantamount to that of serfs. Jews were citizens —albeit with some privileges . . . and subject to restrictions not imposed on other citizens” (Simonsohn vol. 7, 95). The Jews’ status as citizens limited the effect of the concept of *servitus Judaeorum* on secular legislation during much of the medieval period.⁴

p. 22 Similarly, ecclesiastical law affirms that medieval Jews as a people were never reduced to actual slavery. As Johannes of Agnani, a 15th-century canonist, writes: “Nor is it true that Jews are slaves in such a way as they could be sold; but whatever there is of law <or> custom, it is not preserved that they can be held like slaves” (*Super quinto decretalium*, qtd. in Pakter 329, my revision of his translation). But this statement raises questions even as it asserts that Jews are not chattel slaves; Johannes implies that law and custom regards them as slaves in a different way. The texts of canon law support this notion, as they repeatedly refer to Jews as slaves. Simonsohn suggests one way of addressing this conundrum:

The theological concept of Jewish subjugation, inferiority and servitude, while not legal per se, carried weight inside and outside the Church. And although most canon lawyers never declared the Jews to be slaves or serfs in a purely legalistic sense, the terminology employed by the popes and other churchmen makes it very difficult to draw a line between theology and law. (vol. 7, 96)

However, after suggesting that a definition of this status requires us to go beyond the law, he does not develop a methodology for understanding this liminal category that operates between and within theology and law.

I argue that the significance of the *servitus Judaeorum* cannot be determined by focusing on the letter of the law, but rather by understanding its figures. Attention to the texts of papal letters and canon law reveals that they rely on Biblical types established in scripture and exegesis to illustrate the enslavement of the Jews. These proof-texts ostensibly appear as a divine rationale for laws that ensure Christian pre-eminence over Jews, or to chastise rulers who permit the violation of these laws. Once received into the corpus of ecclesiastical law, however, the use of figures evolves from a means of enforcing law to creating a new status: figural slavery.⁵ Distinguished from chattel servitude, this innovation aims to impose a condition of inferiority upon Jews relative to Christians, not only in the case of specific laws, but comprehensively. It operates as a doubly figural servitude in employing slavery as a metaphor for the degraded position of the Jews and relying on scriptural figures to provide authoritative proof of this condition. The presentation of this servitude as a divine punishment seeks to create an existential condition that defines all Jews, in all cases and in all places, as subordinated to Christians. Furthermore, in asserting that this penalty, imposed at the time of Jesus’s death, continues to affect contemporary Jews, the discourse of figural slavery defines this status as a 15th-century perpetual servitude. It thereby establishes an ontological state: hereditary inferiority.

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While not, strictly speaking, a legal status, hereditary inferiority nevertheless gains power through its articulation and circulation as perpetual servitude in the authoritative texts of papal decretals and canon law. In this context, its impact extends more widely and consistently than formulations articulated in particular types of secular law, insofar as it functioned as international law; as such, it contributed powerfully to “the creation of some of the elemental ideas and institutions that continue to this day to characterize Western societies” (Brundage 1995, 3, 189).⁶ The canon law incorporation of the *servitus Judaeorum* produces and authorizes one such elemental idea, a category of inherent subordination that circulated throughout Western Christianity. It moves beyond the spheres of law and theology in its consequences: “In effect . . . the definition of the Jews’ status ceased to be a purely Christian theological argument and assumed socio-political connotations. . . . There was hardly an area in which Jews were not

discriminated against and degraded politically, socially and economically” (Simonsohn vol. 7, 99, 156). But beyond its impact upon the lived experience of medieval Jews, figural slavery creates an inferior status that anticipates subsequent biological rationales that undergird modern racism. The canon law development of the figural concept of the *servitus Judaeorum* creates a new, racial status of second-class citizenship.

In the following sections, I offer a description and analysis of biblical figures before tracing a chronological evolution of *servitus Judaeorum*. I consider the early articulation of the figures of Esau and Hagar/Ishmael in Paul’s letters, as well as Augustine’s interpretation of Cain and Ham as signifying the subordination of Judaism and the punishment of the Jews. The next section explores how canon law cites and develops figural representations of Cain and Hagar/Ishmael to formulate the powerful concept of Jewish perpetual servitude—a permanent, persistent condition of servility. While scholars have argued that the internal logic and precedents of medieval canon law demarcate its priorities as clearly separate from the aims of theology, the citation of figures connoting *servitus Judaeorum* by medieval canonists demonstrates its successful translation from theology to law. This oscillation between a spiritual state and a legal status enables the authoritative construction of a racist concept of inherent, hereditary inferiority that redefines as subordinated the ontological status of Jewish people.

The History of *Figura* and the *Figura* of History

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A brief explanation of biblical figures will clarify how they function not only in the New Testament and biblical exegesis, but also in the canon law. Eric Auerbach elucidates this interpretive approach as it develops within Christianity, in which the Hebrew Bible “both as a whole and in its most important details, is [understood as] a concrete historical prefiguration of the Gospel” (44).⁷ At its most basic level figures set up a reciprocal relationship between two moments in scripture: the first which anticipates and points to the second, and the second which explains the significance of the first. Although this is a theological method of understanding biblical narratives, it operates within historical time and describes material consequences; both figure and fulfillment are understood as actual historical persons and occurrences. A figural interpretation not only construes an incident in the Hebrew Bible as foreshadowing an incident in Christian Scripture, but could also understand the first event as pointing to a future moment beyond the biblical text (53).⁸

In the history of early Christianity, figural interpretations emerge in the texts of the New Testament. The new movement developed within the practice of Judaism, which shapes attitudes toward the Hebrew Bible figure in relation to its fulfillment:⁹ “It seems only natural that the new Judaeo-Christians should have looked for prefigurations and confirmations of Jesus in the Old Testament and incorporated the interpretations thus arrived at into the tradition” (50). Jewish followers of Jesus may have assisted in this mode of reading to connect their received scripture with the narrative of his life. Paul, one of the most influential Jewish Christians, makes frequent use of figures in his writings. However, Auerbach argues that Paul’s figural practice creates a hierarchy of New Testament antitype over Hebrew Bible type (50–1).¹⁰ The logic of supersession shapes the significance of Hebrew Bible events, rendering them meaningful only in relation to their counterparts in Christian Scripture.¹¹ The trend continues in the writings of some of the Church Fathers, influenced by a particular classical connotation of *figura* as “the rhetorical image or circumlocution that conceals, transforms, and even deceives” (45). This received tradition serves to emphasize the graded relation between connected events in Hebrew Bible and the New Testament: while the latter represents the truth (*veritas*), the *figura* of the former are merely shadow (*umbra*), an inferior category of significance.¹² I would argue that figural interpretation itself effectually subordinates Judaism to Christianity insofar as it subsumes the Jewish interpretation of the text to a Christian one.¹³

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While figural interpretation seeks to convey the spiritual truth of biblical texts, it also explains historical events that are currently transpiring, or will transpire, in the real world. Typology provides not only a method of reading, but organizes one's lived experience in the world. However, contemporary events, while real, are also merely shadows that gesture toward the actual truth to be revealed at the end of days. While humans experience this process chronologically, God understands all figures and truth simultaneously. Thus figures shape the way Christians understand their place in the world, but also serve as guides to transforming that world to bring it in line with divine will. Taken all together, these elements of the figure demonstrate that while reflecting a divine ideal, figures also influence real events in the present and future (72). Furthermore, the logic of supersession, which renders Judaism and Jews subordinate to Christianity and Christians, shapes the reception of the Pauline approach to figures in subsequent theology, exegesis, and even law.

Scriptural and Patristic Figures of Jewish Servitude and Hereditary Guilt

Before analyzing the figures of servitude that Paul develops in his letters, we must first consider in brief the context in which he and the other authors of Christian Scripture lived. While later readers of the New Testament have understood it as representing conflicts between Christians and Jews, in fact the term "Christian" did not exist at the time in which its authors wrote (Fredriksen 2010, xxi–xxii). Jesus and his followers were all Jews and the controversies debated in the gospels represent concerns internal to the practice of Judaism (79–80). These disputes, similar to other internal Jewish arguments of the period, explored "conflicting ideas about the right way to be Jewish" (81). However, in setting forth a defense of their own beliefs, authors of the New Testament articulate anti-Jewish stereotypes to vilify the views of their opponents. In interpreting the texts that follow, we should understand that references to Jews and Jewish Law indicate an opponent or opinion under attack by a Jewish author, with the awareness that that this nice distinction falls away over time (80–1). I pass over contemporary issues at stake in New Testament debates to focus on the ↵ strategy of a particular polemical strand: the association of servitude with an adversary's opinion or practice.

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Paul's letters in the New Testament articulate the basic elements of what will later evolve into hereditary inferiority, the *servitus Judaeorum*, through figural readings of slavery. Drawing from the text of the Hebrew Bible, he emphasizes the servile nature of the fraternal relations between Jacob and Esau, and Isaac and Ishmael to establish a new hierarchy. While this relationship will be interpreted by medieval exegetes as figuring the subordination of Jews to Christians, Paul's contemporaries would not have understood it this way. Even as the meaning of these figures continues to be debated today, it can plausibly be argued that they contrast two paths, one superior to the other, probably reflecting controversies over the practice of Jewish law amongst non-Jewish members of the Jesus movement.¹⁴ In Romans 9:12 Paul reinterprets the prophecy in Genesis 25:23 that reverses the primogeniture of the brothers Esau and Jacob/Israel, "The elder shall serve the younger."¹⁵ The word "serve" in the original text derives from the Hebrew root עבד (*eved*), servant or slave; New Testament quotation of Genesis 25 employs the Greek term in the Septuagint derived from δούλος (*doúlos*), slave.¹⁶ The Hebrew Bible traces the lineage of Israel from Jacob, for whom they are named; however, Paul reinterprets the text to argue that Gentile believers are also "the children of God," while not all of Abraham's descendants are (Rom. 9:7–8).¹⁷ Paul includes "Israel of the flesh," of whom he is one, among the elect if they have faith: "Even us whom also he hath called, not only of the Jews but also of the Gentiles" (9:24). However, the elder Esau, whomever he might represent, is supplanted by and subjected to the younger (9:30–33).¹⁸

Paul clarifies the concept of slavery by associating it with the law in his "allegorical" (*allēgoroumena*) reading of the Genesis narrative of Hagar and Sarah (Galatians 4:21–31).¹⁹ In chiding his Gentile audience

p. 27 for their desire to be “under the law,” he rereads Genesis to emphasize the alignment the children of the promise with freedom and the children of the flesh with slavery (4:21–3). Paul cites God’s confirmation of Sarah’s demand that Abraham’s younger child, Isaac, be given priority over his first-born, Ishmael, conceived by his servant Hagar: “‘The son of the bondwoman shall not be heir with the son of the freewoman’” (Gal. 4:30, rephrasing of Gen. 21:10). He identifies Ishmael and his mother Hagar with “that Jerusalem which now is”; she is the woman “from mount Sina”—where the law was given—“engendering unto bondage” (Gal. 4:24–5).²⁰ Sarah and her children, in contrast, figure the “Jerusalem which is above” who is ↳ free (4:26). Paul does not create a clear division between free Gentiles and enslaved Jews; all followers of Jesus are free. Nevertheless, the text implies a hierarchy that contrasts and subordinates the enslaved followers of the law to the free followers of Jesus.

While the New Testament sometimes represents servitude positively,²¹ some verses also appear to associate an evil articulation of slavery with Jewish Law or the Jews. Paul contrasts a negative servitude in observance of Jewish Law to that of the Spirit: “so that we should serve in newness of spirit, and not in the oldness of the letter” (Rom. 7:6). While Christians also serve (*douleuein*) as slaves in this new life, this is nevertheless a freeing condition: “For the law of the spirit of life, in Christ Jesus, hath delivered me from the law of sin and of death” (Rom 8:2). Clear-cut binaries don’t seem to hold, as Paul associates slavery both with the old law and the new dispensation, as well as connecting law both with slavery and freedom, but the texts suggest that negative slavery, sin, and death are linked to Jewish Law, marking it as inferior to the new way preached by Jesus. The Gospel of John describes his Jewish antagonists as slaves to sin and the devil. In response to Jesus’s statement that “the truth shall make you free,” some of his Jewish followers protest that they have never been slaves (John 8:32–3).²² Jesus replies that “whosoever committeth sin, is the servant [slave/doulos] of sin” and identifies the Jews not as children of Abraham, but of the devil: “You are of your father the devil, and the desires of your father you will do” (8:34, 44). This passage suggests that Jews are children of the devil and in serving him are enslaved to sin.²³ In sum, these scriptural associations, whatever their original context, create a hierarchy that designates a spiritually inferior status by associating it with slavery.

p. 28 In addition to but entirely separate from the representation of spiritual servitude, Christian Scripture also suggests the idea of Jewish hereditary guilt.²⁴ In its account of the trial of Jesus, the Gospel of Matthew sets forth this notion of congenital culpability.²⁵ When Pilate absolves himself from fault in refusing to order Jesus’s crucifixion, the Jews respond: “His blood be upon us and our children” (27:25). Here the Jewish people as a whole seem to take responsibility for Jesus’s death, not only implicating themselves, but their children as well. It is important to note that the text does not specify a consequence for this assumption of accountability; they are neither cursed nor subjected by this action. In accepting this hereditary guilt, the Jews do not appear to undergo a permanent alteration in their status, particularly when we keep in mind that forgiveness for sins and ultimate salvation are open to the Jews, as well as to the Gentiles, if they ↳ accept Jesus as the son of God. However, this text and its suggestion of an inherited condition will be cited and reinterpreted by later commentators in developing the idea of Jewish inferiority.

The great church father Augustine (354–430 C.E.) produced his influential figural development of the *servitus Judaeorum* in a rich and diverse theological context.²⁶ One of the traditions that shaped his writings about Jews was a patristic polemic *adversus Judaeos* (against the Jews).²⁷ While not representing the reality of contemporary relations between actual Christians and Jews, this discourse established a set of negative claims that circulated during the period and influenced subsequent eras.²⁸ These ideas include the accusation that the Jews killed Jesus; the charge was expanded beyond those present at his death to include other Jews as well (Fredriksen 2010, 82–3). As punishment for this crime, according to the “Christian interpretive imagination,” God destroyed the Temple in Jerusalem in 70 C.E. and permitted Hadrian’s imposition of Roman rule and worship in Judea, epitomized by his building a pagan city on the ruins of Jerusalem (84).

In the eyes of gentile Christian theologians . . . [the] diaspora Jewish population had . . . been driven out of Judea by the Romans after 70 c.e. into a punitive, divinely mandated, and long-foretold exile. . . . By interpreting the whole sweep of biblical history from Cain to Caiaphas and beyond as the record of God's anger against the Jews, Christian theologians combined episodes in the Jewish Bible with these more recent disasters of the first and second centuries to produce a mass of mutually reinforcing arguments *adversus Iudaeos*. (85)

These ideas of crime, loss of political autonomy, exile, and dispersion all contribute to Augustine's development of Jewish figural slavery.²⁹

However, even if he clearly draws from this antagonistic tradition, Augustine powerfully transforms it to craft a more positive image of the Jews. A number of scholars have argued that Augustine develops a protected and privileged role in Christian society for the Jews as witnesses to the truth of Scripture.³⁰ Fredriksen and Unterseher contend that Augustine formulates the core of this affirmative concept in the *Contra Faustum*, an anti-pagan polemic (Fredriksen 2010, 350, 260–89; Unterseher 105–42). His extended explanation of the narrative in Genesis 4:1–15 employs the figure of Cain to reinterpret the *adversus Iudaeos* accusations. Yes, the Jews, like Cain, are guilty of killing their brother, Jesus, but Cain's marking and expulsion demonstrate not only punishment but protection. God marks the Jews through their continued adherence to their Bible and Law, testifying to its truth. He protects them from being killed or prevented from continuing their observance of the Law. They are dispersed everywhere to spread their testimony, although they misunderstand the Bible's message; what they prove is the truth of Christian interpretation and thus act in the service of, and in servitude to, the Church (Fredriksen 2010, 260–352; Unterseher 105–62).³¹

Although this doctrine advances clearly salutary elements, its figural logic not only subordinates Jewish misunderstanding of their own texts to the "true" Christian interpretation, but also emphasizes the servile role Jews perform for Christianity.³² An exploration of Augustine's use of figures to illustrate Jewish servitude shows its centrality for his theology of Jews.³³ In *De Civitate Dei* he cites Paul's "allegorical" interpretation of Hagar and Ishmael in Galatians 4:21–31 to figure the Hebrew Bible and the earthly city:

This method of interpretation, which comes down to us with apostolic authority, opens the way for us to understand the writing of the two covenants, the old and the new. A certain part of the earthly city has been used to make an image of the heavenly city, and since it thus symbolizes not itself but the other, it is in servitude. (15.2, 419)³⁴

Jewish Scripture, part of the earthly city, performs a positive function in figuring the heavenly city. However, in so doing, it serves in a form of slavery as a symbol of the heavenly city. This interpretation renders the Hebrew Bible a mere figure, a signifier without inherent meaning that operates only to indicate the signified of Christian truth. Augustine presents the figural status itself and its function as a kind of slavery. *De Civitate Dei* also employs the Romans use of Esau to figure Jewish servitude:

As to the statement, "the elder shall serve [serviet/will be a slave to] the younger," however, scarcely anyone among us has understood it to mean anything else than that the older people of the Jews should serve [servitutum/be a slave to] the younger Christian people. . . . Christ . . . is lord over his brother, since his people rule the Jews. (Book 16, Chapters 35, 165, and 37, 173)³⁵

Significantly, Augustine extends the spiritual hierarchy established by Paul by using it to comment on the present time. The prophecy is, not was, fulfilled; Christ's people rule, in the present tense, over the Jews in the form of the Christian Roman Empire, as established in the *adversus Iudaeos* tradition. Spiritual supersession begins to take on political significance in this interpretation.

Augustine moves beyond Paul not only in the entry into history, but also in developing new types from the Hebrew Bible in order to explain the cause of Jewish enslavement. Supersession results not merely from Jewish unbelief, but from crime; slavery serves as a marker of unfaithfulness, but more significantly, punishment. The *Contra Faustum Manichaeum* employs the fratricidal Genesis narrative of Cain and Abel to innovate and explain Jewish subordination.³⁶

The Jews were . . . guilty of unbelief . . . when Christ came. . . . If Cain had obeyed God . . . he would have ruled over his sin, instead of acting as the [slave] of sin in killing his innocent brother. So also the Jews, of whom all these things are a figure, if they had . . . acknowledged the time of salvation through the pardon of sins by grace . . . they would have ruled over sin as long as it continued in their mortal body. But now . . . in subjection to sin reigning in their mortal body . . . they have . . . been inflamed with hatred against [Jesus]. . . . Abel, the younger brother, is killed by the elder brother; Christ, the head of the younger people, is killed by the elder people of the Jews. (*Contra Faustum Manichaeum*, 12.9, 186)³⁷

The reference to the younger and elder peoples here recalls Esau's servitude to Jacob, but the dynamic between Jews and Christians is located in a new figure.³⁸ Metaphors of ruling and subjection present in the Genesis text of the Cain narrative (4:7 "and thou shalt have dominion over [sin]") run through this passage: by disobeying God, Cain is unable to rule over his sin, instead becoming its slave in killing his brother. These ideas resonate strongly with the verses in John, quoted here, which articulate the concept of subordination to sin.³⁹ The Jews, in failing to recognize Jesus as the messiah, also fail to rule over their sin; in insisting on their own authority rather than submitting to God, they become slaves to sin and kill Jesus.

p. 31 The *Contra Faustum*'s discussion of Cain draws from formulations of sin and punishment articulated in the *adversus Iudaeos* tradition to explain and justify contemporary Jewish political exile and subordination.

"Groaning and trembling shalt thou be on the earth." (Genesis 4:12) Here no one can fail to see that in every land where the Jews are scattered they mourn for the loss of their kingdom, and are in terrified subjection to the immensely superior number of Christians. . . . So to the end of the seven days of time, the continued preservation of the Jews will be a proof to believing Christians of the subjection merited by those who, in the pride of their kingdom, put the Lord to death. (*Contra Faustum*, 12.12, 187–8)⁴⁰

By glorying in "the pride of their kingdom," their earthly power and authority, and killing Jesus, Jews have been punished by exile from that kingdom and subjection to "the immensely superior number of Christians." Guilt for the crime of killing Jesus devolves not only upon the Jews allegedly implicated at the time of the crucifixion, but also on all Jews, and will extend from that event, through Augustine's day, until the end of days.⁴¹ Augustine clearly identifies even contemporary Jews as guilty of deicide and thus punished with exile and subjection to Christians (Fredriksen 2010, 82–5, 322–23). He develops this idea, also with recourse to the figure of Cain, in his *Ennarationes in Psalmos*. Although conquered by the Romans,

The Jews nevertheless remain with a mark; nor in such sort conquered have they been, as that by the conquerors they have been swallowed up. Not without reason is there that Cain, on whom . . . God set a mark in order that no one should slay him. . . . These are therefore Jews, they have not been slain, they are necessary to believing nations. . . . Throughout all nations there have been scattered abroad the Jews, witnesses of their own iniquity and our truth. (*Ennarationes in Psalmos* 58:12, part one 21–2 241)⁴²

To this day, the Jews remain apart from, rather than absorbed by their rulers. The distinctive mark of Cain figures their separate identity as a people. The persistence of the Jews as a conspicuous, subjected people is

p. 32 part of their divine punishment; they are subordinated both to the Roman Empire ↪ and to the truth of Christianity, forced to serve as proof of the latter and their own sin.⁴³

The *Contra Faustum* reinforces the idea of Jewish servitude and elaborates upon its hereditary nature by introducing a proof-text that makes direct reference to slavery: Noah's curse on his offspring. In the episode in which he lies drunken and naked, Noah represents Jesus, while the

middle son [Ham] is the Jewish people, for they neither held the first place with the apostles, nor believed subsequently with the Gentiles. They saw the nakedness of their father, because they consented to Christ's death. . . . And thus they are the [slave] of their brethren. For what else is this nation now but a desk [scriniaria/books slave]⁴⁴ for the Christians, bearing the law and the prophets, and testifying to the [manumission] of the Church, so that we honor in the sacrament what they disclose in the letter? (12.23, 190–1)⁴⁵

Although this discussion omits explicit mention of the moment in Genesis when Noah curses Ham's son Canaan with slavery, in identifying Ham with the Jews, Augustine directly links this punishment to the Jews' alleged crucifixion of Jesus. The malediction that Canaan will be a slave of slaves to his brothers ("Chanaan servus servorum erit fratribus suis" [Gen. 9:25]) is expressed in the future tense in the biblical text. This, and the fact that it will affect the offspring of Ham, indicates its hereditary nature.⁴⁶ Augustine emphasizes a persisting slave status in employing this narrative, as he does with the figure of Cain, to explain the contemporary servitude of the Jews in witnessing to Christian truth.⁴⁷

Especially when viewed in the context of earlier and contemporary writings, Augustine's account of the Jews and Jewish Law as occupying a privileged place of protection beneficial to Christian society appears strikingly positive. Furthermore, his teachings served to shield Jews from Christian violence for centuries after Augustine lived and wrote (Cohen 1999). However, scholars who have demonstrated the innovative aspect of this valuable Jewish role have downplayed its negative contribution: if Augustine originates the claim that the Jews' continued observance of their Law performs a beneficial service in Christian society, at the same time he creates a new inferior status for the Jews as slaves to the Church. In fact, I would argue that it is precisely because Augustine presents such a favorable view of Jews and Judaism that he must balance it by positing their subordination to Christian truth and freedom through the figure of slavery.⁴⁸ ↪ Moreover, the concept of Jewish servitude, far from being a mere corollary to his theology of the Jews, is central to this teaching; of the six elements of the "doctrine of witness" identified by Cohen, it is the *only* idea to appear in all fifteen of Augustine's noteworthy writings on the Jews (1999, 41). Even Paula Fredriksen, whose positive assessment of Augustine's view of Jews is reflected in the subtitle of her recent monograph, *A Christian Defense of Jews and Judaism*, acknowledges that "Augustine's theology, for all its innovative and positive positions, does ultimately subordinate Judaism to Christianity. This is why he uses such terms as 'servant' or 'librarian' or 'books slave' to describe Judaism's subservient role" (372). In articulating this status, Augustine almost certainly did not adversely affect the position of actual contemporary Jews. Nevertheless, his development of a figure of Jewish slavery influenced subsequent thinking about the role of Jews in Christian society as it migrated from its largely theological context and entered into the discourse of medieval canon law.⁴⁹

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Figural Slavery and the Canon Law Formulation of Perpetual Servitude

Before turning to an analysis of biblical figures of Jewish servitude in legal documents, let us first briefly consider the sources, structure, and function of canon law. Canons, the principal type of church law, originate as legislation determined by bishops in church councils, and by local clergy in synods, or regional gatherings. Papal letters or decretals, which typically issue a ruling on a matter, also contribute to the body of canon law, although only the most important opinions are codified. The first authoritative compilation of canon law, Gratian's *Decretum*, appears in the mid-twelfth century; originally titled *Concordia discordantium canonum*, it gathers and attempts to reconcile ecclesiastical laws into a coherent system and serves as a textbook in canon law schools. Teachers at the University of Bologna, one of the earliest law faculties in Europe, develop commentaries on the *Decretum*, becoming known as decretists. As decretists discover gaps or inconsistencies in the law, the popes were called upon to issue rulings, in effect creating new law. Commentators on these papal decretals are referred to as decretalists. Pope Gregory IX ordered the Dominican canonist Raymond of Peñafort to produce an official collection of papal and conciliar law, the *Decretales Gregorii IX*, or *Liber Extra* (1234).⁵⁰ As popes and councils continue to promulgate law, subsequent collections appear over the next century: Innocent IV's *Novellae* (New laws), Gregory X's *Novissimae* (Newest laws), Boniface VIII's *Liber sextus* (Sext or Sixth book of decretals), John XXII's *Constitutiones Clementinae* and *Extravagantes*. The production of these authoritative collections gave rise to commentaries or glosses on the decretals. By the end of the fifteenth century, a compilation of the definitive texts of canon law—Gratian's *Decretum*, the *Liber extra*, the *Sext*, the *Clementine constitutions*, and the *Extravagantes of John XXII*—appear as the *Corpus iuris canonici* (Brundage 1995, 8–59 passim).⁵¹

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The concept of Jewish servitude enters into legal discourse by means of papal decretals, one of the more dynamic and innovative aspects of canon law. Furthermore, since the *servitus Judaeorum* is formulated in Christian scripture and theology by means of biblical examples, it is also not surprising to find popes employing the logic of figures, and the types themselves, when they introduce this status into their letters. Once papal practice establishes this convention, it is taken up and repeated in the texts of conciliar rulings and even infiltrates the arguments of commentators on the canon law. The three figures adduced to illustrate the enslavement of the Jews are Cain, Hagar/Ishmael, and Ham/Canaan. In what follows, I first consider the example of Cain, as I argue that it shapes the earliest decretal on Jewish servitude to Christians, and demonstrate how subsequent popes make use of this figure. I then consider citations of the figure of Hagar/Ishmael. Out of these two figures, Pope Innocent III develops the idea of *servitus perpetua*, perpetual Jewish enslavement; the idea of perpetual servitude pre-exists its association with Jews, but it is first powerfully and systematically applied in a legal context to this group. The remainder of this chapter explores the ramifications of this idea, including its expansion in canon law commentaries to include the figure of Canaan, Ham's offspring. I conclude by demonstrating how perpetual Jewish enslavement produces a racial status of hereditary inferiority.

In a 1063 letter to the bishops of Spain, Pope Alexander II introduces a mild formulation of the idea that Jews occupy a position of servitude relative to Christians. He employs this status in support of the argument that Jews—in contrast to Muslims—are willing to submit themselves to Christians and therefore deserve protection. The letter praises the bishops for shielding Jews from violence threatened by armies mobilized to fight against Muslims. The pope condemns those who

wanted to kill [the Jews] in their rage, though divine piety might have predestined them to salvation. In this way did the blessed Gregory prohibit some who were inflamed in their wish to destroy them, denouncing as impious those who wished to destroy people who were saved (servati) by God's mercy; for since the loss of their freedom and fatherland they live dispersed in

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all parts of the world, condemned to lasting penance (*diuturna paenitentia*) for the crime of their fathers in the effusion of the savior's blood. [*Dispar nimirum*] There is assuredly, a difference between the case of the Jews and that of the Saracens. It is just to fight those who persecute Christians and who expel them from their cities and houses, while these people [Jews] are everywhere ready to serve (*ubique parati sunt servire*). (Linder 1997, 452)

Although Alexander does not explicitly mention Cain, his discourse parallels a number of elements explained in Augustine's development of the figure: the exile, dispersion, and subjugation of the Jews as lasting atonement for the crucifixion. However, the decretal, in line with its aim to protect Jews, mitigates the punitive elements associated with the patristic figure of Cain; condemned to penance, not punishment, the Jews may well repent, convert and attain salvation. Distinguished from Muslims in not persecuting Christians, Jews nevertheless are tolerated only as subordinates. Alexander's use of the terms *servati* and *servire* may emphasize their common root in the *servus* or slave as understood in Roman civil law.⁵² As Augustine explains in *De Civitate Dei*:

The origin of the Latin word for "slave" is believed to be derived from the fact that those who by the law of war might have been put to death, when preserved (*servabantur*) by their victors, became slaves (*servi*), so named from their preservation (*servando*). (19.15, 187)⁵³

Jews, in Alexander's case, should be protected from destruction, but only conditionally: insofar as they inhabit a position of servitude (Simonsohn vol. 7, 12–14, 98; Sapir Abulafia 2011, 139–40). While many papal letters do not enter into the code of canon law, official compilations include this decretal under the title *Dispar nimirum* and commentaries frequently cite it. Although the codified version cuts the preliminary discussion with its possible allusions to Cain, subsequent canonists adduce this ruling as evidence of Jewish servitude to Christians.

p. 36 This concept as figured by Cain appears explicitly in the thirteenth-century decretals of Innocent III. The employment of biblical figures characterizes much of his writings even before his election to pope, reflecting his training in the liberal arts and theology while studying at the University of Paris. These faculties focused on the study of the Bible, and patristic texts as a means to understanding it, emphasizing a typological interpretive approach (Moore 9). Furthermore, as Auerbach adumbrated, Innocent applied figural thinking as a lens to understand contemporary events: the successes and failures of Christendom reflected God's favor or punishment for sin (Moore 14–15). In response to the morally indefensible capture of Constantinople by the crusading armies in 1204, Innocent interprets the event positively in a letter to the accompanying clergy by means of a complex reading of Mary Magdalene, John and Peter coming to the empty tomb of Jesus. As he concludes:

Behold, now, brothers and sons, you can clearly conclude that God has finally fulfilled through you and in us that sacrament which he foresaw from all eternity and presaged in the Gospel. You may understand that God has brought about this mystery through your ministry not like some chance occurrence but as something issuing from his high counsel, so that now there may be one flock and one shepherd. According to his foreknowledge, the creator of times has so arranged all times that when the fullness of the gentiles has entered into the faith, then even all of Israel will be saved. (qtd. in Moore 133)

Here Christian Scripture provides the figure that is fulfilled in the actions of the pope, his clergy and Western Christian crusaders; their actions serve to implement the will of God in the current moment. As head of the Church, Innocent felt a strong responsibility to realize, with the help of all Christians, God's "high counsel" in the world, including the conversion of the remaining gentiles and Jews.

Scholars who have focused primarily on Innocent's rulings on the Jews have tended to interpret them as promoting a particularly harsh view.⁵⁴ However, when considered in the context of entire range of concerns in his activist papacy, his writings on Jewish subordination to Christians play only a small role in his larger agenda to bring the world under Christendom and execute God's will. During the length of his papacy, Innocent faced significant challenges and responsibilities, not the least of which was the constant litigation that passed through the papal curia. In addition, he sought to continue the reform of the Church (both with an eye to promoting its independence from secular authorities as well as ensuring the adherence of the clergy to their holy duties); he played an active role in the politics of Italy and the Holy Roman Empire; he preached the reconquest of the Holy Land (launching the Fourth Crusade); and actively battled what he perceived as two substantive threats to Christianity, heresy and Islam (Moore 44). Even a cursory review of the events of his career demonstrates that the Jews were almost surely the least of his many, pressing problems. The vehemence with which he writes aligns with his guiding preoccupation: the pope's responsibility to bring Christendom into line with God's will. As he fights this battle with recalcitrant secular rulers and fellow prelates, as he launches violent crusades, internal and external, against heretics and Muslims, he also responds to complaints of the day that the Jews exercise undue power over Christians. While Jews have a rightful place in the Church, following Augustine's teaching, that position is predicated on their subordination to not only to Christianity, but to Christians. During the twelfth century, Jews flourished in the lands under Christian control, enabling them in various contexts to occupy positions of authority over Christians. In emphasizing their servitude, Innocent seeks to return them to their proper place in the Church. His letters take the form of reprimands both to secular rulers and clerics for allowing Jews to exercise improper power over Christians. Although he, like Alexander II, refers to the *servitus Judaeorum* as a justification for protecting Jews, Innocent reinterprets the concept to signify not merely Jews' acceptance of Christian authority, but as *proof* of their social inferiority, a status that he feels requires reinforcement given its transgression in contemporary Christendom.

The first explicit reference to Cain in a decretal appears in Innocent's 1208 letter chastising the Count of Nevers for favoring Jews by allowing them, contrary to their divinely imposed servitude, to dominate Christians. He complains that amongst other transgressions, princes appoint Jews to practice usury and serve as royal collection agents; when debtors default, Jews seize their real estate, thereby depriving the church and poor of tithe payments that Christians are required to pay on landed property. In order to redress the scandal of Jews oppressing Christians, the letter includes an extended discussion of Cain's punishment to remind the Count of the proper place of the former people in relation to the latter:

The Lord made Cain a wanderer and a fugitive over the earth, but set a mark upon him, making his head to shake, lest any finding him should slay him. Thus the Jews, against whom the blood of Jesus Christ calls out, although they ought not be killed, lest the Christian people forget the Divine Law, yet as wanderers ought they to remain on the earth, until their [face] be filled with shame and they seek the name of Jesus Christ, the Lord. That is why blasphemers of the Christian name ought not to be aided by Christian princes to oppress the servants of the Lord, but ought rather to be forced into the servitude of which they made themselves deserving when they raised sacrilegious hands against Him Who had come to confer true liberty upon them, thus calling down His blood upon themselves and upon their children. . . . You are not afraid to show favor to those who dared to nail to the Cross the only-begotten Son of God, and to this moment have not ceased to blaspheme [against Him]. (Grayzel 1966, 127–29)

Cain, punished with exile and physically marked to prevent others from murdering him, figures the Jews, guilty of Jesus' death, yet protected from retributive execution in order to provide witness to the truth of Scripture.⁵⁵ While Innocent mentions the protective doctrine of witness, he emphasizes Augustine's notion of Jewish subjection, explained with recourse to an ascribed servitude by which Cain was punished; preserved from death, Jews now serve as slaves. For Innocent, this rebuking imposition of inferiority ought

to humiliate the Jews into conversion; he cites Psalm 82:17, “Fill their faces with shame; and they shall seek thy name, O Lord,” to prove his point.⁵⁶ He introduces the question of servitude in reproving the improper suppression of the superior servants of the Lord (Rom 1:1) by the Jews, who must be subordinated into the slavery to which they sentenced themselves in killing Jesus. Jesus’s sacrifice freed believers from sin and death; the Jews, in rejecting Jesus, remain in the servitude of original sin, and by crucifying him deserve an additional penalty of enslavement. This punishment afflicts not only the perpetrators of the crucifixion, but, following the verse from Matthew, their children as well. Innocent describes contemporary Jews as if they themselves nailed Jesus to the cross; to aid them is to assist in the deicide. His citation of individual verses to support his claims, in addition to the analogy of Cain, also functions like figures which require fulfillment through the recognition of the Jews’ crime and the imposition upon them of a humiliating punishment—slavery—in the current moment.

p. 39 Innocent’s complaint of Jewish dominance over Christians, illustrated with the corrective figures of Cain and the verses from Matthew 23 and Psalms, serves as a precedent for later popes who also seek to identify Jews as inferiors and relegate them to their proper place. Clement IV (1265–1268) makes use of Cain in a letter (1265–1266) condemning the preference of Jews over Christians in Poland:

The Jewish people sinned terribly; therefore it was made unstable [Lam. 1:8], like the fratricide Cain . . . a vagabond and fugitive on the earth. . . . They impiously killed [Jesus] . . . damnably calling his blood to be on them and their children [Matt. 27:25]. Whence, since their dispersion until now . . . enough humaneness is accorded to their inhumanity if they are too few to be killed by all who come upon them, so the law of God be not eternally forgotten, but at last the remnant shall be saved. They are however, as damned slaves pressed to the deserved yoke of servitude (ut servi dampnati iugo servitutis merito comprimendi), to see if strong vexation will instruct their understanding and when their faces will be full of shame, they will be compelled to seek the name of the Lord [Ps. 82:17]. (Grayzel 1989, 110–11, my translation)

Clement opens his letter with a paraphrase of Lamentations, the prophet Jeremiah’s account of the destruction of the first Temple and the subsequent exile and captivity of the Jews.⁵⁷ In equating this experience to that of Cain (following Augustine’s explanation of this type), he provides historical precedent for the Roman destruction of the second Temple and prefigures contemporary Jewish servitude; he replaces “Jerusalem” in the biblical verse with “Jewish people” who still feel the effects of their sin. The fratricidal Jews, like Cain, suffer exile for crucifying their brother; although preserved from death, they are subjected to slavery, iterating the doctrine of subordinated witness. Innocent’s influence clearly appears here, with the inclusion of paraphrases from Matthew and Psalms and following his word choice “comprimi servitude, qua se dignos merito reddiderunt” (Grayzel 1966, 126, see also 114 for the use of the term *iugo*, discussed later).⁵⁸

p. 40 While Cain provides a useful figure for Jewish guilt and expulsion, the Genesis text does not mention slavery as the punishment for fratricide. Although Augustine describes Cain as figuring Jewish servitude, the authoritative Pauline account in Galatians more explicitly introduces relative positions of freedom and servitude. Innocent introduces into his decretals the example of Hagar, the slave woman (*ancilla*) and Sarah, the free woman 23 (*libera*) to exhort the proper ordering of Jews in relation to Christians. He employs the figure strategically, either to reinforce the hierarchy of Christian over inferior Jew, or to castigate secular rulers and clergy for permitting a blasphemous inversion in which free people serve slaves.⁵⁹ Writing in 1205, Innocent complains to the King of France that he and other princes violate divine will by allowing Jews to dominate Christians:⁶⁰

Though it does not displease God, but is even acceptable to Him, that the Jewish Dispersion should live and serve (serviat) under Catholic Kings and Christian princes until such a time as their remnant shall be saved . . . nevertheless, such [Princes] are exceedingly offensive to the sight of the

Divine Majesty who prefer the sons of the crucifiers, against whom to this day the blood cries to the Father's ears, to the heirs of the Crucified Christ, and who prefer the Jewish slavery (servitutum) to the freedom (libertati) of those whom the Son freed, as though the son of a [slave woman/ancilla] filius] could and ought to be an heir along with the son of the free woman (filio liber[a]e). (Grayzel 1966, 104–7)

Jews may be tolerated as long as they serve under Christian rulers, but cannot, as sons of deicides, be favored above Christians without exceeding offense to God. While he is not directly named, Cain lurks in this text as well in the echo of Genesis 4:10: “the voice of thy brother's blood crieth to me [God] from the earth.”⁶¹ The cry of blood against the Jews “to this day” also recalls Matthew 27:25, emphasizing their continuing culpability; it anticipates and justifies their contemporary enslaving punishment. These proof-texts of Jewish servitude and hereditary guilt add weight to the quotation of Galatians; the contrast between the children of the *ancilla* with those of the *libera* emphasizes and explains the juxtaposition of Jewish slavery to Christian freedom. Together, these references combine to recall and assert the subordination of Jews to their Christian superiors.⁶²

Innocent's concern for the correct hierarchy of Christian over Jew is evidenced in this same letter in a fascinating digression on the social status of Jesus. The pope complains about Jews deriding Jesus's antecedents:⁶³

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[Jews] publicly insult Christians by saying that they [Christians] believe in a peasant (rusticum) who had been hung by the Jewish people. Indeed, we do not doubt that He was hung for us, since He carried our sins in his body on the cross, but we do not admit that ♫ He was a peasant either in manners or in race. Forsooth, they themselves cannot deny that physically He was descended from priestly and royal stock, and that His manners were distinguished and proper. . . . Wherefore, lest through them the name of God be blasphemed, and Christian liberty (libertas) become less than Jewish [slavery/servitus], we warn . . . that you restrain the Jews from their presumptions. (Grayzel 1966, 106–9)

The letter energetically argues that scripture vouches for Jesus' elevated origins, denies that he derives from inferior, peasant stock, and adds that his manners were noble and honorable (mores ejus praeclari fuerunt, et honesti). Since Christians believe Jesus to be both the son of God and God incarnate, it would seem unnecessary to insist on the nobility of his human lineage. That the pope felt obligated to respond to such a charge betrays no little anxiety about the need to preserve the pre-eminence of Christians over Jews. In reverting to the admonition to ensure the proper ordering of Christian freedom over Jewish slavery, the pope demonstrates his compulsion to battle this threat at all levels.⁶⁴

Innocent powerfully synthesizes these tropes and references in a subsequent letter to articulate a concept of *perpetual* servitude as punishment visited upon the Jews. However, since this idea predates the pope's deployment of it, a consideration of the history of its prior contexts is necessary to clarify the ramifications of its important thirteenth-century appropriation. The *Conferences* of John Cassian (c. 360–c. 435) contain an early appearance of the term “perpetual servitude” ascribed to a certain author.⁶⁵ Expounding on Romans 7:14, “we know that the law is spiritual, but I am carnal, sold under sin,” Cassian explains that original sin effected the sale of humankind into servitude:

Do I ask what and whose sin this is? It is certainly Adam's, by whose transgression . . . we were sold; . . . he delivered all his offspring, now led astray, to the yoke of perpetual slavery (jugo perpetuae servitutis addixit). . . . Abandoning his natural freedom, he chose to surrender himself in perpetual slavery to him from whom he had obtained the deadly price of the forbidden fruit. Constrained from then on by this condition, he . . . subjected the whole line of his posterity to the

same perpetual servitude in which he had become enslaved. For what else can a marriage between slaves beget than slaves? (Cassian, *Conferences* 23.12.1–2, 802)⁶⁶

p. 42 Although Adam was born in a state of freedom, in taking the fruit from the serpent he sold himself and his progeny, putting them under the yoke of perpetual slavery. Having become slaves themselves, Adam and Eve can only give birth to slaves; thus their servitude and that of their children extends perpetually. However, this perpetuity has a conclusion in the salvation offered to believers through Jesus' sacrifice: "For it was right that his offspring should remain under the ancient conditions . . . until by the price of His own blood the grace of the Lord redeemed them from their original chains and set them free in the primeval state of liberty" (802). Jesus redeems Adam's offspring from slavery through the payment of his blood and returns them to their original freedom. This is the spiritual liberty enjoyed by faithful Christians.

The concept of perpetual servitude also appears in exegesis on Noah and his cursing of Ham's offspring. St. Maximus, Bishop of Turin (c. 380–465) offers an early example of the term in his sermon interpreting Noah as a figure for Jesus: "Likewise, Noah, a farmer, signified Christ when he planted his vine; and fell asleep drunk with wine, lay uncovered in his tent; and awaking from sleep, imposing a curse of perpetual servitude upon his son for not concealing [Noah's] shame" (*Patrologia Latina Online* vol. 57 col. 596A–B, my translation).⁶⁷ In his interpretation of these events in Genesis, Maximus neither names nor explains the figural significance of the son upon whom perpetual servitude is imposed. Procopius of Gaza, a sixth-century exegete, explicitly connects the Jews with Ham to explain their hereditary slavery in his *Commentary on Genesis*.⁶⁸

Noah was naked in his own house: so Christ was crucified by the Jews. Ham is the type of the Jewish people, who mocked Christ hanging from the cross; . . . In truth Christ assigned the Jews to perpetual servitude. (*Commentarii in Genesin, Patrologiæ Græcæ* vol. 87a IX col. 306–7, my translation)⁶⁹

p. 43 He identifies the Jews as crucifying and mocking Jesus, who as a consequence, imposed a sentence of eternal slavery upon them. Procopius also considers this penalty in the historical context of the Persian/Babylonian and Roman subjugations of the Jews. Haymo, Bishop of Halberstat (d. 853), also uses the term in his exposition of Hosea 1:6–7, in which a child named "Without Mercy" anticipates God's employment of the Romans to punish the Jews for the crucifixion: "at the coming of God . . . they called down the blood of the seed of God: 'His blood be upon us and upon our children.' And since they acted *without mercy*, they were delivered to the Romans, and damned to their perpetual servitude and delivered to oblivion" (*Enarratio in Duodecim Prophetas Minores, In Osee Prophetam. Patrologia Latina*, vol. 117 1, col. 14D, my translation and emphasis). Incorporating the proof-text of Jewish guilt from Matthew, Haymo suggests that the prophecy of Hosea, rightly understood, is fulfilled by the Roman conquest resulting in the Jews' damnation to permanent slavery.

The Jews' subjection to perpetual slavery in rejecting salvation and incurring guilt for the crucifixion moves from patristic and medieval biblical commentary into the discourse of canon law with Innocent's inclusion of the phrase in his influential decretal, *Etsi Judeos* (1205).⁷⁰ The letter admonishing French prelates responds to reports that Jews force Christian nursemaids to expel their breast milk into latrines if the latter have recently taken the Eucharist. This constitutes not only an insult to the Christian faith, but a violation of the law prohibiting Jews from employing Christian domestic servants. Condemning practices that allow Jews to dominate the Christians, Innocent argues that the perpetual servitude of the former requires their subordination to the latter.

While Christian piety accepts the Jews who, by their own guilt, are consigned to *perpetual servitude* (quos propria culpa submisit perpetue servituti) because they crucified the Lord, . . . We, therefore, asked . . . the . . . King of France, . . . Duke of Burgundy, and the Countess of Troyes, so to restrain

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the excesses of the Jews that they shall not dare raise their neck, bowed under *the yoke of perpetual slavery* (perpetue servitutis jugo submissam) against the reverence of the Christian Faith; more rigidly forbid them to have any nurses nor other kinds of Christian servants in the future, lest the children of a free woman should be slaves to the children of a slave; (ne filii libere filiis famulentur ancille) but, that rather as slaves rejected by God, in whose death they wickedly conspired, they shall, by the effect of this very action, recognize themselves as the slaves of those whom Christ's death set free at the same time that it enslaved them. . . . henceforth the perfidious Jews should not in any other way dare grow insolent, [but under servile fear, they should always show the shame of their guilt and venerate the honor of the Christian faith / sed sub timore servili pretendant semper verecundiam culpe sue, ac revereantur ↳ honorem fidei Christian{a}e:] (Grayzel 1966, 115–17, my transl in []; emphasis mine)

The Latin version of the text opens with the condemnation of the Jews to eternal slavery as a result of their own crimes; in spite of their sin Christian piety tolerates them, but only insofar as they remain subordinate. Because of the Jews' more recent transgressions, which in effect flout this divinely imposed subjugated status, Christian rulers must force them into permanent submission. The yoke of servitude, expressing the universal condition of original sin in John Cassian's discussion, appears here to figure a specifically Jewish penalty. Although God has ordained the Jews' subordination, disobedient Christians permit them to inhabit a higher position. Innocent brings in Galatians to protest the sacrilegious inversion of free persons serving as slaves to slaves and uses the proof-text to exhort the Jews to recognize themselves as slaves rejected by God. He emphasizes the impious paradox of Jews refusing their inferiority, explaining that in killing Jesus, the Jews enslaved themselves at the moment his sacrifice freed the faithful from the servitude of original sin. Although addressing a Christian audience, Innocent aspires to a transformation from the sinful reality into a divinely ruled future in which guilt, shame and servile fear will inculcate in Jews a realization of their enslavement to Christians.

Once introduced by Innocent's decretal to explain and reinforce the observance of ecclesiastical law, the concept of perpetual servitude appears in other papal letters. Honorius III seemingly offers papal protection in a 1220 letter written to Isaac Benveniste, the Jewish physician to the King of Aragon. However, even while the pope expresses hope that Christian piety and care might prompt the nonbeliever's conversion, Honorius mentions the punitive debasement of the Jews:

The Apostolic Throne, the pious Mother, in her love of piety at times extends the breasts of charity . . . to the strangers whom . . . she tries to bring forth into the Faith, so that . . . they might be adopted as her children. . . . Therefore, although the perfidy of the Jews, condemned as it is to perpetual slavery because of the cry by which they wickedly called down the blood of Christ upon themselves and their children, has rendered itself unworthy of being replenished by the breasts of her consolation; nevertheless, since . . . you beg for our protection and help, we . . . grant to you the shield of our protection. (Grayzel 1966, 153–55)

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This offer, ostensibly of benevolent care, comes at the price of humiliating abjection.⁷¹ While mentioning conversion, it does not focus on the potential freedom this change might confer, but rather paradoxically, on the intractable nature of Jewish guilt and enslavement, secured with the reference to Matthew. The theme of Christian mercy and tolerance in the face of Jewish ingratitude and contempt similarly animates Gregory IX's April 1233 complaint to German prelates that Jews are holding public office, forcibly circumcising their Christian slaves and committing other transgressions of canon law. Gregory mentions the yoke of perpetual slavery twice in this text and echoes the language of Innocent's previous letters, emphasizing the concern that unfree Jews are dominating free Christians.⁷² He includes virtually identical phrases in a letter written a month later (May 1233) to the Archbishop of Compostella, in which he condemns Jewish insolence and their flouting of numerous canons by holding public office, employing

Christian servants, practicing usury and failing to wear clothing that would distinguish them from Christians. The opening sentence repeats verbatim Innocent's phrase in the first line of *Etsi Iudaeos*: "quos propria culpa submisit perpetue servituti," and the passage rehearses earlier points that the Jews should acknowledge their sin and submit themselves to the yoke of servitude; as in the previous letter, Gregory iterates the phrase "perpetual slavery" (Grayzel 1966, 205–7).⁷³

However, the influence of *Etsi Iudaeos* extends well beyond its quotation in other individual papal letters, insofar as it was selected for inclusion into the body of canon law and thus serves as precedent for subsequent legal commentaries and decisions. Innocent promulgates the first official collection of decretals in his *Compilatio tertia* (1209) (Brundage 1995, 195; Pakter 136); the inclusion of *Etsi Iudaeos* in this compilation ensures its wide dissemination.⁷⁴ Gregory IX's definitive decretal collection, the *Decretales* or *Liber Extra* (1234), also retains it, where it became part of established canon law, the *Corpus iuris canonici*. This collection also serves as the text book for the study of canon law and becomes the basis for consequent commentary (Czerwinski 26–7).⁷⁵

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Thus *Etsi* imported into canon law a concept that heretofore largely addressed the spiritual status of Jews in relation to Christians. In so doing, the idea of Jewish inferiority, understood as permanent and hereditary, took on a legal reality that enabled its enforcement. One important consequence of *Etsi* was the application of this hierarchy to a variety of Christian–Jewish relations; for example, the rationale of Jewish inferiority enabled canon law to extend the prohibition of Jews employing free Christians as domestic servants to include all Christian servants.⁷⁶ In addressing this question, Innocent contributes to an already very large body of law on the question of Jews owning or employing Christians.⁷⁷ Pakter notes the odd incongruity that the bulk of medieval law on Jews concerned their owning slaves in spite of the fact that this did not reflect actual practice. "The interest in these texts for canonists was that the prospect of servitude to Jews played on the fears and pride of Christians. As a result, canonical concern in this area was all out of proportion to historical realities" (84).⁷⁸

While a number of thirteenth-century canonists disapprove of Jews exercising authority over Christians through employment, *Etsi* provides a new rationale for prohibiting this practice: "The doctrine of Jewish servility [served] as grounds to bar Jews from hiring Christians. . . . Innocent aggressively propounded the idea that Jews were not only theologically, but socially inferior. . . . He objected to serving Jews on the basis of their social status" (Pakter 134–5).⁷⁹ Innocent translates a theological idea into a legal principle that would enable the enforcement of Jewish subordination and bring social reality in line with their inherent status. The excessive canonical preoccupation with Jews owning Christian slaves reflects the extent of this theological concern.

Once introduced into ecclesiastical law through the inclusion of *Etsi* into the canon, Jewish enslavement enters into the discussion of legal commentators; one area in which this occurs is the question of owning Jewish slaves. In a discussion on the laws prohibiting Jews from holding Christian slaves (c. 1215), Johannes Teutonicus raises the question of whether Christians could acquire Jewish slaves: "However, can it be that a Christian is able to buy a Jewish slave? Yes, provided that (the master) does not live with that (slave)" (Czerwinski 124, my translation).⁸⁰ When addressing this question raised by Johannes, Raymond of Peñafort brings both *Dispar nimirum* and *Etsi Iudaeos* into the discussion in his *Summa de casibus* (c. 1225):⁸¹

Regarding a Christian, can it be that he may buy or have a Jewish or pagan slave? Certainly, [cites *Dispar* and *Etsi Iudaeos*] where it is said that Jews are slaves of the Christians. He therefore ought not to live with that [Jewish slave] so that he might have intimacy with him. If however, that [Jewish slave] would wish to become a Christian, he is permitted; nor ought the master to prohibit, nor can he: for the call of the Holy Spirit unbinds all chains. (Czerwinski 126 n. 68, my translation).⁸²

p. 47 Whereas Johannes simply permits the ownership of Jews as slaves, Raymond offers legal justification for this arrangement; he uses both *Dispar* and *Etsi* to prove that Jews are already slaves of Christians, and can therefore be legally purchased by the latter.⁸³ They can be enslaved not by the rules of property law, but by virtue of the divine punishment inflicted upon them for the death of Jesus. Therefore, conversion, not the legal process of manumission, dissolves this sentence of servitude.⁸⁴ Geoffrey of Trani (d. 1245), in his *Summa super titulis decretalium*, a treatise on the Gregory IX's *Decretals*, similarly analyzes the question of owning Jewish slaves:

Is it possible that a Christian could buy a pagan or Jewish slave? I respond yes, [cites *Etsi iudaeos* and *Dispar*] but he may not keep the Jew with him in his household. . . . But if he [the Jewish slave] would wish to make himself a Christian, he [the owner] neither can nor should prohibit [this]. Because where there is the spirit, there is liberty. (Czerwinski 128 n. 70, my translation)⁸⁵

Geoffrey's question initially applies to Jews and pagans, probably referencing Muslims (Pakter 114; Kedar 209–10; Czerwinski 37; Freidenreich 2011, 43; Tolan 2002, 105–34). However, he focuses on the case of the Jewish slave in his response; while the commentator does not specify that the slave is a Jew in the case of conversion, the inference is clear, since the law permits Christians to own as slaves pagan converts to Christianity. Both Raymond and Geoffrey were eminent and influential thirteenth-century canonists with close ties to the papacy. Both demonstrate, if only hypothetically, an interpretation of *Etsi* that seems to reduce Jews to the status of chattel slaves and equate Judaism with slavery. However, their opinions also reveal the tension between *Etsi* and established law: if Jews are already slaves, why would Christians need to purchase them? If a Jew's conversion to Christianity would free him or her from slavery, why would this principle not apply to all Christian slaves? These examples demonstrate the construction of an exceptional Jewish status: Jews are not actually chattel slaves, but are in some way predisposed to enslavement. This status renders them always already inferior to, and therefore capable of, domination by Christians.

p. 48 Another area in which *Etsi* contributes to the formulation of Jewish hereditary inferiority arises in canon law discussions on the question of the forced baptism of Jewish children. A brief consideration of the history of the Church's position on converting Jews will clarify subsequent developments in the debate regarding their children. Gregory I originally establishes the general protection of Jews from forced conversion in a 591 letter to the Bishop of Massilia (Marseille). Having heard from Jewish travelers that their coreligionists in the area were "led to the baptismal font by force rather than through preaching," the pope forbids the practice (Linder 419). He iterates this point even more strongly in his decretal *Qui Sincera* (602), addressed to the Bishop of Naples. Christians who use suasion to attempt to convert aliens, including Jews, act for the sake of God; those who employ "harshness (asperitibus)" thwart God's will and might instead drive them away.⁸⁶ However, the Visigoth rulers of the late sixth century, by means of secular legislation, ordered the state-wide conversion of the Jews; this resulted in many involuntary conversions. In the context of responding to those Jews who unwillingly converted and then apostatized, the Fourth Council of Toledo (633) promulgated a number of decrees, including canons 59 and 61 that clearly refer to Jewish converts to Christianity who subsequently reverted.⁸⁷ The intermediate canon, number 60, states that the children of Jews should be separated from their parents in order to be raised by devout Christians. No mention is made of needing to convert the children, which implies that the children had already been converted in the general order; this canon has been understood as referring to baptized parents who revert to Judaism as is the case in the previous and following canons (Linder 487–89; Pakter 315). Subsequently, ninth-century French advocates for the forced conversion of Jewish children cite Toledo IV's canon 60 out of context in formulating the similar law, Canon 73, in the Council of Meaux-Paris (845–46); they interpret the plain meaning of the seventh-century law as referring to Jewish parents, not lapsed converts from Judaism. Ultimately, the king refused to ratify Canon 73 and later canonists specify that the Toledan Canon 60 refers to already baptized children of lapsed Jewish converts, therefore nullifying its ability to serve as a precedent for forced conversion of Jewish children (Pakter 316).

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A new legal precedent enters this debate in the mid-thirteenth century, when arguments cite the enslavement of the Jews in support of involuntary baptism, arguing that this status renders Jewish parents powerless over their children. In a commentary on Raymond of Peñafort's *Summa de Casibus* (c. early 1240s), William of Rennes writes in favor of seizing and baptizing Jewish children against the will of their parents in (Goering 419–22).⁸⁸ As a theologian learned in canon law, William brings in both legal and biblical proofs of Jewish servitude to support his case. His discussion begins with a quotation of the term *asperitatibus* [with harshness] that Gregory rejects in his decretal *Qui Sincera*:

“With harshness”: But is it possible that [secular rulers] can carry off [the Jews'] children to be baptized? . . . But if truly the Jews are slaves to the masters, as I believe—[offers as citations] *Etsi Iudaeos . . .* and *Dispar*, and Genesis 9 “Cursed be Canaan, slave of slaves he will be to his brothers”—I believe that Princes, of whom the Jews are slaves, are able to carry off their little children without any injury; since they, just as slaves, do not have power over their children. And just as these Princes are able, against the parents' wishes, to give to others or to sell into servitude the same little children, like his own slaves, so they [the Princes] can offer them [the Jews' children] to baptism; and in this they would be right; provided that, nevertheless, they do it not on account of compelling the parents to the faith by this means but on account of saving the children through the sacrament of the faith. (qtd. in Pakter, 322 n. 295, my translation)⁸⁹

Like his fellow Dominican, Raymond of Peñafort, William cites the canonical precedents of *Etsi* and *Dispar* as proving Jewish servitude; in further support of this idea, he introduces the figure of Noah's curse upon Ham's son Canaan.⁹⁰ These texts substantiate the argument that Jews are slaves to Christian secular rulers, who have power over the bodies and offspring of the former.

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William's argument conferring dominion over Jews to secular rulers enjoyed a wide reception not only in its inclusion in the manuscripts of Raymond's influential *Summa*, but also in its repetition, sometimes verbatim, in subsequent texts. Vincent de Beauvais (d. 1264), another Dominican theologian, incorporated a virtually identical redaction of this view in the widely circulated *Speculum doctrinale* (Pakter 323–24 n. 297). However, William's opinion profoundly influenced legal debate in the commentaries of a number of canon lawyers who reproduced his references to *Etsi* and *Dispar*. Guido de Basio (d. 1313), Archdeacon of Bologna as well as archchancellor and professor of law at the renowned University of Bologna, iterated William's argument in his widely circulated *Rosarium*, a commentary on Gratian's *Decretum* (Brundage 1995, 212–13, Pakter 327). Like William, Guido begins with a reference to the prohibition of using “harshness” included in *Qui Sincera*, in addition to citing *Etsi* and *Dispar* (Pakter 327 n. 306). Johannes Andreae (c. 1270–1348), Professor of Decretals and the canon law faculty chair in the *Decretum* at the University of Bologna, authors, among other influential works, a commentary on the *Decretals* titled the *Novella*. He cites Guido de Baysio without arguing against him and includes the references to *Etsi* and *Dispar* (Brundage 1995, 58–59, 216–17; Pakter 328). Francesco Zabarella (1360–1417), in his *In Clementinarum volumen commentaria*, considers the question in terms of both Jews and Muslims; he cites *Dispar* and Guido de Baysio, arguing similarly: “And thus these same infidels do not have power over their children, because they are slaves, and so against their will, the princes are able to carry away and sell their children. Therefore even more so in this do they deserve to be baptized.”⁹¹ John of Imola (d. 1436), in his *Super Clementinis . . . co[m]mentaria*, follows Zabarella, and quotes both *Dispar* and *Etsi* (128 r). These arguments in favor of forced conversion continue to circulate into the sixteenth century, through a treatise authored by Ulrich Zasius, a student of canon law before becoming chair of civil law at the University of Freiburg (Rowan 4). In his *De Iudaeis Quaestiones tres* (1508), Zasius draws on arguments from de Baysio, Andreae, and Imola to argue in favor of baptizing Jewish children; he affirms that Jews are slaves (Rowan 14).⁹² Some of the most eminent teachers and authors of influential canon law commentaries rely on the status of *servitus Iudaeorum* to support their arguments that princes have the power to convert Jewish children against the will of their parents. *Etsi* provides a legal basis for the

degradation of the Jews to a status of inherent inferiority in regard to the state whereby, like slaves, they could not even claim dominion over their own children.

Opposing voices counter the notion that the divine consignment of Jews to perpetual servitude renders them actual slaves to secular rulers. The practical implications of this view do not receive official support: Innocent IV clearly opposes it, as demonstrated in a letter sent to the King of Navarre in 1246 commanding him to “do all in your power to prevent any violence from being committed against [the Jews] in the matter of baptizing their children, for this should be a voluntary offering, not a forced one” (Grayzel 1966, 261; Pakter 322). Furthermore, the pope instructs the king “to defend the free [Jews] and theirs [i.e., their children] with their property (*ipsos eorumque liberos cum bonis suis . . . defensos*)” and to prevent the forced baptism of Jewish children (Grayzel 1966, 260–61, my translation). By identifying the Jews as free, he rejects the assumption that the ruler’s power might nullify their rights over their own children and their property.⁹³ He makes a more forceful statement of Jewish freedom under law in a 1247 letter to the Archbishop of Vienne, again complaining, among other things, of the involuntary baptism of Jewish children: “their free children, born from a free mother in freedom, they forced to be baptized against their wills and against custom” (Grayzel 1966, 262–63, my translation). The use of three forms of the term *liber* shows deliberate emphasis of the free status of the Jews.⁹⁴ Additionally, a number of canon lawyers follow this view in discussions of the involuntary conversion of Jewish children. For example, Hostiensis (1190–1200–1271), the cardinal-bishop of Ostia and one of the most eminent canonists of the period, completely ignores the concept of Jewish servitude in considering the question of converting Jewish children in his *Decretalium commentaria*. He omits references to *Etsi* and *Dispar*, and argues instead on the basis of Roman law that Jews, as citizens whose marriages are legitimate, have power over their children (Brundage 1995, 214; Pakter 325–26).⁹⁵ Panormitanus (1386–1446), in his *Commentaria super decretalium libris*, summarizes (without reference to *Dispar* or *Etsi*) the arguments of Guido de Baysio and William of Rennes only to contradict them: “I doubt this [theory of servitude] greatly, because strictly and properly speaking [Jews] are not our slaves, indeed coerced servitude cannot be exacted from them” (qtd. in Pakter, 328–29). Johannes of Agnani (1376–1457) offers a wide-ranging exploration of the question in his *Super quinto decretalium*, quoting both canonists and theologians. He cites Panormitanus and offers a concurring view: “Nor is it true that Jews are slaves in such a way as they could be sold; but whatever there is of law <or> custom, it is not preserved that they can be held like slaves” (Pakter 329, my revision of his translation).

Although canonists from the thirteenth century onward agree that Jews occupy a position of inferiority relative to Christians, they do not regard Jews as chattel slaves in the eyes of the law:

For lawyers, the implications of such a theory were too manifold, including questions of Jewish “slaves” right to acquire, transfer and manumit property and the master’s responsibility for his “slaves” [*sic*] contracts and torts. Few jurists were reckless enough to completely rewrite medieval Jewry law on this basis. (Pakter 323)

Pakter argues that theologians, not canonists, promoted and circulated this concept (323–30). However, this distinction does not hold, since the thirteenth-century debate on the baptism of Jewish children begins with a theologian, William of Rennes, commenting on a legal text and using law, in addition to scripture, to support his claims. In addition, the legal formulation of *servitus Judaeorum*, articulated so powerfully in *Etsi*, appears in the theological writings of Thomas Aquinas. His 1270 consideration of the question “Whether the children of Jews and other unbelievers ought to be baptized against their parents’ will?” affirms the servitude of the Jews; he iterates this opinion in his *Summa Theologiae*.⁹⁶

Besides, the children of slaves are themselves slaves and in the power of their masters. Now the Jews are slaves of kings and princes, who therefore have the power of doing what they will with

Jewish children. Consequently no injustice would be done in having them baptized even though the parents were unwilling. (II.2.10.12.3, 75)

In line with the preceding views of theologians and canonists, Thomas understands the Jews as slaves to secular rulers: “Jews are the slaves of princes by civil bondage [*servitude*]” (II.2.10.12, reply to objection 3, 79). However, he also argues earlier in the *Summa* that the Church has dominion over the Jews, who are classed among “infidels who are [subjected to/ *subiiciuntur*] the temporal [subjection/subiectione] of the Church and her members. . . . Since such Jews are themselves [slaves/*servi*] of the Church, she can dispose of their possessions” (II.2.10.10, reply to objection 1, 71; emended translation). Somewhat counterintuitively, secular rulers, theoretically, can effect the baptism of Jewish children while the Church can dispose of the Jews’ possessions. Nevertheless, Aquinas concludes that in spite of the Jews’ servitude, rulers cannot force the conversion of their children because it has never been the custom of the Church to do so.⁹⁷ Aquinas also considers Jewish servitude in his *De regimine Iudaeorum* (1270–1271), a letter written to the Duchess of Brabant opining on the legality of exacting taxes from the Jews. He explains that “as the laws say, the Jews, deservedly (*merito*) by their sin, have been and are enslaved to perpetual slavery, and so the rulers of the land may take their [the Jews’] things as their [the rulers’] own.”⁹⁸ In responding to a legal question Aquinas cites law, not scripture, in support of the servile status of the Jews with regard to secular rulers. Although he does not give an explicit citation, his diction generally follows the opening sentence of *Etsi Iudaeos*: “*Iudaei merito culpa suae sint vel essent perpetuae servituti addicti*”/“*Etsi Iudeos quos propria culpa submisit perpetue servituti*.”⁹⁹ Instead of bringing in scriptural evidence to support the notion of *servitus Iudaeorum*, the leading theologian of the medieval period cites law to show the Jews’ subjection to secular rulers.¹⁰⁰

While canonists ultimately rely on other legal principles to reject the involuntary baptism of Jewish children, they do not definitively reject the status of *servitus Iudaeorum*. Pakter errs in evaluating the concept literally when determining its efficacy in ecclesiastical law. The canonists never argue for exploiting the full consequences of enslaving the Jews; rather, they explore its figural implications: How and when can the Jews’ inherent inferiority be enforced in law so that they acknowledge their sin and convert to Christianity? The legal element of *Etsi* serves as a means for implementing theological and social objectives, as Pakter himself states:

Inequality was no longer just a theological condition, it was a goal. Jews . . . were to feel their isolation and humiliation. . . . They were social outcasts to be scorned. . . . In the thirteenth century . . . the papacy [was] no longer content to declare Jewish inferiority; they did everything possible to give this idea practical effect. (Pakter 136, 140)¹⁰¹

The decretal invokes divine and papal authority to create a new social order, one which attempts to fulfill the theological truth of an inherently inferior and permanent Jewish status. Pakter notes canon law’s “universal acceptance of the concept of Jewish servitude”; he offers as evidence not only Gregory IX’s vigorous pursuit of Innocent’s attacks on Jewish status, but the reception of this concept as a commonplace by Hostiensis. While the influential canonist ignores the implications of the *servitus Iudaeorum* in his opinion on involuntary baptism, elsewhere in his commentary on canon law, he cites both *Etsi Iudaeos* and *Dispar nimirum* to support his claim that “although Jews are truly enemies to our faith, they are nevertheless our slaves, and are tolerated and defended by us” (qtd. in Pakter, 137 n. 186, my translation). Christian toleration is predicated upon all Jews inhabiting a position of relative subordination. Although writing as a canon lawyer, Hostiensis describes the Jews as a people already in a state of perpetual subjection.

The positioning of Jews under the jurisdiction of Church and State in a status inferior to that of Christians is accomplished by the fifteenth century in Western Europe. Simonsohn notes the gradual disappearance of the term Jewish perpetual servitude from the language of papal documents:

By the end of the thirteenth century, the popes ceased to refer to Jewish servitude. None of the most repressive Bulls of later popes, such as *Etsi doctoris gentium* of Benedict XIII and *Super gregem Dominicum* and *Ad reprimendos* of Popes Eugenius IV, Nicholas V and Calixtus III, respectively, contained the phrase. It is difficult to determine why the popes stopped using the term, since the secular authorities continued to do so. (101)

He concludes that “the term Jewish servitude . . . had become so self-evident that by the end of the Middle Ages it needed no further repetition” (101–2). Strictly speaking, this is not true. Pope Paul IV’s 1555 bull *Cum nimis*, which establishes the Jewish ghetto in papal lands, opens with the rationale of Jewish servitude.

It is absurd and improper that Jews—whose own guilt has consigned them to perpetual servitude—under the pretext that Christian piety receives them and tolerates their presence, should be ingrates to Christians, so that they attempt to exchange the servitude they owe to Christians for dominion over them; [lists examples of Jewish actions in contempt of Christianity: e.g., they live close Christians, flout requirements to dress distinctively, employ Christian servants]. . . . Considering that the Roman Church tolerates the Jews in testimony of the true Christian faith and to the end that they, led by the piety and kindness of the Apostolic See, should at length recognize their errors, . . . they should recognize through experience that they have been made slaves while Christians have been made free through Jesus Christ . . . and that it is iniquitous that the children of the free woman should serve the children of the [slave-woman]. (Stow 294–95)

Paul IV’s text follows the language and the ideas expressed by Innocent III in *Etsi* 350 years earlier,¹⁰² from the ascription of perpetual servitude to the citation of Galatians. However, this is the exception that proves the rule. The Papal States are one of the few places in early modern Western Europe where Jews are permitted to live, thus the continued need to enforce Jewish inferiority here. Elsewhere, the successful implementation of figural servitude with regard to Jewish status obviated the use of the term. Expulsion, forced conversion and internal exile in ghettos all demonstrate the extent to which their inferiority eroded the Jews’ status as citizens (Pakter 330).¹⁰³

Constructing Racial Hereditary Inferiority

Even if the *servitus Iudaeorum* does not consign Jews to chattel slavery, figural slavery—like Aristotle’s natural slave—nevertheless renders all Jews, as long as they remain Jews, permanently and innately subordinated. It could also be argued that Jews are only relatively, not absolutely inferior, insofar as they are subjected to Christians; however, in a dominant Christian society, this status relegates Jews to a permanent status of inferiority, particularly given Christianity’s universal goals. Additionally, as early as the twelfth century, the idea circulated that as a result of the crucifixion, Jews were slaves to all peoples, not just Christians.¹⁰⁴ Taken together, the congenital and hence persisting quality of Jewish identity paired with its subordinate status, produce an ontological condition of hereditary inferiority. Although the law enables the enforcement of the *servitus Iudaeorum*, the papal formulation does not so much articulate a legal status as describe the already servile condition of the Jews, confirmed by divine authority.

However, divine warrant and legal force supply only part of the power of hereditary inferiority. The figural representation of this condition intensifies its influence and significance, as Auerbach explains in his analysis of the importance of the figural method:

Figural interpretation, or to put it more completely, the figural view of history was widespread and deeply influential up to the Middle Ages, and beyond. . . . [A] systematic treatment of the subject . . . strikes me as indispensable for an understanding of the mixture of spirituality and sense of reality

which characterizes the European Middle Ages. . . . [The figural method] provides the medieval interpretation of history with its general foundation and often enters into the medieval view of everyday reality. (60–61)

p. 56

For medieval Christians, figures not only communicate eternal, divine truth and have real historical consequences, but they also powerfully encompass and shape the social understanding of lived experience. Additionally, as demonstrated earlier, contained in the origin and structure of the biblical figure, and informing its hermeneutics, is the doctrine of supersession, the doctrine which effectually subordinates Jewish Scripture, law, interpretations, and people to their Christian counterparts. The centrality of fulfillment—that is, the realization of the figure—indicates the aspirational aspect of this interpretive practice; while contemporary events can be interpreted as fulfilling biblical types, the former can also function as figures in need of future consummation. If the total subordination of Jews has not yet taken place, this is the result of sin and in no way prevents the ultimate accomplishment of this element of divine will. This sacred truth nevertheless requires the effort of the church and its members to implement not only through the attempt to internalize a sense within Jews of their own inferiority, but in the production of a shared Christian idea of Jewish existence. Theology, figural method, and law combine here to produce an episteme, an authoritative organizing knowledge structure.

The articulation in law of the figural representation of the *servitus Judaeorum* constitutes a racist construction of Jewish identity. It provides a clear etiology of Jewish inferiority. It ascribes this condition to all Jews as a group. It presents this status as inherent and hereditary. It applies across gender and class difference. It is formulated in the most profoundly authoritative set of medieval discourses. It produces a range of organized discriminatory procedures. While the legal development of Jewish hereditary inferiority does not carry a somatic marker, the influence of figural slavery shapes accounts of Jewish physical distinctiveness in thirteenth and fourteenth century treatises on geography, medicine, and natural philosophy. As I demonstrate in chapters 2 and 3, this strategy, in its attempts to materialize Jewish inferiority and make that inferiority visible, can be understood as the logical consequence of legal maneuvers to subordinate Jews. Finally, as I argue in chapter 5, the application of figural slavery to Muslims and inhabitants of Africa demonstrates its capacity for promiscuous reappropriation.

Notes

1. The term *servitus Judaeorum* variously denotes Jews as slaves, servants or serfs (Kisch 428, n. 48). Scholars addressing this question concur for the most part that it emerges initially in theological contexts. A representation of slavery as punishment for the Jews' sins first appears in the Hebrew Bible in the books relating the destruction of the First Temple, such as Jeremiah: 2:14–17 as well as in subsequent rabbinic texts (Baron 1952, 9 136). For a fuller consideration of metaphors of Jews as slaves in biblical, rabbinic and Jewish political texts, see Herzser (449–52).
2. Interestingly, the status of Jews as citizens in civil law persisted through to the early modern period, where it existed in uneasy tension with canon law attempts to enforce Jewish subordination to Christians. See Stow (1977) for a discussion of the status of the Jew in canon and civil law in early modern Catholic thought. Simonsohn provides an excellent discussion of the canon law development of Jewish inferiority in his multivolume compendium of medieval and early modern papal texts on the Jews (7, 94–156). For studies of Jews in medieval canon law, see also Brundage (1988), Czerwinski, Freidenreich (2014), Gilchrist, Grayzel, Linder, Pakter, Simonsohn, and Watt (1991, 1992). No one analyzes in depth the role that biblical figures play in the transmission of this theological idea into canon law or its development into a concept of hereditary inferiority.
3. Pope Alexander III called for and presided over this Council. Additionally, canon 26 prohibits Jews from employing domestic Christian slaves or servants in their homes, and requires that Jewish converts to Christianity be able to retain their property, because “converts ought to be in better circumstances [*melioris conditionis*]” as Christians than they had been as Jews (Grayzel 1966, 296–97 #1). We see the idea of preventing Jewish superiority to Christians influencing all parts of this canon.

The concept of *melior conditio*, a better position, is “a phrase used throughout the canons to indicate the relative status of Jews and Christians” (Grayzel 1989, 278 n. 1). See also canon 10 of the 1195 Council of Montpellier, which similarly orders that new Christians be allowed to keep their property “since it is right for converts to the faith to be in better circumstances [melioris conditionis] than they had been before” (Grayzel 1966, 299, slightly amended). Stow provides a list of ecclesiastical laws ordering that converts be ensured a better status (1977, 387–89).

4. And yet the concept did have material consequences for Jews living in medieval Europe:

The special status was a mixture of protection and dependency, of discrimination in favour of and against the Jews. What is clear, however, is that it paved the way for the almost total elimination of the Jews from Christian society. Theological formulas, although not legal in character, had a substantial influence on the emergence of this special Jewish status. (Simonsohn, 7, 99)

5. Mary Nyquist uses the term “figurative slavery,” as distinguished from literal chattel slavery, to denote a type of political slavery.

Greek, and later Roman, antityranny ideology represents the tyrant’s subjects as figuratively enslaved—enslavement that seeks to dishonor and disenfranchise citizens who are meant to be “free.” Such figurative, political slavery can be either internally or externally imposed and has numerous significations. . . . Figurative slavery—ethical, psychological, or spiritual as well as political—appears in countless cultural and historical contexts. (1, 4)

6. Furthermore, the ecclesiastical legal system was much better organized and more effective than the secular law systems (Pakter, 31).
7. Auerbach’s influential analysis of *figura* emerged in the mid-twentieth century, a period which saw a renewed interest in typology. Some other important contemporary works include Daniélou’s *Sacramentum futuri; études sur les origines de la typologie biblique*, Lubac’s *Exégèse médiévale* and Lampe and Woollcombe’s *Essays on Typology*. I rely primarily on Auerbach’s formulation of *figura* because his thinking has proved central for subsequent scholarship, not only as evidenced in Lerer’s edited volume, but particularly in recent studies that reconsider figures and the place of the Jew in Christian exegesis: Robbins (1991, 1999); Lupton; Freinkel; Biddick; Lampert (2004b); and Librett.
8. The relationship of figure to the terms “allegory” and “type” has been the subject of much analysis. While Auerbach “adamantly distinguished typology from allegory” in his book *Mimesis* on the basis that only the former “retains characteristics of concrete historical reality” (see Lupton’s discussion, 20), he posits a looser association between the terms in “Figura”:

Figura is not the only Latin word used for historic prefiguration; often we find the Greek terms *allegoria* and still more frequently *typus*; *allegoria* generally refers to any deeper meaning and not only to phenomenal prophecy, but the boundary is fluid, for *figura* and *figuraliter* often extend beyond figural prophecy. . . . But *allegoria* could not be used synonymously with *figura* in all contexts, for it did not have the same implication of “form” [its sense in early classical Latin use]. . . . As for *typus*, the only reason why it fell behind *figura* is that it was a foreign word. But this consideration was far from negligible, for in anyone who spoke Latin (or later a Romance language), *figura* more or less consciously evoked all the notions involved in its history, while *typus* remained an imported lifeless sign. (47–48).

I follow this “fluid” understanding of the figure and allegory, in seeing the figure as a specific kind of allegory applied to readings of the Hebrew Bible in terms of the New Testament. I use type and figure interchangeably, contra Auerbach’s dictum here, especially as he elsewhere translates the Greek *typoi* as “figures” (49). The etymology of the Greek *typos*, like that of *figura*, carries a sense of form (Lampe and Woollcombe 60–1). Scholars who have sought to distinguish and define figure, type and allegory include Lampe and Woollcombe, Lubac (1947), and Daniélou. More recently Daniel Boyarin subordinates typology to the term “allegory,” which Paul uses in Galatians 4, arguing the latter is the “key to his discourse” (32; see 13–38 for the full account of his reasoning). Lisa Freinkel examines, and ultimately rejects, the debates over the distinctions between allegory and typology (4). Biddick observes that the “anxious insistence on a sharp divide between typology and allegory is, I think, a way of warding off anxiety about the excess of typology” (106, n. 4). She cites Young’s *Biblical Exegesis and the Formation of Christian Culture* as refusing a separation between allegory and typology in its reconsideration of early Christian hermeneutics.

9. While Auerbach traces the development of the term *figura* in pre-Christian Latin sources, he does not consider the tradition of allegory in classical Greek literature, in the Hebrew Bible or in Jewish exegesis, all of which influenced the texts of the early Jesus movement. Woollcombe offers a brief account of what he calls Greek allegorism in early Christian

texts (Lampe and Woollcombe 50–60); see also Lubac (1947) and Smalley's discussion in *The Study of the Bible in the Middle Ages* (1–26). Daniel Boyarin shows the important place of allegory in first-century Hellenistic Judaism in his consideration of the works of Philo and Paul, in contrast to another Jewish interpretive practice, midrash (13–38). Robbins gives a brief overview of midrash and notes important studies (1991, 12–16, especially in the notes to these pages, 147–49, nn. 24–34).

10. Auerbach's characterization of the Pauline figure must be re-evaluated in light of the scholarly revision of Paul, which has situated the apostle as operating within the context of, rather than attacking first-century Jewish beliefs. The scope of my current project prevents me from accounting for the extensive scholarship on Paul that postdates Auerbach's work: some important publications include: W. D. Davies, *Paul and Rabbinic Judaism*; E. P. Sanders, *Paul and Palestinian Judaism*; Daniel Boyarin, *A Radical Jew*; John Gager, *Reinventing Paul* and *Who Made Early Christianity?*; Paula Fredricksen, "How Later Contexts Affect Pauline Content, or: Retrospect is the Mother of Anachronism," in *Jews and Christians in the First and Second Centuries*; and recently Matthew Thiessen, *Paul and the Gentile Problem*.
11. Boyarin argues that while Paul writings are neither antisemitic nor anti-Judaic, they are supersessionist:

This brings us to the question of supersession. Richard Hays denies that Pauline theology is supersessionist (Hays 1989, 98–102). For Paul the Christian community stands in continuity with and not against the historical Israel. There has been, moreover, no rejection of Israel owing to the faults or flaws, as in some other New Testament theologies, nor finally are the Christian believers free of either ethical or moral requirements or unsusceptible to sin (as the Corinthians apparently thought). Hays's reading then defangs Paul of his 'anti-Semitism' without, however, as in the case of some modern liberal apologists for Paul, removing the teeth of Paul's critique. I would argue, however (and here, I think, the different hermeneutical perspectives of a self-identified Jew and a self-identified Christian show up): If there has been no rejection of Israel, there has indeed been a supersession of the historical Israel's hermeneutic of self-understanding as a community constituted by physical genealogy and observances and the covenantal exclusiveness that such a self-understanding entails. . . . What will appear from the Christian perspective as tolerance, namely Paul's willingness—indeed insistence—that within the Christian community all cultural practice is equally to be tolerated, from the rabbinic Jewish perspective is simply an eradication of the entire value system which insists that our cultural practice is our task and calling in the world and must not be abandoned or reduced to a matter of taste. The call to human Oneness, at the same time that it is a stirring call to equality, constitutes a threat as well to Jewish (or any other) difference. While it is not anti-Semitic (or even anti-Judaic) in intent, it nevertheless has had the effect of depriving continued Jewish existence of any reality or significance in the Christian economies of history. (31–2)

12. However, patristic opinion was not univocal; for example, Tertullian (c. 2nd–3rd c. CE):

expressly denied that the literal and historical validity of the Old Testament was diminished by the figural interpretation. He . . . refused to consider the Old Testament as mere allegory; according to him, it had real, literal meaning throughout, and even where there was figural prophecy, the figure had just as much historical reality as what it prophesied. The prophetic figure, he believed, is a concrete historical fact, and it is fulfilled by concrete historical facts. (Auerbach, 30)

13. Robbins anticipates this perspective in her discussion of Paul's citation of Jewish Scripture; though she does not take into account revisionist views of the apostle:

In this interpretive gesture, the Old Testament does not simply prefigure the events of the New. It prefigures the figural relationship itself. The Old Testament prefigures specifically its own supersession by the New Testament. The Old Testament is thus cited as an authority to discredit the Old Testament. (1991, 5)

Freinkel makes a similar argument in her discussion of Paul's use of allegory or figure (11). Like Boyarin, she notes the supersessionary displacement effected by the figure:

Thus the appropriation of Scripture involves a transfer of property—a theft, or a vindication, depending on whose ground one stands; the Hebrew Bible is repossessed as Christian Old Testament. Through figural interpretation the Christian believer quite literally takes the place of the Jew in Scripture, displacing a Jewish meaning and a Jewish reference. (55)

See also Robbins in her analysis of Emmanuel Levinas's ethical critique of the figure in the contemporary poetry of Paul Claudel in which "the Old Testament is said to prefigure, and thus to charge itself with, decide" (1999 49, 39–54 passim).

Biddick devotes an entire book to the “captivating bundle of supersessionary fantasies about temporality [that she terms] the *Christian typological* imaginary” (2). The temporal logic of supersession resulted in the subordination of the Hebrew Bible to Christian meaning:

Christians subsumed the Hebrew Bible into an “Old Testament” and conceived of this Old Testament as a text anterior to their New Testament. “Christian-ness” was thus affirmed by the repetitive cutting off of the old Jewish time from the new Christian time. Even though Christians shared literary genres and rhetorical conventions with pagan and Jewish contemporaries, their notion of supersession came to distinguish their reading and writing. (1)

Lampert also discusses supersession (2004b, 10–11, 24–9). An interesting phenomenon of the hierarchy of figural reading is its capacity for reversal. Chenu provides fascinating examples of “instances in which theologians of the period did not treat the Old Testament as a bygone and defunct stage in the divine plan but on the contrary resorted to the Old Covenant somehow to illuminate or elaborate elements in the New by recourse to what had gone before,” a practice he deplores (147, 148, 157–59). A number of more recent works have explored the theoretical implications of this reversal, notably Lupton, who considers typology and supersession not only in terms of Jewish/Christian dialectic, but a Christian/secular one as well (xxvii–xxix). Robbins (1991), Freinkel, and Biddick make similar moves in their arguments.

14. Some scholars would disagree with the claim that Paul creates a hierarchy here. For example, Gaston and Gager argue “that Paul never intended to replace ‘the Law’ as the means of salvation and justification for Jews but only to add Christ as a means of salvation for ethnic gentiles” (summarized in Boyarin 42). Fredriksen has recently argued that Paul’s rejection of circumcision for gentiles tells us nothing about his view of Jewish observance of the Law: “Since Paul expects the Parousia in his own lifetime, he is utterly unconcerned with what coming generations are to do” (2014, 36, 31–9 *passim*). Nevertheless, by emphasizing the master/slave element of these fraternal figures, Paul clearly privileges some aspect of the Jesus movement over another Jewish position.
15. All quotations of the Bible in Hebrew are taken from the Koren edition; Greek, Latin, and English quotations of the Bible are taken from the Greek New Testament, the Vulgate and the Douay Rheims translation.
16. Henceforth, I will translate “עַבֵּד” (*ya’avod*) as “he will be a slave to” rather than use the more neutral translation “he will serve” or “he will work,” since the Greek term used in the Septuagint and the New Testament, “*douleusei*,” is a future tense of a verb based on the word “*doúlos*,” slave. The Latin term *servus* can denote either servant or slave.
17. Gershon Cohen discusses the concept of Jewish servitude in Christian theology as developed through the biblical narrative of Jacob and Esau (31–8).
18. As Boyarin contends in a discussion of Romans 11 and 14:

Jews who did not accept allegiance to Christ were considered by Paul to be lopped-off and abandoned branches of the People of God. Keeping the Law was for Paul *adiaphora*; faith in Jesus was most certainly not! Romans 14, especially if the “weak” and the “strong” are the law-abiding and the not-law-abiding, supports both halves of this proposition eloquently. (42)

Other scholars would disagree. For example, Gager alternatively argues that what appear to be attacks on Jewish law in fact refer to fellow members of the Jesus movement who oppose Paul in requiring Gentile members to follow Jewish law (including circumcision) in addition to having faith. Furthermore, “Just as [Paul] no longer thinks of salvation for Gentiles within the Mosaic covenant, so he does not imagine salvation for Jews as happening through their acceptance of Christ” (2015, 26, 28)

19. Boyarin argues that Galatians 4:21–31 provides the key to Paul’s allegory, but considers the question of slavery only in passing (32–36). Thiessen has recently argued that “Paul could use Ishmael to show that gentile circumcision resulted in slavery, not covenantal sonship” (100). Rather than derogating Jews or their practice of the Law here, Galatians may instead be arguing that a gentile inappropriately adhering to Jewish Law produces servitude.
20. The Greek follows the Hebrew closely here; the Hebrew text of Genesis uses the term “אמה” (*amah*) “maid” to describe Hagar, parallel with the Septuagint and Galatians word *paidiskēs* (maid). However, Paul’s allegorical reading introduces the concept of slavery here in employing the terms *douleian*, (slavery), and *douleuei*, (she is a slave), to describe the status of both Hagar and her children (Gal 4:24–5). The Society of Biblical Literature English text of the New Testament reflects Paul’s contrast of the *eleutheras* (free woman) to the “maid” by translating *paidiskēs* as “female slave” (4:23). Furthermore, the Latin term *ancilla*, employed in the Vulgate translation of the Bible, denotes an enslaved woman in the terminology of Roman law (Buckland, 399). Henceforth, I will render the terms *amah*, *paidiskēs*, and *ancilla* as “slave-woman” when used in the Galatians context.
21. For example, Paul himself is termed “a slave/servant (*doulos*) of Jesus Christ” at the beginning of Romans (1:1). The

master served determines the goodness or evil of the service; servants of righteousness serve God, servants of iniquity, sin (Rom 6:12–23). The choice to serve good or evil here is apparently open to all; see Garnsey on Paul.

22. This is an odd claim for Jews to make, given the evidence of Exodus and the requirement to remember being slaves in Egypt that runs through the Pentateuch.
23. Lieu contrasts the way in which this passage has traditionally been understood with more recent contextualized readings, while noting a continuing lack of consensus:

In the Fourth Gospel Jesus declares the Jews to be children of a father who is the devil and who was a murderer from the beginning (John 8:44; there is probably a covert reference to Cain). With its “evangelical” authority that charge has had a long legacy—it is taken up by many later church writers—and, together with the overall presentation of the Jews in the Gospel, has earned John the label ‘the father of the anti-Semitism of the Christians’. Recent study has proposed conflicting interpretations of the gospel’s attitudes toward the Jews [e.g., as reflecting a sharp break between those inside and outside the Jesus movement or as instead referring to a split within the community of believers]. (81–2)

Given Augustine’s later use of this verse in his elaboration of Cain as a figure for the Jews, he may have perceived John’s suppressed citation of this same figure. See Freyne on anti-Jewish polemic in Matthew and John.

24. A similar concept of hereditary guilt, lasting to the third and fourth generations, appears in the Hebrew Bible; see for example Exodus 34:7 and Numbers 15:18. Fredriksen shows how a “trail of blood” motif, articulated in Second Temple Jewish legends about the deaths suffered by the prophets at the hands of the Jews, enters into the texts of the New Testament, such as Matthew 23; he includes this idea again in chapter 27 (2010, 91). Fredriksen quotes the relevant passage:

Therefore I send you prophets and wise men and scribes, some of whom you will kill and crucify, and some you will scourge in your synagogues and persecute from town to town, that upon you may come all the righteous blood shed on earth, from the blood of the innocent Abel to the blood of Zechariah son of Barachiah, whom you murdered between the sanctuary and the altar. Matthew 23:29–35 (RSV)

This “trail of blood” motif, as Matthew deploys it, inculcates every generation of Jews since the second generation of humanity, associating the Jewish people with Cain. In this view, the Jews killed the prophets, and finally they killed even Christ himself. (Fredriksen 2010, 91–2)

While again not developing Cain as an explicit figure for the Jews as murderers of Jesus, Matthew does make this connection available for subsequent interpreters, including Augustine.

25. Fredriksen reflects on the tensions of reading this verse with a double awareness of its sense in its original context and subsequent destructive interpretations:

“Matthew,” a Greek-speaking Jew of the late first century CE, set his story about Jesus some six decades earlier, about forty years before Rome’s war with Jerusalem. The fires of the Temple’s destruction illumine his tale of Christ’s passion. “All the people” of Jerusalem, in his narrative year 30, curse their own generation and the next: “our children” would grow to be the adults cut down in the Roman siege of 70 CE. Matthew, looking backwards from his vantage c. 90, links these events causally: Jerusalem’s rejection of Jesus c. 30 “caused” the fires of 70. The narrative characters of 30 in effect cursed themselves. . . . [Matthew] could not know the violence that these words would eventually unleash as they reverberated in the long echo chamber of Christian anti-Judaism, reinterpreted as a standing curse across generations. (Fredriksen, 2013)

26. Fredriksen explains in her wide-ranging account of Augustine’s cultural influences:

Ancient empires, in other words, accommodated as a matter of course a wide range of religious practices. To see this accommodation as “religious tolerance” is to misunderstand it. Ancient society was not liberal in the sense that modern civil societies tend (or try) to be. But it was, of practical necessity, pluralistic. Religious differences were a normal fact of life. (2010, 10, 3–102)

27. Although Augustine’s teaching on the Jews is “original and distinctive,” it draws from a number of traditional *adversus Judaeos* ideas (Fredriksen 2010, 321–24).
28. Fredriksen distinguishes between “rhetorical” and “historical Jews,” explaining that the former are a polemical construct (2010, 226–27, 273, 307). She surveys evidence of cordial Christian–Jewish relations in the period in stark contrast to

contemporary anti-Jewish rhetoric:

True, church leaders routinely condemned Judaism along with paganism and with heresy, and their rhetoric *adversus Iudaeos* defined Jews in particular as the ultimate “other” against which to calibrate orthodox Christian belief and practice. It would be a mistake, however, in light of all this other evidence, to see their condemnations as a reliable measure of the actual separation of these communities or as an accurate index of a more general hostility. On the contrary: The vitality of habitual contacts, both social and religious, between Christians and Jews— as among Christians of all various sorts, Jews, and pagans— probably accounts for much of the shrillness and the obsessive repetitiveness of patristic invective. (2010, 101, 93–102 passim)

She also considers the contexts for Augustine’s contacts with his Jewish neighbors, noting that the evidence, though minimal, does not suggest his negative writings against Jews influenced his dealings with Jewish people (2010, 307–14). Cohen anticipates Fredriksen’s “rhetorical Jew” in his development of the “‘hermeneutical Jew’—that is, the Jew as constructed in the discourse of Christian theology, and above all in Christian theologians’ interpretation of Scripture” (1999, 2–3).

29. Hezser explains that in the context of imperial Rome, the status of the conquered was likened to enslavement. This applied to the

Jews [who] were subdued by the Romans and victims of Roman colonialism. . . .The discourse on slavery was closely interlinked with colonialist discourse in antiquity: the conquest by foreign rulers was considered ‘enslavement’, and the actual enslavement of at least a part of the native population was a common aspect of military defeat. (453)

30. Saperstein, Haynes, and Jeremy Cohen all consider Augustine’s writings on Jews and demonstrate their importance for medieval Christianity. Fredriksen and Unterseher focus on the development of Augustine’s ideas about Jews within his own historical context. Folliet focuses on Augustine’s idea of the Jews as book carrier/custodian/slave to explain the positive role they play in Christian society.
31. See also Sapir Abulafia’s discussion of Augustine’s Psalm commentaries in which he reads Cain in as a figure for Jewish service to Christianity (2011, 6–7).
32. It is precisely through the failure to understand the Christological significance of their own texts that Jews act as servants or slaves to the Church in proving its truth, and not their own: “Augustine constructs his idea of the Jews as wandering book slaves who witness to Christian truth. . . . The *books* refer to scripture, the (misunderstood) script for the Jews’ visible practices, whose deepest meanings had to await the messiah’s crucifixion and resurrection before they could be retroactively understood by others” (Fredriksen 2010, 320, 276–77). See also Unterseher on Jewish subjection (141–42) and Sapir Abulafia on Jewish service (2011, 7–8).
33. I organize the following discussion by considering Augustine’s use of figures initially developed by Paul, before turning to the addition of Cain and Ham. This method does not follow the exposition of figures of Jewish servitude as they appear in the chronology of Augustine’s works, but as Cohen, Unterseher, and Fredriksen demonstrate, this strategy and perspective are already present in the *Contra Faustum* (397 C.E) one of his earlier writings on Jews (Cohen 1999, 41).
34. The Latin reads:

Haec forma intellegendi . . . quem ad modum scripturas duorum testamentorum, veteris et novi, accipere debeamus. Pars enim quaedam terrenae civitatis imago caelestis civitatis effecta est, non se significando, sed alteram, et ideo serviens. (*Civitate Dei* 15. 2, 418)

35. The Latin reads: “Quod autem dictum est: *Maiores serviet minori*, nemo fere nostrorum aliter intellexit, quam maiorem populum Iudaeorum minori Christiano populo servitutum. . . . Christus . . . est dominus fratris sui quia populus eius dominatur Iudaeis” (Book 16. Chapters 35, 164 and 37 172).
36. Unterseher reviews prior Jewish and Christian interpretations of the significance of Cain. Amongst earlier church fathers Justin Martyr, Irenaeus and Tertullian briefly associate Cain with the Jews (72–6). Jerome extends this identification, and understands Cain’s dwelling in the land of Nod as signifying the wandering suffered by the Jews as punishment for deicide, thus connecting the figure to the *adversus Iudaeos* trope that Augustine also adopts (76–7). None of the earlier exegetes suggest that Cain figures Jewish servitude.
37. The Latin reads:

Judaei . . . infidelitatis . . . sunt, quia Christo veniente . . . Qui [Cain] si obtemperasset Deo . . . ipse peccato suo dominaretur; non illo sibi dominante servus peccati, fratrem occideret innocentem. . . . Sic et Judaei, in

quorum haec figura gerebantur, si . . . tempus salutis per gratiam in peccatorum remissionem agnoscentes, . . . eidem peccato, quamdiu esset adhuc in eorum mortali corpore, per spem gratiae liberi dominarentur. Nunc autem . . . regnante peccato in eorum mortali corpore . . . exarserunt odio adversus eum [Jesus]. . . . Itaque occiditur Abel minor natu a fratre majore natu: occiditur Christus caput populi minoris natu a populo Judaeorum majore natu. . . . (*Contra Faustum, Patrologia Latina* vol. 42 12.9, cols. 258–59)

38. The connection between these two stories might have been suggested to Augustine by Hyppolytos's allegory, cited by Jerome, which connects Esau's plot to kill Jacob (Genesis 27:41) with Cain's murder of Abel.

Quia igitur iniquitas est inimica justitiae, Esau in discordiam concitatur, et necem fraudulentus excogitat, dicens in corde suo: *Appropinquant dies passionis patris mei, et occidam Jacob fratrem meum* (Gen. 27, 41). Diabolus fratricidas Judaeos in Cain ante praemeditans, in Esau manifestissime confitetur: tempus quoque interfectionis ostendens: *Appropinquant*, inquit, *dies passionis patris, ut interficiam fratrem meum*.

[Since, therefore, violence is the enemy of justice, deceitful Esau, agitated about the quarrel, and devising murder, says in his heart: "the days of the passion {the Christological term "passion" substitutes for the word *luctus* (mourning) of the Vulgate text} of my father draw near, and I will kill my brother Jacob." The devil, considering in advance the fratricidal Jews in Cain, openly acknowledges in Esau, showing the time of the murder. He says: *the days of the passion of the father draw near so that I can murder my brother.*] (*Epistola XXXVI. Seu rescriptum Hieronymi ad Damasum, Patrologia Latina* vol. 22 16, cols. 460–61, my translation)

Similarly, in his treatise *De Cain et Abel*, Ambrose cites Genesis 25:23 regarding Jacob and Esau in his discussion of Abel and Cain as figures for the Church and the Synagogue, respectively; he also references the Jews as parricides for killing their Lord (qtd. in Unterseher, 77).

39. Augustine includes verses from John in this passage:

So also the Jews, of whom all these things are a figure, if they had been content, instead of being turbulent, and had acknowledged the time of salvation through the pardon of sins by grace, and heard Christ saying, "They that are whole need not a physician, but they that are sick; I came not to call the righteous, but sinners to repentance;" Matthew 9:12–13 and, "Every one that commits sin is the [slave] of sin;" and, "If the Son make you free, you shall be free indeed," John 8:34, 36 (*Contra Faustum* 12.9, 186)

I have cut it to focus the discussion on Cain and servitude.

40. The Latin reads:

Gemens et tremens eris in terra. [Gen. 4:12] Nunc ecce quis non videat, quis non agnoscat in tota terra, quacumque dispersus est ille populus, quomodo gemat moerore amissi regni, et tremat timore sub innumerabilibus populis Christianis? . . . Ut hoc toto tempore quod septenario dierum numero volvitur, quia non interit gens Judaea, satis appareat fidelibus Christianis, quam subjectionem meruerint, qui superbo regno Dominum interfecerunt. (*Patrologia Latina Contra Faustum*, vol. 42 12 12, cols. 260–61)

41. The guilt, though unintentional, of even contemporary Jews is made clear in an earlier passage:

And what answer can the Jews give at this day, when we ask them with the voice of God, that is, of the sacred Scriptures, about Christ, except that they do not know the Christ that we speak of? Cain's ignorance was pretended, and the Jews are deceived in their refusal of Christ. (*Contra Faustum*, 12.10, 186)

Here he makes a distinction between Cain's feigned ignorance in contrast to the Jews who are deceived; they did not recognize Jesus as the messiah. Nevertheless, they and their descendants are guilty of Jesus's death.

42. The Latin reads:

Judaei tamen manent cum signo; nec sic victi sunt, ut a victoribus absorberentur. Non sine causa Cain ille est, qui . . . posuit in eo Deus signum, ne quis eum occideret. . . . Sunt ergo Judaei, non sunt occisi, necessarii sunt credentibus Gentibus. . . . per omnes gentes dispersi sunt Judaei, testes iniquitatis suae et veritatis nostrae (*Ennarrationes in Psalmos Patrologia Latina* vol. 36 58:12, part one 21–2 col. 705).

43. Fredriksen argues correctly that the mark of the Jews is their continued observance of their Law. She contends that this is a mark of God's protection rather than a "mark of shame" (2010, 271). However, Jews misunderstand the Hebrew Bible in this observance; they in fact preserve Scripture as slaves to Christian truth. Thus the adherence to the Law operates as a

symbol of their servitude as much as their preservation. Furthermore Fredriksen admits that “the one who bears [the mark] is a murderer” (271); his crime is part of Cain’s mark as well: “They make visible to the Christian faithful the subjection they merited because they, in the pride of their kingdom, put the Lord to death” (*Contra Faustum*, qtd. in Fredriksen, 271).

44. Fredriksen coins this term to refer to the Jews’ role:

The whole nation (*gens*), carrying the Law and the prophets, is a librarian who ports a chest full of books (*scriniaria*, feminine of *scriniarius* because of the feminine *gens*; *Against Faustus* 12.23).

From Cain to Ham to slaves to servile book caretakers. Out of this congested set of images and episodes Augustine constructs his idea of the Jews as wandering book slaves who witness to Christian truth. The *wandering* part and the part about *obvious Jewish identity* (conveyed to outsiders by visible, physical behaviors) come from Genesis 4: Cain, the exiled, divinely marked, divinely protected fratricide. The *slave serving the church* comes from Noah’s curse to Ham, who becomes a slave to his brothers in Genesis 9. The books refer to scripture, the (misunderstood) script for the Jews’ visible practices, whose deepest meanings had to await the messiah’s crucifixion and resurrection before they could be (retrospectively) understood by others. (emphasis in original 2010, 320)

45. The Latin reads:

Medius autem filius, id est, populus Judaeorum, ideo medius, quia nec primatum Apostolorum tenuit, nec ultimus in Gentibus credidit, vidit nuditatem patris, quia consensit in necem Christi; . . . ideoque fit servus fratrum suorum. Quid est enim aliud hodieque gens ipsa, nisi quaedam scriniaria Christianorum, bajulans Legem et Prophetas ad testimonium assertionis Ecclesiae, ut nos honoremus per sacramentum, quod nuntiat illa per litteram. (*Patrologia Latina* vol. 42 12. 23 col. 266)

The Schaff edition translates “assertionis” as doctrine, but as Fredriksen notes, the term emphasizes the freedom of the Church in contrast to Jewish servitude:

The Jews carry their books around *ad testimonium adsertionis ecclesiae*, “to testify to the *adsertio* of the church.” . . . An *adsertio* is a formal declaration of freedom, a public, legal act by which a slave becomes a freedman. The Law and the prophets, borne by the slave-Jews, testify to the divine manumission of the church. (2010, 320–21)

I will emend all subsequent quotations of this passage to follow Fredriksen’s suggestions regarding both *scriniaria* (bookslave) and *adsertionis* (manumission).

46. Augustine does not develop a racialized concept of Jewish inferiority here. His articulation of Jewish servitude serves rhetorical purposes in theological arguments rather than describing the status of late fourth-century Jews under Christian rule. Nevertheless, religious identity in the period does serve as a marker of ethnicity that verges on race (Fredriksen 2010, 6–7, 3–10 *passim*).
47. Chapter 4 provides a fuller consideration of Augustine’s writings on Noah’s curse in addition to the substantial exegetical tradition that understood the servitude inflicted on Ham’s children as figuring the enslavement of the Jews.
48. In addition to her discussion of *adsertio* as emphasizing Christian freedom against Jewish enslavement noted above, see Fredriksen’s fascinating discussion of the epistolary controversy over the apostles’ adherence to the law in which Jerome accuses Augustine of Judaizing in presenting too positive a view of Jewish observance. The fact that Jerome himself had been the recipient of similar charges might have contributed to his attack on Augustine (2010, 290–302).
49. As Fredriksen affirms:

Augustine’s theological legacy had a fundamental effect on subsequent Latin Christianity. In the changed social context of later periods, his teachings on Jews and Judaism came to be interpreted literally, both for good and for ill. Thus his reference to Psalm 59:12, “Slay them not”—for Augustine a metaphor against impeding Jewish religious practice—was eventually taken as counsel to spare Jewish lives. However, his reference to Psalm 66:23, “Bend down their backs forever”—for Augustine a metaphor for the Jews’ “earthly” orientation when reading Scripture—was eventually taken as prescribing active Christian oppression. Augustine deserves neither blame in the second instance nor praise in the first. No author can be responsible for the ways that later generations put his work to use. (2010, 374–75)

50. In addition to editing the *Decretales*, Raymond served as papal confessor from 1230 until 1238, when he became Master-General of the Dominicans:

But most of all, Raymond's zealotry manifested itself in his efforts to uphold orthodoxy within Christendom by fighting heresy and to expand the dominion of the Roman Church by converting the infidel. . . . Toward the end of his life, Raymond prevailed upon Thomas Aquinas to compose his *Summa contra gentiles* as a means of attracting converts to Christianity. (Cohen 1982, 105)

51. Although ecclesiastical law develops with some independence from civil law, the two codes do share areas of overlap:

One particularly significant development during the generations following Gratian was the fast-growing interdependence between canon law and the revived Roman civil law. Gratian apparently included few, if any, references to Roman law in the original version of the *Decretum*, but early in its history anonymous interpolators added almost 150 further canons to his book, including substantial numbers of Roman law texts. Canonists in the late twelfth century habitually borrowed terms, ideas, concepts, and institutions from the civilians, while civilian writers frequently compared canonical institutions and practices with those that they found in Roman legal texts. By the early thirteenth century the symbiotic relationship between the two. . . had grown so close and pervasive that scholars sometimes speak of a "reception" of Roman law by the canonists. "Reception" in this context means that canonists accepted the law of Justinian's *Corpus* as a supplementary source of canon law. Thus when canonical sources failed to supply answers to a question or solutions to a problem, canonists sometimes drew the information and legal rules that they needed from Roman law sources. (Brundage 1995, 59–60)

52. As stated in Justinian's sixth-century *Institutes*:

Slaves (*servi*) are so called because commanders generally sell the people they capture and thereby save (*servare*) them instead of killing them. The word for property in slaves (*mancipia*) is derived from the fact that they are captured from the enemy by force of arms (*manu capiantur*).

(Digest 1,5: 'On the Status of Persons': 4: Florentinus, from *Institutes*, book 9; reprinted in Wiedemann, 13)

53. The Latin reads: "Origo autem vocabuli servorum in Latina lingua inde creditur ducta, quod hi qui iure belli possent occidi, a victoribus cum servabantur servi fiebant, a servando appellati" (19.15, 186).
54. While few scholars go as far as to follow the assessment of Graetz, who styled the pope "an embittered enemy of the Jews and Judaism" (vol. 3, 496, 496–520 passim) some have viewed Innocent's policies as especially antagonistic to the Jews. One exception is Synan, who situates the pope's policies within the context of his other, more pressing concerns, while also showing a range of both negative and positive pronouncements on the Jews role in Christian society (83–102). He does acknowledge the pope's attempt to instantiate Jewish subordination with recourse to figures, but Synan views this status as temporary because of the anticipated fulfilment of the prophecy that all Jews will convert (92–3). Chazan and Tolan view Innocent's Jewish pronouncements in isolation from the pope's other goals, which result in harsher assessments. Chazan argues that "the central thrust of Innocent's policies vis-à-vis the Jews was to identify more boldly avenues of Jewish harmfulness and to legislate limitations that would diminish [it]" but this conclusion derives from a failure to recognize the extent to which the pope's writings emphasize Augustine's protective doctrine regarding Jews (1999, 203, 195–97). Tolan surveys Innocent's "theology of Jewish slavery [and] his fear of the consequence of . . . Jews who do not accept their subservient place in Christian society," but he sees these as "fairly standard in writing and legislation in the late twelfth or early thirteenth centuries" (2012b, 6, 10). He argues that Innocent innovates "a preoccupation with purity and with the dangers of pollution that close daily contact with Jews represent to the body of Christendom" (10, 11–12 passim). I would argue that Innocent's new contribution lies precisely in introjecting the theology of Jewish slavery into the discourse of canon law via figures. Furthermore, I think this doctrine provides a better rationale for explaining his attitudes toward Jews within the larger context of other more troubling concerns. For a more positive recent evaluation of medieval papal policy toward the Jews that also includes Jewish attitudes toward the popes, see Rist; she considers Jewish servitude only in passing.
55. Grayzel cites Oliver Emerson's essay, which refers to Peter Comestor's description of Cain's mark: "et posuit Deus signum in Cain, tremorem capitis." Peter Comestor might have been a teacher of Innocent III (Grayzel 1966 126, n. 2). The Latin rendering of the Septuagint describes Cain as "gemens et tremens [moaning and shaking]." The Vulgate, more closely following the Hebrew, renders Genesis 4:12: "vagus et profugus eris super terram" [a fugitive and a vagabond shalt thou be upon the earth]. On Cain's trembling see Mellinkoff (1981, 41) and Resnick (2012, 206–12, 248). See chapter 2 for further discussion of Cain's punishment in relation to Jewish bodies.

56. The Vulgate reads: “Imple facies eorum ignominia et quaerent nomen tuum Domine.” In his *Summa Abel*, under the rubric of *Jews*, Peter the Chanter (d. 1197) explains the preservation of the Jews so that they might be punished, and cites the verse “the elder shall serve the younger”; he continues “a remnant of the Jews will be saved (Romans 9:27, cf. Isaiah 10:22), on account of their conversion which [will] happen through distress,” also quoting Psalm 82:17 for support (qtd. in Sapir Abulafia, 2011 195). Peter the Chanter has also been identified as possibly a teacher of Innocent III (Clarke, 1–20).
57. Compare the Vulgate version of Lamentations 1:8 “peccatum peccavit Hierusalem propterea instabilis facta est” [Jerusalem hath grievously sinned, therefore is she become unstable] with Clement’s “Peccatum peccavit populus Judeorum propterea est factus instabilis.”
58. In a subsequent letter to the King of Aragon (1267), Clement mentions Cain in reference to the Jews when condemning the Talmud and ordering its confiscation. The language echoes that of the letter sent to Poland, but omits any mention of Jewish servitude as punishment for the crucifixion. The text of the letter reads in part:

Because the reprehensible Jewish lack of faith was long ago deservedly rejected because of its vice of ingratitude, . . . this . . . sinful people . . . has been made to wander over the earth like the fratricide Cain, who was driven from the face of God because his crime was too great for forgiveness. This miserable people likewise denied the Son of the Eternal Father . . . they . . . felled him, and flogged him, and impiously killed the Crucified One, calling His blood down upon themselves and their children. To this day the dispersed Jews do not want to understand . . . that sufficient humaneness is accorded them when they are permitted to dwell among the faithful without burdensome disgrace. (Grayzel 1989, 97–8)

59. The earliest example of this citation does not address the improper status of Jews relative to Christians, but appears in a letter regarding the conversion of a synagogue to a church in France (1204). The example of Hagar and Sarah invokes the principle that Jews should not be allowed a higher status than Christians to ensure that the newly founded Christian institution is treated at least as well as the previous Jewish institution.

All places freed for the worship of God deserve to be . . . endowed with the gift of eternal liberty; but such places deserve this especially which are divested of the blind Jewish perversion of Faith, . . . since it is clear that they who have chosen to worship God there in freedom of the spirit, deserve no longer to be called the children of a slave but rather the children of a free mother (filios ancille, sed libere) . . . We decree that just as the clergy of the nearby churches took nothing out of this place while it was in Jewish possession, so they shall not, hereafter, impose upon the church here established any condition or burdens in prejudice of its liberty, so that the status of the church shall not be made worse, lest in those respects in which it was free (libera) while the Jews inhabited it, it become a slave (ancilla) through observing Christian piety. (Grayzel 1966, 104–5)

Innocent writes to order that neighboring clergy place no impositions upon the Christians that were not required of the Jews. He alludes to the comparative *deterior/melior conditio*, worse or better condition; Christians should always inhabit the latter in relation to Jews. See note 3 on the idea of *melior conditio*.

60. One of Innocent’s complaints concerns the practice of Jews who “by means of their vicious usury . . . appropriate ecclesiastical goods and Christian possessions. Thus seems to be fulfilled among the Christians that which the prophet bewailed in the case of the Jews, saying ‘Our heritage has been turned over to strangers, our houses to outsiders.’” He quotes here from Lamentations 5:2 (Hereditas nostra versa est ad alienos, domus nostrae ad extraneos), the book mourning the destruction of the first Temple and the Jews’ dispersion into captivity. This proof-text paradoxically serves to represent Jews as the conquerors and despoilers of Christians and their property, and implicitly argues that this constitutes a profane challenge to Christian notions of order and history.
61. Compare Innocent’s phrase “sanguis clamat in Patris auribus” with the Vulgate’s rendering of Genesis 4:10: “vox sanguinis fratris tui clamat ad me de terra.”
62. The use of Galatians to reprimand the improper domination of Christians by Jews also appears in the language of subsequent popes. For example, in a 1244 decretal, Innocent IV includes this proof-text in an admonition that Jews not employ Christian servants:

Lest the children of the [free-woman/libere] serve the children of the [slave/ancille], but since they were condemned to slavery by the Lord for whose death they sinfully plotted, they shall recognize themselves, as a result of this act, as slaves of those whom the death of Christ set free while condemning them to slavery. (Grayzel 1966, 253)

This language repeats the text of Innocent III’s 1205 decretal *Etsi Judaeos*, which I consider in a subsequent section. Innocent III’s use of this figure also influences conciliar rulings, such as the one that Council of Oxford decrees in 1222:

Since it is absurd that the children of a free woman shall be slaves to the children of a bondswoman, (filii libere ancille filiis famulentur) and since no little scandal in the case of many regularly arises in the Church of God from Jews and Christians living under the same roof, we decree that in the future Jews shall not possess Christian slaves. (Grayzel 1966, 315)

Similarly, the 1287 Synod of Exeter 1287 cites Galatians in support of its prohibiting Jews from employing Christians as domestic servants:

The kingdom of God is passed from the Jews and given to the people doing justice, as is discovered written in Scripture. [paraphrase of Matt. 21:43] Through which it pleased him that Christians be given liberty, and Jews placed under them in perpetual servitude. As it is therefore written: "Send away the slave woman and her son, for the son of the slave woman shall not be heir with the son of the free woman" [Gal. 4:30]. (Grayzel 1989, 257, my transl.)

Canon law texts and commentaries sometimes include Muslims in the Galatians trope of the free and slave woman; see chapter 5 for a full discussion of this phenomenon and its implications.

63. For some recent discussions of medieval Jewish counternarratives on Jesus and Christianity see Cuffel, Meerson et al., Rowe (2012, 133–42, and references in n. 11).
64. The anxiety over the status of Christian antecedents relative to that of Jews also registers in the linguistic transformation of the definition of "gentile." In classical Latin *gentilis* has neutral meanings "Of or belonging to the same clan (gens), stock, or race" as well as negative ones: "Of slaves who bore the name of their masters. . . In opp to Roman, . . . foreigners." It also signifies a heathen or pagan as distinguished from a Jew or Christian (Andrews et al.). However, in the medieval European context, where the majority of Christians descended from Gentile and not Jewish converts to Christianity, more positive meanings emerge. Blaise defines *gentilis* as "noble . . . beau, élégant, cultivé" (noble, handsome, elegant, cultivated) while Du Cange et al. includes both negative and positive definitions: "Gentiles. . . Barbaros;" "Gentilis. . . Nobilis, ingenuus [freeborn];" "Gentilitas: Paganismus;" "Gentilia: Nobilitas." Langland explicitly describes how their rejection of Jesus results in the Jews' transformation from "gentil men" to "lowe cherlis":

The iuwes, þat were gentil men, ihesu þei dispised,

Bothe his lore & his lawe; now ar þei lowe cherlis.

As wyde as þe worlde is, wonyeth þere none

But vnder tribut & taillage as tykes & cherles. (*Piers Plowman* B. xix. 37, qtd. in the *Medieval English Dictionary* under "tike")

In a fascinating inversion, the pre-Christian Jews have the elevated status of gentlemen, but in rejecting Jesus, have been subordinated to serfs or low-born people.

65. The term also appears in two sermons ascribed to Augustine. The first follows very closely Cassian's text:

3. *Adam vendidit libertatem. Inde posterius nascuntur servi.* Quod, rogo, istud, cuiusve peccatum est? Sine dubio Adae, cuius praevaricatione, atque, ut ita dicam, negotiatione damnosa, fraudulentoque commercio venditi sumus. Omnem enim prolem suam, serpentis persuasione seductus illiciti cibi perceptione distractam, iugo perpetuae servitutis addixit. Hic namque mos solet inter vendentem ementemque servari, ut is qui se alieno cupit dominio mancipare, aliquid pretii pro jactura propriae libertatis et addictione perpetuae servitutis a suo consequatur emptore. Quod etiam inter Adam atque serpentem manifestissime videmus impletum. Ille enim a serpente pretium libertatis suae esu interdictae arboris capiens, a naturali libertate discessit: illique maluit semetipsum perpetua vendere servitute, a quo vetiti pomi lethale pretium fuerat assecutus: qua deinceps conditione constrictus, non immerito omnem posteritatis suae progeniem, perpetuo eidem, cuius effectus est servus, subdidit famulatu. Quid enim aliud servile conjugium potest procreare, quam servos? (Pseudo-Augustine, *Patrologia Latina* vol. 39 *S. Augustini Complectens Sermones Supposititios. Classis Prima. De Veteri et Novo Testamento. Sermo CIII. De verbis Apostoli, Rom. cap. VII, 24, 25*, cols. 1944–1945)

The second sermon introduces the term in the context of explaining Noah as a type of Jesus; the curse of perpetual servitude that Noah imposes, while mentioned, is not explained in the analysis of the figure (*Complectens Sermones Supposititios Classis II. Sermones De Tempore. Sermo CLXIV. In Pascha, VI. 3. Patrologia Latina* vol. 39 col. 2067).

66. For the Latin text see *Patrologia Latina*, vol. 49 23.12 col. 1254A–1266A.
67. His discussion follows very closely the sermon on the same topic attributed to Augustine:

Noe quoque vir agricola cum plantasset vineam, et inebriatus vino obdormisset, discoopertus jaceret in tabernaculo suo, et expergefactus a somno, filio suo verecundiam suam non celanti maledictum perpetuae servitutis imponens, Christum significavit . . . (*Patrologia Latina* vol. 57 col. 596A–B). See note 65.

68. See under “Procopius of Gaza” in Cross and Livingstone.
69. The Latin reads: “Noachus nudatus est in domo sua: sic Christus crucifixus est a Judaeis. Chamus typus est populi Judaiei, qui illusit Christo e cruce pendenti: . . . Verum Judaeos perpetuae adjudicavit Christus servituti” (*Commentarii in Genesin*, IX, *Patrologiae Graecae* vol. 87a IX col. 306–7).
70. Salo Baron argues that the first legal application of the theological concept of *servitus Judaeorum* appears in the Seventeenth Council of Toledo’s decree, following the order of King Egica that Jewish converts to Christianity who had relapsed and devised a conspiracy against the king be “subjected to perpetual servitude” [perpetuae servituti subactae] (Baron, 9 136; Linder, 536–37). While this decree does mention that the Jews are “known to be defiled with the vilest strain of sacrilege, stained with the blood of Christ” there is no mention of their being subjected to slavery as a *result* of this crime. In fact, the tenor of the decree does not assume that the Jews’ role in the crucifixion has already accomplished their subjection, but instead requires that offending Jews be subjected to perpetual slavery, “granted to those people whom [the king] shall order them to serve” (537). It appears that the language of perpetual servitude enters into this decree from the secular Laws of the Visigoths, which contain a number of examples of this phrase (Linder, 273–83). King Egica, the convener of the Toledan Council, also promulgated a novel, or new secular law, ordering that those who converted to Christianity motivated by a desire to avoid a tax upon the Jews rather than by true faith should be “perpetually subjected . . . to the fisc [the royal treasury].” Similarly, converts persisting in the observance of Judaism who tried to conduct business with Christians “would become a slave of the fisc for life” (Linder, 283). These codes specify a permanent enslavement of a particular subset of people to a ruler or royal institution, rather than delineate a spiritual status of perpetual servitude imposed upon all Jews. Contra Baron, Innocent III, not the Seventeenth Council of Toledo, introduces this theological concept into law.
71. As Czerwinski observes, “A drastic change takes place during the pontificate of Innocent III. Up to this time the Jews were regarded as a protected people. The canon *Dispar* and the frequently issued statements of protection, *Sicut Iudeis*, indicate this. Innocent III also issued *Sicut Iudeis* but with some changes indicating a greater hostility toward the Jews” (306). We see the influence of *Etsi* here as it transforms the Jews’ vulnerable reliance on the protective power of the papacy into a position of punitive servility.
72. The text reads in part:

The Jews, . . . who [only] out of mercy are . . . admitted into intimacy with us, and who ought to [acknowledge] the yoke of perpetual enslavement because of their guilt. . . . Since . . . it is a crime that one reborn in the baptismal font should be defiled by the rites or familiarity of an unbeliever and that the Christian religion should be oppressed by the dominion of the unfaithful when a blasphemer holds in [slavery] an unfortunate man redeemed by the blood of Christ, therefore we order . . . that . . . the . . . excesses of the Jews . . . be completely suppressed. . . in order that they should not again dare to straighten their neck bent under the yoke of perpetual slavery in insult against the Redeemer. (Grayzel 1966, 199–201)

73. This status of the Jews becomes the example of the nadir to which Christians should never be demeaned, as expressed in a 1234 letter Gregory writes complaining to the Abbot of Cluny regarding the interdict decreed against Cistercian monks. In taking this action, the French prelacy put their fellow Christians “into worse condition than even the perfidious Jews, who are by their own guilt condemned to perpetual slavery . . . for these friars are cut off from communion with the faithful from which even Jews are not shut out” (Grayzel 1966, 211). The palpable error of placing Christians in a “deterioris conditionis” than that of Jews need not be condemned, but merely stated. Incongruously enough, Urban IV applies the concept not only to Jews, but to Muslims as well. In a 1263 letter, he asks the King of Hungary to appoint Christian, rather than Jewish and Muslim tax collectors, to prevent the latter from occupying public offices: “It is neither convenient nor honest that these same Jews and Muslims, whose proper guilt submitted them to perpetual servitude, should exercise strength of power in regard to Christians” [quod non est conveniens vel honestum, ut eisdem iudeis et sarracenis, quos propria culpa *submisit perpetue servituti*, exercendi vim potestatis in christianos] (Grayzel 1989, 78–9, my translation). Chapter 5 considers the expansion of this concept to Muslims.
74. Pakter claims that out of all of his letters on the Jews, Innocent includes *Etsi* alone in his *Compilatio III* (136). However Simonsohn documents that seven of Innocent’s letters make it into the definitive collection of canon law, the *Corpus Juris*

Canonici, and at least one other of them, *Post miserabilem*, a letter granting crusaders remission of interest owed to Jews, appears in the *Compilatio III*. See the marginal commentary that cites this decretal with reference to Innocent's collection (*Corpus Juris Canonici* II, Lib. V, tit. XIX, c. 12)

75. "The official collection of canon law which superceded [*sic*] all previous collections was the *Decretales* of Gregory IX. The collection was made by Raymond of Penafort who drew upon the previous compilations and the letters of Gregory IX" (Czerwinski, 27).
76. "'*Etsi iudaeos*' prohibited Jews from hiring Christians and Christians from working for Jews. Though cohabitation was the greatest evil envisioned by Innocent, '*Etsi iudaeos*' was not limited to servants living with Jews; his text spoke only of servants. Later interpreters read the text as applying to any labor for Jews" (Pakter, 135).
77. As Pakter explains, "One reason for this volume is that the canonists had inherited a large number of texts from Roman law, early councils and Gregory I. In sheer numbers, there was more source material on slaves than on any other issue which the canonists had to deal with" (84). As early as the sixth century, Justinian's Code proscribed Jews (along with heretics and pagans) from owning Christian slaves: "Ne Christianum mancipium haereticus vel paganus vel iudaeus habeat vel possideat vel circumcidat [No heretic, or pagan or Jew should have, or possess or circumcise a Christian]" (Code: I, X., qtd. in Czerwinski 38, n. 25, my translation). Note the emphasis in the placement of "Christian" in the syntax of the sentence; even though it is the object of the verb, it preceded the subjects.
78. This interest in Jewish property in slaves was anomalous in canon law: "Medieval canon law was not concerned with the property rights of Jews in general; as far as the canonists were concerned, Jews were as free to inherit, purchase and otherwise acquire property, as any Christian would be. The one exception was the ownership of slaves" (Pakter, 84).
79. Twelfth-century canonists did not object to the very idea of Jews employing Christian servants:

Huguccio saw no degradation in working for Jews; a presumption of social equality between Jews and Christians underlies his work. [Other] Italian canonists had occasionally spoken of Jews as being theologically inferior to Christians. It was in this sense that Alexander II urged protection of Jews because "they are always willing to serve" [*Dispar nimirum*]. . . . While Huguccio implied that Jews were inferior before God, he did not advocate inferiority as a social program. He never claimed Jews were personally inferior, or that it was demeaning or inappropriate to work for them. (Pakter, 135)

However:

Thirteenth century canonists were more critical of Jews employing free Christians. Opposition was first registered in northern Europe. The French *Summa* "*Antiquitate*," which opposed free Christians serving Jews, reports that Jews bribed the Bishop of Paris in order to employ Christians. Alanus extended the prohibition against owning Christian slaves to hiring free Christians. Huguccio's views were supplanted in Italy. Laurentius Hispanus opposed Jews' employing free Christians for the same reason he opposed Jews' serving in public office: to prevent them from appearing as masters of Christians. (Pakter, 134)

80. He addresses this issue in his *Glossa Ordinaria* on the *Decretum* (c. 1215). (GL. Ord. Di.54. c.13 s.v. *ad libertatem* inf 17 q.4). "Sed nunquid Christianus potest emere iudaeum mancipium? Sic tamen ut cum illo non moretur" (Czerwinski, 124; Winroth, 145). Pope Gregory I had established that Jews could not employ free Christians as domestic servants in his decretal, *Multorum ad nos* (594): "You should leave no opportunity for the simple in mind to serve in a certain manner the Jewish superstition, not so much out of persuasion as of the right of power over them" (Linder, 427; Pakter, 92–3). Johannes assumes that cohabitation between Christians and Jews should be eschewed, regardless of the power dynamic. Canon law sought to prevent familiarity between Jews and Christians in a number of contexts: for example, Lateran IV's canon 68 orders that Jews and Christians wear distinguishing clothing to avoid mixing together, a rule subsequently taken up by local councils and secular rulers (Grayzel 1966, 309).
81. Originally entitled *Summa de paenitentia*, Raymond's text was an influential manual of laws for confessors (Goering, 419).
82. "Quid de Christiano, numquid potest emere, vel habere iudaeum vel Paganum mancipium? Utique 23 q. 8 c. *Dispar* [C. 23 q.8 c. 11]. Extra, de iudaeis, Et si iudaeos [X, V, 6, c. 13]. Ubi dicitur, quod iudaei servi sunt christianorum. Non tamen debet cum illo morari, ita quod eum habeat familiare. . . Si autem voluerit ille fieri christianus, potest; nec debet dominus prohibere, nec potest: nam Spiritus sancti vocatio omnia vincula solvit" (Czerwinski 126, n. 68).
83. Czerwinski aptly registers the significance of citing these two decretals together: "*Etsi iudeos* served as a basis for the reinterpretation of *Dispar*. There is a considerable difference between being 'ready to serve' and being 'condemned to perpetual servitude,' but Raymond of Peñafort joined them in his works to indicate the lowly status of the Jews" (307).
84. According to the canon law, slaves of Jews who convert to Christianity must be freed, but Christians were permitted to own Christian slaves (Pakter 93). In this instance, "The reason for the objections of the master seems to be to prevent the

liberation of the convert. What apparently has happened was a literal interpretation of the spirit making one free” (Czerwinski, 125–26).

85. “Nunquid Christianus potest paganum mancipium vel iudaeum emere. Respondeo sic . . . sed iudaeum secum in familia non habebit. . . Sed si voluerit effici Christianus sibi prohibere non potest nec debet. Quia ubi spiritus ibi libertas” (Czerwinski 128, n. 70). In addition to *Dispar* and *Etsi*, he also cites *Fraternitatem* Di. 54 c. 15, which requires Jews to sell or free non-Christian slaves who wish to convert to Christianity. An English translation of the original text of this law, Gregory I’s 596 decretal, can be found in Linder (430–31). For a detailed account of the history of canon law on the slaves and servants of Jews, see Pakter (84–140).

86. The text reads:

Those who desire in a sincere effort to bring aliens to the Christian religion—to the right faith—should strive toward it with allurements, not harshness (*asperitatibus*), lest those whose mind might be attracted by clear reason should be driven back by hostility; for those who act otherwise and wish, under this pretext, to keep them away from the accustomed observation of their rite, prove that they are acting for themselves and not for the sake of God. (Linder, 443)

87. As Linder explains:

Toledo IV dealt with the entirely new situation created by the forced baptism imposed on the Jews of Spain by Sisebut (612–621), that is the existence of crypto-Jews, formally baptized and recognized as Christians, alongside communities of non-baptized and openly practicing Jews. The council condemned on principle any forced baptism [but] refused, on strong theological grounds, any compromise on the indelible nature of baptism once it had been duly performed. (Linder, 485)

88. Goering notes the influence of both texts: “William of Rennes composed an ‘apparatus’ or gloss to Raymond’s *Summa* (c. 1245), and both became standard texts in the Dominican schools for the duration of the thirteenth century” (422).

89. Pakter provides the reference:

Guilelmus Redonensis, *Apparatus* to *Summa de Casibus* (c. 1241–1245). Printed as marginal gloss to Raymundus de Pennaforte’s *Summa* (Rome 1603) 33:

Asperitatibus, Sed numquid possent auferri eis filij eorum ad baptizandum? Respondeo: adulti non debent, nisi consenserint sponte baptizari, nec etiam paruuli per illos, qui non sunt domini eorum. Sed si vere dominis serui iudaei sunt, sicut credo, ut extra eod. Et si iudaeos (X 5.6.13) et 23 q.8 *Dispar* (c.11), et Gen. 9 maledictus Chanaan, seruus seruorum erit fratribus suis, credo, quod Principes, quorum sunt serui iudaei, possunt eis auferre filios paruulos absque omni iniuria; cum illi in filiis non habeant potestatem tanquam serui. Et sicut ijdem Principes possent eosdem paruulos tanquam mancipia sua aliis dare, vel vendere in servitutem, inuitis parentibus, ita possent eos offerre ad baptismum; et in hoc mererentur; dum tamen non facerent propter compellendos hoc modo parentes ad fidem sed propter seluandos pueros per fidei sacramentum. . . . (322, n. 295)

90. In a discussion of whether a parent’s sin can be transferred to an offspring, Raymond also uses the person of Canaan to figure Jewish hereditary servitude as punishment for the crime of deicide:

Item Cham peccante, Chanaan filius ejus maledicatur: Giezi delinquente, lepra transmittitur ad posteros, Judaeis clamantibus: Sanguis ejus supernos & super filios nostros. Etiam reliquiae eorum poenae mortis Christi addictae sunt. (Similarly, Ham sinning, his son Canaan is cursed; Gehazi offending, leprosy is passed to [his] offspring; the Jews crying: “His blood upon us and upon our children,” likewise the remnants of them are enslaved as punishment for the death of Jesus.) (*Summa de paenitentia*, III, 32, 5, p 374, my translation. See also Czerwinski 45, n. 44, although he introduces some errors into his transcription)

The reference to Gehazi derives from 2 Kings 5:20–27 in which the fraudulent servant and his offspring are cursed by Elisha with perpetual leprosy. Irven Resnick notes that this verse is used as a proof-text to link Jews and leprosy:

Although leprosy became a medieval metaphor for sin and heresy, it is equally true that it became a metaphor for Judaism. . . . In addition, the figure of Elisha’s acquisitive servant Gehazi, who sought payment for the miraculous cure after his master had refused Naaman’s every gift, for which Gehazi and all of his descendants were cursed with leprosy (2 Kgs. 5:20–27), became a symbol for all the Jews. According to Caesarius of Arles (d.

542), Gehazi represents the whole of the Jewish people that is afflicted with the sin of leprosy, but from which the Gentiles have been freed. (122, 128)

The Jewish polemical association of Gehazi with Jesus predates the Christian interpretations (Cuffel 53, 37). In chapter 4 I will consider at greater length in the association of Jewish servitude with the figure of Ham.

91. He refers to *Etsi* as “& sic,” which follows the reference to *Dispar*. (Pakter, 328; Rowan, 18; Francesco Zabarella 169v).
92. His proof, however, does not depend on the servitude of the Jews (Rowan, 22ff). He does cite *Dispar* in a screed that he inserts in the midst of his argument. In this digression, he uses the decretal to demonstrate that the Jews have forfeited their right to be tolerated in Christian society.

The Jews are most ungrateful to Christians, whom they curse daily with public curses and public execrations, they despoil with their usuries, they deny their servile dues, they deride our most immaculate faith and proceed to defile it with the blackest blasphemies against our Savior, even in public. . . . (qtd. in Rowan, 16)

In challenging Christianity, Jews fail to inhabit their proper subordinated position and are no longer deserving of protection (Rowan, 15–16).

93. However, Innocent IV elsewhere does make use of the doctrine of *servitus Iudaeorum*; in a 1244 decretal forbidding Jews to employ Christian servants, he echoes the language of *Etsi*, citing Galatians to denounce the impropriety of Jews, the children of the slave woman, employing free Christians (Grayzel 1966, 253).
94. As Simonsohn notes,

This papal perception of the status of the Jews [as slaves] in no way inhibited papal avowal of the status of Roman Jewry, which was that:

All Jews and Jewesses who live in Roman and dwell there with their families, are to be treated as and are understood to be Roman citizens in everything, and are so considered by everybody, and may enjoy the privileges of Roman citizens. (7, 101)

Boniface IX made this affirmation in a 1402 decretal; Martin V confirmed it again in 1430 (Simonsohn 7 101 n.20; 1 539–44). In a different context, Gregory IX, writing to the Archbishops and bishops of France in 1233 and Innocent IV, writing to the Archbishop of Vienne in 1247, request the release of wrongfully imprisoned Jews, ordering that they be restored “to their former liberty [Judeis libertati pristinae restitutis/ Judeos pristinae restituant libertati]” (Grayzel 1966, 201, 265). However, this probably refers to their liberty prior to imprisonment and not to the status of free person versus slave.

95. However, Czerwinski argues:

Hostiensis personally approved of kidnapping of Jewish children and their baptism, although it was illegal. This is the case if the children were more than seven years old. If they children were less than seven, they remained Christians, but this conversion of children under seven years of age, whose parents were both Jewish, should not be done as it is a form of unwilling baptism. (198)

96. Pakter notes: “By 1270, involuntary baptism of Jewish children had become so topical among Parisian theologians that St Thomas Aquinas (1225–74) picked it for his Christmas Quodlibet.” The text of this quodlibet is identical with *Summa Theologica* II.2.q.10.a.12 ff (Pakter 324, n. 299).
97. As Aquinas reasons:

The custom of the Church enjoys the greatest authority and ought to be jealously maintained in all matters. . . . Now never was it the usage of the Church to baptize Jewish children against their parents’ will, though in past times there have been many very powerful Catholic princes like Constantine and Theodosius with whom most holy bishops were on most friendly terms, as Sylvester with Constantine and Ambrose with Theodosius, who would not have hesitated to claim that this should be done had it been at all reasonable. So therefore it seems hazardous to assert, against the Church’s custom observed up till now, that Jewish children should be baptized despite the unwillingness of their parents. (2.2.10.12 reply to 1 77)

98. The Latin reads: “ut iura dicunt, Iudaei merito culpa suae sint vel essent perpetuae servituti addicti, et sic eorum res terrarum domini possint accipere tanquam suas” (*De regimine Iudaeorum (Epistula ad ducissam Brabantiae)* art. 1, resp. ad argumentum, numerus 727, linea 5, pag. 249). See Simonsohn’s discussion, 7, 98.
99. R. W. Dyson, in his notes on *De Regimine Iudaeorum*, also suggests a connection to *Etsi*: “What St Thomas probably has in

mind here is the canon X. 5:6:13: *Esti Judaeos* (CIC 2:775f)” (Dyson 233, n. 82).

Emperor Frederick II also incorporated the term perpetual servitude in a 1237 law for the city of Vienna excluding Jews from serving in public office, “so they will not abuse official power for the oppression of Christians; for of old, imperial authority has imposed perpetual servitude upon the Jews, as punishment for their crime” (qtd. in Kisch, 149) “ab officiorum prefecura Judeos excipimus. ne sub pretextu prefecture opprimant Christianos: cum imperialis auctoritas a priscis temporibus ad perpetrati judaici sceleris ultionem eisdem Judeis indixerit perpetuam servitutem” (Kisch 431, n. 64). Frederick also relied on *Etsi* in formulating his law; see Kisch, 150–51. Pakter concurs on this point, 136. However, Aquinas’s text is much closer to the wording of *Etsi* than to the language of Frederick’s law.

100. Pakter emphasizes the influence of theological contexts on Aquinas’s thinking regarding the conversion of Jewish children: “The involuntary baptism of Jewish children had become so topical among Parisian *theologians* that St Thomas Aquinas (1225–74) picked it for his Christmas Quodlibet. . . .Some of [his] grounds were borrowed from canonists or civilians. Yet on the whole, *St Thomas embraced most of the theologians premises, including the servile status of Jews*” (324, emphasis mine). Pakter does not consider *De Regimine Judaeorum*, but even in the *Summa* Aquinas emphasizes the civil nature of the Jews’ servitude to secular rulers in discussing the conversion question.

101. In addition to its impact on canon law:

“Jewish servitude” as expressed in “*Etsi iudaeos*” [also] signified a change in public . . .law. In public law, Innocent’s doctrine of the “servitude of the Jews” provided a new rationale for tax assessments. Guido Kisch correctly saw “*Etsi*” as a bridge between the theological notion of Jewish servitude and Frederick II’s 1237 proclamation of Jews as the “serf of the chamber” . . .in order to justify taxing them. It was no longer necessary to sell privileges to Jews or to fine them on trumped-up charges as had been done in England or France. The mere fact that they were Jews rendered them vulnerable to levies. (Pakter, 136)

102. Coincidentally, almost exactly to the day: Innocent III writes his letter on 15 July 1205, while Paul composes his in 1555 on “the day before the Ides of July” (Stow, 298).
103. While decreasingly necessary with regard to Jews, however, the concept of perpetual servitude (again secured with recourse to biblical figures) reappears in a form that attaches to infidels and pagans in canonical writings and papal bulls of the fourteenth and fifteenth century; a phenomenon I discuss in chapter 5.
104. For example, see the discussion in chapter 2 of Jacques de Vitry.