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Legal and Social Perspectives on Robbers in First-Century Judea

John W. Welch

Robbers, bandits, zealots, Sicarii, and other groups operating outside of normal legal channels were prominent features on the political landscape in and around the Roman province of Judea in the first century. To an extent, the Jewish insurgents who died at Masada can be viewed as robbers or bandits within the ancient meaning of those terms. Knowing something about the prevailing laws concerning robbery and the typical characteristics of social banditry helps modern people to understand these “outlaws” and to imagine how typical Roman rulers or average Jewish citizens in that day probably viewed both the group of dissidents who died at Masada and others like them mentioned in the New Testament.

There are two viewpoints concerning such rebels. As robbers or bandits, they appear very different from one perspective than from the other. Government officials, who generally favor law and order, see robbers as an extremely negative element in society. Legally, they perceive robbers as violent, destructive criminals, whose very existence threatens the public order. Not surprisingly, Josephus, who wrote his histories to please his Roman patrons, presents a very negative view of antiestablishment operators. The average citizen in the city or village however, probably viewed these bands of fighters much more favorably. To the oppressed or disempowered, social bandits like Robin Hood can become sympathetic folk heroes who set out at all cost to right what they and many of their fellow citizens perceive to be fundamental wrongs. Without understanding both sides of this explosive social and political phenomenon, observers will never come to grips with the essence of the dynamics behind Masada and its world.
The Legal Establishment's View

Considerable evidence allows us to reconstruct a profile of what it meant to be a robber under most legal systems in the ancient world. Especially interesting is the distinction between being a thief and being a robber. In ancient times, a thief was a fairly innocuous person, primarily perceived as a local person who worked alone and stole in secret from his neighbor. He was dealt with judicially; he was tried and punished civilly (usually by monetary fines), most often by a court composed of his fellow townspeople. Robbers, on the other hand, were typically outsiders, brigands or highwaymen who attacked in groups with open and deadly force. When possible, robbers were dealt with militarily. In most instances, the army was responsible to rid the countryside of robbers, and such outlaws could be executed summarily without any legal recourse.

The legal concepts of theft and robbery in the ancient world have been analyzed most thoroughly by Bernard S. Jackson. The following summary draws largely on his findings, supplemented with the studies of others. Jackson recognizes, of course, that legal terms in the ancient world are not defined precisely, and thus one must "resort to etymology and semantics," together with social context and historical data, to detect the ancient meanings of such words. From that evidence, the following characteristics and legal treatment of robbers in the ancient world can be identified.

In Hebrew, the terms gazal (to rob) and gazlan (robber) normally mean taking property openly and blatantly, while the words ganab (to steal) and gannab (thief) usually connote stealing in secret. Similarly, the Greek term kleptes "is used to describe a stealthy person who, without violence, deprives another person of his property," whereas by contrast, "in the Old Testament and Apocrypha, a λῃστῆς [lēstēs] is always a brigand, a marauder, a member of a gang whose activity takes place out of doors. He belongs to a troop that attacks caravans or settlements with weapons and robs them of their goods." According to Jackson, this distinction between secret and open taking became a "firmly distinguished" and "clearly established" point of law in rabbinic Judaism in the first and second centuries A.D.
A gazlan is typically an outsider, whereas a gannab is an insider who belongs to and lives within the same community as his victim. The terminology might change from culture to culture, but ancient languages regularly used two different words to convey the persistent social and legal distinction between neighborhood thieves and outside bands of robbers.

Robbers normally acted with force and violence, while thieves were usually unseen and did not harm their victims. Indeed, robbery was “usually committed by a group”; the Hebrew word gedud, meaning “bandit” (literally, “band”), conveys the collective character of these groups. In early Roman law, the use of a gang was vital to the definition of brigandage. The laws of some peoples even provided numerical tests for distinguishing thieves (acting alone or in very small groups) from robbers (working in a group large enough to be considered a band).

Some of these groups were organized as “professionals,” with recognized leaders and rules of the pack. Achilles Tatius describes one very large militant band with a leader called “king.” Where the men in these bands had come from is not often clear, but Lutz speculates they were dissidents, foreigners, descendants of foreign mercenaries, and social outcasts—groups begotten especially by “political, economic, and social conditions [that] made for a distinct class of human dross.”

Robbers bound themselves together with oaths and clothed themselves with religious ritual. “The robbers lived under their own code, sanctioned by their own religious views and practices. They had their own priests.” Josephus reports that one band had an oath that they all swore. According to Dio Cassius, another band, which under the leadership of the priest Isidorus nearly threw all of Egypt into revolt in A.D. 172–73, sacrificed the companion of a Roman centurion and “swore an oath over his entrails and then devoured them.” It is said that they would sacrifice and eat these victims to purify their camp. Still, Josephus says these brigands were not above robbing from one another. Diodorus takes plundering to be a full-time occupation for robbers.

An important obligation of these robbers was to keep secret their identity and also the whereabouts of their hideout. Their camps
were usually located in the mountains,\(^\text{21}\) where, according to Josephus, the brigands whom Herod conquered lived in caves with their families.\(^\text{22}\) Josephus gives a graphic account of the caves opening onto mountain precipices.\(^\text{23}\)

The mode of operation of these robbers often involved swooping down out of their mountain roosts in raids on villages.\(^\text{24}\)

On occasion, however, they could also work within large cities. For example, in Jerusalem during the time of Felix (around A.D. 51), bandits committed a wave of murders, one of Jonathan the High Priest, in broad daylight. The Sicarii, one of the most notorious bands, would mingle among the crowds at festival times, carrying daggers and stabbing their enemies, after which they would join in the cries of indignation and alarm.\(^\text{25}\) One robber butchered his seven sons and wife and then committed suicide before the eyes of Herod.\(^\text{26}\) Josephus gives the following account of the operations of several of these groups, including Sicarii based at Masada in A.D. 67:

These assassins, eluding under cover of night those who might have obstructed them, made a raiding descent upon a small town called Engaddi. Those of the inhabitants who were capable of resistance were, before they could seize their arms and assemble, dispersed and driven out of the town; those unable to fly, women and children numbering upwards of seven hundred, were massacred. They then rifled the houses, seized the ripest of the crops, and carried off their spoil to Masada. They made similar raids on all the villages around the fortress, and laid waste the whole district, being joined daily by numerous dissolute recruits from every quarter. Throughout the other parts of Judaea, moreover, the predatory bands, hitherto quiescent, now began to bestir themselves. And as in the body when inflammation attacks the principal member all the members catch the infection, so the sedition and disorder in the capital gave the scoundrels in the country free licence to plunder; and each gang after pillaging their own village made off into the wilderness. Then joining forces and swearing mutual allegiance, they would proceed by companies—smaller than an army but larger than a mere band of robbers—to fall upon temples and cities. The unfortunate victims of their attacks suffered the miseries of captives of war, but were deprived of the chance of retaliation, because their foes in robber fashion at once decamped with their prey.\(^\text{27}\)

Robbers would take any action possible to harass the highways or weaken the local government.\(^\text{28}\) Indeed, the robber bands in Egypt described by Lutz were always on the verge of “immediately
flaring up again whenever the government showed the least signs of political or economic weakness." Josephus expressly correlated the rise of robbers with "sedition and disorder in the capital." Thus the action of these robbers was often political in nature, and it was common for robbers to claim or dispute the throne.

Robbers' raids sometimes involved large-scale destruction; other times they attacked solely to restock their supplies or supplement their meager income off the land. The military strength of some of these groups cannot be doubted: one nearly captured the city of Alexandria from the Romans. They were more threatening than foreign invaders.

In lieu of ransacking, robbers would often demand ransom or extort money from towns. One text suggests that robber leagues were so well established in Egypt that they became entitled by custom to demand ransom equal to one fourth of the property seized or threatened. In addition, they might bribe local officials. Josephus accuses Albinus of taking kickbacks from brigands.

The task of clearing the countryside of the menace of these robber bands was typically the responsibility of the local governmental authorities. Considerable pressure was exerted on local authorities if a robber was not caught. Indeed, many ancient kings left inscriptions boasting that they had successfully eradicated the robbers from their territory. Under the law, a shepherd or carrier was liable for loss from theft but not for loss to robbers, against whom he was de jure considered powerless.

If caught, a robber was not entitled to the protections of law and therefore could be dealt with by military force and martial law. The severity of punishment seems to have corresponded directly with the seriousness of the problem robbers presented at a particular time and with the central government's ability to do something about them. Robbers would be put to death, "often executed summarily." The mode of punishment, at least in one case, was crucifixion; decapitation by the sword probably also occurred.

The leaders of these robber bands attracted the attention of higher officials. Josephus reports that Herod put to death a robber-chief named Ezekias, who headed a "large horde," and records the arrest of another brigand-chief, Eleazar, who was sent to Rome.
for trial, even though he was not a Roman citizen.\textsuperscript{48} Perhaps he was displayed as part of a triumph.

Because of their ominous threat to society, plagues of robbers were viewed in some circles as instruments of divine justice. The wicked were beset with the violent attacks of these brigands as a manifestation of God’s judgment. For example, Hosea 7:1 reads: “When I would have healed Israel, then the iniquity of Ephraim was discovered . . . and the troop of robbers spoileth without.”

From this brief summary of the legal view of robbery in the ancient eastern Mediterranean, the modern reader can begin to appreciate the intense concern and mortal terror that all ancient rulers, whether Roman or Jewish, undoubtedly felt in the face of any serious threat from robbers.

\textbf{The Social Activist’s View}

While legal administrators and government authorities consistently and vehemently branded robbers as criminals and outlaws, not everyone in society would view them so negatively. Robin Hood episodes show that social banditry may be viewed positively in certain circles. Richard A. Horsley and others have shown that the phenomenon of social banditry often took the form of popular defiance against situations that many common people viewed as unjust.\textsuperscript{49}

It oversimplifies matters, Horsley argues, to conclude that Josephus used the idea of banditry merely to pass a polemical moral judgment against Jewish rebels, and he demonstrates that Josephus presents “no consistent castigation” of these fighters in terms of banditry. Instead, on closer inspection, Josephus clearly presents the insurgents as a coalition of actual bandit groups and other leaders.\textsuperscript{50}

Drawing on anthropological and sociohistorical studies, Horsley then paints a portrait of social banditry, noting that “the conditions which produce [banditry] are basically similar for most traditional (pre-industrial) agricultural societies.”\textsuperscript{51} In particular, “social banditry emerges from circumstances and incidents in which what is dictated by the state or the local rulers is felt to be unjust or intolerable.”\textsuperscript{52}
Banditry often arises in the countryside as a preemergent condition before the time when the poor reach “effective methods of social agitation.” Banditry often arises in the countryside as a preemergent condition before the time when the poor reach “effective methods of social agitation.” Urban unrest and city mobs may also serve as a seedbed for urban banditry, as Donaldson has shown. Factors typically contributing to the rise of banditry include administrative inefficiency, the presence of sharp social divisions, times of economic crises, famines, prolonged wars, and other such elements that “can bring banditry to epidemic proportions.”

Moreover, such bandits usually “enjoy the support of their village or of the people in general. They have no difficulty rejoining their community periodically or permanently.” Sometimes local people even protect these social bandits, who give the poor hope that they may finally overcome their oppressive situation.

To the poor and the oppressed, social brigands are frequently heroes, functioning “as defenders and champions of the common people.” As a result of their grass-roots origins and support, social bandits often “share the basic values and religion of the peasant society from which they arise (and of which they remain a marginal part), and are in fact themselves quite devout, defenders of the faith as well as of (the) right.”

Obviously, these general conditions apply precisely to the rise of robbers and social bandits in the eastern Roman territories, as can be fully documented from many historical Roman sources. This social typology fits precisely the Jewish rebels under Hezekiah and the fighters who made their last stand at Masada. Each of these factors is clearly present in connection with the phenomenon of robber-rebels in first-century Judea.

In Galilee during the decades just before the episode at Masada, widespread opposition to the institutional rulers was felt. Previous revolts had led to violence. Events such as one in which a Roman soldier tore up and burned a copy of the sacred book of the law and another in which some Samaritans killed a Galilean on his way to Jerusalem encouraged ransacking and disorder.

In the middle of the first century, prolonged famines made life very difficult for the Jewish common folk. The local villagers did not seek to stop or arrest the robbers but rather provided them supplies and cover. These “oppressive and ever tightening political
and economic circumstances, further aggravated by such incidents, drove increasing numbers of the people into banditry.\textsuperscript{63} The situation was exacerbated when Albinus adopted a policy of allowing imprisoned robbers to be ransomed by their relatives. Many were released from prison, and they became leaders of the eventual full revolt against the Romans.

Finally, these social brigands evidently shared the basic religious values of the common Jewish population. At one point in the revolt, they took control of the temple in Jerusalem, and they “looked to the central Jewish symbols and institutions . . . as their own . . . and as something to be defended against foreign incursions.”\textsuperscript{64}

Seen from the perspective of the local rank-and-file townspeople, the activities of these daring robbers take on a much different hue than when seen through the eyes of government officials and powerful administrators. Thus, the position of the militant band at Masada was precariously ambiguous in the world in which they lived.

Robbers in the New Testament

This information about ancient law and society sheds light not only on the gallant behavior of the Jewish rebels and on the determination of the Romans in capturing Masada at all costs, but also on several passages in the New Testament. The original biblical terminology consistently assumes that the reader understands the ancient legal concepts of theft and robbery, and the New Testament narratives interestingly reflect the ambiguity of first-century politics and society toward robbers.

Indeed, even though the King James translators used the words \textit{theft} and \textit{robbery} interchangeably, the Greek New Testament uses these separate terms accurately and meaningfully. For example, the English word \textit{thieves} is rightly used in translating Matthew 6:19, “where thieves break through and steal.” The Greek word rightly rendered as “thieves” is \textit{kleptai}. Likewise, Judas is suitably described as a “thief” (\textit{kleptes}) in John 12:6. But the translators settled on a weak rendition of Matthew 21:13, where Jesus is made to say, “Ye have made [my house] a den of thieves.” The Greek word here is \textit{lēston}, and it should have been translated “robbers.” Thieves
do not have dens, but robbers do. Nevertheless, in Matthew 21:13 Jesus is actually quoting from Jeremiah 7:11, which was rightly translated in the King James Version as “a den of robbers.”

Robbers were obviously well known in New Testament times. Paul speaks of having journeyed “in perils of waters, in perils of robbers” (2 Cor. 11:26). In the parable of the Good Samaritan, Jesus makes use of this terrifying social problem to impress his Jewish audience. Nothing could be worse than to be attacked by bloodthirsty outlaws. Although the English translation reads, “A certain man went down from Jerusalem to Jericho, and fell among thieves” (Luke 10:30), it is evident that one does not fall among thieves out in the desert but among robbers. Indeed, the unfortunate traveler fell among robbers; the Greek word in this parable is lästais, “robbers.” The message of the parable becomes even more emphatic when one realizes that robbers were in the area. By stopping to care for the victim, a wealthy person made himself an easy and likely target for the robbers who were probably still lurking not far away.

Among the final words of Jesus, thieves and robbers also figure prominently. In his lament over Jerusalem, Jesus said, “If the good man of the house had known in what watch the thief would come, he would have watched” (Matt. 24:43), and thus his disciples expected his return to occur “as a thief in the night” (1 Thes. 5:2; 2 Pet. 3:10); in each case the Greek word is kleptes, as one should expect. But when the soldiers came to arrest Jesus in the Garden of Gethsemane, he asked them “Are ye come out as against a thief?” (Matt. 26:55); here the word is lästēs. Indeed, why would soldiers come out against an ordinary citizen. By apprehending Jesus in this way, his opponents have already effectively condemned him to be treated as a robber, whose legal rights then became inconsequential. Being so characterized, however, would not have been viewed as a negative in all circles of society, especially among Jesus’ Galilean followers.

Finally, the King James translation says that Jesus was crucified between two “thieves” (Matthew 27:38). In actuality, we can now appreciate the fact that he was put to death between two robbers (lästai), also called evil-doers (kakourgoi, Luke 23:33), who were being put to death as public spectacles. Indeed, the word
lēstēs was correctly translated as “robber” in the part of the story that speaks of the prisoner who was released instead of Jesus: “Now Barabbas was a robber” (John 18:40). That one word alone speaks volumes about why a crowd of people could possibly have expressed their preference in favor of such a figure, a bandit, and consequently against Jesus.

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NOTES


6Jackson, *Theft in Jewish Law*, 20, 26. Jackson suggests that this development was influenced by the Greek concepts of klope (secret theft) and lopodustia (robbery by violence), described further in David Cohen, *Theft in Athenian Law* (Munich: Beck, 1983), 79-83.

The persistence of this distinction is seen in the fact that it has endured down to modern times in the Near East. In Arabic, *sirka* (theft; compare *saraqu* in the Code of Hammurabi 6–10, 14) occurs “wenn ein Beduine einen Stammesgenossen bestiehlt” (that is, if a Bedouin steals from a kinsman), whereas *ghazu* (robbery) is “wenn zwei Stämme in Feindschaft sind” (that is, if two tribes are hostile enemies) and one attacks the other to take their animals. Gustav Dalman, “Aus dem Rechtsleben und religiösen Leben der Beduinen,” *Zeitschrift des deutschen Palästina-Vereins* 62 (1939): 53.


For example, Ulpian required more than three or four to constitute a group of rioters. Anglo-Saxon law defined a band as ranging from seven to thirty-five. Jackson, “Robbery and Brigandage,” 77, 90.


Lutz, “Robbers’ Guild,” 241; see also 234, 236. In Rome, 76 B.C., domestic upheavals, according to Cicero, “resulted in armed bands of slaves running wild in the countryside,” a condition leading to the edict of Lucullus against gangs of brigands (*bominibus coactis*). Jackson, “Robbery and Brigandage,” 70.


Josephus, *Jewish War* 4.408 (*synomnymenoi kata locbous*). The Greek here probably means more than simply that they “swore together” (*synonymmenoi*) but also that their oath was peculiar to or customary with their band (*kata locbous*).

Dio Cassius, 72.12.1, cited in Lutz, “Robbers’ Guild,” 242. Other such oath swearing was accompanied by drinking the blood of slaughtered human victims; compare Lutz, “Robbers’ Guild,” 240 n. 48.


For example, the raid of the town of En Gedi, Josephus, *Jewish War* 4.403 and following.


Josephus, *Jewish War* 1.312.


For this reason, the Roman government and not the Sanhedrin kept jurisdiction over brigandage in Palestine. Jackson, *Theft in Jewish Law*, 251–60.


Lutz, “Robbers' Guild,” 234.


1 Samuel 25.


Lutz, “Robbers' Guild,” 238.


Josephus, *Jewish War* 2.274.


See, for example, Code of Hammurabi, section 22. In Egypt, the death penalty applied if a person could not prove that he had acquired his wealth in an honest livelihood. Lutz, “Robbers' Guild,” 232. In early Roman law, the penalty for robbery was “the interdict of fire and water”; under Tiberius the penalty became deportation; and for ordinary *grassatores* (highwaymen) the punishment was sometimes death. Jackson, “Robbery and Brigandage,” 79, 86.


Robbers in First-Century Judea

52Horsley, “Josephus and the Bandits,” 43.
53Hobsbawm, Primitive Rebels, 23, quoted in Horsley, “Josephus and the Bandits,” 44.
55Horsley, “Josephus and the Bandits,” 44.
57Hobsbawm, Primitive Rebels, 14.
60See the discussion in Horsley, “Josephus and the Bandits,” 49–52.
62Josephus, Jewish War 2.229.
64Horsley, “Josephus and the Bandits,” 60.