



[Pseudo-Paul, Sentences V.22.3-4](#)

Ban on circumcision for non-Jews

Name of the author: Pseudo-Paul

Date: 290 CE to 328 CE

Language: Latin

Category: Roman

Literary genre: Legal text

Title of work: Sentences

Reference: V.22.3-4

Commentary:

The *Sentences* are known under the misleading title *Iulii Pauli Sententiarum receptarum ad filium libri V* (or more commonly *Sententiae Pauli*), thus giving the erroneous impression that it is a collection of sentences of the Roman jurist Iulius Paulus, active at Rome between 170 and 230 CE, sentences that would have been collected for his son. However the attribution of this work to Iulius Paulus is considered as spurious and fanciful (about Iulius Paulus see RE 9,1 (1918) s. v. "Iulius (Paulus)" n° 382, col. 690-751 (Berger); *PIR*² I 453; Liebs, "Iulius Paulus"; about the "spurious" attribution of the *Sententiae* to Paul, see Honoré, "Iulius Paulus"). The *Sentences* is a collection of legal sentences (some of them coming from Paulus and others from Ulpian and Papinian, and more rarely from Marcian, Modestinus and from some constitutions of the third century CE) probably compiled at the very end of the third century CE, certainly in a provincial milieu, perhaps in Africa (see Gaudemet, *La formation*, p. 89; Liebs, "Der Sentenzenfasser"). The *terminus ante quem* of their composition has to be settled in 327/328 CE, which corresponds to the dating of the constitution of Constantine that asserted its official validity (CTh I.4.2). However, some later reworkings show that some parts of the *Sententiae Pauli* have been modified up until the middle of the fifth century (Gaudemet, *La formation*, p. 89). The *Sentences* were a collection of short legal principles without any further discussion. It may have been intended to serve as an accessible handbook for practitioners of law in the provinces. With the exception of a fragment that has been preserved on a papyrus found in Egypt, the *Sententiae* have not been preserved directly. We only know them through fragments collected in other legal works (the *Fragmenta Vaticana*, the *Collatio mosaïcarum et romanarum legum*, the *Consultatio*, the *Breviary of Alaric* and the *Digest*). As a consequence, the original text may have sometimes been modified during its insertion in these new legal corpora (Gaudemet, *La formation*, p. 89).

The passage of the *Sentences* presented here restates, yet with slight modifications, the same ban as that which was formulated in the rescript of Antoninus Pius, as far as we know the latter through its quotation by Modestinus in the sixth book of his *Regulae* – the text itself is known thanks to the compilation made by the *prudentes* of the Justinianic *Digest*:

"By a rescript of the deified [Antoninus] Pius it is allowed for Jews to circumcise only their own sons; if anybody shall commit it on anyone who is not of that very religion, he shall suffer the punishment of a castrator"

([Digest XLVIII.8.11 \(quotation of Modestinus, Legal Rules VI\)](#)).

In the commentary of this text we have explained that, at least at the time when Modestinus quoted this rescript of Antoninus Pius, he may have understood it as a legal statement whose main aim was to protect slaves against the excessive brutality of their masters (on the emendation of the text *in <servis> non eiusdem religionis qui hoc fecerit*, "if anybody shall commit it on slaves who are not of that very religion," see Solazzi, "Fra norme," p. 396-404).

Thus, it is striking to see that a part of the passage from the *Sentences* presented here restates a quite similar banning: "If Jews shall circumcise purchased slaves from another nation, they shall be banished or suffer capital punishment". Among the similarities, we can see that, even at the end of the third century CE, Jews responsible for illegally practicing circumcision on their slaves were still sanctioned according to the sentences fixed by the *Lex Cornelia* against castration, namely condemnation to exile or death (Nemo-Pekelman, *Rome et ses citoyens juifs*, p. 145). However, the formulation in the *Sentences* is slightly different. First, it is more explicit, as it targets slaves directly and it clearly defines the nature of the sanctions. Second, concerning the victims of illegal circumcisions, the author of the sentence does not define these slaves as being not of the Jewish *religio*, but as coming from another nation. However, this terminological difference is probably not really significant as, in the passage of the *Digest* referring to the rescript of Antoninus Pius, it is stated that only the sons of Jews, that is the members of the Jewish *ethnos*, were allowed to be circumcised. Thus, even in this passage of the *Digest*, ethnic and religious criteria are mixed to define in which cases circumcision practices on a slave by his master became illegal.



These slight modifications have to be understood as fitting into the global perspective of this passage of the *Sentences* which mentions much more clearly the social status of the persons concerned by the sanctions in case of illegal practices of circumcision. Thus, in the first sentence, the author refers to the case of Roman citizens, *cives Romani*, who accepted to be circumcised or allowed their slaves to be circumcised, and who shall be punished. Their status as Roman citizens explain why they did not incur capital punishment. This reference to the *cives Romani* in the first sentence has raised many questions. The distinction made in the two sentences between the Roman citizens and the Jews may give the impression that the Jews were not counted among the Roman citizens. This was of course not coherent with the situation after 212 CE (Linder, *The Jews in Roman Imperial*, p. 118-119, n. 3). It is preferable to understand that in V.22.3, when the redactor refers to Roman citizens, he meant non-Jewish free men who were Roman citizens and who accepted to be circumcised or allowed their slaves to be circumcised. His aim was to make the distinction with the second situation imagined in V.22.4, that of Jews by birth who compelled their non-Jewish slaves to be circumcised. The author of the law thus marks the distinction between those who are likely to be circumcised – that is Roman citizens and their non-Jewish slaves – and those who are likely to circumcise – that is Jews. Thus, at the difference of the *Digest*, this passage of the *Sentences* does not deal with the case of those who were allowed to be circumcised by Jews, i.e. their sons.

Moreover, the contrast between the Roman citizens in the first sentence and the *Iudaei* mentioned in the second one shows that the author of this text reasoned in “ethnic” terms. A detail that may show that the original text could have been written before 212 CE and that it might have been more or less adapted by the jurists who transformed it into a short legal principle in order that it could fit in the context post 212 CE. We have however absolutely no idea of the nature and extent of their modifications. Of course this remark does not rule out the fact that this legal sentence implicitly deals with the possibility that Jews who were also Roman citizens could commit illegal circumcisions. In that sense, two kinds of sanctions were predicted for guilty Jews: *deportatio* or death – death perhaps being for those who were not Roman citizens. By then, the difference of terminology between the *relegatio* of the Roman citizens and the *deportatio* of the Jews guilty of illegal circumcision also has to be explained. The *relegatio* was less severe than *deportatio* as the latter implied the loss of Roman citizenship and the suppression of the right to leave one’s property in testament. If this difference of terminology is meaningful it would show that cases of forced circumcision were sanctioned in a more severe way, and that Jews who were also Roman citizens risked the loss of their citizenship. Finally, as stressed by Amnon Linder, the fact that even Roman citizens accused of consensual circumcision were condemned not to a temporary but a perpetual *relegatio* and saw all their goods confiscated, proves the harshness of the sanctions against this kind of crime (Linder, *The Jews in Roman Imperial*, p. 119, n. 5).

The fact that in this passage of the *Sentences* both voluntary and imposed circumcisions are sanctioned clearly recalls the Hadrianic legislation on castration mentioned in [Digest LVIII.8.4.2](#), quoting a passage of book 7 of Ulpian’s *Duties of Proconsul*. In this text, Hadrian prohibited castration carried out on a free man or on a slave, with or without his consent. He also asserted that castrators should be punished under the *Lex Cornelia de sicariis et veneficis*, and that the doctors who performed this kind of operation should be punished by death. The echoes between the two laws regulating close subjects are thus striking. However, as rightly recalled by Capucine Nemo-Pekelman, the cases of men who had suffered a forced circumcision must have been limited to slaves of Jewish masters. It is actually hard to think that a free man could have been forced to be circumcised by another one. However, it is probable that the Roman legislator could not do much for the cases of non-Jewish slaves who agreed to be circumcised, even if the practice was illegal according to the Roman law. It is interesting to see that the rabbis discussed this issue and stressed the importance of the consent of the slaves being circumcised by their Jewish masters, probably to prevent that unwilling slave denounced their masters. If they refused to be circumcised, they recalled that the slaves had to stay twelve months in the house and if they still did not want it, they had to be sold to a new Gentile master (**Jerusalem Talmud Yevamot 8:1, 8d (1)**; see Nemo-Pekelman, *Rome et ses citoyens juifs*, p. 145).

To sum up, this text restates a principle that had been already partially established in the rescript of Antoninus Pius, namely that Jews – even those who were Roman citizens – were exempted from the restriction of circumcision, but they had to simply practice it on their sons and not force their non-Jewish slaves to be circumcised. Nevertheless, this passage of the *Sentences* of Pseudo-Paul seems to go one step further in the restriction of the practice of circumcision within the Jewish community. Actually, in contrast to Antoninus’s rescript, which is not clear on this point, this law explicitly marks the difference between Jews allowed to circumcise their sons and Judaizers who wanted to be circumcised in order to become a full convert. In this text the possibility that some Roman citizens converts to Judaism could also choose to be circumcised is explicitly excluded and presented as illegal. Raanan Abusch thus writes about this law: “The function of circumcision as a mark of identity, as described in Suetonius’s courtroom drama, was merging with restrictions on Jewish circumcision of



non-Jews, whether slave of free” (Abusch, “Negotiating Difference,” p. 90). If limited and rare attempts to control conversions to Judaism had sporadically existed under the Principate (we think in particular of the measures taken under Domitian’s reign; see [Suetonius, *Life of Domitian* XII.1-2](#); [Cassius Dio, *Roman History* LXVII.14.1-2](#); [Cassius Dio, *Roman History* LXVIII.1-2](#)), this passage of the *Sentences* of Pseudo-Paul shows that at the end of the third century CE, the Roman policy to control, through legal means and definitions, the practice of circumcision, had gone one step further. It tried to limit indirectly conversion to Judaism for Roman citizens by limiting a ritual which was essential in their conversion process. However, as rightly recalled by Capucine Nemo-Pekelman, it is only under Constantine the Great that conversions to Judaism started to be incriminated as such, and started to be considered as a *crimen publicum* (see Nemo-Pekelman, *Rome et ses citoyens juifs*, p. 124-131; on the evolution of the Roman legislation on circumcision during Constantine’s reign, see [Eusebius of Caesarea, *Life of Constantine* IV.27](#)).

Keywords in the original language:

- [caput](#)
- [circumcido](#)
- [civis Romanus](#)
- [deporto](#)
- [Iudaeus](#)
- [Iudaicus ritus](#)
- [medicus](#)
- [natio](#)
- [relego](#)
- [servus](#)

Thematic keywords in English:

- [circumcision](#)
- [confiscation](#)
- [conversion](#)
- [death penalty](#)
- [deportation](#)
- [Jewish customs](#)
- [Jews](#)
- [Roman citizenship](#)
- [slave](#)

Bibliographical references: Abusch, Raanan, [“Negotiating Difference: Genital Mutilation in Roman Slave Law and the History of the Bar Kokhba Revolt”](#), in *The Bar Kokhba War Reconsidered. New Perspectives on the Second Jewish Revolt against Rome* (ed. Peter Schäfer; Tübingen: Mohr Siebeck, 2003), 71-91

Gaudemet, Jean, [La formation du droit séculier et du droit de l’Église aux IVe et Ve siècles](#) (Paris: Sirey, 1957)

Honoré, Tony, [“Iulius Paulus”](#), in *The Oxford Classical Dictionary* (ed. Simon Hornblower, Antony Spawforth; Oxford: Oxford University Press, 1996), 785-786

Liebs, Detlef, [“Iulius Paulus”](#), in *Handbuch der Lateinischen Literatur der Antike. VIII.4. Die Literatur des Umbruchs von der Römischen zur Christlichen Literatur 117 bis 284 N. Chr.* (ed. Klaus Sallmann; Munich: C.H. Beck’sche Verlagsbuchhandlung, 1997), 150-175

Liebs, Detlef, [“Der Sentenzenfasser \(Pseudo-Paulus I\)”](#), in *Handbuch der Lateinischen Literatur der Antike. VIII.5. Restauration und Erneuerung die Lateinische Literatur von 284 bis 374 N. Chr.* (ed. Reinhart Herzog; Munich: C.H. Beck’sche Verlagsbuchhandlung, 1989), 65-67

Linder, Amnon, [The Jews in Roman Imperial Legislation](#) (Wayne State University Press, 1987)

Nemo-Pekelman, Capucine, [Rome et ses citoyens juifs. IVe-Ve siècles](#) (Paris: Honoré Champion, 2010)

Schäfer, Peter, [Der Bar Kokhba-Aufstand: Studien zum zweiten jüdischen Krieg gegen Rom](#) (Tübingen: J.C.B. Mohr, 1981)

Solazzi, Siro, [“Fra norme romane antisemite”](#), *Bollettino dell’Istituto di diritto romano* 44 (1936) : 397-406

Other sources connected with this document: Text



[Digest XLVIII.8.11 \(Modestinus, Legal Rules VI\)](#)

Antoninus Pius's ban on circumcision for non-Jews

- [Read more about Digest XLVIII.8.11 \(Modestinus, Legal Rules VI\)](#)

Text

[Eusebius of Caesarea, Life of Constantine IV.27](#)

Christians may not be slaves to Jews

- [Read more about Eusebius of Caesarea, Life of Constantine IV.27](#)

Text

[Digest XLVIII.8.4 \(Ulpianus, On the office of the Proconsul VII\)](#)

Hadrian's ban on castration

- [Read more about Digest XLVIII.8.4 \(Ulpianus, On the office of the Proconsul VII\)](#)

Realized by:

[Marie Roux](#)



Source URL: <https://www.judaism-and-rome.org/pseudo-paul-sentences%C2%A0v223-4>