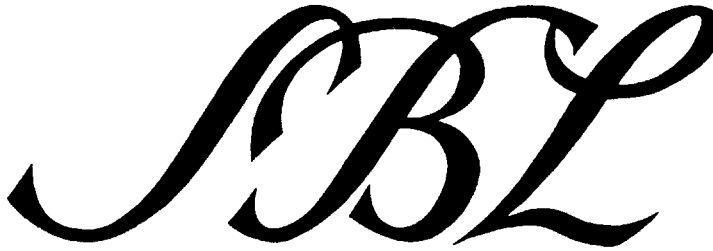

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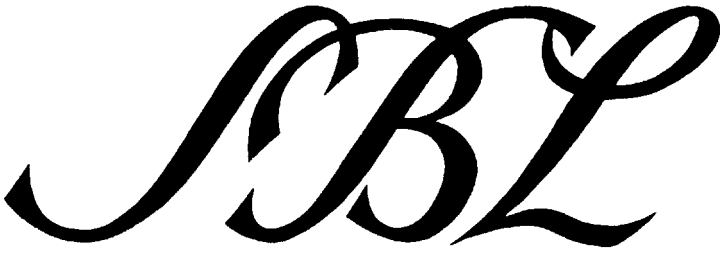

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Presidential Address

by

DAVID L. PETERSEN

President of the Society of Biblical Literature 2004
Annual Meeting of the Society of Biblical Literature
November 20, 2004
San Antonio, Texas

Introduction given by Carolyn Osiek,
Vice President, Society of Biblical Literature

This evening, I have the pleasure of introducing David L. Petersen, who will present our 2004 presidential address. The name of David Petersen is well known to those active in the Society of Biblical Literature. He has worked in many different capacities for the Society. He co-founded the Israelite Prophetic Literature Section, chaired the Research and Publication committee from 1994 to 2002, and edited the Dissertation Series, OT. He has served on the Executive Committee, the Investment Committee, the Development Committee, the Programs and Initiatives Committee, and on various task forces. He was a member of Council before assuming the presidency of the Society.

But he has had time to do many other things, including a B.A. degree from the College of Wooster and the B.D., M.Phil., and Ph.D. degrees from Yale University.

Professor Petersen was a faculty member at the University of Illinois, Urbana-Champaign from 1972 to 1983. While there, he was appointed director of the Program in Religious Studies. From 1983 to 2002, he was a member of the faculty at The Iliff School of Theology, where, in 1999, he was named Clifford E. Baldridge Professor of Biblical Studies. On two occasions he served as director of the Ph.D. program offered jointly by Iliff and the University of Denver. He is now professor of Old Testament in Emory University's Candler School of Theology and Graduate Division of Religion.

Professor Petersen has authored six books, beginning with one in the SBL Monograph Series in 1977, and most recently, *Old Testament Prophetic Literature: An Introduction.* He has edited or co-edited eight volumes. In addition, he has written approximately fifty articles, chapters in books, and major encyclopedia or dictionary entries. He served as senior Old Testament editor for the *New Interpreter's Bible.* He currently sits on the editorial boards of the *Journal of Biblical Literature,* the *Catholic Biblical Quarterly,* and the Old Testament Library. He has enjoyed publishing in diverse genres: one-

volume commentary, multivolume commentary, study Bible, style manual, Festschrift, and volume of essays.

Professor Petersen has received fellowships and grants from the American Council of Learned Societies, the Fulbright Commission, and the National Endowment for the Humanities. He is a member of the SBL, CBA, ASOR and OTFS—the Old Testament Fishing Society, a small group created in 1988 that meets several times a year to pursue together a double avocation, scholarly and recreational. I suspect that he is as delightful a fishing companion as he is pleasant and fun to work with in academic activities.

Out of his current writing project, a commentary on Genesis for the Old Testament Library, coupled with his concerns about contemporary events and rhetoric, comes this evening's address: "Genesis and Family Values."

JBL 124/1 (2005) 5–23

GENESIS AND FAMILY VALUES

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The phrase "family values" currently reverberates in political, religious, and even academic circles. The conversations are complicated and the tone is often heated. Various organizations spend vast sums of money to promulgate their views on issues such as pro-natalism and gay marriage. People argue vigorously about the very nature of the family. Those debates involve important and foundational questions: What is a family? Is there a normative family structure? What does marriage mean?

One might think that these questions belong primarily to the purview of sociologists, anthropologists, and ethicists, among others. However, as many of us know, the aforementioned conversations regularly involve appeals to biblical literature. When examining the issue of the Bible and family values, Jay Newman recently wrote, "In modern Western democracies, the religious texts that have had by far the greatest cultural impact have been Biblical texts, so it is not surprising that in recent debates in the West about religion and the family, religious cultural critics and reformers have concentrated much of their attention on the values ostensibly imparted by Biblical texts. Questions thus arise concerning, for example, what family values the Bible actually imparts. . . ."[1] If Newman's assessments are accurate, we biblical scholars have a role to play in the current debates, since who better than one of us is in a position to talk about family values as they are depicted either in the Hebrew Bible or in the New Testament.

Within the context of this discourse about family values, one prominent organization, Focus on the Family, has identified five principles or "pillars" that undergird its work of "helping to preserve traditional values and the institution

Presidential Address delivered on November 20, 2004, at the annual meeting of the Society of Biblical Literature in San Antonio, Texas.

[1] Jay Newman, *Biblical Religion and Family Values: A Problem in the Philosophy of Culture* (Westport, CT: Praeger, 2001), 14.

of the family." In introducing those pillars, Focus on the Family offers the following statement regarding their source: "These pillars are drawn from the Bible and the Judeo-Christian ethic, rather than from the humanistic notions of today's theorists."[2] Despite this claim, explicit reference to biblical material is not prominent in their formulations.[3]

When one continues to read through the foundational documents of both Focus on the Family and comparable organizations, such as the Family Research Council, it seems clear that certain issues, for example, abortion and the male headship in the family, are of primary importance. In a recent essay devoted to religion and the family, Bryan Turner has concluded that a number of organizations, including the New Christian Right, "have in various ways rejected liberal America in favor of the regulation of pornography, anti-abortion legislation, the criminalization of homosexuality, and the virtues of faithfulness and loyalty in sexual partnerships."[4] Appeal to family values seems to have become a code phrase to address these and other issues, many of which involve human sexuality and familial life.[5] Oddly, some pressing contemporary issues involving the family, such as child or spouse abuse, are not included in these conversations.

As one who is interested in the intersection of Hebrew Bible texts and contemporary life, I began to ask myself: What traditional values are attested in the Hebrew Bible, and what is the institution of the family that we see there? In short, what family values pervade the Hebrew Bible?

When reflecting about these questions, I thought about some of the families attested in biblical literature. Surely the marriages of religiously prominent individuals in the Hebrew Bible would constitute formative moments in the so-called Judeo-Christian ethic, to which Focus on the Family had appealed. I thought about Abraham, who was married to one woman, Sarah, and given sexual access to another, Hagar. I thought about Jacob, who was married to two sisters, Leah and Rachel. I thought about King David, who was married to Michal

[2] See www.family.org/welcome/aboutof.

[3] A similar point is made by Don Browning et al., *From Culture Wars to Common Ground: Religion and the American Family Debate* (Louisville: Westminster John Knox, 2000). When referring both to Focus on the Family and to Promise Keepers, they write, "Although they quote the Bible to support their theories, it is astounding to see both how little and how noncontextually they use the scripture" (p. 232).

[4] Bryan Turner, "Religion, Romantic Love, and the Family," in *The Blackwell Companion to the Sociology of Family* (ed. Jacqueline Scott, Judith Treas, and Martin Richards; Oxford: Blackwell, 2004), 299.

[5] See Tikva Frymer-Kensky, who states, "the term *family values* is often used as a code for leaving families to their own devices, which in reality means leaving them to the control of the most powerful" ("Families in Ancient Israel," in *The Family Handbook* [ed. Herbert Anderson et al.; Family, Religion, and Culture; Louisville: Westminster John Knox, 1998), 280.

(Saul's daughter), Abigail (widow of Nabal), Bathsheba (widow of Uriah), and Haggith (mother of Adonijah). I even thought about Moses, who, the book of Exodus reports, sent his wife away, which is the ancient language of divorce (Exod 18:2; see Deut 24:1). These are not minor figures. Yet the institution of the family as they lived it is quite different from that advocated by many who appeal to biblical norms. Can it be that the family values attested in the Hebrew Bible are not as self-evident to contemporary readers as many have thought? Could it be that the traditional values to which many appeal are not uniformly present in biblical literature?

In order to address these questions, I propose to examine one biblical text that truly focuses on the family. It is the book of Genesis. In this address, I will need to make several arguments: first, Genesis is a book whose authors and editors were concerned about the family; second, Genesis is a book that includes family literature; and, third, Genesis is a book that offers some clear and significant family values.

I. Genesis Is a Book That Focuses on the Family

I contend that both authors and editors of Genesis were concerned about the issue of family.[6] Apart from the ancestral narratives themselves, which we will examine later, we may find the notion of family developed in three other places: in the primeval history, in Gen 12:3, and in the *tôlēdôt* formulae.

First, one of clearest cases in which a reader may observe an Israelite author focusing on the family occurs in the primeval history. There can be little doubt that the ancient Israelite authors knew traditions about the primeval age that had circulated in Mesopotamia and that we now can read in various cuneiform texts. Preeminent among this literature is the so-called Atrahasis myth. It is a myth of two basic parts. The first portion narrates the creation of humanity as a response to a revolt among the lesser gods based on the difficulty of their labor. The second element recounts various attempts by the deity Enlil to silence humanity. The final attempt, a flood, is successful, though a man, the Mesopotamian Noah, and his wife survive.

[6] Though much of this discussion of "family" involves literary analysis, one must attend to the concrete realities of family life in ancient Israel. Basic resources for this study include Lawrence Stager, "The Archaeology of the Family in Ancient Israel," *BASOR* 260 (1985): 1–35; Leo Perdue, Joseph Blenkinsopp, John Collins, and Carol Meyers, *Families in Ancient Israel* (Family, Religion, and Culture; Louisville: Westminster John Knox, 1997); J. David Schloen, *The House of the Father as Fact and Symbol: Patrimonialism in Ugarit and the Ancient Near East* (Studies in the Archaeology and History of the Levant; Winona Lake, IN: Eisenbrauns, 2001); Ronald Simkins, "Family in the Political Economy of Monarchic Judah," *Bible and Critical Theory* [Monash University Press], www.epress.monash.edu (2004, paper no. BC040006).

An early Israelite author constructed a larger work based on the narrative structure of that earlier myth. For our purposes, it is particularly interesting to see how that author revised the earlier material and made additions to it. The revisions took place in both the creation and the flood sections. In both instances, the narrator took what were essentially stories about individual humans and turned them into stories about families. The first human of the Atrahasis myth has become a husband and wife, and the flood survivor is now embedded in a family, including not only a wife but also sons and daughters-in-law.[7] In the Israelite version of the primeval history, primeval person became primeval family.

This Israelite author not only revised the traditions he inherited but also introduced new narratives. This new material included the episodes concerning Cain and Abel, Lamech and his wives, the sons of God marrying human wives, and Noah and his sons. There are four new episodes, and all of them depict humanity in familial relationships.[8] In sum, there can be little doubt that the Israelite author of the primeval history was concerned to reflect about humanity's early existence by using the trope of family. The notion of family is of primary importance to the first eleven chapters of Genesis.

Second, at the outset of the ancestral narratives, we find a brief speech of the deity. In that address, God directs Abraham to leave the land in which he had been dwelling and to travel to another land. Following that command, the deity promises to Abraham that he will become a great nation and that "through you all the families of the earth shall be blessed" (Gen 12:3).[9] This is a rich and provocative statement. In three other texts (18:18; 22:18; 26:4), we hear that those others who will be blessed are "nations" (*gôyîm*). In Gen 12:3 (and 28:14), however, the author uses familial language—the noun *mišpāḥot*, which is often translated "clan." Here, at a point where the deity has chosen to interact directly with the lineage of Terah, the biblical author wants readers to know that those outside that lineage have not been ignored. Moreover, they are

[7] In the Atrahasis myth, the flood hero does send his family on board the boat. In the Gilgamesh epic, there is reference to Utnapishtim's family and craftsmen on the craft.

[8] The Tower of Babel (Gen 11:1–9) is the only episode that does not involve the family. This narrative was probably added to the primeval history by a later author. On the tower episode, see Christoph Uehlinger, *Weltreich und "eine Rede": Eine neue Deutung der sogenannten Turmbauerzählung (Gen 11, 1–9)* (OBO 101; Fribourg: Universitätsverlag, 1990).

[9] Or, "through you all the families of the earth will bless themselves." Cf. other instances in which a comparable formula is used—in the *niphal* 18:18; 28:14; in the *hithpael*, 22:18; 26:4. Waltke and O'Connor emphasize "the passive import" of the verb (*IBHS* 23.6.4a). For a discussion, see Erhard Blum, *Die Komposition der Vätergeschichte* (WMANT 57; Neukirchen-Vluyn: Neukirchener Verlag, 1984). 350–53; Patrick Miller, "Syntax and Theology in Genesis XII 3a," *VT* 34 (1984): 472–76; Claus Westermann, *Genesis 12–36* (Minneapolis: Augsburg, 1985), 151–52; Keith Grüneberg, *Abraham, Blessing, and the Nations: A Philological and Exegetical Study of Genesis 12:3 in Its Narrative Context* (BZAW 332; Berlin: de Gruyter, 2003).

to be thought of as family, the broader family of humanity. Other parts of that broader family are to share in Israel's blessing.

Third, Genesis was edited by an individual who used familial language to integrate the narratives about various individuals and their families. This editor, probably a member of one of the priestly schools, introduced a series of formulae, the so-called *tôlēdôt* formulae, which link genealogies, reports, and narratives that make up the book of Genesis. This formula appears in the same basic form eleven times in Genesis.[10] In each instance, the formula, best translated, "these are the descendants of PN," occurs prior to the material it introduces.[11] One could suggest that these genealogical formulae are no more than mechanical insertions, crude redactional rubrics, but to do so would miss the significance these formulae had for the Priestly compositor.

I would like to offer two comments about the ways in which these formulae function in Genesis. First, these formulae are consistent with and a development beyond an affirmation made in the material that the Priestly editor inherited. By creating and using the *tôlēdôt* formulae, the Priestly writer emphasizes how broad and deep are the connections between Abraham's family and those of other people. According to the priests, the formulae refer to relationships that already exist. One might read Gen 12:1–3 and think that the author is referring only to future relationships between Abraham and others. The *tôlēdôt* formulae demonstrate that, at least for the priests, the familial relationships between what Abraham symbolizes and other people exist in the present. Frank Crüsemann was surely correct when he wrote, "The genealogies . . . , which pervade all of Genesis, form something like the skeleton of this book, a stable framework which holds together and carries all other parts."[12] The *tôlēdôt* formulae underscore the importance of these genealogical-familial connections. Naomi Steinberg put it well, referring to Genesis 12–50: "Genealogy reflects family succession which moves action forward and is the redactional device used by P to organize family history into narrative cycles."[13] Genesis presents us with movement through time expressed as family time—

[10] Genesis 2:4; 5:1; 6:9; 10:1; 11:10; 11:27; 25:12; 25:19; 36:1; 36:9; and 37:2. The *tôlēdôt* formulae, therefore, are constitutive for Genesis as a literary whole. The priestly editor underscored the importance of family and progeny by using this formula in Genesis. The formula appears in two other places, Num 3:1 and Ruth 4:18. Both depend on the prior usage in Genesis and are secondary to it.

[11] Three of the formulae introduce narrative material (2:4a; 6:9; 37:2). Elsewhere they introduce genealogies, some of which are brief and immediately followed by narratives, e.g., 25:19.

[12] Frank Crüsemann, "Human Solidarity and Ethnic Identity: Israel's Self-Definition in the Genealogical System of Genesis," in *Ethnicity and the Bible* (ed. Mark Brett; Biblical Interpretation Series 19; Leiden: Brill, 1996), 59–60.

[13] Naomi Steinberg, "The Genealogical Framework of the Family Stories in Genesis," *Semeia* 46 (1989): 41–50.

one generation of a family to the next one. Familial language holds the book together.

Moreover, in the first of these *tôlēdôt* formulae (Gen 2:4a), the Priestly editor offers a striking claim about family. This half verse reads, "These are the descendants of the heavens and the earth when they were created."[14] Who are these descendants of the heavens and the earth? If one understands this formula in the way it works every other time it occurs, then one must conclude that the Priestly writer is introducing material that follows the formula. Here, the Priestly editor is introducing literature he inherited, namely, the report about the deity creating humanity out of the earth (Gen 2:4b–25). For the Priestly writer, humanity is to be understood as the progeny of heaven and earth, not just the earth. There is a familial relationship between the broader created universe and that of humanity.

That humanity is related to the heavens and the earth is a striking claim, but it is consistent with what the Priestly writer has accomplished elsewhere. In other places, the *tôlēdôt* formulae and the genealogies that follow them have highlighted the interconnectedness of humanity. In Gen 2:4a, the Priestly writer broadens this claim by contending that humans may be understood as the progeny of heaven and earth. For the Priestly writer, the human family is embedded in the very structure of the universe.

We can see, then, that even apart from the ancestral narratives, the book of Genesis focuses on the family—in the primeval history, in Gen 12:3, and in the *tôlēdôt* formulae. I now want to observe that when we move from Genesis to Exodus, such focus on the family ceases. The final chapter of Genesis marks a major transition—from speaking about the lineage of Abraham as a family to that of a people. To be sure, at numerous points in Genesis, the authors anticipate that the lineage of Abraham and Sarah will become something different. Genesis 12:3 speaks of that lineage becoming a great nation. According to Gen 17:16, Sarah will give rise to "nations, kings of peoples will come from her." And in Gen 28:3, Isaac blesses Jacob with the hope that he will become "a company of peoples." However, prior to the last two chapters of Genesis, there is no instance in which the families that derive from Terah are described as a people or nation.

[14] I maintain that Gen 2:4a is attributable to a Priestly hand, whereas 2:4b belongs to the pre-Priestly narrative. Genesis 2:4b is a temporal clause, which has its syntactical parallel not only in Gen 1:1 but also the initial lines of both the Enuma Elish and Atrahasis myths. Cf. Marc Vervenne, who maintains that Gen 2:4 is a literary unity ("Genesis 1,1–2,4: The Compositional Texture of the Priestly Overture to the Pentateuch," in *Studies in the Book of Genesis: Literature, Redaction, and History* [ed. André Wénin; BETL 155; Leuven: Leuven University Press, 2001), 46–47.

Some translations obscure the similarity between this first occurrence of the formula and those that follow: e.g., NRSV translates, "These are the generations of the heavens and the earth . . ."; JPS reads, "Such is the story of heaven and earth . . . ."

Genesis 50 and Exodus 1 offer that major point of transition—the move from talking about the "sons of Israel" to "the Israelites," the move from familial language to that of a social collectivity. We see this twice in Genesis 50 and twice in Exodus 1. In Gen 50:20, Joseph refers to those with him as "a numerous people." Five verses later, though Joseph uses the phrase "the sons of Israel," that expression here clearly means Israelites, not just those individuals born to Jacob. Exodus 1:7 presents a similar picture. There an author, referring to those who lived after the sons of Jacob had died, describes the next generation as "the sons of Israel," or, more properly translated, the Israelites. This same phrase is placed in the mouth of Pharaoh in Exod 1:9. However, Pharaoh adds to it, such that he speaks about "the Israelite people." By this point in the tetrateuchal account, the lineage of Abraham and Sarah has made the transition from family to people. The end of Genesis marks the end of familial language to describe Israel. Genesis is a book that uses familial language first to describe all humanity (Gen 1–11) and, subsequently, to characterize what will become Israel (Gen 12–50).

In sum, even apart from the ancestral stories, Genesis is a book that highlights the family. When one moves from Genesis to Exodus, language about Israel as family stops and language of a people, *ʿam*, commences.[15] In Genesis, the notion of family is used innovatively—as a way of embellishing Israel's version of the primeval history, as a way of talking about all humanity, and as a way of building humans into the structure of the universe.

II. Genesis as Family Literature

It is one thing to maintain that Genesis is a book concerned about family, it is quite another to contend that Genesis includes family literature. To claim that Genesis is family literature requires discussion of the genre of family literature, which has been understood in diverse ways. Many people who have used the phrase have intimated that family literature is literature produced by families. Elizabeth Stone has written a popular tome, *Black Sheep and Kissing Cousins: How Our Family Stories Shape Us*.[16] In that volume, she summarizes many stories told by members of families today and attempts to identify common themes and motifs. For example, she maintains that the mother–child bond in many stories is the most "mythic" and that the fraternal bond is the most fragile. Or, she concludes that our most powerful stories tend to fashion and reflect our feelings about sons. In these and other cases, she appeals to sto-

[15] Earlier in Genesis, the noun *ʿam* was used in burial formulae (25:8, 17; 35:29; 49:29, 32).

[16] Elizabeth Stone, *Black Sheep and Kissing Cousins: How Our Family Stories Shape Us* (New York: Times Books, 1988).

ries that derive from particular families. These stories contain so many common elements that she is able to speak of a genre "family stories," stories told by families about themselves.

However, there is another kind of family literature—not *from* the family, but *about* the family; and this kind of family literature offers striking similarities to that which we find in Genesis 12–50. I offer two examples: the Icelandic sagas and the family novel.

Of particular importance to biblical scholarship is the characterization of the Icelandic sagas as family literature.[17] In his classic study, André Jolles argued that the earliest form of the Icelandic sagas, the ones dealing with the families who left their native Scandinavia and settled in Iceland, reflected a specific milieu (*Geistesbeschäftigung*), namely, the family.[18] In describing this literature, Jolles wrote,

> these stories all deal with individuals, who, as individuals, belong in turn to families. We hear how a family built a house and a farm, how the family wealth increased, how the family came into contact with other families in the same district, how they quarreled, became reconciled, feuded or lived in peace, how many sons and daughters the family had, where the sons got their wives, into which families the daughters married. Sometimes the family is represented as a person, its head; sometimes it appears as a whole.[19]

Some, though few, scholars have discerned similarities between the Icelandic sagas and the narratives in Genesis.[20] When reading Jolles's characterization of the Icelandic sagas, Claus Westermann thought Jolles could equally well have been describing the ancestral literature in Genesis. Westermann deemed the literature in Genesis 12–50 to offer "precise counterparts" to the Icelandic sagas.[21] Scholarship devoted to the sagas since Jolles's time permits one to make the case for even stronger similarities than those noted by Westermann. For example, it is possible to characterize both the Icelandic sagas and the ancestral narratives as "historical fictions."[22] Other compelling similarities

[17] It is important to distinguish between the Icelandic word *saga* and the German word *Sage*. The latter achieved primacy in Hermann Gunkel's analysis of the short narratives in Genesis and was, unfortunately, often translated into English as "legend." For a brief discussion of the terminological problems, see Robert Neff, "Saga," in *Saga, Legend, Tale, Novella, Fable: Narrative Forms in Old Testament Literature* (ed. George Coats; JSOTSup 35; Sheffield: JSOT Press, 1985), 17–32.

[18] André Jolles, *Einfache Formen* (Halle: Niemeyer, 1930), 71–75.

[19] Jolles as quoted in Claus Westermann, *The Promises to the Fathers: Studies on the Patriarchal Literature* (Philadelphia: Fortress, 1979), 33.

[20] The definitive edition of the Icelandic sagas is Viðar Hreinsson, general editor, *The Complete Sagas of the Icelanders, including 49 Tales* (Reyjavik: Leifur Eiriksson, 1997).

[21] Westermann, *Promises to the Fathers,* 33.

[22] The phrase is used by Robert Kellog, "Introduction," in *Complete Sagas of the Icelanders*, 1:xxx.

include prose of high quality, the inclusion of genealogies in long prose works, the presence of familial subplots, the families of commoners (not royalty), a strong chronological sense, and so realistic a depiction of life that it can be examined by social scientists. By examining these similarities, it is possible more accurately to perceive some of the defining features of family literature in Genesis.

If the Icelandic sagas present a medieval example of family literature, Yi-Ling Ru has identified a more recent body of such literature.[23] She maintains that there is a distinct form of the novel, one that may be characterized as the family novel. Although, in her judgment, the family novel emerged near the beginning of the twentieth century, its roots may be traced far back in world literature. Among other ancient works, she appeals to Homer's *Odyssey* and Aeschylus's *Oresteia.* I suggest that one may also discern such roots in the book of Genesis.

Ru argues that the family novel possesses four basic characteristics: (1) family novels depict a family chronology and in a realistic fashion; (2) family novels devote major attention to familial rites within the broader context of traditional communal life; (3) family novels focus on conflicts within the family; and (4) family novels possess a unique form. That form comprises a "long, forward-moving vertical structure"—the family's chronology—with a horizontal component—intrafamilial relations at any one time. Genesis 12–50 includes all four of these elements.

First, family chronology and realism characterize much in the ancestral literature. The book of Genesis provides us with the ages of major characters. Further, the authors and editors have taken great care to spell out the genealogical relations. We know birth orders, if there are twins. We know who marries whom and who predeceases whom, and all this is done with considerable realism. There are no miraculous human journeys. Great attention is paid to matters such as itineraries, agriculture, property, and family life.

Second, familial rites are prominent in the book. One can point immediately to the rite of circumcision, which is introduced in the Abrahamic saga and which continues throughout Genesis. Other rites involving the family include the making of covenants, the taking of an oath, and sacrifice (22:13; 31:54). Moreover, the *tĕrāpîm* (Gen 31:19) that Rachel took almost certainly represented familial deities, perhaps divinized ancestors. And burial rites were of quintessential importance. Entombment is presented as a familial act, husbands burying wives (Gen 23:19), sons burying fathers (25:9; 35:29; 49:29). In each burial of a patriarch, more than one son was involved. Isaac and Ishmael

[23] Yi-Ling Ru, *The Family Novel: Toward a Generic Definition* (American University Studies; Series 19, General Literature 28; New York: Peter Lang, 1992). Her thesis is based on cross-cultural work, primarily novels from England, France, and China.

bury Abraham; Jacob and Esau bury Isaac; and all his sons are admonished to bury Jacob. Familial rites undergird much in the book of Genesis.[24]

Third, Genesis 12–50 regularly depicts strife within the family. At a minimum, there are conflicts between Abraham and Lot, Sarah and Abraham, Sarah and Hagar, Isaac and Rebekah, Jacob and Esau, Rachel and Leah, Jacob and Laban, Joseph and his brothers. Without such intrafamilial conflict, the book of Genesis would offer a far less interesting—and realistic—picture of the patrilineage of Terah.

Fourth, the ancestral narratives include the unique form of a family novel—both its horizontal and vertical dimensions. Genesis narrates the patrilineage of Terah over a period of four generations—the vertical dimension. Further, authors invest time with each generation, and each generation is different—the horizontal dimension. The family of Abraham, Lot, Sarah, and Hagar differs from that of Jacob, Esau, Laban, Rachel, and Leah. The structure of the family is different in each generation, even though the lineage remains consistently rooted in the line of Terah.

The presence of these four characteristics does not exhaust the similarities between Genesis and the family novel. In the course of her analysis, Ru discerns a theme central to many family novels: the rise and fall of the family. Most family novels depict a family that ascends to high status or great fortune. Then, over time, the family is unable to maintain its perch. This is true of the patrilineage of Terah as well. The ancestral literature in Genesis narrates the rise of a family. Whether properly characterized as immigrant or refugee, the patrilineage of Terah has left its homeland, entered a new one, and prospered. But, at the end of the book, they have lost that land and are about to lose their status.

The final chapters of Genesis describe a family in disarray. The poem in Genesis 49 reports not only intergenerational improprieties—Reuben's defiling of his father's couch (49:4)—but also hierarchy emerging among the brothers—Judah's ascendance (49:8) and Joseph's being set apart (49:28). The language of brotherhood and family subsequently disappears, only to be replaced by that of a people. The trajectory of "twelve" brothers is transformed into that of twelve tribes. The family has, as it were, fallen. This theme, too, is characteristic of the family novel, literature written about families. In sum, there are striking similarities between the distinguishing features of the family novel and Genesis 12–50.

[24] On household religion, see Karel van der Toorn, *Family Religion in Babylonia, Ugarit, and Israel: Continuity and Change in the Forms of Religious Life* (SHCANE 7; Leiden: Brill, 1996) 181–265.

III. Genesis and Family Values

If Genesis is a book that highlights the family and one that shares elements with family literature, it is an especially appropriate place to search for values about families depicted in the Hebrew Bible. Some might, at first glance, demur from treating Genesis as a resource for thinking about family values. To be sure, not all episodes depict families in the best light. After all, it is a book in which one brother kills another (ch. 4); a book in which a father banishes his surrogate spouse and her son (ch. 21); a book in which a father almost kills his son (ch. 22); a book in which numerous brothers come near to killing their sibling (ch. 37); and a book in which a father-in-law has sexual intercourse with his widowed daughter-in-law (ch. 38).[25] Further, the patrilineal kinship structure in Genesis disadvantaged women, whether they were matriarchs, daughters, a widow, a sister, or servants. Clearly, family structure and life involved many problematic elements.[26] Nonetheless, when we examine the lineage of Terah, we may discern at least three important family values that have hitherto not been recognized, values that need to be part of contemporary discussions of family values in biblical literature.

First, the book of Genesis challenges readers to have an expansive view of the family. These stories and genealogies present family as something far larger than a couple or a nuclear family.[27] The household as described in the Hebrew Bible often included more individuals than just a husband, a wife, and their children. Moreover, the lineage of Terah is truly an extended family. It extends beyond the boundaries of the household, and it extends over generations. This perception stands in sharp contrast to contemporary rhetoric about the family as comprising essentially the nuclear family.

Families in Genesis do not exist in isolation. Abraham, Lot, and Isaac have

[25] Scholars differ in their analysis of the values at work in these episodes. On Genesis 21, see, e.g., Phyllis Trible, *Texts of Terror: Literary-Feminist Readings of Biblical Narratives* (OBT; Philadelphia: Fortress, 1984), 20–29, who deems Hagar to have been subject to terrible oppression; and Savina Teubal, *Hagar the Egyptian: The Lost Tradition of the Matriarchs* (San Francisco: Harper and Row, 1990), who argues that Hagar was ultimately liberated.

[26] Cf. the characterization of the family conveyed in the Hebrew Bible as "patriarchal family clan" in a recent volume devoted to discourse about religion and family (Browning, *From Culture Wars to Common Ground*, 132). See similarly, Frymer-Kensky's judgment, "These stories (the central narrative of the Hebrew Bible [Genesis-Kings]) reveal the problem with 'family values': The power that men have over their children can lead to abuse and chaos, and society has an obligation to create a layer above the power of the patriarch to which men will be subordinate" ("The Family in the Hebrew Bible," in *Religion, Feminism, and the Family* [ed. Anne Carr and Mary Stewart Van Leeuwen; Family, Religion, and Culture; Louisville: Westminster John Knox, 1996], 55).

[27] See Schloen, *House of the Father*, 135–36, on the importance of the "joint family household" in ancient Israel. This household regularly included "servants and more distantly-related kin."

the following sons, who do not belong to the privileged line of descent: Ishmael (16:16), Moab (19:37), Ben-Ammi (19:38), Midian (25:2), and Esau (25:30). Each of these children functions as an eponymous ancestor for those nations that will later be near neighbors of Israel: the Ishmaelites, Moabites, Ammonites, Midianites, and Edomites, respectively. The genealogies and narratives in Genesis demonstrate the manifold ways in which Terah's patrilineage includes those who live proximate to Israel. The family of Terah includes what will become Israel's immediate neighbors.[28]

For one priestly writer, the breadth of the human family extends into the structure of the cosmos. Humans are construed as the descendants of the heavens and the earth. Humans belong inextricably to both the heavens and the earth, as does a child to its mother and father. This view is comparable to that of the psalmist: "What are human beings that you are mindful of them, mortals that you care for them? Yet you have made them a little less than divine, and crowned them with glory and honor" (Ps 8:5–6). A priestly writer in Genesis complements this high view of humanity by using familial imagery to depict the innate relationship of humans to the universe—the heavens and the earth—in which they live.

One part of the human family can act for the benefit of others. Genesis 12:3 makes this clear. The patrilineage of Terah will in some consequential way be a source of blessing for "*all* the families of the earth." Those families include not only the near neighbors in Syria-Palestine, but the far neighbors, those attested in the table of nations (Gen 10). So, speaking about family values in Genesis, the interpreter must consider both values germane to a far-flung family and the ways in which one part of that family affects another. Genesis values humanity as a family; it does not focus on the nuclear family. Genesis offers an expansive view of the family. That is family value *number 1.*

Second, the patterns of marriage and sexual access in Genesis attest to the importance of the family continuing over time. The world depicted in the ancestral literature offers patterns for marriage and sexual access different from those normally practiced in North America. Abraham married Sarah, almost certainly a close relative.[29] Clearly, this marital choice is one in which staying inside the larger family is important. Anthropologists call this particular marital pattern patrilineal endogamy. Sarah, however, was unable to become pregnant. Since her status as wife—and, hence, her place in the family—

[28] Though, to be sure, those neighbors have been "diselected"; so R. Christopher Heard, *Dynamics of Diselection: Ambiguity in Genesis 12–36 and Ethnic Boundaries in Post-Exilic Judah* (SemeiaSt; Atlanta: Society of Biblical Literature, 2001).

[29] Genesis 11:29 reports that Abraham's brother, Nahor, married his niece, Milcah, a liaison that suggests that Abraham would have made a comparable marital choice. In Gen 20:12, Abraham reports that Sarah is the daughter of Terah, but was not born to his mother.

depended on her ability to give birth to an heir, she devised a plan by means of which she might bring a child into the family. She commanded Abraham to have sexual intercourse with her Egyptian slave girl. Interestingly, nothing in the biblical narratives condemns Sarah's strategy. In fact, anthropologists have found this pattern of sexual access in other cultures. They term it "polycoity," a family in which one male has sexual access to more than one female. The family value driving such behavior is the need for an heir, someone to whom the family's property may be passed on.[30] Many scholars have argued that this sort of economic role for the family was its most important feature prior to the nineteenth century.[31] This family value attested in Genesis and concerning the transmission of property derives from the economic function of a traditional family.

Abraham's family with Sarah and Hagar was not the only unusual one in Genesis. Jacob's marriage was also decidedly different from those familiar to us today. Jacob, like Abraham and Isaac before him, married within the family of Terah, Abraham's father. (Isaac's wife, Rachel, was the daughter of Abraham's nephew, Bethuel.) But Jacob's marriage was, by our standards, even more unusual than Abraham's. Jacob married two sisters: Rachel and Leah. Though the story reports that he wanted to marry only Rachel, Rachel's father, Laban, tricked Jacob to ensure that his elder daughter, Leah, would not be left without a spouse. What is reported in the biblical literature as a trick is, in the anthropological literature, presented as a genuine pattern of marriage, one in which a man married two sisters. Such a marriage is known as sororal polygyny. The goal of this familial pattern is apparently very similar to that of polycoity, namely, to ensure that an heir will be present and that the family will be able to preserve its property. The family here is not simply one couple, but households, which are themselves embedded in a powerful kinship structure, the patrilineage of Terah.

Why would this insistence on providing an heir have been so important for the families depicted in Genesis 12–36? The answer is, I fear, dismayingly simple: The deity had made a promise that Abraham's posterity would become numerous, that they would possess the land, and that they would become a blessing. In order for that promise to work out, it was incumbent for the family not to die off. Hence, a primary family value was to keep alive the lineage of Terah. It was a more important value than monogamy, particularly for Sarah,

[30] I depend here on the work of Naomi Steinberg, who has analyzed the structure of families in Genesis 12–50 (*Kinship and Marriage in Genesis: A Household Economics Approach* [Minneapolis: Fortress, 1993]).

[31] So, e.g., Louise A. Tilley and Miriam Cohen, "Does the Family Have a History?" *Social Science History* 6 (1982): 131–79; Tamara Hareven, "Modernization and Family History: Perspectives on Social Change," *Signs* 2 (1976): 190–206.

whose status in the family depended on the presence of a male heir—and just such an heir had been promised to Abraham (Gen 15:4), but not initially to Sarah. The existence of the lineage over time, together with its ability to maintain property, was a premier value. That is family value *number 2*.

The third family value is not so readily discernible, but it may be the most important for contemporary discussions about family life. We will discover this value by examining those instances where there is conflict within the family that traces its origins to Abraham's father, Terah. I will focus on three such moments of conflict.[32]

Abraham and Lot (Genesis 13)

Early on in the ancestral narratives, Abraham and Lot settle in the land of Canaan. The biblical writer characterizes both men as wealthy, owning prodigious herds that were cared for by numerous shepherds (vv. 2–5). Though Abraham and Lot did not live in the same place, their herders apparently came into regular conflict—when their sheep and goats wandered over the landscape of the central highlands (vv. 6–7).[33] The text does not describe the nature of the acrimony, but it certainly could have led to violence between the herdsmen. As a result, Abraham proposes to Lot that he choose where he would like to live (vv. 8–9).

Abraham is often remembered for being the gracious figure, giving Lot first choice—and that is true. But he is even better remembered if we recognize that Abraham is dealing with a member of his family, his nephew. Abraham creates a plan designed to resolve strife within the family. This plan involves distancing, removing the parties from each other. Abraham's strategy is not unknown today. Whether in family disputes or conflicts between other types of contesting parties, simple separation to avoid further conflict and violence is often necessary. Abraham and Lot went their separate ways and, in so doing, avoided an escalation of the conflict into violence.

Jacob and Laban (Genesis 31)

Jacob and Laban present us with another time of difficulty. Jacob had been living in Laban's household. He had married two of Laban's daughters—Rachel and Leah—and prospered. Not only did he have eleven sons and one daughter, but he had amassed sizable herds as well. Further, he perceived that Laban no

[32] The familial conflicts identified on p. 14 are resolved in diverse ways. In the three following cases, the family members themselves resolve the strife. In other instances, those involving Hagar and Sarah and Joseph and his brothers, the deity acts to assist the disadvantaged party.

[33] The noun *rîb*, translated here as "conflict," rarely, if ever, refers to physical violence.

longer was as accommodating to him as he once had been. Hence, he decided to return to the land of his birth. He leaves while Laban is off shearing sheep. When Laban discovers that Jacob has fled, he gathers some of his male kinsmen and pursues Jacob. When he finally catches up with Jacob, there is a tense scene. They exchange accusations. Laban accuses Jacob of stealing some of his religious objects, whereupon Jacob accuses Laban of cheating him over the years. It would not be far off the mark to claim that Jacob and Laban engage in verbal conflict.

To Laban's credit, he recognizes that he and Jacob have reached an impasse. He could do Jacob harm, but in so doing he would jeopardize the fate of his daughters and grandchildren. Hence, Laban proposes that he and Jacob draw up a legal decree of separation, a *bĕrît,* or covenant. They will also establish a physical boundary that neither will be permitted to cross.

Here again, we see two members of a family resolve their dispute, but this time they exchange acrimonious words. The text refers explicitly to the possibility that Laban might have done Jacob harm. Hence, one has the sense that Jacob and Laban could not simply go their separate ways, as Abraham and Lot had done. No, those strong words created the necessity of a more formal arrangement. It involved the taking of an oath, the making of a covenant, and the creation of a tangible boundary.

Sometimes in a familial dispute, the differences are so great that there is serious potential for violence. A simple distancing would not suffice, as it had for Abraham and Lot. After all, Abraham and Lot would meet again. Jacob and Laban must not meet again; hence, this dispute must be resolved differently.

Even the casual reader of Genesis 31 can see that Jacob and Laban use the legal language of covenant and oath. Less clear is that they make those oaths by swearing allegiance to different deities. Laban swears by the God of Nahor, and Jacob swears by the Fear of his father Isaac.[34] We should ask: What is the significance of this reference to two different deities?[35] The God of Nahor and the Fear of Isaac are important to the flow of this story of conflict and its implications. Two relatives, two members of the same large family who could trace their heritage back to Terah, not only swear never to encounter each other again, but they now adopt different religious language. Both names—the God of Nahor and the Fear of Isaac—had, presumably, arisen within the family of Terah. Now they split off from each other. Those associated with Laban will use one way of talking about the deity, whereas those associated with Jacob will use another. The familial schism becomes religiously sectarian.

[34] Some modern translations capitalize *paḥad*, e.g., NRSV, "Fear of his father Isaac" (Gen 31:53).

[35] See the classic study of Frank Moore Cross, *Canaanite Myth and Hebrew Epic: Essays in the History of the Religion of Israel* (Cambridge, MA: Harvard University Press, 1973).

The picture is clear. Jacob and Laban have created something akin to a divorce. Their differences are irreconcilable. For them to remain in contact would be terrible, almost certainly leading to violence. Their relationship up to this point has been characterized by deceit and theft. There is now only one realistic option—a clear legal separation, which also expresses itself in religious terms. What had once been one family now becomes two families.

Divorce is rarely a happy time, and the biblical writer does not depict Laban and Jacob's separation as particularly heartwarming. Laban kissed his daughters and grandchildren and returned home, never to see them again. Still, all the members of the family are alive. Laban can go back to his kin and his herds. Jacob can return to his native territory with his large family and with his flocks. No one was killed. The family of Terah has, again, successfully devised a strategy to deal with severe conflict; and, in this instance, the family has changed because of the formal acts of separation. On narrative and religious grounds, Laban's household will no longer be viewed as part of the immediate family that bears the deity's promise.

Jacob and Esau (Genesis 32)

After Jacob disengages from Laban, he knows that he must inevitably confront his brother Esau. Just as Laban and his kinsmen had charged after Jacob, so now Esau and four hundred men rush to engage Jacob. The strategies of distancing *à la* Abraham and Lot and legal remedy *à la* Jacob and Laban are not likely to work here. Jacob is rightly worried. He prays to Yahweh, "Deliver me from the hand of Esau my brother. . . . he may come and kill us all, including the mothers and children" (Gen 32:11). Based on what Esau had said earlier, "I will kill my brother Jacob" (Gen 27:41), Jacob's fears are well grounded.

However, rather than waiting for the deity to save him, Jacob develops a twofold strategy. The first involves the giving of a gift. To give a gift and to have that gift accepted are a powerful weapon. As Marcel Mauss observed many years ago, to give a gift is to put someone in your debt, to gain control of them.[36] Apparently knowing this social reality, Jacob sends Esau a gift: 200 female goats, 20 male goats, 200 ewes, 12 rams, 30 lactating camels and their colts, 40 cows, 10 bulls, 20 female donkeys, and 10 male donkeys—542 animals in all. Some commentators have viewed these animals as decoys, thinking that they would head in one direction while Jacob moved in another. But such a view misses the point of Jacob's strategy; he wanted to overpower Esau economically by means of this gift.

[36] Marcel Mauss, *The Gift: Forms and Functions of Exchange in Archaic Societies* (Glencoe, IL: Free Press, 1954).

Jacob deploys his second strategy when he and Esau actually encounter each other. It is an emotional scene, and one fraught with tension. Jacob engages Esau in a verbal jousting match. Based on their early history, Jacob would have good reason to think that he might win; and he will.

At first, Esau will not accept Jacob's gift. Jacob then offers a psychologically compelling speech in which he says to Esau, "Truly to see your face is like seeing the face of God—since you have received me with such favor" (Gen 33:10). This is a highly ambiguous statement. If an individual sees God, that individual might well die. Jacob's statement about seeing Esau's face may subtly allude to Esau's earlier threat to kill him. Then, Jacob defines Esau and his band of four hundred men as a favorable response to him. That is an ingenious way of redefining what Esau no doubt intends. Jacob's verbal parry begins to disarm Esau.

The narrator continues, "So Jacob urged him, and Esau took the gift" (Gen 33:11). One might have thought that Jacob is, at this point, safe. However, we soon learn that Esau, who probably realizes that he has just been outwitted, intends to accompany Jacob. This time Esau initiates a dialogue with Jacob. Esau says, "Let us journey on our way, and I will go alongside you" (Gen 33:12). Jacob offers a canny and quick-witted reply, "I have to move slowly with my flocks and children, while you, Esau, will want to move at a more rapid pace." Jacob even says that he will visit Esau in his own country, which he never does (Gen 33:14). Esau then makes another proposal, that some of his men remain with Jacob. Jacob responds even more brilliantly. He asks a question, a question that has the same laudatory tone that was present earlier in his dialogue with Esau. Jacob says to Esau, "Why should my lord be so kind to me?" (Gen 33:15). Esau can think of no reply, probably because he did not intend to be kind to Jacob. As a result, Esau, like Laban before him, heads home, and Jacob continues on his way.

Genesis 33 presented a dire situation, a fraternal encounter that might have eventuated in fratricide. That potential calamity was averted by Jacob's use of the strategy of gift giving and his ability to conduct verbal warfare. Moreover, Esau played by those same rules. By accepting the gift, he agreed not to attack Jacob. And by engaging Jacob in dialogue, he opened the door to a resolution through a war of wits rather than a war of weapons. Esau lost that war, but honored the game by leaving the playing field after he had lost a second time.

Jacob and Esau avoid violence by engaging in two well-known strategies—gifting and a war of wits—and they achieve a solution, one that allows them to separate peacefully. The two brothers will meet again, but only once, when they bury their father, Isaac. Thus ends the third scene of conflict.

These three moments of familial conflict are all resolved by deploying a

value important to this family, namely, conflict resolution without physical violence. Members of the family use diverse strategies to keep from injuring or killing each other.[37] That is family value *number 3.*

IV. Conclusions

Let me conclude. In this address, I have tried to take seriously the notion of family values, particularly as they derive from biblical literature. In that regard, I have focused on the family in the book of Genesis, a biblical book that, for multiple reasons, may serve as a source for reflection about the family in the Hebrew Bible. I have argued that Genesis highlights the family both in the primeval history and in the ancestral literature. Genesis 12–50 shares numerous features with extrabiblical family literature. Moreover, I have identified three family values at work in the ancestral literature: (1) the value of defining family in expansive terms; (2) the value of familial continuity; (3) and the value of nonviolent resolution of conflict within the family. I do not pretend that these values are the only ones embedded in this biblical book. Nor do I ignore the problematic character of some other family values lived out in Genesis. I do think, however, that these three values have not been part of the contemporary conversations; and they should be.

These values are interrelated and they are important today. Talk about family values should focus on family in its broad sense, including, of course, but moving beyond concern for the so-called nuclear family. Further, when one thinks about humanity in familial terms, as the book of Genesis certainly does, then the value of familial continuity becomes important for all of us. If the human family is to continue and flourish, all members of that family need to deploy nonviolent forms of conflict resolution.

The value of nonviolent conflict resolution is of immediate relevance to human families, especially in their households. In those households, domestic violence has reached epidemic scale. If one looks at the statistics concerning spousal abuse alone, "Experts estimate that in the U.S. 1.8 million women are beaten in their homes each year."[38] And this is not just a North American problem. "At least one in five women around the globe has been a victim of spousal abuse."[39] Such violence within the family should be of primary concern to anyone who is committed to the thinking about the Bible and family values.

[37] Members of the family behave differently to those outside the lineage, as Genesis 34 makes terribly clear.

[38] Leonard Edwards, "Reducing Family Violence: The Role of the Family Violence Council," *Juvenile and Family Court Journal* 43 (1992): 1.

[39] Nancy Nason-Clark, "When Terror Strikes at Home: The Interface between Religion and Domestic Violence," *JSSR* 43 (2004): 308.

There is a phrase currently being used within the Jewish community as it wrestles with the issue of domestic violence. The phrase is *šālôm bayît*, which one might translate literally, "peace at home." Ancient Jewish writers took this family value, *šālôm bayît*, very seriously. As one scholar recently wrote, when summarizing the views of early sages, "The ultimate achievement of peace on earth depends upon its achievement in the smallest social unit, the family."[40] I would build on that conviction and suggest that the ancestral narratives in Genesis depict, on a number of occasions, families striving to reach such peace, when or after they have been in conflict.

The Hebrew Bible offers testimony about the family of Abraham, which is to serve as a source of blessing for others. Members of that family, on occasion, harbored murderous intent. However, by using one or another strategy—distancing, oaths, contracts, legal separations, verbal combat, gifting, battles of wit—they were able to resolve that conflict without physical violence. In so doing they were able to create a sort of *šālôm bayît*. In Genesis, this Abrahamic family has lived out a family value of nonviolent conflict resolution. It is a traditional family value, and it inheres in the biblical text. Were we able to deploy this biblical family value, particularly in a world that continues to be shaken by violence both within families and between nations, it would truly be a blessing to all the families of the earth.[41]

[40] Marcia Spiegel, "Spirituality for Survival: Jewish Women Healing Themselves," *JFSR* 12 (1996): 123.

[41] I am grateful to Ingrid Lilly, Gail O'Day, and Naomi Steinberg for reading and commenting on earlier drafts of this article.

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NOAH'S NAKEDNESS AND THE CURSE ON CANAAN (GENESIS 9:20–27)

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The compressed, elusive narrative of Gen 9:20–27 has been an exegetical puzzle since antiquity.[1] The terseness of the account, with its inexplicable features and subtle hints of sexual transgression, has left generations of readers and scholars feeling that there is more to the story than the narrator has made explicit. As many have pointed out, interpretive debates generally revolve around two interrelated questions: (1) the nature of Ham's offense (why would Ham's "seeing" Noah's nakedness merit a curse?), and (2) the rationale for Canaan's punishment (if Ham was the perpetrator, why was Canaan cursed?).[2]

The basic outlines of the story (Gen 9:20–27) are well known. After the flood, Noah plants a vineyard, drinks of its wine, becomes drunk, and uncovers himself in a tent (v. 21). Ham, identified as the father of Canaan, "sees the

[1] For a review of rabbinic and some patristic exegesis of the passage, see Albert I. Baumgarten, "Myth and Midrash: Genesis 9:20–29," in *Christianity, Judaism, and Other Greco-Roman Cults: Studies for Morton Smith at Sixty* (ed. Jacob Neusner et al.; 4 vols.; Leiden: Brill, 1975), 3:55–71. Susan Niditch calls the text "intriguing and difficult" (*Chaos to Cosmos: Studies in Biblical Patterns of Creation* [Atlanta: Scholars Press, 1985], 51), while Marc Vervenne characterizes it as "an eccentric anecdote of which the reception and interpretation are often equally fantastic" ("What Shall We Do with the Drunken Sailor? A Critical Re-Examination of Genesis 9.20–27," *JSOT* 68 [1995]: 55).

[2] See Donald J. Wold, *Out of Order: Homosexuality in the Bible and the Ancient Near East* (Grand Rapids: Baker, 1998), 66; Devorah Steinmetz, "Vineyard, Farm, and Garden: The Drunkenness of Noah in the Context of Primeval History," *JBL* 113 (1994): 198.

nakedness of his father" (וירא ערות אביו) and tells his brothers outside (v. 22). Shem and Japheth take a garment and enter the tent backwards. With eyes averted, they cover their father (v. 23). When Noah awakens, he realizes what Ham had "done to him" (עשה לו, v. 29). He then blesses Shem and Japheth, but curses Ham's youngest son, Canaan (vv. 25–27).

Exegetes since antiquity have identified Ham's deed as either voyeurism, castration, or paternal incest. This last explanation seems to be enjoying a revival of popularity in some recent scholarship. This article will argue for a fourth possible explanation of Ham's deed: maternal incest, which simultaneously explains the gravity of Ham's offense and the rationale for the cursing of Canaan, who is the fruit of the illicit union. The full case for this view has never been adequately presented, and it is particularly apropos to do so now, given the increasing interest in the theory of paternal incest.[3]

In what follows we will first review the traditional explanations for Ham's offense, identifying their weaknesses. Then, building on the work of other narrative critics, we will demonstrate the exegetical basis and explanatory power of the theory of maternal incest.[4] In particular, we will show that the arguments for the currently popular interpretation of Ham's deed as paternal incest are more suited to support maternal incest.

I. The Traditional Views

Voyeurism

The view that Ham's offense was *voyeurism*—that he did nothing more than behold his naked father—has enjoyed widespread support both in antiq-

[3] F. W. Bassett first proposed the maternal-incest interpretation in a brief (five-page) article, without, unfortunately, marshaling all the arguments in favor of it ("Noah's Nakedness and the Curse of Canaan: A Case of Incest?" *VT* 21 [1971]: 232–37). Isaac M. Kikawada and Arthur Quinn endorse the theory in passing, adding some new ideas (*Before Abraham Was: The Unity of Genesis 1–11* [Nashville: Abingdon, 1985], 101–3). For proponents of the theory of paternal incest, see nn. 12–13 below.

[4] A brief word on methodology. We find ourselves most closely aligned with the narrative analysis of Robert Alter, who discerned that literary intentionality often lies behind apparent inconcinnities in the narrative of Genesis (*The Art of Biblical Narrative* [New York: Basic Books, 1981]). We are also instructed by Michael Fishbane's demonstration of the exegetical value of attentiveness to the complex and, at times, reciprocal interrelationships among biblical texts (*Biblical Interpretation in Ancient Israel* [New York: Oxford University Press, 1984]). Guided by the work of these scholars and other exegetes, we make a heuristic "inference to the best explanation." We wish to show that the theory of maternal incest best explains the otherwise anomalous features of both the text and its relationship to its context.

uity and in modernity.[5] The strength of this position is its conservatism: it refuses to see anything in the text that is not explicit. Yet, in a sense, voyeurism is a nonexplanation, since it fails to elucidate either the gravity of Ham's offense or the reason for the curse of Canaan. It also requires the interpreter to assume the existence of a taboo against the accidental sight of a naked parent that is otherwise unattested in biblical or ancient Near Eastern literature. Donald J. Wold remarks, "Scholars who accept the literal view . . . must defend a custom about which we know nothing."[6]

Some proponents of this view are content to accept the awkward features of the narrative of Gen 9:20–27 as inexplicable and/or arbitrary.[7] However, those exegetes who, through the work of Robert Alter, Michael Fishbane, and others, have come to appreciate the literary artistry and subtlety of the biblical authors and the significance of biblical intertextuality are unlikely to find this position satisfactory.[8] There is increasing recognition that the pentateuchal narrative is seldom careless or arbitrary, and intertextual echoes (to be examined below) are seldom coincidental.[9]

Castration

The traditional rabbinic view that Ham castrated Noah arose as an attempt to address the inadequacies of the voyeuristic interpretation.[10] A classic discussion of the view is found in *b. Sanh.* 70a:

[5] E.g., H. Hirsch Cohen, *The Drunkenness of Noah* (Judaic Studies 4; University, AL: University of Alabama Press, 1974), 14–16; Allen P. Ross "The Curse of Canaan," *BSac* 130 (1980): 223–40; Victor P. Hamilton, *The Book of Genesis Chapters 1–17* (NICOT; Grand Rapids: Eerdmans, 1990), 322–23; Gordon P. Wenham, *Genesis 1–15* (WBC 1; Waco: Word, 1987), 198–201; Joseph Blenkinsopp, *The Pentateuch* (ABRL; New York: Doubleday, 1992), 87; Umberto Cassuto, *A Commentary on the Book of Genesis* (trans. I. Abrahams; 2 vols.; Jerusalem: Magnes, 1964), 2:149–54; E. A. Speiser, *Genesis: Introduction, Translation, and Notes* (AB 1; Garden City, NY: Doubleday, 1964), 61; Kenneth A. Matthews, *Genesis 1–11:26* (NAC; Nashville: Broadman & Holman, 1996), 418–20; Claus Westermann, *Genesis 1–11: A Commentary* (trans. John J. Scullion, S.J.; Minneapolis: Augsburg, 1984), 484–88.

[6] Wold, *Out of Order*, 67.

[7] E.g., Speiser, *Genesis*, 62.

[8] See n. 4 above.

[9] For example, concerning the pericope under discussion, Vervenne concludes: "the tale of the drunken Noah . . . has been meticulously embedded in a genealogical framework. . . . This precisely embedded composition . . . is also a self-contained piece of art" ("What Shall We Do with the Drunken Sailor?" 43–44).

[10] For an extensive review of the rabbinic exegesis of this passage, see Baumgarten, who concludes that the rabbis developed the theory of castration as an explanation for features of the text ("Myth and Midrash," 55–71); thus, they are not transmitting an ancient tradition (contra Robert Graves and Raphael Patai, *Hebrew Myths: The Book of Genesis* [Garden City, NY: Doubleday, 1966], 121–22). The relevant rabbinic texts are *b. Sanh.* 70a; *Gen. Rab.* 36, 7; *Tanḥ.* 49–50; *Pirqe R.*

> And Noah awoke from his wine, and knew what his younger son had done unto him. [With respect to the last verse] Rab and Samuel [differ,] one maintaining that he castrated him, whilst the other says that he sexually abused him. He who maintains that he castrated him, [reasons thus:] Since he cursed him by his fourth son, he must have injured him with respect to a fourth son. But he who says that he sexually abused him, draws an analogy between "and he saw" written twice. Here it is written, And Ham the father of Canaan saw the nakedness of his father; whilst elsewhere it is written, And when Shechem the son of Hamor saw her [he took her and lay with her and defiled her]. Now, on the view that he emasculated him, it is right that he cursed him by his fourth son; but on the view that he abused him, why did he curse his fourth son; he should have cursed him himself?—Both indignities were perpetrated. (Soncino translation)

Here we see the sages grappling with the two issues of the text identified above: the gravity of Ham's sin and the cursing of Canaan. Rab concludes that Ham must have castrated Noah. In favor of Rab's view, one can cite examples from ancient Near Eastern mythology (although none from the Bible) of a son castrating his father as part of an effort to usurp his authority.[11] Thus, Rab's view suggests a possible motivation for Ham's crime. It also provides some rationale, albeit complex, for the cursing of Canaan: Noah curses Ham's fourth son since Ham deprived Noah of a fourth son. What is lacking, however, is any lexical hint in the text of Gen 9:20–27 that would suggest castration.

Paternal Incest

Samuel's alternative view—that Ham sexually abused Noah—is enjoying a surprising contemporary resurgence, gaining the support of a number of scholars who represent divergent theological and methodological approaches but are united by conviction that the literary artist of Genesis conveys something more in Gen 9:20–27 than a simple "voyeurist" reading of the passage reveals. One of the more thorough defenses of this position is by Robert Gagnon in his recently published *The Bible and Homosexual Practice*, but other proponents include Anthony Phillips, Devorah Steinmetz, Martti Nissinen, Donald J. Wold, Seth Daniel Kunin, and O. Palmer Robertson.[12] In addition, Robert

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El. ch. 23; *Tg. Ps.-J.* on Gen 9:24–25. The earliest reference to this theory is found in Theophilus of Antioch, *Ad Autolycum* 3, 19.

[11] See Graves and Patai, *Hebrew Myths*, 122.

[12] Robert A. J. Gagnon, *The Bible and Homosexual Practice: Texts and Hermeneutics* (Nashville: Abingdon, 2001), 63–71; Anthony Phillips, "Uncovering the Father's Skirt," in his *Essays on Biblical Law* (JSOTSup 344; Sheffield: Sheffield Academic Press, 2002), 245–50; Steinmetz, "Vineyard," 193–207; Martti Nissinen, *Homoeroticism in the Biblical World* (Minneapolis: Fortress, 1998), 53; Wold, *Out of Order*, 65–76; Seth Daniel Kunin, *The Logic of Incest: A Structuralist Analysis of Hebrew Mythology* (JSOTSup 185; Sheffield: Sheffield Academic Press, 1995),

W. E. Forrest, Ellen van Wolde, and Susan Niditch are sympathetic, if not committed, to the view.[13]

As Hermann Gunkel, Gagnon, and many others have pointed out, the way the text describes Noah as realizing "what his youngest son *had done* (עשה לו) to him" suggests some action more substantial than passive viewing.[14] It suggests an act or deed of which Noah was the recipient or victim. Indeed, it so happens that the phrase used to describe Ham's transgression—"to see the nakedness of the father" (ראה ערות אב)—is an idiom for sexual intercourse.[15] Leviticus 20:17 equates the idioms "to see nakedness" (ראה ערוה) and "to uncover nakedness" (גלה ערוה):

> ואיש אשר יקח את אחתו . . . וראה את־ערותה והיא תראה את־ערותו חסד הוא . . . ערות אחתו גלה
>
> If a man takes his sister . . . and *sees her nakedness*, and she *sees his nakedness*, it is a disgrace, . . . *he has uncovered his sister's nakedness*.[16]

The phrase "to uncover nakedness" (גלה ערוה), in turn, is the usual expression for sexual intercourse in the Holiness Code:

> איש איש אל־כל־שאר בשרו לא תקרבו לגלות ערות . . .
>
> None of you shall approach anyone near of kin to uncover nakedness. (Lev 18:6)

The same idiom (גלה ערוה) occurs in descriptions of sexual promiscuity and sexual violence in Ezek 16:36–37; 22:10; 23:10, 18, 29. Thus, from an intertextual perspective, the description of Ham's act as "seeing his father's nakedness" implies more than a literal "seeing."[17]

173–74; O. Palmer Robertson, "Current Critical Questions Concerning the 'Curse of Ham' (Gen. 9:20–27)," *JETS* 41 (1998): 179.

[13] Robert W. E. Forrest, "Paradise Lost Again: Violence and Obedience in the Flood Narrative," *JSOT* 62 (1994): 15–16; Ellen van Wolde, *Stories of the Beginning: Genesis 1–11 and Other Creation Stories* (Harrisburg, PA: Morehouse, 1997), 146; Niditch, *Chaos*, 52–53. If we have read these authors correctly, they appear to lean toward the paternal-incest view.

[14] Hermann Gunkel remarks, "This cannot be all, because v. 24 presumes that Canaan [*sic*] had done something to him" (quoted in Westermann, *Genesis*, 488). Gagnon notes that "'what his youngest son had done to him' [is] not the expression one would expect to describe an unintended glance or even voyeurism" (*Homosexual Practice*, 65). See also Wold, *Out of Order*, 73; and Robertson, "Curse of Ham," 179.

[15] See Kunin, *Logic*, 174; Gagnon, *Homosexual Practice*, 66; Hans-Jürgen Zobel, "*gālâ*," *TDOT* 2:479; Steinmetz, "Vineyard," 198: "clearly the 'seeing of nakedness' implies a sexual violation, as it does throughout the biblical text"; Robertson, "Curse of Ham," 179; and Vervenne, "What Shall We Do with the Drunken Sailor?" 49: "the key-word here, ערוה . . . does have an erotic and sexual connotation."

[16] Unless otherwise noted, all English biblical quotations are from the NRSV.

[17] See Steinmetz, "Vineyard," 199.

Besides the use of the phrase "to see nakedness" (ראה ערוה), there are other erotically charged lexemes in Gen 9:20–27 that suggest a situation of sexual transgression. Wine (יין), for example, is intimately connected with sexuality in both biblical and ancient Near Eastern literature.[18] Significantly, the only other reference to drunkenness in Genesis also occurs in the context of parent–child incest: Gen 19:30–38, the account of Lot's intercourse with his daughters as the origin of Moab and Ammon. The Song of Songs is replete with images of wine as a symbol of sexuality and—strikingly—the vineyard (כרם) as a place of lovemaking.[19] The drinking of wine functions as a prelude to intercourse in Song of Songs (8:2) and in the dealings of David with Uriah the Hittite (2 Sam 11). Uriah refuses to go home, where he would "drink and lie with [his] wife" (2 Sam 11:11), so David gets him drunk in the hopes that he will dispense with his scruples and return to enjoy his spouse (2 Sam 11:13). Other biblical examples of the association of wine with sex could be cited, and the extensive ancient Near Eastern evidence (e.g., the cult of Dionysus/Bacchus and its analogues) has been explored elsewhere.[20]

In addition to the vineyard (כרם) and wine (יין), there is the word used for Noah's disrobing or "uncovering himself," יתגל, from the root גלה. This root is used extensively in Leviticus 18 and 20 and various passages of Ezekiel, often in combination with ערוה, to designate illicit (usually incestuous) sexual intercourse, and also in the two verses of Deuteronomy that condemn parent–child incest (Deut 23:1 and 27:20).[21] Usually Noah's disrobing is thought to be merely the result of his drunkenness, yet individuals typically do not disrobe simply because they are drunk. Noah's "uncovering himself" in the tent certainly carries erotic overtones.[22] Steinmetz comments, "Just as 'seeing' nakedness is more than seeing, 'uncovering' is more than uncovering."[23]

When Gen 9:20–27 is understood as a case of parent–child incest, literary links with other pericopes in Genesis and the rest of the Pentateuch suddenly become apparent. For example, several narrative critics have suggested that Gen 9:20–27 is chiastically linked to Gen 6:1–4, the story of the intercourse of the "sons of God" with the "daughters of men."[24] One story introduces the

[18] For an exploration of the association of wine and sexuality in ancient Greek, Egyptian, and Hebrew literature, see Cohen, *Drunkenness*, 3–6.

[19] See Song 1:2, 4, 6; 2:13, 15; 5:1; 6:11; 7:2, 9, 12; 8:2, 11–12.

[20] See literature cited by Cohen, *Drunkenness*, 3–6.

[21] See Steinmetz, "Vineyard," 199: "To 'uncover' nakedness is the other term which the Bible uses to describe sexual immorality"; and Zobel, *TDOT* 2:479.

[22] Cohen, *Drunkenness*, 17.

[23] Steinmetz, "Vineyard," 199.

[24] See Kikawada and Quinn, *Before Abraham Was*, 101–3; Wold, *Out of Order*, 70; and the comments of Forrest: "Ham's actions may justly be associated with the activities of the 'sons of God' in 6.1–4 who similarly broke ranks . . . Ham's 'offense', with its implications of incest, echoes

flood narrative, and the other concludes it; Gen 5:32 continues in Gen 9:28–29, forming an *inclusio* around the two stories.[25] When Gen 9:22 is understood as paternal incest, it becomes clear that the two stories are united by the theme of illicit sexual intercourse as well.

Likewise, Niditch, Steinmetz, Kunin, and many others see thematic links between Gen 9:20–27 and Gen 19:30–38, the story of Lot's daughters and the procreation of Moab and Ammon.[26] The similarities between the two pericopes are numerous: in the aftermath of a calamitous divine judgment, instigated by the wickedness of men—particularly sexual wickedness (cf. Gen 6:4; 19:5), which destroys the earth or a large part of it—an aged patriarch gets drunk, facilitating intercourse between parent and child, giving rise to one or more of the traditional enemies of Israel (Canaan, Moab, and Ammon).[27] The parallels hardly seem coincidental. Steinmetz points out that "the parallel between the Lot story and the vineyard story supports the implication of a sexual violation of Noah by his son."[28]

More than one scholar has noted a relationship between Gen 9:20–27 and Leviticus 18 and 20.[29] Leviticus 18 and 20 are integrally linked in that ch. 20 specifies the penalties for sins described in ch. 18. Both chapters are linked to Gen 9:20–27 by the words and phrases "to uncover" (גלה), "nakedness of the father" (ערות אב), and "to see nakedness" (ראה ערוה). Moreover, Leviticus 18 opens with a warning not to imitate the practices of the inhabitants of Canaan or Egypt, the two most prominent descendants of Ham (v. 3, cf. Gen 10:6).[30] Several commentators have seen the introduction to Leviticus 18 (vv. 1–5) as referring to Ham's violation of Noah, arguing either chs. 18 and 20 are a legal reflection on Gen 9:20–27 or that Gen 9:20–27 is an etiological narrative based

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the account of the illicit activities of the sons of God and the daughters of men (*'dm*) which precipitated the flood. . . . Thus the Ham incident provides a fitting conclusion to the [Flood Narrative] with its resounding echoes of both ch. 3 and the opening pericope of 6.1–4" ("Paradise Lost," 15–16).

[25] See Vervenne, "What Shall We Do with the Drunken Sailor?" 43: "Gen. 9.28–29 virtually concludes 5.32."

[26] Calum M. Carmichael notes, "The two earliest incidents of incestuous conduct in the book of Genesis involve drunkenness, first Noah's and then Lot's. The two incidents have much in common: the role of wine, the initiative toward the parent from the son or daughter . . . the concern for future generations" (*Law, Legend, and Incest in the Bible: Leviticus 18–20* [Ithaca, NY: Cornell University Press, 1997], 15). See also Gagnon, *Homosexual Practice*, 70; and Steinmetz, "Vineyard," 199 n. 13.

[27] For a thorough examination of the similarities of the passages, see Niditch, *Chaos*, 53–55.

[28] Steinmetz, "Vineyard," 199.

[29] E.g., Wold, *Out of Order*, 66; Phillips, *Essays on Biblical Law*, 247–48; Steinmetz, "Vineyard," 198–99.

[30] See Steinmetz, "Vineyard," 198–99, esp. n. 12; Pss 105:23, 27; 106:22; 78:51.

on Lev 18:1–8.[31] Seen in this light, it then becomes significant that the very first sexual transgression Leviticus 18 lists in association with the Hamitic nations Canaan and Egypt is parental incest, literally, "uncovering your father's nakedness" (לא תגלה . . . ערות אביך, vv. 7–8), essentially the crime Ham committed (וירא חם . . . את ערות אביו). This would make good sense if the author/redactor of Leviticus 18 interpreted Ham's deed in Gen 9:20–27 as a sexual violation of Noah, setting a precedent of incestuous sexual relations for his descendants.

A similar situation exists with respect to Deut 23:1:

לא־יקח איש את־אשת אביו ולא יגלה כנף אביו

> A man shall not take his father's wife, and shall not uncover his father's skirt. [ASV]

Phillips argues:

> Deuteronomy 23:1b is a deliberate enactment of the Deuteronomist and is part of his anti-Canaanite material. It was added at the head of the list of prohibited sexual relations in Lev 18.7–23 which the Canaanites, the former inhabitants of the land, were held to have committed (Lev 18.24–30) because no relationship was more abhorrent to the Israelites than that associated with Ham, the father of Canaan.[32]

Phillips regards Ham's sin in Gen 9:20–27 as paternal incest and argues that Deut 23:1b should be understood literally, as referring to sexual relations with one's father.[33]

In addition to clarifying the links between Gen 9:20–27 and other related pentateuchal texts, proponents of the paternal-incest theory point out that their view offers a possible motivation for Ham's deed. By humiliating his father, Ham hoped to usurp his father's authority and displace his older brothers in the

[31] For example, Vervenne feels that both texts are Priestly and that the author teaches by illustration in 9:20–27 what is conveyed by law in Leviticus 18 and 20: "In Gen. 9.20–27, the rules and regulations to which Israel adheres . . . are projected onto the screen of primeval times" ("What Shall We Do with the Drunken Sailor?" 52–53). Ross remarks, "The constant references to 'nakedness' and 'uncovering' and even 'seeing' in this passage [Lev 18:2–6] . . . clearly remind the reader of the action of Ham, the father of Canaan. No Israelite . . . could read the story . . . without making the connection" ("Curse of Canaan," 233–34). Gordon Wenham comments, "Lev 18:3 links both Egypt and Canaan as peoples whose habits are abominable. . . . Ham's indiscretion towards his father may easily be seen as a type of the later behavior of the Egyptians and Canaanites" (*Genesis 1–15*, 201). See also Carmichael, *Law*, 14–44, and Cassuto, *Commentary on the Book of Genesis*, 149–50.

[32] Phillips, "Uncovering the Father's Skirt," 250.

[33] Ibid., 245–50. Phillips's main argument is that if "uncovering the skirt" means the same as "take to wife," then Deut 23:1a and 23:1b are tautologous. However, "uncovering the skirt" is not exactly the same as "taking to wife"; the former refers to sexual relations, the latter to marriage.

familial hierarchy.[34] Nissinen notes that the story "does not speak of Ham's homosexual orientation but his hunger for power."[35] This explains why Ham promptly informed his brothers of what he had done (Gen 9:22b).

An obvious objection to the paternal-incest view is that the brothers' action in v. 23 indicates that Noah's nakedness was literal; thus Ham's "seeing" in v. 22 should be taken literally (as voyeurism) rather than idiomatically (as intercourse). But the objection is not conclusive. Gagnon comments on the significance of v. 23:

> The brothers' actions in "covering their father's nakedness" and taking great pains not to look at their father is compatible with an interpretation of "seeing another's nakedness" as sexual intercourse. *The brothers' actions play on the broader meaning of the phrase.* Not only did the brothers not "see their father's nakedness" in the sense of having intercourse with him, but also they did not even dare to "see their father's nakedness" in a literal sense. Where Ham's act was exceedingly evil, their gesture was exceedingly pious and noble.[36]

Likewise, Steinmetz, while acknowledging that v. 23 "support[s] the idea that sexual violation has broader implications than whatever physical act may be involved," nonetheless does not feel that Shem and Japheth's action "negates the implication of sexual immorality in this story."[37]

To summarize, the interpretation of Ham's deed as paternal incest is supported by the idiomatic meaning of the phrase "to see the nakedness of the father" (ראה ערות אב) and erotic undertones of the text. It has the heuristic value of clarifying and illuminating intertextual relationships between Gen 9:20–27 and Gen 6:1–4; 19:30–38; Lev 18; 20; and Deut 23:1. It also provides a possible explanation for Ham's motivation. However, it does not address the rationale for the cursing of Canaan.[38]

The arguments scholars have marshaled in favor of the paternal-incest theory are substantive. The erotic imagery of the text, the idiomatic meaning of "to see nakedness," the parallels with other pentateuchal texts, and the nature

[34] E.g., Nissinen (*Homoeroticism*, 53), and Gagnon, who claims, "By raping his father and alerting his brothers to the act, Ham hoped to usurp the authority of his father and elder brothers, establishing his right to succeed his father as patriarch" (*Homosexual Practice*, 66–67).

[35] Nissinen, *Homoeroticism*, 53.

[36] Gagnon, *Homosexual Practice*, 67 (emphasis ours). Wold (*Out of Order*, 74) and Robertson ("Curse of Ham," 180) argue similarly.

[37] Steinmetz, "Vineyard," 200 n. 15.

[38] Paternal-incest interpreters like Wold (*Out of Order*, 75–76) and Gagnon (*Homosexual Practice*, 67) claim that their theory elucidates why Canaan rather than Ham is cursed, but in fact they must resort to diachronic (historical-critical) explanations not necessarily tied to the paternal-incest hypothesis. In other words, they tacitly concede that paternal incest does not make sense of the cursing of Canaan *within the logic of the narrative itself*.

of Ham's deed as a familial-political power play all seem to support the supposition that Ham committed an incestuous act. To maintain in the face of this evidence that Ham merely looked at Noah is to turn a deaf ear to the literary nuances of the narrative. In what follows, however, it will be demonstrated that in almost every instance, these arguments for paternal incest are better suited to argue for maternal incest.

II. The Maternal-Incest View

We begin with the idiomatic meaning of the phrase ראה ערות אב, "to see the father's nakedness" (v. 22). Proponents of the theory of paternal incest are correct to equate ראה ערוה with גלה ערוה, "to uncover nakedness" via Lev 20:17, understanding both as euphemisms for sexual intercourse. However, one may take this valid insight one step further by recognizing that in all the relevant texts, גלה/ראה ערוה is associated with heterosexual activity, and "the nakedness of the father" (ערות אב) actually refers to the mother's nakedness.[39] For example, in Lev 18:7–8, the "nakedness of your father" is defined as "the nakedness of your mother":

> 7 ערות אביך וערות אמך לא תגלה אמך הוא לא תגלה ערותה 8 ערות אשת אביך לא תגלה ערות אביך הוא
>
> [7]You shall not uncover the nakedness of your father, which is the nakedness of your mother; she is your mother, you shall not uncover her nakedness. [8]You shall not uncover the nakedness of your father's wife; it is the nakedness of your father.

Likewise, Lev 18:14, 16; 20:11, 30, 21 all describe a woman's nakedness as the nakedness of her husband. The same logic is at work in Deut 23:1 and 27:20, which describe intercourse with one's father's wife as "uncovering the father's skirt" (גלה כנף אביו).

On the contrary, the two verses in the Pentateuch that condemn homosexual relations (Lev 18:22 and 20:13) use the verb שכב, not גלה/ראה ערוה as in Gen 9:21–23. No combination of the terms ערוה, ראה, and/or גלה is found associated with homosexual relations anywhere in the Bible.

Therefore, the phrase ראה ערות אבו in Gen 9:22 is a euphemism for sexual

[39] See Gagnon, *Homosexual Practice*, 69 n. 72: "The prohibition against intercourse with 'your father, which is the nakedness of your mother; she is your mother' refers to intercourse with one's mother, not one's father." Besides its use in Leviticus 18 and 20, the phrase occurs only in Ezek 22:10, where Ezekiel is quoting a list of sins from the Holiness Code (see ibid., 66 n. 67). Thus, outside of Genesis 9, the phrase "nakedness of the father" (ערות אב) in the Bible always refers to the nakedness of the father's wife.

intercourse indeed, but heterosexual rather than homosexual intercourse. If we take full account of the nuance of the biblical idiom, the statement that Ham "saw his father's nakedness" implies relations with Noah's wife, presumably Ham's mother. This is supported by the fact that the imagery of the vineyard (כרם) and wine (יין) is associated only with heterosexual intercourse in the Bible, whether in the story of Lot and his daughters (Gen 19:30–38), the David-Uriah-Bathsheba affair (2 Sam 11), or the Song of Songs (Songs 1:2, 4; 2:4; 4:10; 5:1; 7:9; 8:2). For example, the Song writer sings of male–female relations when he (or she) exclaims, "your kisses [are] like the best wine" (7:9) and "let us go out early to the vineyards. . . . There I will give you my love" (7:13).

It is salutary to recall that in Gen 9:1–17, the pericope immediately preceding the narrative under discussion, Noah and his sons are twice given the command to "be fruitful and multiply" (9:1, 7).[40] Genesis 9:19 ("from these the whole earth was peopled") suggests that the sons fulfilled this command, and 9:18, 22 stress Ham's role as progenitor of Canaan. It is not unreasonable, therefore, to interpret Noah's and Ham's actions in 9:20–22 in the context of procreative activity, however imperfect or distorted. Noah drank and disrobed in an effort to procreate; Ham intervened and succeeded.

Specifically, if Ham's deed is understood as maternal incest, it becomes possible to explain Canaan's origin as the fruit of that union. This insight suddenly illuminates two aspects of the text left unanswered by paternal-incest theorists: why Canaan is cursed, and why Ham is repeatedly identified as "the father of Canaan." Canaan is cursed because his origin was a vile, taboo act on the part of his father. Ham is repeatedly, and apparently superfluously, identified as "the father of Canaan" (vv. 18 and 20) because the narrator wishes to signal the reader that this narrative explains *how Ham became* "the father of Canaan." Van Wolde remarks:

> The text opens . . . 'Ham was *the father of Canaan*' (9.18). It is striking that Ham is named *father* at the precise moment when he is introduced as a son. Later, at the transgression of Ham, exactly the same thing happens: "Ham, *the father of Canaan,* saw the nakedness of his father' (9.22). It sounds rather stupid. . . . Evidently the text wants to put all the emphasis on the fatherhood of Ham or, rather, on the fact that he is the father of Canaan.[41]

The repetition is not stupid, however, if the pericope is explaining how Ham fathered Canaan.

Once Ham's offense is understood as heterosexual and procreative (of Canaan), the links that paternal-incest theorists recognize between Gen 9:20–27 and Gen 6:1–4; 19:30–38; Lev 18 and 20; Deut 23:1; and 27:20 are

[40] See Kikawada and Quinn, *Before Abraham Was*, 102.

[41] Van Wolde, *Stories*, 146.

clarified and strengthened. All these other passages concern heterosexual intercourse.

As mentioned above, scholars correctly (in our opinion) note an anti-Hamitic, anti-Canaanite polemic in the Holiness and Deuteronomic laws forbidding incest (Lev 18; Deut 23:1; 27:20), but the categories of incest listed are all heterosexual.[42] Significantly, the first category of incest that Leviticus 18 associates with the Hamitic nations Canaan and Egypt is with the father's *wife* (Lev 18:6, 7), which is also the subject of Deut 23:1 and 27:20.[43] A strong etiological link between these laws and Gen 9:20–27 may be present if Ham's sin was maternal incest.

Furthermore, it is somewhat awkward to explain, on the theory of paternal incest, why the apparently related passages Gen 6:1–4 and Gen 19:30–38 concern the production of wicked offspring through illicit sexual union, but Gen 9:20–27 produces no offspring. Kunin concludes that "Canaan is symbolically the barren fruit of this relationship" between Ham and his father,[44] while Niditch, recognizing that Gen 9:20–27 does not fit the pattern of procreative sexuality, is puzzled at how "a homosexually incestuous symbolic action in some way further[s] the creation and ordering process" that she sees operative in these narratives.[45] The awkwardness is removed under the theory of maternal incest. All three pericopes (Gen 6:1–4; 9:20–27; and 19:30–38) concern the production of wicked offspring through illicit sexual union.[46] In particular, Gen 9:20–27 and 19:30–38 are both concerned with the repopulation of the earth (cf. 9:1, 7, 19; 19:31–32) after a (super)natural disaster and offer etiologies explaining the low state of Israel's traditional enemies (Canaan, Moab, Ammon) due to their origins in parent–child incest. As noted above, Steinmetz argues that the parallels between Gen 9:20–27 and 19:30–38 support "the implication of a sexual violation of Noah by his son."[47] It could be argued further that the relationship between Gen 9:20–27 and Gen 19:30–38—as well as Gen 6:1–4; Lev 18:1–8; Deut 23:1; and 27:20—all support the implication of sexual violation of Noah's *wife* by her son.

[42] Ironically, Gagnon himself recognizes this: "None of the prohibitions of specific forms of incest in Lev 18:6–18; 20:11–21 mentions acts of incest between two males" (*Homosexual Practice*, 69).

[43] Phillips's argument that Deut 23:1b should be read literally, as prohibiting intercourse with the father himself, has garnered little support. See n. 33 above.

[44] Kunin, *Logic of Incest*, 175.

[45] Niditch, *Chaos*, 54.

[46] Forrest notes that if it is "Noah's wife with whom Ham has an incestuous relationship . . . the balance with the 'sons of God' episode is even more marked. Just as they violate order with their inappropriate relationships with the daughters of men, so Ham similarly violates the natural order through intercourse with his mother" (*Paradise Lost*, 16 n. 30).

[47] Steinmetz, "Vineyard," 199 n. 13.

[48] The actual historical question of the relationship between Israel and the Canaanites has, of

There is a rationale behind the ascription of the origins of Canaan and Moab/Ammon to different forms of incest (son–mother vs. father–daughter). The origins of the Canaanites, toward whom Israelite traditions often direct the most deep-seated antagonism,[48] are ascribed to a more serious form of incest; while Moab and Ammon, with whom the antagonism was slightly less, are granted an origin in less serious transgression. Intercourse between father and daughter, while certainly transgressive, was less serious in ancient Near Eastern and Israelite society than intercourse between son and (step-)mother. Although both were forbidden (Lev 18:7–8, 17),[49] intercourse between son and (step-) mother openly threatened the patriarchal authority structure of the family or clan. Basset remarks, "A son who has sexual relations with his mother or stepmother commits a rebellious sin against his father, since the possession of a man's wife is seen also as an effort to supplant the man himself."[50]

Thus, Nissinen and Gagnon may be correct in viewing Ham's transgressive sexual act as an attempt to usurp Noah's patriarchal authority. However, they identify Ham's act as the violation of Noah himself, and there is no precedent in biblical or ancient Near Eastern documents for paternal rape as a means of usurping a father's position.[51] Why would intercourse with the father serve to acquire his authority? But there is abundant attestation of sleeping with one's father's *wives* as a means of usurpation.[52] Absalom's infamous public intercourse with his father's concubines (2 Sam 15:20–23), Reuben's relations with Bilhah (Gen 35:22; 49:3–4), David's acquisition of Saul's concubines (2 Sam 12:8), and Adonijah's attempt to acquire David's wife Abishag (2 Kgs 2:13–25) are all notable examples of a son attempting to unseat his father through relations with the paternal consort(s). Ezekiel rebukes his contemporaries for committing this sin (Ezek 22:10).

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course, been complicated by proposed historical reconstructions that envision Israel arising from Canaanite populations (e.g., Norman K. Gottwald, *The Tribes of Yahweh: A Sociology of the Religion of Liberated Israel, 1250–1050 BCE* [Maryknoll, NY: Orbis Books, 1979]). However, in the present form of the Pentateuch, anti-Canaanite polemic appears dominant (Gen 24:1; 34:30-31; Exod 23:23; 33:2; Deut 7:1-5; 20:17-18; etc.) and that attitude is reflected, we propose, in the texts under discussion.

[49] Leviticus 18:7–8 prohibits maternal or step-maternal incest; 18:17 forbids intercourse with any daughter of a woman with whom one has had sexual relations. Since a man's daughter would always also be the daughter of a woman with whom he has had relations, Lev 18:17 would seem necessarily to prohibit all forms of father–daughter incest.

[50] Bassett, "Noah's Nakedness," 236.

[51] Gagnon cites the Egyptian myth of Horus and Seth (in which Seth violates Horus) and a certain Mesopotamian omen text as evidence, but both explicitly concern intercourse between peers or brothers, not between father and son (*Homosexual Practice*, 47, 52, 66–67).

[52] See Jon D. Levenson and Baruch Halpern, "The Political Import of David's Marriages," *JBL* 99 (1980): 507–18, here 508: "That through the carnal knowledge of a suzerain's harem a man could lay claim to suzerainty himself was a custom apparently well-founded in Israel (2 Sam 3:6–10; 16:20–23; 1 Kgs 2:13–25)."

As for ancient Near Eastern literature, there is the myth of Baal-Hadad, who castrates El and takes El's wife Asherah as his own in an effort to acquire his father's royal authority,[53] and a similar Sumerian creation account in which the wind god Enlil—the son of the sky god An and the earth goddess Ki—separates his parents from each other and absconds with his mother, eventually replacing An as chief of the Sumerian pantheon.[54] An obvious Greek parallel for the usurpation of the father's position through (among other things) the possession of the mother is the myth of Oedipus.

Placing Ham's maternal incest into the larger framework of the ancient Near Eastern concept of supplanting a man (or more exactly, a father) by sleeping with his wives validates Nissinen and Gagnon's instinct that Ham's act was not primarily one of lust or capricious malevolence but a familio-political power play, an attempt to acquire his father's authority and circumvent the rights of his older brothers, whom he immediately informs of what he has done (v. 23a).

So far we have seen that the maternal-incest view, in comparison with the paternal-incest theory, takes better account of the nuance of the Hebrew idiom גלה/ראה ערות אב, recognizes the *heterosexual* eroticism of certain terms in the text, offers a rationale for the cursing of Canaan, clarifies and strengthens the thematic links between Gen 9:20–27 and other obviously related pentateuchal passages, and provides a better account of Ham's motivation and *modus operandi*, supported by biblical and ancient Near Eastern analogues.

It remains to be explained how exactly the story should be *read* if Ham's crime was maternal incest. Perhaps as follows: Noah becomes drunk and disrobes in "her tent" (אהלה)[55] in preparation for intercourse but is incapacitated by his drunkenness (v. 21). Ham enters and "sees his father's nakedness," that is, engages in relations with his father's wife (v. 22a). He exits and informs his brothers of his grasp at familial power (v. 22b), perhaps producing an article of clothing as proof of his claim. The brothers, in turn, act with excessive filial def-

[53] See Bassett, "Noah's Nakedness," 236; and Ulf Oldenburg, *The Conflict between El and Baʿal in Canaanite Religion* (Leiden: Brill, 1969), 112–18.

[54] See Diane Wolkstein and Samuel Noah Kramer, *Inanna, Queen of Heaven and Earth: Her Stories and Hymns from Sumer* (New York: Harper & Row, 1983), 4; and Kramer, *Sumerian Mythology* (rev. ed.; Philadelphia: University of Pennsylvania Press, 1972), 39–40.

[55] It is suggestive that the consonantal form אהלה appears to have the feminine possessive suffix (see Cohen, *Drunkenness*, 8, and *Gen. Rab.* 36:7; although the MT points the word according to the *qērêʾ* אהלו, "his tent"). Cohen, Kikawada and Quinn (*Before Abraham Was*, 102), and the rabbinic sages suggest it is the tent of Noah's wife. The feminine form אהלה also occurs, for example, in Gen 24:67, where Isaac brings Rebekah into the tent of his mother to consummate their marriage. Unfortunately, it is not possible to determine whether the form אהלה in v. 21 is intentionally feminine, or an example of archaic orthography for the masculine pronominal suffix (see Cassuto, *Commentary on the Book of Genesis*, 2:161).

erence and piety in returning "the garment" (השמלה)[56] to their humiliated father, avoiding not only the figurative "seeing of the father's nakedness" (i.e., maternal incest) but the literal as well. In the aftermath of the event, Noah curses the product of Ham's illicit union, namely, Canaan, and blesses Shem and Japheth for their piety.

The same objection may be raised against this reading that was raised against the paternal-incest theory, namely, the brothers' action in v. 23 indicates that Noah's nakedness should be considered literally and not idiomatically in v. 22. The arguments presented above of Gagnon, Steinmetz, and others dealt adequately with this difficulty and are equally applicable to the maternal-incest theory. The brothers' action plays on the broader sense of the phrase "to see nakedness." Not only do they not "see their father's nakedness" in the sense of having intercourse with his wife; they also refrain from seeing his literal nakedness, and by covering him with a garment, restore to him a measure of the dignity damaged by Ham's attempted usurpation.

The objection has also been raised that vv. 24–25 imply that Noah pronounced the curse on Canaan immediately, before the nine months necessary for him to be born according to the maternal-incest theory. But the narrator may have simply compressed the chronology at this point, as he does elsewhere. After all, Gen 5:32 ("After Noah was five hundred years old, Noah became the father of Shem, Ham, and Japheth") should not be taken to mean that Noah's wife bore triplets shortly after his five-hundredth birthday.

Nonetheless, it does seem as though, if the maternal-incest theory is correct, the text has been elided or compressed. The ancient audience may have known the full details of the traditional story and so would not have required a more explicit account, or the account may have been edited with a euphemistic *Tendenz* out of deference for the reputation of the patriarch and matriarch. In any event, given the complexities of the transmission of these traditions in antiquity, it is not difficult to imagine that narrative elision or compression has taken place.

III. Conclusion

In the review of the various interpretive options for Gen 9:20–27 above, it has been seen that the voyeurist position, which understands Ham's deed as nothing more than looking, fails to explain the gravity of Ham's sin or the curs-

[56] The word has the definite article. Hermann Gunkel (*Genesis* [trans. Mark E. Biddle; Macon, GA: Mercer University Press, 1997], 80), Gagnon (*Homosexual Practice*, 65), and others suggest that it is Noah's garment.

ing of Canaan. The castration view suffers from a lack of textual support. The currently popular paternal-incest interpretation has much to commend it, but in almost every case the evidence marshaled for this view actually better suits the maternal-incest theory. The heuristic strengths of the maternal-incest interpretation are manifold: it explains (1) the gravity of Ham's sin, (2) the rationale for the cursing of Canaan rather than Ham, (3) Ham's motivation for committing his offense, (4) the repetition of "Ham, the father of Canaan," and (5) the sexually charged language of the passage. In addition, biblical and ancient Near Eastern analogues for Ham's crime are easy to find, and the related passages of the Pentateuch fit together more elegantly on this interpretation.

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SEX, LIES, AND VIRGINAL RAPE: THE SLANDERED BRIDE AND FALSE ACCUSATION IN DEUTERONOMY

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Deuteronomy 22:13–21 recounts a statement that a newly married husband makes concerning his wife.[1] The scandalous nature of the statement has led some to dub this text "the case of the slandered bride."[2] The gist of the statement is that the woman was not a virgin at the time of the wedding, as the man expected her to be. The main section of the text (vv. 13–19) prescribes a course of action if the husband is lying and his statement turns out to be false. The two concluding verses (vv. 20–21) stipulate what to do if the husband is telling the truth. The text states:[3]

> [13]If a man takes a wife and sleeps with her, but then hates her [14]and brings charges against her and causes an evil name to come upon her, saying, "I married this woman, but when I approached her, I did not find in her the

[1] In addition to the abbreviations in *The SBL Handbook of Style: For Ancient Near Eastern, Biblical, and Early Christian Studies* (ed. Patrick H. Alexander et al.; Peabody, MA: Hendrickson, 1999), the following abbreviations are used: BE = The Babylonian Expedition of the University of Pennsylvania; BZABR = Beihefte zur Zeitschrift für altorientalische und biblische Rechtsgeschichte; Cyr = J. N. Strassmaier, *Inschriften von Cyrus, König von Babylon (538–529 v. Chr.)* (Babylonische Texte 7; Leipzig: Pfeiffer, 1890); FLP = Free Library of Philadelphia; HL = Hittite Laws; LE = Laws of Eshnunna; LH = Laws of Hammurabi; LL = Laws of Lipit-Ishtar; LU = Laws of Ur-Nammu; MAL = Middle Assyrian Laws; NBL = Neo-Babylonian Laws; ND = field numbers of tablets excavated at Nimrud (Kalhu); VAS = Vorderasiatische Schriftdenkmäler der Staatlichen Museen zu Berlin; ZSS = *Zeitschrift der Savigny-Stiftung für Rechtgeschichte*. In addition, I would like to thank Bernard M. Levinson, F. Rachel Magdalene, P. Kyle McCarter, Jr., and Raymond Westbrook, who read and commented on earlier drafts of this article.

[2] Tikva Frymer-Kensky, "Virginity in the Bible," in *Gender and Law in the Hebrew Bible and the Ancient Near East* (ed. Victor H. Matthews, Bernard M. Levinson, and Tikva Frymer-Kensky; JSOTSup 262; Sheffield: Sheffield Academic Press, 1998), 79, 95. See also William W. Hallo, "The Slandered Bride," in *Studies Presented to A. Leo Oppenheim, June 7, 1964* (Chicago: Oriental Institute of the University of Chicago, 1964), 95–105, esp. 101–2.

[3] All translations of biblical and nonbiblical texts, unless otherwise noted, are my own.

> signs of virginity," [15]then the father of the young woman and her mother shall take the signs of her virginity and bring them to the elders of the city at the gate. [16]The father of the young woman shall say to the elders, "I gave my daughter to this man as a wife, and he has hated her. [17]See, he has brought charges against her, saying, 'I did not find in your daughter the signs of virginity.' But these are the signs of my daughter's virginity." And they shall spread the garment before the elders of the city. [18]Then the elders of the city shall take the man and flog him, [19]and they shall fine him one hundred shekels of silver and give them to the father of the young woman, because he has caused an evil name to come upon a virgin of Israel. And she shall be his wife; he may not divorce her for the rest of his days. [20]But if the charge is true—signs of virginity were not found in the young woman—[21]then they shall bring the young woman to the door of her father's house, and the men of her city shall stone her to death, because she has committed a shameful act in Israel by prostituting herself in her father's house. Thus you shall purge the evil from your midst.

Most analyses of this passage, for both rhetorical and source-critical reasons, maintain a distinction between the pericope's two basic parts: vv. 13–19 (part A) and vv. 20–21 (part B).[4] The first section, part A, describes the husband's negative conclusions regarding the condition of his wife. The implication is that another man has had sexual intercourse with her, thereby depriving the groom of exclusive right to the woman's sexual and reproductive services.[5] The

[4] Anthony Phillips, *Ancient Israel's Criminal Law: A New Approach to the Decalogue* (New York: Schocken, 1970), 115–16; A. D. H. Mayes, *Deuteronomy* (NCB; Grand Rapids: Eerdmans, 1981), 309–11; Alexander Rofé, "Family and Sex Laws in Deuteronomy and the Book of Covenant," *Henoch* 9 (1987): 131–59, esp. 135–46 (repr. in *Deuteronomy: Issues and Interpretation* [Old Testament Studies; New York: T & T Clark, 2002]); Carolyn Pressler, *The View of Women Found in the Deuteronomic Family Laws* (BZAW 216; New York: de Gruyter, 1993), 30; and Eckart Otto, *Gottes Recht als Menschenrecht: Rechts- und literaturhistorische Studien zum Deuteronomium* (BZABR 2; Wiesbaden: Harrassowitz, 2002), 252. These scholars believe different authors (or redactors) were responsible for the two parts. Others see the purgation formula (ובערת הרע מקרבך, "thus you shall purge the evil from your midst") in v. 21b as the only part that was added later (e.g., Timothy M. Willis, *The Elders of the City: A Study of the Elders-Laws in Deuteronomy* [SBLMS 55; Atlanta: Society of Biblical Literature, 2001], 222–30). For yet another perspective, which still distinguishes the two parts but sees essentially the same author at work on both, see Clemens Locher, "Deuteronomium 22, 13–21: Vom Prozeßprotokoll zum kasuistischen Gesetz," in *Das Deuteronomium: Entstehung, Gestalt, und Botschaft* (ed. Norbert Lohfink; Leuven: University Press, 1985), 298–303.

[5] The exact details of the accusation are debatable. Traditionally, it has been held that after the wedding night—the night of sexual consummation—the husband would have expected to find "bloodstained sheets resulting from a ruptured hymen" (Eugene H. Merrill, *Deuteronomy* [NAC; Nashville: Broadman & Holman, 1994], 302–3; see also Pressler, *View of Women*, 25–28; and Frymer-Kensky, "Virginity," 79–80, 93–94). Thus, these sorts of blood stains would be the "signs of her virginity" (v. 14) that the husband claims he did not find (see Samuel R. Driver, *A Critical and Exegetical Commentary on Deuteronomy* [3rd ed.; ICC; Edinburgh: T & T Clark, 1965], 255).

woman's parents go before the elders of the city and present the evidence necessary to disprove the charge.[6] The text then lays down a threefold penalty for the man: a flogging, a fine of one hundred shekels of silver, and a prohibition against divorcing this particular woman.[7] The second section, part B, describes what should happen if the man's suspicions turn out to be true. If the woman was not a virgin at the time she was given to the man for consummation of the marriage, the text calls for her death by stoning in front of her father's house.

I. The Passage about the Slandered Bride and the Law of False Accusation

The punishment inflicted on the man in part A appears to differ significantly from the punishment inflicted on the woman in part B. The former seems much less severe than the latter. This presents a difficulty in light of the law in Deuteronomy that governs false accusation.[8] Since the husband, as

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Gordan J. Wenham differs from the traditional interpretation and says that the husband here is actually claiming that there has been, since the wedding, no sign of menstruation by his wife. Thus, the claim is that the wife was pregnant by a different man at the time of the wedding. The garment produced by the parents to exonerate their daughter, then, would contain signs that she was menstruating right up until the wedding and was therefore not pregnant at the time of the wedding ("*Bĕtûlāh*—A Girl of Marriageable Age," *VT* 22 [1972]: 330–36). Regardless of which view one holds on this point, the issue remains the sexual purity of the bride at the time of the wedding.

[6] On the nature of this evidence, see preceding note.

[7] Some scholars question whether the word יסר ("to discipline") in v. 18 means that the man was flogged (Anthony Phillips, "Another Look at Adultery," *JSOT* 20 [1981]: 9; Mayes, *Deuteronomy*, 310; and Merrill, *Deuteronomy*, 301–3). Provisions in other law collections (LH §127 and MAL A §18) indicate, however, that men who falsely accused women of sexual infidelity were often flogged. For concurrence with this idea, see Clemens Locher, *Die Ehre einer Frau in Israel: Exegetische und rechtsvergleichende Studien zu Deuteronomium 22, 13–21* (OBO 70; Göttingen: Vandenhoeck und Ruprecht, 1986), 322; Frymer-Kensky, "Virginity," 94; Sophie Lafont, *Femmes, Droit et Justice dans l'Antiquité orientale: Contribution à l'étude du droit pénal au Proche-Orient ancien* (OBO 165; Göttingen: Vandenhoeck & Ruprecht, 1999), 280; and Willis, *Elders of the City*, 222.

[8] I am using the term "law" in a particular sense. It appears unlikely that the actual text of Deuteronomy ever functioned as legislation for ancient Israelite or Judahite society. For a review of the scholarship dealing with this topic, as well as the general nature of biblical and other ancient Near Eastern law codes or collections, see Anne Fitzpatrick-McKinley, *The Transformation of Torah from Scribal Advice to Law* (JSOTSup 287; Sheffield: Sheffield Academic Press, 1999), 81–112. Nevertheless, these law collections, including that of Deuteronomy, very likely reflect, in many respects, legal rules and procedures that were in effect and adhered to (Raymond Westbrook, "Cuneiform Law Codes and the Origins of Legislation," *ZA* 79 [1989]: 201–22; and Bruce Wells, *The Law of Testimony in the Pentateuchal Codes* [BZABR 4; Wiesbaden: Harrassowitz, 2004], 11–15). Thus, an individual legal provision within a text like Deuteronomy may still be

described in part A, would seem to be a false accuser, one would expect the law of false accusation to apply in this situation. This law occurs in Deut 19:16–21:

> [16]If a malicious witness rises against another to accuse the other falsely, [17]then both parties to the dispute shall appear before Yahweh and before the priests and the judges who are in office in those days. [18]The judges shall investigate thoroughly, and if the witness is a false witness and has accused the other falsely, [19]then you shall do to the witness just as the witness intended to do to the other person. Thus you shall purge the evil from your midst. [20]The rest of the people shall hear and fear and shall never again commit any such evil among you. [21]Your eye shall not pity; it shall be life for life, eye for eye, tooth for tooth, hand for hand, foot for foot.

Here the text states that if someone falsely accuses another of wrongdoing, and the falsehood of that accusation is discovered, then the false accuser should receive the same punishment that he or she was trying to inflict on the other person. This is the principle of talionic retribution, and it would seem to require that the two penalties in the passage about the slandered bride be mirror images of each other. The lying husband in part A should be punished in a fashion similar to the punishment that part B requires. The apparent discrepancy in punishments seems to indicate significant incompatibility between the passage about the slandered bride and the law of false accusation.[9] Scholars

referred to as a "law," even though it may only be *describing*—rather than *prescribing*—the law that was in effect at the time.

[9] Different literary or redactional strata could be a possible cause of this incompatibility. A number of scholars have argued that the laws in Deuteronomy that refer to "elders" come from a literary stratum different from that which provides most of Deuteronomy's other laws. That stratum would contain the passage about the slandered bride and might reflect a different way of handling legal matters, when compared with laws such as the law of false accusation. For both an overview of the relevant literature and the view that the stratum of the "elders" is earlier, see Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York: Oxford University Press, 1997), 124–27. For the opposite view, that the "elders" stratum postdates the bulk of the Deuteronomic Code, see Jan Christian Gertz, *Die Gerichtsorganisation Israels im deuteronomischen Gesetz* (FRLANT 165; Göttingen: Vandenhoeck & Ruprecht, 1993), 173–225. These views tend to assume that the administration of justice by elders would not—even could not—have occurred simultaneously with the administration of justice by a professional judiciary. This assumption has been critiqued, however, by Willis, who argues that "traditional judicial authority (held in Deuteronomy by city elders and, perhaps, priests) and professional judicial authority (held by appointed 'judges and officers')" could have coexisted and "were actually complementary" (*Elders of the City*, 36–50, here 35). Thus, Willis does not see the need to posit a separate "elders" stratum of laws and marshals modern ethnographic and ancient comparative evidence in support of his conclusion (ibid., 33–88). If Willis is right about this, then the notion of different literary strata becomes less helpful as a means of explaining the apparent incompatibility between the passage about the slandered bride and the law of false accusation. But even if a separate "elders" stratum exists, the question remains as to whether there is logical consistency between the two laws in the final redaction of the text.

have generally accepted this incompatibility for a variety of reasons.[10] They agree that the two penalties do not match, and they tend to concur with the sentiments expressed by C. Locher:

> Dass auch Dtn 22,13–21 zu den Fällen von Nicht-Anwendung des Talionsprinzips gehört, ist unmittelbar einsichtig: Denn die Frau wird hingerichtet, wenn die Beschuldigung ihres Ehemanns zutrifft, sie sei bei der Heirat nicht mehr unberührt gewesen; dagegen trifft den Ehemann bei Unhaltbarkeit seiner Aussage zwar eine empfindliche dreifache Sanktion (Züchtigung, Schadenersatz, Scheidungsverbot), aber eben nicht die Kapital-strafe.[11]

The premise of this article, however, is that another and more likely possibility exists: that the passage about the slandered bride actually complies with the principle of talionic retribution. Among other things, I will attempt to demonstrate that the intentions of the lying husband, as depicted in the text, do indeed return upon his own head in the punishments that he receives. Thus, the passage about the slandered bride presents a situation in which the law of false accusation is essentially enforced. To arrive at this conclusion, I employ the methodology of comparative-historical legal analysis.[12] As applied here, such analysis involves the exploration of other legal systems in the ancient Near East in order to glean information on how they would have handled situations that were in some way comparable to that of the case of the slandered bride. I then seek to interpret the biblical text in light of what that information reveals

[10] See, generally, the literature cited by Stephen M. Passamaneck, "The Talmudic Concept of Defamation," *RIDA* 12 (1965): 25–31; Locher, *Ehre einer Frau*, 373–80; and Lafont, *Femmes*, 240–52. To that may be added Raymond Westbrook, "Adultery in Ancient Near Eastern Law," *RB* 97 (1990): 575–76; J. Gordon McConville, *Deuteronomy* (Apollos Old Testament Commentary 5; Downers Grove, IL: InterVarsity, 2002), 339–40; and Richard D. Nelson, who states: "Yet in light of what is supposed to happen to a malicious witness (19:18–19), he [the husband] seems to get off lightly" (*Deuteronomy: A Commentary* [OTL; Louisville: Westminster John Knox, 2002], 270).

[11] Locher, *Ehre einer Frau*, 322.

[12] Despite the fair amount of attention that has been devoted to comparative-historical work in general, much less discussion has occurred with respect to legal analysis as a method of biblical interpretation. Two important works that explore the issue are Meir Malul, *The Comparative Method in Ancient Near Eastern and Biblical Legal Studies* (AOAT 227; Kevelaer: Butzon & Bercker, 1990); and *Theory and Method in Biblical and Cuneiform Law: Revision, Interpolation and Development* (ed. Bernard M. Levinson; JSOTSup 181; Sheffield: Sheffield Academic Press, 1994). In addition, recent scholars who ground their work in modern critical legal studies reveal one way of utilizing legal analysis, albeit not in typically comparative-historical fashion (Harold V. Bennett, *Injustice Made Legal: Deuteronomic Law and the Plight of Widows, Strangers, and Orphans in Ancient Israel* [The Bible in Its World; Grand Rapids: Eerdmans, 2002]; and Cheryl B. Anderson, *Women, Ideology, and Violence: Critical Theory and the Construction of Gender in the Book of the Covenant and the Deuteronomic Law* [JSOTSup 394; London: Sheffield/ Continuum, 2004]). This article is, in part, an attempt to employ comparative-historical legal analysis on a particular biblical text as a way of demonstrating how the method may be used.

about the nature and workings of ancient Near Eastern law.[13] The remainder of the article is divided into two major sections, both of which rely on this methodology. In the first I examine the more important scholarly attempts to maintain the idea that the passage about the slandered bride does not comply with the law of false accusation. I identify how and why my study diverges from those viewpoints. In the second section I lay out the details of a different view—namely, a view of congruence. I will point to the high degree of compatibility between the law in the passage about the slandered bride and the law of false accusation, when viewed against the larger backdrop of ancient Near Eastern law and legal literature.

II. Previous Proposals

Most of the previous attempts to explain the issue of apparent incongruity between the passage about the slandered bride and the law governing false accusation can be divided into three groups, each with its own identifying rubric. The first group consists of those views that point to the *irresolvability* of the issue. They do not see any way to reconcile the passages. The two texts probably come from the hands of different authors or redactors and, quite simply, contradict each other. In light of this, they claim, it is futile to attempt to find any level of coherence between the two. The second group consists of those views that point to the *inapplicability* of the law of false accusation to the passage about the slandered bride. Scholars who hold this type of view argue that the husband is merely spreading rumors about his wife and is not making a legal accusation against her; thus, the law of false accusation is irrelevant to the situation. In the third group are those views that claim it is the *inequality* with which the law treats men and women that becomes the key to understanding this issue. Men who falsely accuse women receive a lighter punishment than if

[13] Admittedly, this assumes that the legal practices of ancient Israel and Judah, as reflected in biblical texts, were similar to those of other ancient Near Eastern societies. The theory of a shared set of legal traditions across the ancient Near East is argued at length by Raymond Westbrook ("Biblical and Cuneiform Law Codes," *RB* 92 [1985]: 247–64; *Studies in Biblical and Cuneiform Law* [CahRB 26; Paris: Gabalda, 1988]; and "What Is the Covenant Code?" in *Theory and Method in Biblical and Cuneiform Law: Revision, Interpolation, and Development* [ed. Bernard M. Levinson; JSOTSup 181; Sheffield: Sheffield Academic Press, 1994], 15–36). This article follows that basic theory. This is not to say that there was direct dependence of one system or body of law on another, but that the weight of the evidence—the amount and degree of similarity across systems in the ancient Near East—strongly favors the conclusion that most ancient Near Eastern societies, including Israel and Judah, appear to have operated by many of the same legal rules and customs. Understanding how law worked in one society can then aid in understanding how law may have worked in another.

they had falsely accused another man. The discussion below examines the arguments of those scholars who best represent each group.

Irresolvability

For those who say that the tension between the two laws is irresolvable, the best representative is Alexander Rofé, who speaks of a "legal inconsistency" between the passage about the slandered bride and the law of false accusation. He claims that, based on the law in Deut 19:16–21, "the husband who brought unfounded charges against his wife should have been sentenced to death."[14] In the section below that argues in favor of congruence between the two laws, I will explain at length why this conclusion is without sufficient justification. There I will show that the husband in the passage did not intend for death to be used as a punishment against the other party in the case; therefore, death could not be used against him as a false accuser. For now, it is necessary to respond to another key point that Rofé emphasizes. He states that part B of the passage about the slandered bride not only contradicts the law of false accusation but also, because it "indiscriminately confers a death sentence upon a girl who is proved not to have been a virgin at the time of her first marriage, is in conflict with every other sex law [in the Hebrew Bible] concerning matters of virginity."[15]

The key law, apart from the law of false accusation, with which Rofé finds part B in conflict occurs in Deut 22:28–29 and deals with virginal rape:

> If a man finds a virgin who is not betrothed and seizes her and lies with her, and they are discovered, the man who lay with her shall pay fifty shekels of silver to the father of the young woman, and she shall be his wife. Because he has violated her, he may not divorce her for the rest of his days.

One of the chief differences, Rofé argues, is that Deut 22:28–29 makes a distinction between betrothed and unbetrothed virgins, whereas the passage about the slandered bride does not.[16] This means, according to Rofé, that an unbetrothed virgin who is forced into sex, as described in Deut 22:28–29, but whose deflowering is covered up or goes undetected, could end up in the situation envisioned by part B of the passage about the slandered bride. She would then suffer the death penalty, the penalty prescribed for adultery (Deut 22:22), even though she would not seem to be guilty of adultery.

If that were to happen, however, a violation of the husband's rights would have taken place that is similar to the violation of adultery. Even though the woman who becomes his bride may have been raped while she was yet a virgin,

[14] Rofé, "Family and Sex Laws," 136.
[15] Ibid., 136–37.
[16] Ibid.

if her husband-to-be is not informed of this prior to consummation of the marriage, he has suffered a wrong, according to the ancient Near Eastern mind-set, akin to that of a man whose wife sleeps with another after marriage. His wife has been had by another man. Rofé is right that the act described in Deut 22:28–29 is not enough to make the woman involved guilty of adultery. But an act such as that, in combination with false pretenses that cause another man to believe she is a virgin and to marry her, constitutes a much more serious form of wrongdoing. I term it *pre-consummation sex plus deception*.

It is the element of deception that is the crucial difference between the two passages.[17] In Deut 22:28–29, that element is missing. There has not yet been any chance for that to occur. The man who rapes an unbetrothed virgin now knows that she is no longer unblemished, as it were. When he pays the bride-price to her father, he is fully aware of the sexual history of his bride. Neither she nor her father has perpetrated a deception upon him. The situation in the passage about the slandered bride differs precisely in this regard. That he has been deceived is the chief complaint of the accusing husband. He was expecting a virgin on the night of consummation; his bride and her father had, presumably, indicated that she was yet chaste; and he had a right to expect that they were telling the truth. Upon the alleged discovery of evidence that his bride was sexually active in the past, the husband claims that he has been lied to, deceived. It is the deception that renders the wrongdoing tantamount to an act of adultery.[18]

The societies of the ancient Near East considered two types of sexual infidelity to be adulterous.[19] The first may be termed *adultery post-consummation* and involved a fully married woman having sex with any man other than her husband.[20] The circumstances in the passage about the slandered bride are plainly not related to this type of adultery. The second type is *adultery while betrothed* and occurred during the period of inchoate marriage or betrothal.[21] This period began when a man paid the bride-price for a particular woman and lasted until there was physical consummation on the wedding night, when the man and woman were deemed fully married. From the ancient legal point of view, sexual intercourse between the woman and another man during this period of time constituted an adulterous relationship.[22] From the moment the

[17] Locher, *Ehre einer Frau*, 63; and Westbrook, "Adultery," 574.

[18] Westbrook, "Adultery," 574–76.

[19] See, in general, ibid., 542–80.

[20] As in Deut 22:22, which stipulates death for both the woman and her lover.

[21] G. R. Driver and John C. Miles, *The Babylonian Laws* (2 vols.; Oxford: Clarendon, 1956, 1960), 1:249–51; and Raymond Westbrook, *Old Babylonian Marriage Law* (AfO Beiheft 23; Horn, Austria: Berger & Söhne, 1988), 34–38.

[22] As described in Deut 22:23–27, where the text also calls for the execution of both the

groom pays the bride-price, the woman is inchoately married or betrothed, and the man has exclusive sexual rights to her.[23] This means he has the right to have his wife delivered to him as a virgin at the time of consummation.

This is the right that the man in the passage about the slandered bride claims has been violated. It is true that he may not know exactly when his bride had sex with another man. We are not told if he thinks—or is pretending—that the act occurred prior to or after the payment of the bride-price. But the timing does not matter. This is why the passage does not distinguish between betrothed and unbetrothed virgins, as Rofé seems to think it should. That the bride and her father have maintained the pretense of her virginity throughout the period of inchoate marriage and up to the time of consummation puts *pre-consummation sex plus deception* on an equal footing with *adultery while betrothed*. In other words, regardless of the timing, the element of deception makes it as if sexual intercourse has taken place between the woman and another man during the period of inchoate marriage.[24] The man established his right with the payment of the bride-price, and now that right has been violated. In this way, understanding the nature of the deception in the passage about the slandered bride obviates the need to posit a contradiction between it and Deut 22:28–29. It also forms an important step in the process of determining the nature of the relationship between the passage about the slandered bride and the law of false accusation.

Inapplicability

Those whose views fall in the second group see no contradiction whatsoever between the passage about the slandered bride and the law of false accusation. As Carolyn Pressler states, "the contradiction is more apparent than

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woman and her lover, unless the woman was forced into the act against her will, in which case only death for the male lover is required.

[23] The word "betrothed" is used in the sense of "betrothed as a wife." See 2 Sam 3:14, where David sends a message to Ishbosheth that says, "Give me my wife Michal whom I betrothed (ארשתי) to myself for one hundred Philistine foreskins." Michal is betrothed to David only after he pays the bride-price, which in this case was set by Michal's father, Saul, at the foreskins of one hundred Philistine men (1 Sam 18:25). Since David has paid the bride-price (1 Sam 18:27), he may refer to her as his "wife," even though their relationship is that of inchoate marriage.

[24] It is quite possible that the woman did indeed have sex during the period of inchoate marriage. This is the view of Eckart Otto, "Das Verbot der Wiederherstellung einer geschiedenen Ehe: Deuteronomium 24,1–4 im Kontext des israelitischen und judäischen Eherechts," *UF* 24 (1992): 309–10. The details of the text, though, remain ambiguous as to the timing of the alleged act. Westbrook states: "It is most likely that the woman had been inchoately married at the time when she committed fornication . . . . The ruling does not, however, rely on that contingency, and in any case, her fornication (with person or persons unknown) could have been prior to any period of inchoate marriage" ("Adultery," 574).

real."[25] The reasoning is that the law of false accusation is inapplicable to the actions of the husband in the passage about the slandered bride. The husband is not making any claims, argues Pressler, in a legal context; he is simply disparaging his wife in the community at large. Since smearing the reputation of one's wife before one's neighbors does not constitute a formal accusation, the law of false accusation is irrelevant.[26]

In support of this conclusion, Pressler argues that part A of the passage about the slandered bride shows the parents of the bride initiating the action before the elders. They are the accusers, the plaintiffs in the case, while the husband is the defendant. If anyone should be subject to the law of false accusation, it would be the parents, even though the passage seems unconcerned with this aspect of the situation. Sophie Lafont continues this theme:

> L'homme comparaît devant les Anciens comme accusé dans un procès en calomnie engagé contre lui par ses beaux parents. Il est dès lors inutile de chercher une équivalence entre le châtiment qui lui est infligé et la peine de mort prescrite aux vv. 20–21 contre la « fiancée infidèle ». Ces deux versets montrent par ailleurs que les parents ne sont pas punis pour avoir faussement imputé à leur gendre des intentions malveillantes: seule la femme coupable est mise à mort, en application de la sanction contre l'adultère.[27]

The chief piece of evidence that Pressler and Lafont have to support their conclusions is that the text mentions the parents as the first ones to go to the elders (v. 15).[28] One must assume, however, that this is the very beginning of the very first legal proceeding regarding the matter.

[25] Pressler, *View of Women*, 24. Her argument is followed by Victor H. Matthews, "Honor and Shame in Gender-Related Legal Situations in the Hebrew Bible," in *Gender and Law*, ed. Matthews et al., 111 n. 65. Willis (*Elders of the City*, 222–25) follows Pressler only in part. He concurs that the parents are accusers and bring charges of their own in an attempt to counter the husband's actions. With respect to the latter, though, Willis states: "Whether these are formal accusations or informal gossip is unclear" (p. 222).

[26] Other scholars have sensed the exact opposite from the text. Consider, for example, the following opinion: "No other background for the statement [of the husband] except a court makes sense because the charge is certainly not idle talk; it is obviously intended to lead immediately to a judicial inquiry" (Passamaneck, "Talmudic Concept of Defamation," 26).

[27] Lafont, *Femmes*, 284.

[28] Don C. Benjamin seems to follow this view when he writes, "This case regards the wife's parents as plaintiffs" (*Deuteronomy and City Life: A Form Criticism of Texts with the Word CITY (ʿîr) in Deuteronomy 4:41–26:19* [Lanham, MD: University Press of America, 1983], 226). He appears to contradict this statement elsewhere, however. He refers to the husband's charge against his wife (v. 14b) as "testimony . . . given in the municipal court" (p. 223) and as a "public accusation" (p. 224). This would seem to make the husband the plaintiff. Moreover, when describing the judicial setting of the passage about the slandered bride, he claims that "the defendants [in this case] are citizens" (p. 233). With this statement, Benjamin seems now to be calling the parents of the bride the defendants instead of the plaintiffs. For, if the parents are the plaintiffs, there is only one defendant, the husband, not "defendants" in the plural.

Several important aspects of trial procedure from other ancient Near Eastern societies show that this assumption is unwarranted. First, not every trial or legal proceeding had to begin before a formal court of law. Such proceedings often began away from a court, typically with a pretrial confrontation between the parties.[29] That the text does not explicitly place the husband's statement in v. 14 in the context of a trial, therefore, means little. Second, trials could be conducted in stages.[30] For example, in the initial stage, the accusation might be made and recorded;[31] in a subsequent stage, testimony might be heard and evidence examined;[32] in a final stage, the case might be summarized and a verdict rendered.[33] The actions of the parents in v. 15, therefore, constitute merely *one* stage—not necessarily the *initial* stage—in the legal proceeding that the passage about the slandered bride describes. Third, because trials could be held over the course of several stages, the documents that record a given stage do not always begin with the plaintiff going to court and speaking to the judges. Sometimes they show the defendant performing these actions.[34] Thus, it is not necessary to conclude that the parents, who are the first ones in the text explicitly to speak before the elders, are the plaintiffs and that they are accusing the husband of slandering their daughter and besmirching her reputation. On the contrary, they seem to be the ones acting as the defendants in the case.

The husband is the plaintiff. The statements attributed to the husband in vv. 14 and 17 tend to fit the expected pattern of a legal accusation. In v. 14, the

[29] Eva Dombradi, *Die Darstellung des Rechtsaustrags in den altbabylonischen Prozessurkunden* (2 vols.; FAOS 20; Stuttgart: Steiner, 1996), 1:296–98.

[30] Mariano San Nicolò, "Parerga Babylonica XI: Die *maš?altu*-Urkunden im neubabylonische Strafverfahren," *ArOr* 5 (1933): 301–2; idem, "Eine kleine Gefängnismeuterei in Eanna zur Zeit des Kambyses," in *Festschrift für Leopold Wenger: Zu seinem 70. Geburtstag dargebracht von Freunden, Fachgenossen und Schülern* (2 vols.; Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte 35; Munich: Beck, 1945), 2:8–10; Ira Spar, "Three Neo-Babylonian Trial Depositions from Uruk," in *Studies in Honor of Tom B. Jones* (AOAT 203; Kevelaer: Butzon & Bercker, 1979), 157–72.

[31] See, e.g., the Neo-Babylonian documents *JCS* 28 45 no. 39, TCL 13 134, and VAS 6 82.

[32] See, e.g., the Neo-Babylonian document AnOr 8 38, in which a stolen temple cow is brought into court and two witnesses give testimony concerning the theft. No verdict is recorded. For other Neo-Babylonian documents that record witness statements but no verdict, see YOS 6 144 and YOS 6 235.

[33] See, e.g., the Neo-Babylonian documents *Iraq* 13 96–97 and YOS 6 169. See also Mariano San Nicolò, "Parerga Babylonica IX: Der Monstreprozeß des Gimillu, eines Širku von Eanna," *ArOr* 5 (1933): 61–77, on YOS 7 7.

[34] See, e.g., the Neo-Babylonian documents Cyr 332 and TCL 12 122. In the latter, the defendant begins speaking and goes on to quote an earlier statement made by the plaintiff (see the discussion of this document in Cornelia Wunsch, "Und die Richter berieten . . . : Streitfälle in Babylon aus der Zeit Neriglissars und Nabonids," *AfO* 44–45 [1997–98]: 68–70). This seems to be exactly what the wife's parents do in the passage about the slandered bride.

text does not make clear whom the husband is addressing. Taken by itself, the statement could perhaps be understood as a rumor the husband was intent on spreading.[35] But this possibility dissolves in light of v. 17. There the statement attributed to the husband by the father of the bride shows the former addressing the latter directly in the second person: לא מצאתי לבתך בתולים ("I did not find in your daughter the signs of virginity"). As alluded to previously, it was not uncommon for plaintiffs or accusers to address defendants directly in a pretrial confrontation and then to present their accusations before the court in a less personalized statement.[36] This is what happens in the trial of Jeremiah.[37] He is first confronted and addressed directly by his accusers (Jer 26:8–9). Then, in contrast to that, the accusation that follows the convening of a court refers to Jeremiah in the third person and is directed at those who are going to judge the case (Jer 26:11). In the passage about the slandered bride, the husband's statement that is quoted by the bride's father in v. 17 directly addresses the latter and would have occurred in a pretrial confrontation. It would have made clear the charges at issue and put the bride's father in the position of defendant, since the statement was directed at him. The husband's statement in v. 14, on the other hand, would have taken place before a court, perhaps composed of elders or others who could adjudicate the matter. Any context other than a formal legal one is highly unlikely for the combination of these two statements.

In addition, data from cuneiform law indicate that it would be unlikely for a husband to make public any sort of sexual infidelity on the part of his wife. It would actually be a disgrace to him that his wife had shamed him by her unfaithfulness and/or deception, and that he was taking no serious action to remedy the situation and redeem his reputation. Two paragraphs from the Laws of Hammurabi reveal this. The first, §131, prescribes what a wife should do if her husband accuses her of adultery. She may swear an oath before the gods avowing her innocence and then return to her house. Thus, the matter is kept private, and the husband's public reputation is unaffected.[38] The very next

[35] Hans J. Boecker, for one, would not see this as a possibility. For him, this statement clinches the legal nature of the husband's actions. "Dabei findet sich in v. 14b ebenfalls eine wörtlich formulierte Anklagerede" (*Redeformen des Rechtsleben des Alten Testament* [WMANT; Neukirchen-Vluyn: Neukirchener Verlag, 1964], 77).

[36] For a detailed discussion of the pretrial confrontation, see Pietro Bovati, *Re-Establishing Justice: Legal Terms, Concepts, and Procedures in the Hebrew Bible* (trans. Michael J. Smith; JSOTSup 105; Sheffield: Sheffield Academic Press, 1994), 30–166; see also n. 29 above.

[37] Boecker, *Redeformen des Rechtsleben*, 71–72; see also Frank-Lothar Hossfeld and Ivo Meyer, "Der Prophet vor dem Tribunal: Neuer Auslegungsversuch von Jer 26," *ZAW* 86 (1974): 30–50.

[38] If the wife takes this oath, she will be deemed innocent. Does this mean that the husband should then be subject to punishment for false accusation? The courts of the ancient Near East do not appear to have imposed such punishments when a case was decided by a judicial oath (see

paragraph, §132, prescribes a different procedure when a third party accuses a man's wife of adultery. In this case, the wife must submit to the river ordeal "for the sake of her husband" (*ana mutīša*).[39] The factor that requires a more immediate and dramatic resolution in the second instance is the presence of public knowledge.[40] Because someone in the community suspects infidelity, the husband's reputation is now at stake. It is for his sake that the woman cannot escape with a mere oath but must subject herself to the ordeal. Thus, classifying the husband's statements in the passage about the slandered bride as mere rumor may not be the most satisfactory solution.[41]

Inequality

The third group of views is best represented by the extensive and detailed work of Clemens Locher on the passage about the slandered bride.[42] Based on

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Wells, *Law of Testimony*, 144 n. 38). In the situation presented by LH §131, then, the husband would most likely not be subject to a penalty for falsely accusing his wife.

[39] "It is his [the husband's] reputation which is of greatest concern; it is his name which must be cleared" (Willis, *Elders of the City*, 197). Related to this point is the question of whether the wife is risking her life by submitting to the river ordeal. In other words, if the ordeal indicates her guilt, does this mean she drowns? Or does it mean that she is fetched from the water and punished in some other way? According to Tikva Frymer-Kensky, even if the court wanted to impose the death penalty, it may have had a person pulled out of the water and then executed in some fashion other than drowning ("The Judicial Ordeal in the Ancient Near East" [Ph.D. diss., Yale University, 1977], 491–93). A literary reference to the ordeal from the Neo-Babylonian period (CT 46 45) also reveals the authorities trying to retrieve a person from the river, "montrent clairement que le rituel est probatoire et ne constitue en rien un mode d'exécution du coupable désigné par le dieu" (Sophie Lafont, "Considérations sur la pratique judiciaire en Mésopotamie," in *Rendre la justice en Mésopotamie: Archives judiciaries du Proche-Orient ancien [III^e–I^er millénaires avant J.-C.]* [ed. Francis Joannès; Saint-Denis: Presses Universitaires de Vincennes, 2000], 30).

[40] See Michael Fishbane, "Accusations of Adultery: A Study of Law and Scribal Practice in Numbers 5:11–31," *HUCA* 45 (1974): 37–38.

[41] The comments of Clemens Locher on this issue must also be noted. He, like Pressler, considers if possibly "handelt es sich hier nicht um falsche Anschuldigung, sondern bloss um Verleumdung—wobei ich (e silentio!) voraussetze, dass bei blosser Verleumdung eine Strafe unterhalb der exakten Talion verhängt wird" (*Ehre einer Frau*, 323). This is a view, however, that he ultimately rejects (pp. 379–80). He does so based on a careful analysis of the pertinent sections of the ancient Near Eastern law collections (pp. 324–72). He finds that "für 'Verleumdung' gibt es keine eindeutige mesopotamische Parallele" (p. 380). This makes it unlikely that Deuteronomy has mere slander in view. In addition, Locher argues that Deut 22:13–19 follows a particular pattern, according to which some ancient Near Eastern court decisions were recorded. He explains how this would mean that the husband's actions involved an actual accusation, which the court eventually deemed groundless (pp. 96–98, 379; see also Locher's brief essay on this point, "Prozeßprotokoll," 298–303).

[42] Locher actually has two explanations that he thinks may work. The one not discussed in the body of this article has to do with the fact that the bride's accuser is her very own husband. He surmises that the law is more concerned about keeping the marriage together than it is about matters

his analysis of the stipulations in the ancient Near Eastern law collections regarding false accusation, acts of adultery, and accusations of adultery, he argues that men and women were treated differently by the law.[43] There was a kind of gender inequality in the justice system.[44] When a case involved a man accusing another man, then the law of false accusation applied. The false accuser would receive the punishment that was threatening the defendant. If, however, a case involved a man accusing a woman, the man, if a false accuser, was subject to a penalty less harsh than the penalty that would be inflicted on the woman if she were found to be guilty.

Locher argues that the evidence for this conclusion comes primarily from those provisions in the cuneiform law collections that present situations in which a man accuses a woman of adultery, but this evidence turns out to be less than compelling.[45] The real problem with Locher's position, though, is that he is assuming that the bride in Deut 22:13–21 is the defendant in the case. In point of fact, the defendant in the case is not the woman but her father.[46] Mar-

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of false accusation (*Ehre einer Frau*, 380). He bases this idea on LH §131, discussed above, which prescribes what a wife must do if her husband accuses her of adultery, but which says nothing regarding consequences for the husband if his accusation is false (pp. 376–77). Locher admits, however, that this is essentially an argument from silence (p. 375). In addition, see n. 38 above.

[43] Locher, *Ehre einer Frau*, 323, 338, 375, 380.

[44] Undoubtedly, there was, from a modern perspective, a good deal of gender inequality in the ancient Near East. For example, married men could have sex, legally, with single women (prostitutes, for example), whereas a married woman who had sex with a single (or married) man other than her husband was considered adulterous and liable to be killed.

[45] In fact, of all the provisions in the various cuneiform collections, "reduziert sich das Problem auf CU [LU] §14, CH [LH] §131, sowie MAG [MAL] A §18," according to Locher (*Ehre einer Frau*, 376). But these three provisions do not provide strong support for Locher's position. First, Locher assumes that LU §14 speaks of a man accusing the wife of another man of adultery. The new edition of the text by Claus Wilcke shows, however, that it is just as likely, if not more so, that the accusation is directed at a male lover, not a wife ("Der Kodex Urnamma: Versuch einer Rekonstruktion," in *Riches Hidden in Secret Places: Ancient Near Eastern Studies in Memory of Thorkild Jacobsen* [ed. Tzvi Abusch; Winona Lake, IN: Eisenbrauns, 2002], 291–333). This makes LU §14 problematic as evidence for Locher's view. Second, LH §131 describes, as mentioned earlier, a particular option that is available to a wife whose husband accuses her of adultery. It allows the wife to absolve herself by taking a judicial oath before the gods. The provision itself, though, does not say anything, one way or the other, about the punishment that the husband should receive if his wife takes the oath, is pronounced innocent, and thereby proves his accusation false. This, too, is questionable support for the kind of gender inequality that Locher espouses (in addition, see n. 38 above). Finally, MAL A §18 allows punishments other than death for a man who falsely accuses another's wife of adultery. But Herbert Petschow points out that in this instance, the law may be extending to the false accuser the same kind of leniency that MAL §§14-15 allow a husband to extend to his adulterous wife ("Altorientalische Parallelen zur spätrömischen Calumnia," *ZSS* 90 [1973]: 27–29). Thus, although Locher may be onto something, his arguments are far from decisive on this point.

[46] The text states that the mother acts in conjunction with the father, but it is the latter who is

riages were contractual agreements, typically arranged between the father of the groom and the father of the bride. If either of the fathers was deceased, others, such as the mother, the groom himself, a brother of the bride, or even the bride herself, could become one of the contracting parties.[47] In the case of the passage about the slandered bride, the fact that the bride's father is still alive at the time of the dispute almost certainly indicates that he was one of the parties when the marriage contract was first made. Whether the groom or the groom's father was the other party is not made clear. But if the groom or his family perceive that the contract has been breached, it is the other contracting party, namely, the father of the bride, against whom all claims would be made. The groom in the passage about the slandered bride does indeed make such a claim—that the woman given to him was not a virgin as she should have been.

Although it may be that the authors of Deuteronomy believed that a bride involved in *pre-consummation sex plus deception* should be punished for her complicity in the deception and possible consent to the illicit tryst, the legal claims of the husband run straight to her father. The fact that the father in the passage about the slandered bride must mount a defense before the city elders presumes that the husband alleges knowledge on the part of the father. His accusation implies that the father of the bride knew she had slept with another man previously but that he is pretending that she is a virgin and that no breach of the marriage agreement exists. Moreover, as the head of household, he has allowed his daughter's purported misconduct to take place under his supervision, and, as the contracting party, he has breached his duty to ensure the maintenance of his daughter's virginity.[48] He is the one responsible for the act of *pre-consummation sex plus deception* that has violated the husband's rights. The husband, therefore, seeks redress from the father. Thus, Locher's assessment of the situation is not entirely accurate. It is not a case of a man falsely accusing a woman. It is man versus man.[49] This is a particularly crucial point to

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the primary representative of the defending party. He is the only one to speak to the elders (vv. 16–17), and when the punishment is meted out to the lying husband, the fine of one hundred shekels of silver is paid only to the father, not to the father and the mother.

[47] See Samuel Greengus, "The Old Babylonian Marriage Contract," *JAOS* 89 (1969): 505–32; Jonathan Paradise, "Marriage Contracts of Free Persons at Nuzi," *JCS* 39 (1987): 1-36; and Martha T. Roth, *Babylonian Marriage Agreements, 7th–3rd Centuries B.C.* (AOAT 222; Kevelaer: Butzon & Bercker, 1989), 5–6.

[48] As Hallo states: "if the groom is proved correct, it is a sign . . . that the girl 'has played the harlot (in) her father's house,' that is, that her father did not watch over her as he should have done between the contracting of the marriage and its consummation" ("Slandered Bride," 102). Mark E. Biddle, too, sees the husband "claiming breech [*sic*] of contract between him and her father" (*Deuteronomy* [Smyth & Helwys Bible Commentary; Macon, GA: Smyth & Helwys, 2003], 338).

[49] Pressler, for one, would agree that the case is a dispute between two men (*View of Women*, 22–31). But, again, she reverses their roles and makes the husband the defendant instead of the accuser.

keep in mind, as the section below presents a different interpretation of the passage about the slandered bride and its relation to the law of false accusation.

III. A View of Congruence

The view set forth here sees a remarkable degree of congruence between the passage about the slandered bride and the law of false accusation. I will make three arguments in support of this assertion. First, a close examination of part A reveals that the authors of the text do not portray the husband as seeking his wife's death when he makes his accusation. At the outset of the case, there are indications that other penalties are being sought against the bride's father, the defendant in the case. The punishments imposed on the husband in part A actually correspond to those penalties, as the law of false accusation would require. Second, the legal systems of the ancient Near East allowed the same infraction to be punished with different penalties. The wronged party often had the right to choose which penalty or penalties to impose on the offending party. A husband who had been wronged by *pre-consummation sex plus deception* thus had a range of penalties from which to choose, including what part B of the passage calls for—namely, the death of the bride. He could, however, seek other penalties instead, as the husband in part A is said to do. Third, the provisions in biblical and cuneiform law collections dealing with the commission of a wrong typically list only the most severe penalty allowed by law and leave other possible penalties unmentioned. One would expect, therefore, part B of the slandered bride passage to contain the penalty that it does, even though the husband was not obligated to pursue it. Each of these arguments will now be expanded.

Matching Penalties in Part A

Part A of the passage about the slandered bride reveals that the penalties inflicted on the husband essentially match the penalties he was seeking to impose on the other party—the father of his bride—thereby satisfying the law of false accusation. In part A the husband's accusations are shown to be false, and he is punished. The penalties imposed by the elders are three: a flogging, a fine of one hundred shekels of silver, and a prohibition againt divorcing the woman. The punishment of flogging, like many types of corporal punishment in the ancient Near East, was meant to serve as a means of humiliating the man.[50] Thus, the consequences for the husband's actions entail, at a basic level,

[50] On flogging as a shaming punishment, see Paul Koschaker, *Rechtsvergleichende Studien zur Gesetzgebung Hammurapis Königs von Babylon* (Leipzig: Veit, 1917), 207–10; cf. LH §202;

the elements of humiliation, money, and divorce. If the applicability of the law of false accusation is to be assumed, it must also be assumed that the intentions of the husband involved the same three elements. The man in our passage intended his accusation to result in negative consequences for the other side in the case—consequences involving humiliation, money, and divorce. I begin with divorce.

Divorce

Divorcing a wife in the ancient Near East was a legal act that involved a man's declaring the dissolution of the marriage and sending the woman away from the household, either to fend for herself or to return to her father's household.[51] Her former husband was no longer responsible for providing for her. If the husband in the passage about the slandered bride wants to send his new bride away, he would in essence be returning her to her father and forcing the latter to support her, probably for quite some time. Other men would be reluctant to marry her since she had already been with at least one man. Indeed, the biblical text itself portrays the husband as having this in mind.

This indication comes with the word שנא ("to hate") in v. 13. The word may actually carry the meaning "to divorce" in this context.[52] Usage of the term "to hate" in the Hebrew Bible and other ancient Near Eastern documents shows that it is often associated with the act of terminating a marriage and that it sometimes does indeed convey the meaning of "divorce" entirely on its own.[53] As other scholars have pointed out, the standard spoken formula for enacting a

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and Matthew W. Stolper, *Entrepreneurs and Empire: The Murašû Archive, The Murašû Firm, and Persian Rule in Babylonia* (Uitgaven van het Nederlands Historisch-Archaeologisch Instituut te Istanbul 54; Leiden: Nederlands Instituut voor het Nabije Oosten, 1985), no. 91.

[51] See, generally, Reuven Yaron, "On Divorce in Old Testament Times," *RIDA* 4 (1957): 117–28.

[52] "Le v. 13 précisant que le mari 'hait sa femme' désigne techniquement l'action de divorcer et non pas la malveillance du conjoint" (Lafont, *Femmes*, 240 n. 12). Lafont makes this statement to support her assertion that the husband's slander of his wife was made in public. This, however, overlooks the fact that the husband's claims about his wife, in the context of divorce, constitute a legal accusation, because his claims must be deemed legally acceptable in order to get the kind of divorce he wants. This will be explained further below.

[53] Yaron, "On Divorce," 117–18; Delbert Hillers, "Some Performative Utterances in the Bible," in *Pomegranates and Golden Bells: Studies in Biblical, Jewish, and Near Eastern Ritual, Law, and Literature in Honor of Jacob Milgrom* (ed. David P. Wright, David Noel Freedman, and Avi Hurvitz; Winona Lake, IN: Eisenbrauns, 1995), 757–66, esp. 765; and Eckart Otto, *Das Deuteronomium: Politische Theologie und Rechtsreform in Juda und Assyrien* (Berlin: de Gruyter, 1999), 269, and the other literature he cites in n. 315. See also Raymond Westbrook, "The Prohibition on Restoration of Marriage in Deuteronomy 24:1-4," in *Studies in Bible, 1986* (ed. Sara Japhet; ScrHier 31; Jerusalem: Magnes, 1986), 399–403.

divorce, as reflected in the Aramaic papyri from Elephantine, is "I hate PN, my wife" or "I hate PN, my husband."[54] Similar pronouncements are found in cuneiform records from Syria and Mesopotamia, where the standard phrase is "I hate and divorce my wife/husband."[55] Even if the term שנא does not technically mean "to divorce," the action behind the word in the passage about the slandered bride is most likely one of divorce.[56]

The two clauses following the word שנא are difficult to interpret but detract neither from the conclusion that the husband's actions have legal import nor from the idea that divorce is what he intends. If anything, they may provide further support. The first contains the phrase עלילת דברים ("acts of words"), an expression that, while it occurs nowhere else in the Hebrew Bible, has been plausibly interpreted as referring to the pronouncement of a formal accusation.[57] The second clause contains שם רע ("an evil name"), a phrase found only here in the passage about the slandered bride (vv. 14 and 19) and in Neh 6:13. In the latter, Nehemiah recounts how his enemies tried to entrap him in wrongdoing so that they could claim "an evil name" concerning him and perhaps, therefore, have something of which to accuse him. It was argued above that the husband is bringing formal legal charges, even though the charges may turn out to be groundless. These two clauses seem to be consistent with that idea. The action of divorce is the probable context, if not the only plausible one, in which a husband "hates" his wife and brings a legal accusation regarding her. Thus, the authors do not present the husband as seeking the

[54] J. J. Rabinowitz, "Marriage Contracts in Ancient Egypt in the Light of Jewish Sources," *HTR* 46 (1953): 91–97; and Reuven Yaron, *Introduction to the Law of the Aramaic Papyri* (Oxford: Clarendon, 1961), 54–55.

[55] See, e.g., the Old Babylonian document *CT* 6 26a; the Alalakh tablet *JCS* 8 7 (no. 94); and the Neo-Assyrian document *Iraq* 16 37–39 (ND 2307).

[56] Pressler puts forth another reason why שנא here might mean "divorce." "It is just possible (given the judgment in Deut 22:19 that 'she shall be his wife') that in 22:13, שנא refers to the act of divorce, and that the situation is to be understood as a husband having divorced his wife, and being ordered by the elders to remarry her" (*View of Women*, 23 n. 4). She rejects this idea, however, because Deuteronomy prefers the *piel* stem of שלח to indicate divorce. Lafont objects to Pressler's argument. Although she misrepresents Pressler—Lafont claims that Pressler says it is the *piel* form of שנא that Deuteronomy uses to indicate divorce—Lafont points out, significantly, that Deut 24:3 uses שנא in the context of divorce (*Femmes*, 240 n. 12). Thus, שנא cannot be excluded from Deuteronomy's vocabulary for divorce.

[57] "The word *ʾaliloth* also means acts or deeds, cp. I. Samuel 2:3, Psalms 105:1, and others. A translation of the phrase as an 'act of words' with the sense of a formally phrased charge of words may reflect the biblical meaning more accurately. The content of the *ʾaliloth devarim* is fully stated. The phrase may well allude to an ancient juristic term for a statement of the case by the plaintiff. . . . There is no pressing reason to discount *a priori* the possibility that *ʾaliloth*, a more poetic and unusual word, could refer to the act of words in respect of a formally stated charge or accusation" (Passamaneck, "Talmudic Concept of Defamation," 26 n. 24). Other translations vary; many are comparable to Nelson's "shameful charges" (*Deuteronomy*, 263).

death of his bride, but rather divorce. He wants to return his newly acquired bride to her father and force him to take care of her.

Money

The issue of money emerges with further consideration of the word שנא ("to hate"). The term refers to a particular kind of divorce. Raymond Westbrook has shown, through an examination of a variety of ancient Near Eastern sources, that the term "hate" (Hebrew שנא; Akkadian *zêru*), when used in a legal context, represents an unjustified motivation for the action with which it is associated.[58] This does not mean that the action is illegal or criminal, but rather

[58] Westbrook, "Prohibition on Restoration of Marriage," 401–4. Others disagree. Otto (*Gottes Recht*, 256) thinks that Westbrook is trying too hard to guess at the motives involved. He believes that it is impossible to determine a person's subjective thoughts from terms like שנא and *zêru*. But this misses Westbrook's point. Westbrook is referring not to a person's own subjective feelings or thoughts but rather to the law's judgment of that person's motivation. It is when a person's actions are without sufficient grounds in the eyes of the law that שנא and *zêru* are used. Jacqueline E. Lapsley also misses this point when she interprets Westbrook's reference to a subjective motivation as a reference to an emotion ("Feeling Our Way: Love for God in Deuteronomy," *CBQ* 65 [2003]: 358–59). Westbrook has in view legal decisions, not human emotions.

Pressler, too, takes issue with Westbrook on this point. She states that he is unable "to cite any cases which clearly use *zêru* to indicate that the party initiating the divorce was at fault" (*View of Women*, 57 n. 43). Her statement is actually true. For the instances when שנא and *zêru* occur have to do with divorces where no one is technically "at fault." They occur to show that the person *not* initiating the divorce is not at fault and that the initiator, therefore, cannot claim wrongdoing on the part of the spouse and profit financially thereby. Such a divorce (where the spouse has done nothing wrong) is not an illegal divorce; but it is without sufficient grounds to warrant imposing financial penalties on the other person. In the passage about the slandered bride, as we will see, the husband is not wrong or "at fault" for trying to divorce his wife, but he is wrong for claiming that her misconduct is the basis for his action.

One of the texts that uses *zêru* and plays an important role in this debate is LH §§142–143 (this section of LH is also discussed later in this article in nn. 83-86). Pressler claims that this text refers to a wife who "hates" (*zêru*) her husband and breaks off the marriage agreement, when it is actually her husband who is at fault (*View of Women,* 56–57). But this is not what the text says. It begins with this statement: "If a wife (an inchoately married one) hates (*zêru*) her husband and says, 'You shall not (fully) marry me,' her situation will be investigated by the local authorities." This statement indicates that when a woman wants to dissolve an inchoate marriage agreement, the law, being the patriarchal product that it is, automatically assumes that her husband is not at fault and that her action finds no basis in his misconduct. Moreover, the local authorities are going to investigate to determine if there is something more to this situation than meets the eye. The rest of the text comes in two parts; each begins with *šumma* ("if") and so is on an equal level with the other in terms of the passage's structure. The first states what should happen if the husband is really at fault; the second, if the wife is at fault. (There is no explicit consideration of what to do if both have been behaving properly and the inchoately married woman still wants to end the relationship.) Thus, the law in LH §§142–43 does not use *zêru* of the wife when the husband is at fault. It says nothing more than that the local authorities are going to assume that a wife who wants to break off the agreement

that the person who carries out the action may have to forfeit certain legal rights. For instance, in the Laws of Eshnunna (§30) and the Laws of Hammurabi (§136), when a man "hates" his city and runs away, the man is leaving or fleeing without justification. He is not punished for committing a crime, but he loses the right to reclaim his wife when he returns, if she has decided to go and marry another man. In the eyes of the law, there was no good reason for the man's action, despite what the man himself may have thought. In the same way, a man who pronounces the formula, "I hate and divorce my wife," is admitting that, at least with respect to the law, his act of divorce is without grounds. He is divorcing his wife simply because he wants to—a perfectly legal act—not because he can find justification in his wife's misconduct. In such instances, ancient Near Eastern law required that the man forfeit his right to his wife's dowry and return it to her.[59]

By using the term שנא, then, the authors of part A of the passage about the slandered bride are revealing the dubious nature of the husband's endeavor right from the start. One might paraphrase v. 13 in this way: "If a man takes a wife and sleeps with her, but then rejects her without justification . . . ." The authors are slanting the description of the situation in favor of the final verdict, which decides on the falsehood of the husband's accusation.[60] It will eventually be revealed, they seem to say, that the husband's move to divorce is without justification. When the husband makes the accusation, however, he is claiming to have a perfectly good reason. *He* is certainly not referring to his actions with the term שנא. Rather, he alleges that his father-in-law pretended to give him a woman who was a virgin, when actually she was not. Thus, he is claiming that he should be allowed to send her away with justification because of the violation of *pre-consummation sex plus deception*. Generally in the ancient Near East, a man who succeeds in establishing justification for the divorce of his wife finds a significant financial benefit awaiting him—the keeping of his wife's dowry and often the right to an additional sum of money from her or her family.[61] By seeking a justified divorce, a man is usually out to be rid of his wife and to garner a profit, both in one fell swoop.[62]

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has no basis in her husband's misconduct until they get the chance to investigate. If their investigation shows otherwise, then so be it. But until that point, the assumption stands.

[59] He may have been required to pay her an extra sum of money, as well (LH §§138–40). In so doing, the man was helping to provide, in part, for her future support and giving up his right to be entirely free of providing for her—a right he would certainly have if her misconduct had caused the divorce.

[60] Locher, "Prozeßprotokoll," 298–303.

[61] On the loss of the dowry, see Westbrook, "Restoration of Marriage," 396–98. On the additional payment, see Samuel Greengus, "A Textbook Case of Adultery in Ancient Mesopotamia," *HUCA* 40 (1969): 39; and Westbrook, "Adultery," 558–59.

[62] Regarding the husband in the passage about the slandered bride, Frymer-Kensky remarks,

The same is essentially true of the man in this passage but on somewhat different terms. Typical divorce may not be the husband's intention. In a typical divorce, the other party involved would be the wife. Here the husband is taking action against the father-in-law. A different sort of divorce or, more precisely, annulment may be what he has in mind. In the ancient Near East, when a father failed to make good on an inchoate marriage agreement, by letting another man have his daughter or the like, he was often required to return to the original groom twice the amount that was paid as the bride-price.[63] This is, in essence, the situation in which the husband claims he finds himself. His bride's father has broken the marriage agreement by allowing the young woman to have sex with another man and then deceiving him; therefore, he says, he has justification for initiating a case against his father-in-law, dissolving the marriage, and requesting the appropriate compensation, namely, twice the amount of the bride-price.[64] A number of scholars believe that Deut 22:29 reflects fifty shekels of silver as the amount of a bride-price at that time.[65] If that is true, then the husband is requesting a payment of one hundred shekels from his wife's father. The element of money thus becomes clear in the husband's intentions.[66]

Humiliation

The third element must now be addressed. The husband is punished not only in terms of money and divorce but also by being flogged, the purpose of that punishment being to shame and humiliate the man. Is there any indication in the text that the imposition of shame and humiliation was also part of the husband's intentions when he first brought the case? The primary indication comes with the idea of dissolving the marriage and sending the wife away from

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"[H]e may have base motives and, not finding the girl to his liking, may want to be rid of her without losing his brideprice or her dowry" ("Virginity," 93).

[63] See LU §15, LL §29, LE §25, and LH §§160–61.

[64] Several scholars argue that the husband's intention is the recovery of the bride-price, though they do not claim that twice that amount is what the husband is after (Mayes, *Deuteronomy*, 309; Louis Stulman, "Sex and Familial Crimes in the D Code: A Witness to Mores in Transition," *JSOT* 53 [1992]: 56; Frymer-Kensky, "Virginity," 93; and McConville, *Deuteronomy*, 340).

[65] For example, Willis notes that one hundred shekels is twice the amount of the original bride-price (*Elders of the City*, 222–23). He does not, however, think that the husband is trying to recover any of that money when he brings his charges (ibid., 226 n. 94). See also Phillips, "Another Look," 9; Rofé, "Family and Sex Laws," 137; and Otto, *Gottes Recht*, 252.

[66] One might wonder what happens to the dowry if the husband's accusation proves true, and if he is seeking the penalties that part A considers. Because the husband would be seeking an annulment in this case, any property that had exchanged hands as part of the marriage agreement would probably revert to its pre-agreement owner. Getting back twice what he paid as the bride-price, however, would likely mollify the husband for any newly acquired dowry property that he might have to give up.

his house. It was not unusual for husbands who sent their wives away in the ancient Near East to shame and humiliate them by means of a number of actions.[67] One of these actions, mentioned in several places, is that of stripping the wife naked before sending her away.[68] Other actions include mutilating the wife's face and shaving her pudenda.[69] If the husband in the passage about the slandered bride had succeeded in his efforts to end the marriage and send his wife away, it is likely that he would have been able to inflict one of these shaming actions upon her. This would have humiliated not only his former wife but also her family, and in particular her father, who had allowed her virginity to be violated while she was under his supervision.[70] He is the one primarily responsible for what has happened, and shaming his daughter in this way is tantamount to shaming him. Thus, the element of humiliation can also be seen in the husband's intentions.

All of this means that the charge of sexual misconduct is not a lone accusation. It is part of an effort by the husband to execute a justified annulment as a result of his father-in-law's breach of contract. This is an action he cannot perform independently. He must bring the case to court—perhaps before a tribunal of elders—in order to justify his action and reap its benefits. The text, though, reveals the fraudulent nature of the man's actions and shows how he is punished. In this way, the authors of part A constructed the situation to satisfy faithfully the demands of the law governing false accusation. The same three penalties—humiliation, money, and divorce—that the lying husband intended to inflict on the other party turn up in the punishments that he suffers as a false accuser. In fact, the punishments are a remarkable mirror image of the man's original intentions. First, instead of seeing his wife and her father publicly humiliated, he undergoes a form of public humiliation himself. Second, the financial penalty enforced against the man is one hundred shekels of silver, the exact amount the man would have received if his charges had been believed. Instead of having one hundred shekels of silver pass from his father-in-law to himself, the man must take one hundred shekels of silver from his own resources and transfer them to his father-in-law.[71] Finally, instead of being rid

[67] Westbrook, "Adultery," 558–63; and Otto, *Gottes Recht*, 258–59.

[68] See, e.g., a document from the Old Babylonian period: *ZA* 55 71. On this text, I follow the interpretation of Greengus, "Textbook Case," 33–44.

[69] See MAL A §15 and *ZA* 55 71.

[70] Frymer-Kensky, "Virginity," 93–94.

[71] McConville believes that one hundred shekels is twice the amount of a standard bride-price. He also believes that the groom is out to recover the bride-price, though not twice that amount (*Deuteronomy*, 340). He then comes close to the mark when he says, "There is an aspect of talion in the double restitution" (ibid.).

of this woman forever and forcing her father to care for her, he must bring her back into his household and be permanently responsible for her support.[72]

Different Penalties for the Same Infraction

If the foregoing analysis is an accurate assessment of part A, the question arises of why part B seems to say nothing regarding the penalties that the husband is said to seek in part A. At first glance, part B seems to mention the stoning of the bride at the door of her father's house as the only possible punishment to be inflicted if the husband's charges are true. Yet the husband's plan in part A must have been based on a legally viable alternative for husbands in his situation. This means that the husband had the option of choosing what sorts of penalties he would seek when bringing his case. Support for this idea comes from the judicial systems of the ancient Near East and the types of penalties they allowed for illegal actions. These systems permitted different penalties of varying severity for the same infraction. They did not require that the same penalty be inflicted every time a particular wrong was committed. With any given illegal action, a choice could be made regarding what type of punishment to impose on the perpetrator. Typically, the choice rested with the victim.

Full and Partial Measures in the Ancient Near East

In the ancient Near East, victims and victims' families had recourse either to full measures or to partial measures.[73] Victims could ask that the harshest penalty allowed by law be imposed, or they could accept something less severe. In the case of murder, for instance, the family of the victim possessed the legal right—enforceable by the court—to seek full measures and demand the death of the murderer, even to carry out the execution themselves. It was also the case, though, that "that same right could be commuted into a money payment, i.e. that revenge could be bought off with a ransom."[74] This would be settling for partial measures. Full and partial measures appear in biblical texts such as

[72] Merrill also sees the prohibition against divorce as a form of talionic punishment (*Deuteronomy*, 303). This is because the husband is out to end the marriage, albeit with the death of the bride in Merrill's view (pp. 303–4).

[73] Westbrook (*Studies*, 39–88) uses the two categories of revenge (physical penalties) and ransom (financial penalties) to describe the options available to victims. These are similar but not identical to the categories of full and partial measures. The latter allow for overlap between what Westbrook calls revenge and ransom. For instance, partial measures often entailed financial punishments, but a physical punishment less harsh than the harshest allowed by law would also fall into the category of partial measures.

[74] Ibid., 45.

Exod 21:29–30 and Num 35:9–34. The first passage considers the issue of an ox that has been known to gore and injure people. If such an ox kills a man or a woman, the text states that its owner shall be killed (v. 30). It goes on to say, however, that a lesser penalty may be allowed, presumably by the victim's family, in which case the owner pays whatever amount of money may be demanded in order to save his life (v. 30). The passage from Numbers deals with murder. The text makes clear that the victim's family has the right to slay the murderer if the act was premeditated (v. 19). But then the text proscribes the option of any partial measure in the form of a monetary payment (v. 31). It stipulates that such payment not be accepted in the case of premeditated murder and that such murderers always be put to death. This shows that penalties short of death were still a generally accepted option for murder even in the days of the Priestly writers. If such penalties had not been, there would have been no need to say anything about them at all.

Sexual misconduct was no exception to this principle. For example, women guilty of *adultery post-consummation* could receive full or partial measures. That the death penalty constituted full measures is made clear by provisions in several law collections.[75] Half of these same provisions, as well as several related texts, also point out that the life of an adulterous wife may be spared.[76] Moreover, the laws are explicit about the fact that the choice to kill or to spare the guilty wife rests with her husband, the victim in the case. If the husband decides to spare his wife, he has the right to inflict partial measures, typically taking the form of a justified divorce.[77] As noted previously, when the wife is guilty of misconduct such as adultery and the husband wishes to divorce her, she must submit to public humiliation, to the loss of her dowry, and often to paying an additional sum of money, perhaps obtained from her family, to her husband. These are the punishments that a husband may choose to impose upon his adulterous wife in lieu of the death penalty.[78]

[75] LU §7, LE §28, LH §129, HL §§197–98, MAL A §§14–15, and Deut 22:22–27.

[76] LH §129, HL §§197–98, and MAL A §§14–15. See also *ZA* 55 71 (as discussed by Greengus, "Textbook Case," 34–43), and Jer 3:8 (in which Yahweh is said to have divorced, instead of executed, the nation of Israel for her adultery).

[77] Henry McKeating argues plausibly that this was a more commonly chosen punishment than the death penalty ("Sanctions against Adultery in Ancient Israelite Society, with Some Reflections on Methodology in the Study of Old Testament Ethics," *JSOT* 11 [1979]: 57–63). As for the male lover of the adulterous wife, he too has the chance to have his life spared by paying a ransom. See Prov 6:32–35 and the discussions of this text in Bernard S. Jackson, "Reflections on Biblical Criminal Law," in *Essays in Jewish and Comparative Legal History* (SJLA 10; Leiden: Brill, 1975), 59–61; and Samuel E. Loewenstamm, "The Laws of Adultery and Murder in Biblical and Mesopotamian Law," in idem, *Comparative Studies in Biblical and Ancient Oriental Literatures* (AOAT 204; Kevelaer: Butzon & Bercker, 1980), 146–53.

[78] There has been a great deal of debate among scholars about whether this holds true for biblical law. Some argue that the pentateuchal laws mandate death for adulterous wives and allow

Full and Partial Measures in the Passage about the Slandered Bride

The categories of full and partial measures can also be applied to the passage about the slandered bride. Part B reveals what full measures would look like were the husband to choose that option. The men of the city were to stone the woman at the door of her father's house. Part A, on the other hand, is about partial measures. There the man is not interested in the death of his bride; he prefers simply to dissolve the marriage and receive a handsome sum from the father. Thus, the law in Deut 22:13–21 assumes that partial measures were permitted, since part A is based on the premise that the husband selects that option. This is true, even though the only clearly stated penalty is that of full measures. A corresponding situation from Mesopotamia helps to clarify this understanding further.

Scholars have searched with little success for a parallel to the passage about the slandered bride in the legal documents from Mesopotamia.[79] Overlooked, though, has been the Old Babylonian document *ZA* 82 204–5 (FLP 1340), which tends to confirm much of the analysis set forth above. It records litigation that dates to Hammurabi's fifteenth year.[80] The subject matter appears to be an inchoate marriage that has turned sour because of a dispute between the groom and the father of the bride, partly involving the bride's chastity or lack thereof. After a list of twenty-two witnesses, the document states:

> These are the witnesses before whom Aḫuni raised the silver lance and said: "I definitely purchased the house; you did not give it to me as a bride-price (*terḫatum*)." Iddin-aba responded: "I will not marry your daughter. Bind her and throw her into the river."

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for no other punishment. Others claim the opposite. For an overview of the discussion and the relevant literature, see Otto, "Verbot," 301–10; and Willis, *Elders of the City*, 219–22. Clearly, the analysis of the passage about the slandered bride presented in this article supports the view that biblical law does not make death mandatory in the case of adultery. As Willis states, "Israelite society always held that adultery was an offense serious enough to warrant death, yet lesser punishments were commonly deemed to be sufficient" (*Elders of the City,* 220–21).

[79] BE 6/2 58 (republished as UrET [= UET] 5 256) has received some attention in this regard (Hallo, "Slandered Bride," 101–2). The document, however, is fraught with difficulties, and there is a clear lack of scholarly consensus on its meaning (Lafont, *Femmes*, 253–56). Moreover, it has been shown that Hallo's interpretation of the document as a parallel to Deut 22:13–21 cannot be maintained (Eckart Otto, review of William W. Hallo, *Origins: The Ancient Near Eastern Background of Some Modern Western Institutions* [SHCANE 6; Leiden: Brill, 1996], in *ZABR* 3 [1997]: 256).

[80] It is published and edited in David I. Owen and Raymond Westbrook, "Tie Her Up and Throw Her into the River! An Old Babylonian Inchoate Marriage on the Rocks," *ZA* 82 (1992): 202–7. See the brief discussion in Dominique Charpin, "Lettres et procès paléo-babyloniens," in *Rendre la justice en Mésopotamie,* ed. Joannès, 92–93.

Aḫuni is the father of the bride. His opening statement indicates that the groom, Iddin-aba, has apparently demanded that the bride-price be returned to him. The bride-price in this case appears to be a house as opposed to actual money. It is not clear if this is all that Iddin-aba is asking for or not. Regardless, the father of the bride refuses to comply with the groom's wishes, claiming that he purchased the house and that the groom did not give it as a bride-price. The groom responds: "I will not marry your daughter. Bind her and throw her into the river."

The groom could certainly not say this unless he is alleging that a very serious wrong has been committed. In all probability, it is *adultery while betrothed:* his bride has had sex with another man during the period of inchoate marriage. This would mean that the marriage agreement he had with the bride's father has been broken. What the groom appears to want, though, is not to see the woman die, but to exact partial measures—to free himself from having to marry her and to receive compensation from her father. It is likely that he brought a suit against the father in order to achieve these objectives. The above text may contain the father's refusal to comply with the groom's original demand. The end of the text would then show that the groom has changed his mind and now intends to pursue full measures. In so doing, however, he has not dropped his suit against the father and initiated a new one against the daughter; rather, he is still pursuing his original case against the bride's father.[81] What this text demonstrates is important in at least two respects for understanding the passage about the slandered bride.

First, if the groom were to follow through with his demand that the bride suffer death by drowning, that particular punishment would come as a consequence of the legal action he took against the bride's father. The death of the bride would be a punishment against her father, the defendant in the case. It is true that the Laws of Hammurabi contain a provision specifying the death penalty for a woman who commits *adultery while betrothed* (§§142– 43) and that this punishment is directly against the woman.[82] Yet the provision in LH

[81] The evidence from this Old Babylonian court record runs contrary to the suggestion of Benjamin (*Deuteronomy and City Life*, 229–30) that the defendant in part B of the passage about the slandered bride may be different from the defendant in part A. According to Benjamin, the father of the bride is perhaps the only defendant in part A, while the bride herself is the only defendant in part B. In this Old Babylonian text, though, the groom's dispute is strictly with the father, both when he is not interested in the death of the bride (as in part A) and when he is (as in part B).

[82] There is some disagreement over what exactly is at issue in LH §§142–43. One question has to do with the woman's marital status. If *aḫāzum* is accepted as the technical term in Old Babylonian for "to marry," as לקח is in Hebrew, then the woman must be an inchoate bride, and her statement in LH §142 has to mean, "You shall not fully marry (*aḫāzum*) me" (see below for a full

§§142–43 does not appear to be applicable to the case in *ZA* 82 204–5. The issue in LH §§142–43 does not stem from a dispute between the groom and the bride's father. Instead, the question of infidelity "emerges from litigation between the woman and her inchoate husband, in which each of the parties charges the other with misconduct."[83] Moreover, the text seems to say the woman has not been living in her father's house.

> [142]If a woman hates her (inchoate) husband and says, "You shall not marry me," her case shall be decided in her local court, and if she is chaste and has no sin and her husband is going out and greatly deprecating her, that woman has no fault; she shall take her dowry and go off to her father's house. [143]If she is not chaste and is going out, scattering her house, deprecating her husband, they shall cast that woman into the water.[84]

If the woman is justified in her repudiation of her husband, the text states that she may "go off to her father's house." It may be presumed, therefore, that she was not living in her father's house at the time of the dispute.[85] It may also be presumed that, if she is guilty of misconduct, the woman was living elsewhere at the time of her wrongdoing as well. Thus, in this situation, her father is not the one responsible for the bride's misconduct, nor is he the object of legal action taken by the groom. This is why the death of the bride in LH §§142–43 functions as a punishment directly against her, whereas the death of the bride in the situation described by *ZA* 82 204–5 would have been seen by the legal system of that time as punishing her father.

This understanding of the Old Babylonian material may help to explain the relationship between the passage about the slandered bride and the law in

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translation of LH §§142–43). Westbrook argues cogently for this point of view (*Old Babylonian Marriage Law*, 14–16, 45–47). Cf. Otto, who is less certain ("Verbot," 304 n. 26); and Locher (*Ehre einer Frau,* 290–95), who disagrees with Westbrook. Locher claims that the woman is already fully married and is saying that her husband may no longer have sexual relations with her. For the view that the misconduct on the part of the woman is sexual in nature, see J. J. Finkelstein, "Sex Offenses in Sumerian Laws," *JAOS* 86 (1966): 362–63. Thus, sexual misconduct by an inchoate bride points to *adultery while betrothed.*

[83] Westbrook, "Adultery," 573. As for the passage about the slandered bride, Westbrook says, "the question of infidelity arises during litigation between the husband and the wife's father" (p. 575). This question of who the parties at trial are is important to bear in mind. To reiterate, in LH §§142–43, it is the bride herself and the groom. But in *ZA* 82 204–5 and the slandered bride passage, it is the groom versus the bride's father.

[84] This translation comes from Westbrook, "Adultery," 572.

[85] The words "go off" translate *ittallak*, a Gt durative form of *alāku*. The Gt stem of this verb has the sense "to go away, depart from/for" (see *CAD* A/1 322). It seems unlikely that the text would have used *ittallak* if she had still been living with her father. Moreover, it was not uncommon for betrothed women to live somewhere else, even in the house of the groom's father, a situation often referred to with the term *kallūtu*: "status of a woman living in a household other than her father's" (*CAD* K 85).

Deut 22:23–24, which calls for the death of an inchoately married woman who commits *adultery while betrothed.*[86]

> [23]If there is a virgin who is betrothed to a man, and another man finds her in the city and sleeps with her, [24]then you shall bring the two of them out to the city gate. You shall then stone them to death—the young woman because she did not cry out in the city, and the man because he violated the wife of his fellow. Thus you shall purge the evil from your midst.

Although this text is not specifically about *pre-consummation sex plus deception,* the two situations are closely related. In both, it is possible for the woman involved to suffer the fate of death. In the case of the slandered bride, her death functions primarily as a punishment against her father. In Deut 22:23–24, the punishment looks to be directly against her. One possible reason for this is that the law in Deut 22:23–24 may be assuming a situation similar to the one described in LH §§142–43. The text may be assuming that the woman was not living in her father's house at the time of her illicit sexual activity, was not under his supervision, and thus was not his responsibility. The authors of Deuteronomy quite likely considered death in the case of the slandered bride, too, to be a just penalty for the woman. They would have deemed her to carry moral culpability: "because she has committed a shameful act in Israel by prostituting herself in her father's house" (Deut 22:21). This would be so, even though her father was the only one to possess contractual culpability and, therefore, the only one against whom the husband could take action in a trial court.[87] Thus, in cases of *pre-consummation sex plus deception* or *adultery while betrothed,* the identity of the responsible party—legally, not necessarily morally—may have depended on whether or not the bride was living in her father's house and under his supervision. If so, her father took the blame.[88] If not, the law held her

[86] In Deut 22:25–27, an exception is made for an inchoately married woman who is raped. Only the rapist is punished.

[87] It may be that the law contradicted by the passage about the slandered bride is not the law of false accusation but the law in Deut 24:16: "Parents shall not be put to death for their children, nor children put to death for their parents. Persons shall be put to death for their own sin." But, again, the authors of Deuteronomy may be focusing on moral culpability here. Even though the husband in the passage about the slandered bride can make legal claims only against the bride's father, the bride herself, from the authors' point of view, is not morally innocent. Thus, her death, which is a judicial punishment of her father for his breach of contract, also functions as a punishment of her moral failure.

[88] A potential problem for this conclusion comes from LH §130: "If a man forcibly restrains another man's wife, who has not yet had sexual relations and is still living in her father's house, and he is seized lying in her lap, then that man shall be killed; that woman shall be released." It is, perhaps, possible to infer from this law that an inchoately married woman, like the one described here, who is still living in her father's house, would herself be held responsible, were she willingly to commit adultery while betrothed. It is also possible to argue, however, that the father of the woman

responsible. The intricate workings of the legal system, though, were probably lost on the unfortunate brides, whose lives were at risk in either case.

There is a second way in which ZA 82 204–5 sheds light on the passage about the slandered bride. It demonstrates that the groom, in this type of situation, can choose between two options. One is the full-measures option, which includes the death of the bride. The groom reveals the other option by what he chooses first. He initiates the case, it would seem, by asking for partial measures—dissolution of the inchoate marriage and compensation. When the father balks, he switches, perhaps to motivate the father to accept his earlier demands. The right to choose which penalty to pursue rests with the groom, the plaintiff. So too, in the passage about the slandered bride, the intention of the husband controls the choice of penalty.

If the groom in the passage about the slandered bride chooses to seek the full measures of part B, those measures still contain the three key elements of humiliation, money, and dissolution of the marriage—the same three that define the penalties the husband seeks in part A. First, the defendant in the case—the father of the bride—would be terribly shamed and humiliated were he to have his daughter stoned in front of his house. Again, strictly in terms of the dispute between the husband and the bride's father, this is not a death penalty. It is, rather, a punishment of humiliation. Second, it goes without saying that the death of the woman would dissolve the marriage and the husband would forever be free of having to support her. Finally, the husband would be entitled to some sort of financial compensation. He might keep the dowry, which had come directly from his father-in-law's assets, or he might receive back twice the bride-price as described previously. Moreover, his father-in-law would be deprived of a financial asset in the daughter.[89]

How, then, would the principle contained in the law of false accusation apply to a situation in which a husband, when he first brings his case, declares that he is seeking the full measures of part B? The text does not make clear exactly what punishments such a husband would receive, if the court were to deem him a false accuser. It would stand to reason, however, that he would receive penalties corresponding to the objectives that he was trying to accom-

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would be the one held responsible. Among the penalties meted out to the father, there might well be one that would make his daughter the object of punishment, even as she is in the passage about the slandered bride. If she had not consented to the sexual encounter, then, according to LH §130, she would be exempt from any such punishment. Moreover, there is "a small group of Old Babylonian marriage contracts, in which a guardian has been appointed over the [inchoately married] bride. In one of these (CT 48 56) the guardian is said to be responsible, *inter alia*, 'for her sins' . . . . The nature of the responsibility is not specified, but whatever responsibility a guardian has by contract, a natural parent would have by virtue of his status" (Westbrook, "Adultery," 575).

[89] Using her for household work or marrying her off again for another bride-price would, quite obviously, be precluded.

plish by pursuing full measures. Since the shame and humiliation of the bride's father would be greater with the enforcement of full measures, perhaps the husband would suffer a form of public humiliation harsher than that in part A. Perhaps he would pay a stiffer fine, since the bride's father, with the loss of his daughter, would suffer a greater financial blow than if the husband had pursued only partial measures. The husband would also, presumably, be responsible for the perpetual support of the woman, as he would be in the case of partial measures as well. But he would still not be subject to the death penalty, since the defendant in the case—the father-in-law—was never in jeopardy of that. Whether the husband were to seek full or partial measures, and whether the charges were sustained or proven false, the penalties would still involve humiliation, money, and dissolution—or solidification, in the case of false accusation—of the marriage.

The Most Severe Penalty in Part B

That part B of the passage about the slandered bride speaks only of full measures should not be terribly surprising. When one compares part B with similar provisions in ancient Near Eastern legal material, it becomes clear that part B fits the standard manner in which the most basic aspect of a law was formulated. Ancient Near Eastern law could not easily express general legal principles.[90] In order to do so, it would usually take a given legal problem, describe the typical violation in casuistic style, and then prescribe the one penalty that was the most severe allowed by law. This would function as the general rule for that legal problem. It might then describe other situations that were variations on the theme contained in the general rule. Several examples could be cited, including one from the Middle Assyrian Laws.[91]

Middle Assyrian Laws A §13 describes the typical adulterous situation and stipulates death for both the woman and her lover. The provisions in MAL A §12 and §§14–16 add other details to this general principle. Most of the details have to do with where the illicit tryst took place, whether the woman gave her consent, and what penalties her husband could choose. In §15, for instance, the husband is allowed to inflict penalties other than the death penalty on his wife. The main point of §15 is that the wife's lover can be punished no more severely

[90] Bernard S. Jackson, "Principle and Cases: The Theft Laws of Hammurabi," in his *Essays in Jewish and Comparative Legal History* (SJLA 10; Leiden: Brill, 1975), 64–74.

[91] The Covenant Code offers a biblical example of a general rule followed by other provisions that vary the circumstances described in the first. "In the BC [Book of the Covenant, i.e., Covenant Code] the general rule of the case of killing in Exod. 21:12 was followed by Exod. 21:13–14, which differentiated between fatal bodily injury and murder" (Eckart Otto, "Aspects of Legal Reforms and Reformulations in Ancient Cuneiform and Israelite Law," in *Theory and Method in Biblical and Cuneiform Law,* ed. Levinson, 195). Other examples include LH §§9–13, §§138–40, and NBL §§8–13.

than the husband decides to punish his wife. One would not know about these lesser penalties, however, simply from reading §13. The provision in §13 omits such details, since its purpose is to describe the most basic aspect of the law and the general principle involved. This is also the purpose of part B in the passage about the slandered bride; thus, it omits mention of other penalties as well. It is part A that contains altered circumstances—namely, the husband's specific intentions—that affect the application of the law and entail other potential penalties.

It should be emphasized that casuistic laws attempting to make statements of general principles usually address the violation of the pertinent legal rule. Thus, in the passage about the slandered bride, the statement of the general principle occurs in the section that assumes the truth of the husband's charges and the existence of *pre-consummation sex plus deception.* That section then prescribes the type of punishment that is the most severe penalty allowed by law for that violation. One should, therefore, expect part B to contain the penalty that it does. This does not mean that full measures would necessarily take place. Part A makes that point clear.

One final comment relates to the nature of Deuteronomy's laws in general. There is no question that the legal material in Deuteronomy is highly colored by ideology or, at least, theology. The religious reformers who were most likely responsible for the laws of Deuteronomy had an agenda they were intent on pursuing, particularly in terms of cultic centralization. But there were other matters that were surely important to them as well. The overall sense one gets from the passage about the slandered bride is that these reformers, at least in theory, would prefer that the more extreme penalty—that of part B—be the typical punishment for the kind of misconduct described in the passage. By the way they construct part A, they acknowledge that the option of choosing partial measures is available in this situation. Nevertheless, they seem to believe that their society would achieve a greater degree of religious purity and divine approval if harsher measures were to prevail more often than not.

IV. Conclusion

In light of the preceding discussion, the full relationship of the passage about the slandered bride to the law of false accusation becomes apparent. If the husband brings false charges, he will be punished according to his intentions. If he wants simply to annul the marriage, to get back twice what he paid in the bride-price, and to inflict a comparatively minor form of humiliation, then he is after partial measures. As a false accuser, he will receive the three penalties described in part A, which correspond to his three intentions. If, on the other hand, he is pursuing the full measures of part B, he is out to inflict more severe punishments on the bride's father. The most striking of these is the

dreadful humiliation that the father would suffer with the stoning of his daughter. In addition, the husband would be free of the marriage and entitled to financial compensation. If his pursuit of full measures turns out to be based on false charges, it logically follows, based on the law of false accusation, that the husband would be punished in equal measure. Thus, his punishments would still entail public humiliation, financial penalties, and the obligation to provide for the woman's permanent support, as in part A, but these punishments would probably take, as his intentions did, a more extreme form.

Furthermore, the structure and content of the passage about the slandered bride would have seemed quite natural to legal minds of the ancient Near East. Part B contains the statement of the general rule, including the most severe penalty allowed, while part A describes how certain details would affect the law's handling of the situation. The most significant aspect of part A involves the intentions of the man bringing the accusation. It is his right to choose the full measures of part B or the partial measures of part A. Why the authors of Deuteronomy chose the particular situation that part A contains is hard to say. It may be, as Locher argues, that the authors had in their possession the record of a particular court case, and they relied on it to fashion the scenario in part A.[92]

Throughout this discussion, it has been assumed that the legal tenets revealed in the passage about the slandered bride may have actually been practiced at some point in ancient Israel.[93] Some scholars have argued, however, that many of Deuteronomy's nonsacral laws represent only the beliefs of a group of ideologues who may not have ever expected their ideas to be followed in actual practice.[94] Regardless, the apparent tension between the passage about the slandered bride and the law of false accusation exists. The evidence adduced above dissolves the tension by showing how the authors or final redactors of the book were able to maintain a level of consistency with their use of these two passages.

[92] Locher, "Prozeßprotokoll," 298–303. Cf., however, Frymer-Kensky ("Virginity," 95) and Nelson (*Deuteronomy*, 270), who seem doubtful that any husband would really want to initiate such a case, since the evidence necessary to disprove him would probably not have been difficult to produce or even to fake.

[93] Levinson is one scholar who believes that the authors of Deuteronomy wanted Israelite society actually to put into practice the laws contained in the book (*Deuteronomy and the Hermeneutics of Legal Innovation*, 3–22). "Their concern was to implement their own agenda: to effect a major transformation of all spheres of Judaean life—cultically, politically, theologically, judicially, ethically, and economically" (p. 16).

[94] With respect to the passage about the slandered bride, at least, Stulman doubts if the stipulations were "intended to be carried out" ("Sex and Familial Crimes," 56 n. 4). For support, he cites Tikva Frymer-Kensky ("Law and Philosophy: The Case of Sex in the Bible," *Semeia* 45 [1989]: 93), who sees the passage about the slandered bride as embodying a "theoretical principle" as opposed to binding law.

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WERE THE HASMONEANS ZADOKITES?

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A series of important changes overtook the Jewish high priesthood in the early Seleucid period. Zadokites in the family line of Joshua the son of Jehozadak had passed the office along in hereditary fashion for about 350 years before Menelaus, a person with different family connections (2 Macc 3:4), usurped the office in 172 B.C.E. At Menelaus's death in 162 B.C.E., Alcimus, whose familial connections are unknown,[1] succeeded him by royal appointment (162–159 B.C.E.). After Alcimus came that sacerdotal black hole from 159–152 B.C.E. Then in 152, Jonathan, a son of Mattathias, became the first Hasmonean high priest; members from his family retained the office until 37 (and briefly again in 35) B.C.E.

In the scholarly literature one often meets the claim that the Hasmoneans were *not* Zadokites;[2] that is, they assumed an office not belonging to their family and thus occasioned charges against their legitimacy by groups such as the

[1] 2 Maccabees 14:3 calls him a person "who had formerly been high priest," apparently meaning a chief priest. 1 Maccabees 7:5 says he wished to be high priest, and according to v. 14 he was a priest from Aaron's line. In *Ant*. 20.237 Josephus explains that he was from the Aaronid line but not from the family of Onias (much the same in *Ant*. 12.387).

[2] A few examples of the many who hold this view are Joseph Klausner, *The History of the Hasmoneans,* vol. 3 of *The History of the Second Temple* (in Hebrew; 6th ed.; Jerusalem: Achiasaf, 1963), 110, 139; Victor Tcherikover, *Hellenistic Civilization and the Jews* (New York: Atheneum, 1970), 492–93; Jonathan A. Goldstein, *I Maccabees: A New Translation, with Introduction and Commentary* (AB 41; Garden City, NY: Doubleday, 1976), 71, 75; Geza Vermes, *An Introduction to the Complete Dead Sea Scrolls* (Minneapolis: Fortress, 1999), 130–31; Paolo Sacchi, *The History of the Second Temple Period* (JSOTSup 285; Sheffield: Sheffield Academic Press, 2000), 237–38; and Deborah Rooke, *Zadok's Heirs: The Role and Development of the High Priesthood in Ancient Israel* (Oxford Theological Monographs; Oxford: Oxford University Press, 2000), 255–56, 280–82.

Essenes and Pharisees. What information do we have about this? Do we actually know that the Hasmoneans were not Zadokites? And do we know that Essenes and Pharisees questioned the *genealogical right* of the Hasmonean family to hold the high-priestly office? These questions are pursued in the sections below.

I. Were the Hasmoneans Zadokites?

Genealogy

We should first examine the genealogical data that have been transmitted. 1 Maccabees is our oldest direct source of information about the family history of the Hasmoneans. When he introduces Mattathias, the author tells the reader: "In those days Mattathias son of John son of Simeon, a priest of the family of Joarib, moved from Jerusalem and settled in Modein. He had five sons . . ." (1 Macc 2:1–2 NRSV; cf. 14:29). Josephus, a priest who traced his own ancestry to the Hasmoneans (*Life* 1.1–6), wrote as he paraphrased 1 Macc 2:1–2: "At this time there was a man living in the village of Modai in Judaea, named Mattathias, the son of Joannes, the son of Symeon, the son of Asamonaeos [Ασαμωναίου], a priest of the course of Joarib and a native of Jerusalem. He had five sons . . ." (*Ant*. 12.265–66 [trans. Marcus, LCL]).[3] So the historian appears to trace the line another generation and by doing so provides the origin of the name usually given to the family. But the additional ancestor—Asamonaios—is otherwise unknown in earlier sources and thus is of no help in discovering the priestly family or clan from which the Hasmoneans came.

Other References in 1 Maccabees

Some scholars have argued that 1 Maccabees itself offers more specific information relevant to the question than the genealogy alone. We learn later in ch. 2 that Mattathias, seething with anger, killed both the Jew who stepped forward to offer sacrifice on the altar at Modein and the officer sent to enforce the new religious practice. "Thus he burned with zeal for the law, just as Phinehas did against Zimri son of Salu" (2:26). The reference to the event described in Num 25:6–15 compares Mattathias's act to Phinehas's deed. From this one could conclude that, as Phinehas was a son of Eleazar (e.g., Num 25:7), Mattathias may have been as well. If this is true, Mattathias and thus his sons would have been Zadokites, since Zadok belonged in the family of Eleazar (see below).

The inference from this passage is highly unlikely; the comparison

[3] In *J.W.* 1.36 Josephus refers to Mattathias as a son of Asamonaios.

between Mattathias and Phinehas concerns what they did, not their genealogy—at least not explicitly. As a result, we need to find other evidence to assist in answering the question. As it turns out, 1 Maccabees itself supplies stronger support for the link with Phinehas. In 2:54, as Mattathias speaks to his sons from his deathbed, he urges them "to show zeal for the law." A little later he says: "Phinehas our ancestor [ὁ πατὴρ ἡμῶν], because he was deeply zealous, received the covenant of everlasting priesthood" (2:54). If, as he seems to be doing, Mattathias appeals to Phinehas as their ancestor, he is placing his family in the line of Eleazar, from which the Zadokites came.[4] Yet it is possible to dismiss the author's testimony on the grounds that it is not genealogical but merely propagandistic on behalf of his heroes, whose legitimacy as high priests he was concerned to support. We must, therefore, ask whether there is other evidence providing warrant for linking the Hasmoneans with the ancestral line that included Phinehas and Zadok.

The Priestly House of J(eh)oiarib in 1 Chronicles 24

The key name in Mattathias's genealogy for our purpose is *Joarib*, which, according to 1 Chr 24:7, was the name of the first of the twenty-four ancestral houses of priests who were to serve in the temple.[5] The list in 1 Chronicles 24 is made up of descendants of Aaron's two sons: sixteen heads of houses from the line of Eleazar and eight from the line of Ithamar (24:4). Zadok, who was present when the division was made, is said to be from the line of Eleazar (24:3),[6] but in the list itself no one of the twenty-four names is identified as belonging to Eleazar or to Ithamar.[7] Therefore, while any one of the twenty-four was twice as likely to be from the Eleazar line as from that of Ithamar, we cannot demonstrate from the list alone that Jehoiarib and thus the Hasmoneans were

[4] F.-M. Abel, *Les livres des Maccabées* (EBib; Paris: Gabalda, 1949), 48; F.-M. Abel and Jean Starcky, *Les livres des Maccabées* (La Sainte Bible; 3rd ed.; Paris: Cerf, 1961), 101 n. c; Goldstein, *I Maccabees*, 8; Rooke, *Zadok's Heirs*, 280–81. As these writers emphasize, whatever truth there may be in the statement, by it the author of 1 Maccabees asserts the right of the Hasmoneans to the high priesthood. See also Jacob Liver, "The 'Sons of Zadok the Priests' in the Dead Sea Sect," *RevQ* 6 (1967–68): 23; Martin Hengel, *The Zealots: Investigations into the Jewish Freedom Movement in the Period from Herod I until 70 A.D.* (Edinburgh: Clark, 1989), 149–54.

[5] It may be that the list in 1 Chr 24:7–18 belongs to a subsequent, pro-priestly layer in this part of the book, not to the original work of the Chronicler (see Hugh Williamson, "The Origins of the Twenty-Four Priestly Courses: A Study of 1 Chronicles xxiii–xxvii," in *Studies in the Historical Books of the Old Testament* [ed. John Emerton; VTSup 30; Leiden: Brill, 1979], 251–68). Williamson argues, however, that this revision probably comes from the generation after the Chronicler, that is, from the very late Persian period. For our purposes, this is the only salient point because it would entail that the list is pre-Hasmonean (on this issue, see below).

[6] See also Ezra 7:1–5; 1 Chr 6:4–15, 50–53 (Hebrew: 5:30–41; 6:35–38).

[7] The point can be found in virtually any commentary. See, e.g., Sara Japhet, *I & II Chronicles* (OTL; Louisville: Westminster John Knox, 1993), 426.

Zadokites in a genealogical sense. We may suspect with good reason, however, that *Jehoiarib* was an Eleazarite: if Eleazar was the dominant line, having twice as many units, it is likely that the list would begin with an Eleazarite house.

Some commentators maintain that one can in fact determine the family affiliation of the individual priestly houses in 1 Chronicles 24 from v. 6: "the heads of ancestral houses of the priests and of the Levites; one ancestral house being chosen for Eleazar and one chosen for Ithamar [בית אב אחד אחז לאלעזר ואחז אחז לאיתמר]." From the last part of the verse they conclude that the principle was one of alternation, with the first group chosen from Eleazar, the second from Ithamar, and so on until the eight Ithamarite divisions were selected. The last eight of the twenty-four, then, all being from Eleazar's line, would have cast lots to determine their order. In support of their reading they cite the fact that in 1 Chronicles 25 the Levitical singers are also selected in this way.[8] This appears to be a reasonable inference, although others have suggested that the pattern was two for Eleazar and then one for Ithamar.[9] If we follow the latter approach, it would have the advantage of making both J(eh)oiarib and Jedaiah Eleazarites and therefore Zadokites (for Jedaiah as the high-priestly clan, see below). On either reading, it is very likely that Jehoiarib is envisioned as belonging to the family of Eleazar via Zadok.

A frequent objection to drawing a historical, genealogical conclusion from Jehoiarib's place in the list is that his position as the first among the twenty-four priestly houses (and thus probably from Eleazar's family) is a revision of an earlier form of the list, a product of the prominence that the Hasmoneans subsequently achieved.[10] There is no means at our disposal for refuting the claim, since we have no copies of 1 Chronicles 24 (or the list behind it) from the pre-Hasmonean period;[11] conversely, those who posit that Jehoiarib's position at

[8] Edward L. Curtis and Albert L. Madsen, *A Critical and Exegetical Commentary on the Books of Chronicles* (ICC; Edinburgh: T & T Clark, 1910), 271–72; Japhet, *I & II Chronicles*, 428. In both commentaries the emendation of the phrase ואחז אחז to ואחד אחז is accepted.

[9] So Luc Dequeker, "1 Chronicles xxiv and the Royal Priesthood of the Hasmoneans," *OTS* 24 (1986): 100. He does, however, have to resort to two emendations to arrive at his reading. He not only changes ואחז to ואחד but also revises אחז לאיתמר to ואחז אחד לאיתמר.

[10] See, e.g., Emil Schürer, *The History of the Jewish People in the Age of Jesus Christ (175 B.C.–A.D. 135)* (rev. ed.; ed. Geza Vermes, Fergus Millar, and Matthew Black; Edinburgh: T & T Clark, 1973–87), 2:249–50 (he offers a discussion of the issue and a bibliography); Louis Finkelstein, *The Pharisees: The Sociological Background of Their Faith* (2 vols.; 3rd ed.; Philadelphia: Jewish Publication Society, 1966), 2:596. Dequeker even says: "The Hasmonean origin of the list in 1 Chron. seems certain" ("1 Chronicles xxiv," 103). An opponent of this view is Jacob Liver, *Chapters in the History of the Priests and Levites: Studies in the Lists of Chronicles and Ezra and Nehemiah* (in Hebrew; Publications of the Perry Foundation for Biblical Research in the Hebrew University of Jerusalem; Jerusalem: Magnes, 1968), 35–37; he argues strongly that the family of Jehoiarib was prominent long before the Hasmonean period. On this see below.

[11] The single fragment of Chronicles (if it is from a copy of Chronicles) found at Qumran can

the beginning of the list is a late emendation cannot demonstrate their point on the basis of texts.[12] It is true that the proponents of Hasmonean textual mischief can cite some support that may favor their hypothesis. In Neh 12:1–7 we read a list of the names of the priests who accompanied Zerubbabel and Jeshua when they returned from exile. It contains twenty-two names, and Joiarib is number seventeen. A few verses later (Neh 12:12–21) we find another list of priests dated to the time when Joiakim, Jeshua's son, was high priest. Here there are twenty-one names, and the one from Joiarib's family is the sixteenth among them. Neither of these early compilations even remotely implies a leading position for Joiarib.[13]

There is a simple objection to the conclusion often drawn from the lists in Nehemiah 12. In both of them, the names of Joiarib and Jedaiah are paired, with the order being Joiarib–Jedaiah (vv. 6, 19). Jedaiah is the house to which the high priests belonged, so one ought not to infer from Nehemiah 12 that the place of Joiarib–Jedaiah in the lists hints at their lowly status. Order here seems not to imply rank.[14] The next section offers the documentation for this claim. If it is true, there is evidence that J(eh)oiarib was a prominent priestly house in pre-Hasmonean times[15] and that it was connected with the high-priestly line.

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be dated paleographically to ca. 50–25 B.C.E. (Julio Trebolle Barrera, "118. 4QChr," in *Qumran Cave 4, XI: Psalms to Chronicles* [ed. Eugene Ulrich et al.; DJD 16; Oxford: Clarendon, 2000], 295–97). The few letters from the first column visible on the fragment are unidentified, while the second column contains words and letters from 2 Chr 28:27–29:3.

[12] Johann W. Rothstein made this point emphatically in Rothstein, completed by Johannes Hänel, *Kommentar zum ersten Buch der Chronik* [KAT 18/2; Leipzig: Deichert, 1927], 435).

[13] E.g., Dequeker, "1 Chronicles xxiv," 103. The argument is repeated regularly in the literature. Finkelstein referred to "the previously hardly known family of Jojarib" (*Pharisees*, 2:596).

[14] Wilhelm Rudolph (*Esra und Nehemia samt 3. Esra* [HAT 20; Tübingen: Mohr Siebeck, 1949], 192), with others, has drawn attention to the fact that in the MT in both lists in Nehemiah 12 the name Joiarib is preceded by a conjunction, the only name in the lists so introduced. He thinks this implies Joiarib and the five names following it were added in Hasmonean times (these six are absent from the list in Neh 10:3–9). Their absence from ch. 10 could, however, be explained differently, as it is a list of the signatories to the agreement, not a list of all the priests at the time. On the issue of dating of sections of the Hebrew Bible to the Hasmonean era, including the list in 1 Chronicles 24, see the cautious comments of Peter Ackroyd, "Criteria for the Maccabean Dating of Old Testament Literature," *VT* 3 (1953): 113–32. The chronology of the MT, according to which the Maccabean rededication of the temple in 164 B.C.E. occurred in the year of the world 4000 and the exodus in 2666, two-thirds of 4000, is also sometimes cited as evidence of Hasmonean tampering with the text (see, e.g., Jeremy Hughes, *Secrets of the Times: Myth and History in Biblical Chronology* [JSOTSup 66; Sheffield: JSOT Press, 1990], 233–37).

[15] Menahem Stern, "Aspects of Jewish Society: The Priesthood and Other Classes," in *The Jewish People in the First Century: Historical Geography, Political History, Social, Cultural, and Religious Life and Institutions* (ed. Shemuel Safrai and Menahem Stern; CRINT 1.2; Assen: Van Gorcum; Philadelphia: Fortress, 1976), 588–89.

J(eh)oiarib in Other Scriptural Lists

The name J(eh)oiarib occurs in several lists, and these allow us to draw some inferences about the family's position and connections, particularly through the priestly group with which J(eh)oiarib is regularly associated—Jedaiah.

Jedaiah as the High-Priestly Clan

There is evidence in the priestly lists that Jedaiah was the clan from which the early Second Temple high priests came. Joshua/Jeshua was the first of these high priests and was a descendant of the last high priest in the First Temple. We read about him in many passages, including Ezra 2:36 (= Neh 7:39): "The priests: the descendants of Jedaiah, of the house of Jeshua, nine hundred seventy-three." The verse, part of a passage that lists just four priestly groups among the returnees from exile (the other three are Immer, Pashhur, and Harim), names the Jedaiah branch first and entails that the house of Jeshua belonged to the line of Jedaiah.[16] The point can be reinforced from the list of priestly families charged with marrying foreign women in Ezra 10:18–22: there the groups are identified as Jeshua, son of Jozadak and his brothers, Immer, Harim, and Pashhur. Hence the same divisions are involved, with the name of Jeshua substituting for that of Jedaiah in 2:36.

A second pair of parallel texts leads to the same conclusion. Nehemiah 11:3–19//1 Chr 9:2–17, which lists the inhabitants of Jerusalem, includes the statement: "Of the priests: Jedaiah son of Joiarib, Jachin, Seraiah son of Hilkiah son of Meshullam son of Zadok son of Meraioth son of Ahitub . . ." (11:10–11). The parallel in 1 Chr 9:10–11 reads slightly differently, lacking the word translated "son of" before Joiarib. Comparison of this list, which takes a genealogical form except in the case of names 2 and 3 (or in 1 Chronicles 9 in the case of names 1, 2, and 3), with others shows that the latter part of the genealogy of Levi is under consideration (see 1 Chr 5:37–40 [Eng. 6:11–14]; Ezra 7:1–2). the way the two lists line up in the MT is presented on the following page. It seems strange in such a list that the first three names in the Chronicles version (Jedaiah, Jehoiarib, Jachin) lack the word "son" after them, while all the names, beginning with the fourth, have the genealogical term. Nehemiah reads "son of" after Jedaiah but also lacks it after Jehoiarib and Jachin. The extra "son of" in Nehemiah has prompted the suggestion that originally the entire list took a genealogical form.[17] The name Jachin, accompanied by "son of" in neither list, is a surprising entrant here. It occurs in none of the genealogical enumerations

[16] This is the conclusion reached by Liver, *Chapters in the History of the Priests and Levites*, 38.

[17] Rudolph, *Esra und Nehemia*, 184.

and therefore may be a damaged remnant of another reading. Wilhelm Rudolph concluded that יכין (Jachin) was a simple scribal error for בן (son of).[18] Although scholars recognize that Rudolph's suggestion solves the problem of the puzzling יכין and makes the list into a family tree, they differ in their assessments of it.[19] Nevertheless, when read in light of the parallel priestly family lines, the texts should be seen as genealogical throughout. So, according to the list, the family of Joiarib was the one to which Jedaiah belonged; and Jedaiah was the clan of the high priest. This presupposes some status at an early time for Joiarib, a family in the line of Zadok.

Nehemiah	*1 Chronicles*
Jedaiah	Jedaiah
son of Joiarib	and Jehoiarib
Jachin	and Jachin
Seraiah	and Azariah
son of Hilkiah	son of Hilkiah
son of Meshullam	son of Meshullam
son of Zadok	son of Zadok
son of Meraioth	son of Meraioth
son of Ahitub	son of Ahitub

Jedaiah and J(eh)oiarib Elsewhere

In addition, there are passages in which the two names Jedaiah and Joiarib are found side by side, as if there were some association between them. We have already noted the two lists in Nehemiah 12 where, in both instances, the name Joiarib is followed by Jedaiah. Among the priests who migrated to the land with Zerubbabel and Jeshua were, we learn in Neh 12:6, "Shemaiah, Joiarib, Jedaiah." Here they are not described as related; their names are simply juxtaposed. See also 12:19, where they are again placed side by side. In 1 Chr 24:7–18, the list of the twenty-four priestly houses, Jehoiarib is the first and Jedaiah is the second.[20]

[18] Ibid. Rudolph nevertheless agreed with those experts who thought that the prominence of Joiarib in the lists was due to Hasmonean manipulation. He thought Joiarib in Neh 11:10//1 Chr 9:10 should be replaced by the name of another of Seraiah's descendants graphically similar to it. His suggestion was the name יוקים, the son of Joshua who succeeded him as high priest. In Maccabean times that name was then replaced by Joiarib.

[19] Joseph Blenkinsopp, *Ezra-Nehemiah: A Commentary* (OTL; Philadelphia: Westminster, 1988), 322 ("arbitrary"); Japhet, *I & II Chronicles*, 211 ("brilliant").

[20] Rothstein, who also thought that the house of Joiarib was prominent long before the Hasmonean period, believed one could trace the increasing significance of J(eh)oiarib within the priesthood and relative to Jedaiah from the list in 1 Chronicles 9//Nehemiah 11 to 1 Chronicles 24 (*Kommentar zum ersten Buch der Chronik*, 434–35).

The priestly clan of J(eh)oiarib, then, seems to have been prominent already in early Second Temple times. In fact, it was included in the genealogy of the sons of Zadok and seems to have been a larger family unit in which the clan of Jedaiah belonged. If J(eh)oiarib was a Zadokite family, then the Hasmoneans were Zadokites. This does not mean that they belonged to the immediate family that had produced the high priests until their time, but it does mean that, according to the sources,[21] they probably were part of the considerable family that traced its heredity to Zadok.

II. Objections to the Hasmonean High Priesthood

Another plank in the platform of those who think that the Hasmoneans were not Zadokites and hence were illegitimate high priests is the claim that their contemporary opponents, particularly the Essenes and Pharisees, criticized them on this very point. For this argument, evidence about the Essenes comes from the scrolls found near Khirbet Qumran, whereas data for Pharisaic opposition are drawn from Josephus and rabbinic texts.

Essenes

We have good reason for believing that the community of the Dead Sea Scrolls, usually thought to be a branch of the Essenes, opposed the Hasmonean high priests. At least one of them they referred to as the *Wicked Priest*, and it is very likely they dubbed Alexander Jannaeus the *Angry Lion*.[22] If we examine the passages in which these characters are mentioned, we find various charges leveled against them. In the few places where the Wicked Priest appears, for instance, the accusations lodged against him are that he opposed the Teacher and his inspired message, as these examples—the clearest ones in this respect—show (see also 1QpHab IX, 9–12; XI, 4–8; 4QpPs^{a} [4Q171] 1–10 IV, 8–10):[23]

> 1QpHab VIII, 8–13 (on Hab 2:5–6): . . . the Wicked Priest who was called by the name of truth when he first arose. But when he ruled over Israel his heart

[21] One could argue that the present form of these sources is also a product of Hasmonean editing. While that possibility cannot be excluded, it is the case that there is no textual evidence for it.

[22] These identifications are well known and widely accepted and therefore no arguments are brought in favor of them here. For a history of scholarship on the identity of the Qumran community and their opponents, see James C. VanderKam, "History and Identity of the Community," in *The Dead Sea Scrolls after Fifty Years: A Comprehensive Assessment* (ed. Peter Flint and James VanderKam with Andrea Alvarez; 2 vols.; Leiden/Boston/Cologne: Brill, 1998, 1999), 2:487–533.

[23] The translations are from Geza Vermes, *The Complete Dead Sea Scrolls in English* (New York/London: Penguin, 1997).

> became proud, and he forsook God and betrayed the precepts for the sake of riches. He robbed and amassed the riches of the men of violence who rebelled against God, and he took the wealth of the peoples, heaping sinful iniquity upon himself. And he lived in the ways of abominations amidst every unclean defilement.
>
> 1QpHab VIII, 16–IX, 1 (on Hab 2:7-8a): . . . the Priest who rebelled [and violated] the precepts [of God ... to command] his chastisement by means of the judgements of wickedness.

The charges are expressed in general terms, but the Hasmonean genealogy goes unmentioned. Hartmut Stegemann has proposed that the adjective "wicked" (הרשע) in the title Wicked Priest implies illegitimacy, but his argument is unconvincing.[24] The term is far too general to support such a specific sense. In fact, 1QpHab VIII, 8–13 may suggest the opposite: the Qumran covenanters had no objection to the Wicked Priest at first, since, according to this text, he was called after the name of truth when he initially became prominent.[25]

The Angry Lion is the subject of several passages in *Pesher Nahum,* where his violence receives comment (3–4 I, 1–12). Though the section has been of great interest for identifying the "seekers of smooth things," it says nothing about dubious family connections for the Angry Lion.

Although no passages in the scrolls from Qumran make explicit reference to a genealogical shortcoming of the Hasmoneans as high priests, one could argue that the phrases "the sons of Zadok" and "the sons of Zadok, the priests" are formulated to make just such a point.[26] That is, the priests at Qumran or in

[24] Hartmut Stegemann, "Die Entstehung der Qumrangemeinde" (Ph.D. diss., Rheinische Friedrich-Wilhelms-Universität zu Bonn, 1971), 108–14, 222–24. Stegemann himself recognizes that no text specifically mentions the genealogical issue.

[25] It is possible, however, that the passage refers to the time before he became high priest or that, since the passive form נקרא is used, the claim may not express the way in which the sectarians referred to him. It should be added that, according to some scholars, "the Liar" (1QpHab II, 2; V, 11; XI, [1]; CD XX, 15) is another epithet for the Wicked Priest (e.g., Vermes, *Introduction to the Complete Dead Sea Scrolls*, 139). However, most are convinced he was a different person (e.g., Gert Jeremias, *Der Lehrer der Gerechtigkeit* [SUNT 2; Göttingen: Vandenhoeck & Ruprecht, 1963], 79–89). In whichever way the issue is resolved, neither the Liar nor the Wicked Priest is criticized on genealogical grounds.

[26] Jacob Licht, *The Rule Scroll: A Scroll from the Wilderness of Judaea* (in Hebrew; Jerusalem: Bialik, 1965), 113–15; Daniel Schwartz, "On Two Aspects of a Priestly View of Descent at Qumran," in *Archaeology and History in the Dead Sea Scrolls: The New York University Conference in Memory of Yigael Yadin* (ed. Lawrence Schiffman; JSPSup 8; JSOT/ASOR Monograph Series 2; Sheffield: JSOT Press, 1990), 157–65. Schwartz adduces several broken passages from *Pesher Habakkuk* in which the word ריב occurs, claiming that it is a play on the verbal element in יהוירים and comparing it with much later negative puns on the name. As he himself admits (see p. 164), however, this and related claims he makes do not specifically isolate genealogy as the reason for opposing the Hasmoneans.

the wider movement may have employed precisely this designation to distinguish themselves from the Hasmoneans, who therefore would not have been Zadokites. Any consideration of the status of priests at Qumran must now be conditioned by the evidence from the cave 4 copies of the *Rule of the Community* in which the roles of the sons of Zadok in 1QS are attributed to "the many."[27] Yet, even if we may no longer be confident that the community was founded by Zadokite priests, we should grant that the title, whenever it was introduced into the texts, may still have been used for polemical purposes.[28]

We should also consider the different kind of case presented by CD III, 12b–IV, 12a, where the designation "the sons of Zadok" figures in a suggestive context. The writer, speaking of the early days of the community, cites in III, 19 the phrase בית נאמן ("a faithful house") from 1 Sam 2:35, part of a warning from the man of God to Eli about removal of his family and its replacement by another. A few lines later (III, 21–IV, 2) he quotes a form of Ezek 44:15 in which he finds three terms that he interprets to represent three entities: the *priests* are the converts of Israel who departed from the land of Judah (apparently the founding group); the *Levites* are the ones who joined them (a second stage in community development); and the *sons of Zadok* are the chosen of Israel who stand at the end of days (IV, 2–4). The argument applying the pericope to the Hasmonean genealogy would run this way: As 1 Sam 2:35 talks about the replacement of one priestly house (the Elides) with a better one (the Zadokites perhaps), the midrash on Ezek 44:15 speaks of those faithful Zadokites who are to replace the current corrupt priesthood headed by the non-Zadokite Hasmoneans. Use of the word בית ("house") in the context could have a genealogical sense.

The argument is not valid. As commentators regularly note, the *Damascus Document* here is referring to the entire community both through בית נאמן and בני צדוק ("the sons of Zadok"), not to priests alone.[29] Or, as Louis Ginzberg put it: "The sentence does not mean, as Schechter claims, that the Sons of Zadok

[27] For the recensional history of the *Serekh,* see Sarianna Metso, *The Textual Development of the Qumran Community Rule* (STDJ 21; Leiden: Brill, 1997); Philip Alexander, "The Redaction-History of *Serekh Ha-Yaḥad*: A Proposal," *RevQ* 17 (1996): 437–53; and Robert Gagnon, "How Did the Rule of the Community Obtain Its Final Shape? A Review of Scholarly Research," in *Qumran Questions* (ed. James Charlesworth; Sheffield: Sheffield Academic Press, 1995), 67–85. The presence of "the many" in some copies indicates a leadership without a polemical need to be called "sons of Zadok."

[28] Robert Kugler offers a very helpful survey of the relevant material ("Priesthood at Qumran," in *Dead Sea Scrolls after Fifty Years*, 2:93–116).

[29] See, e.g., the thorough analysis by Philip R. Davies, "Sons of Zadok," in his *Behind the Essenes: History and Ideology in the Dead Sea Scrolls* (BJS 94; Atlanta: Scholars Press, 1987), 51–72, esp. 52–55; Liver, "The 'Sons of Zadok the Priests' in the Dead Sea Sect," 8–10; and Daniel Schwartz, "'To join oneself to the House of Judah' (Damascus Document IV, 11)," *RevQ* 10 (1981): 435–46 (although his focus is on denying that the group in such passages considers itself a temple).

are the chosen ones of Israel but that the chosen ones of Israel were designated by the prophet Ezekiel (44:15) as בני צדוק, 'sons of righteousness.'"[30] There appears to be no genealogical significance attached to the phrase here and thus no genealogical significance attached to any group to which these sons of Zadok might be contrasted.

Although this is the case in the *Damascus Document,* even in those scrolls passages where "the sons of Zadok" does designate priests in distinction from other members of the community (e.g., 1QS V, 2, 9),[31] nothing in the context documents a polemical, genealogical intent. Joseph Baumgarten has even proposed that "the sons of Zadok" was a preferred designation for priests at Qumran because of the association of the name with the word צדק ("righteousness").[32]

It is more in tune with the Qumran evidence to say that, while the community opposed Hasmonean ruler-priests,[33] there is no surviving indication that they considered them *genealogically* unfit for the high priesthood. And since we know that the community was concerned about legitimacy, they probably would have mentioned the matter if they thought the Hasmoneans were genealogically illegitimate for the high priesthood.[34] The fault of the Wicked Priest at least was his violation of God's law and thus his hostility to the Teacher.[35]

Pharisees

Pharisaic opposition to Hasmonean legitimacy is supposed to be documented by a story found in Josephus's *Antiquities*, with a close parallel in a baraita preserved in the Babylonian Talmud.

[30] Louis Ginzberg, *An Unknown Jewish Sect* (Moreshet Series 1; New York: Jewish Theological Seminary of America, 1976), 15.

[31] As Kugler comments, in several passages (including these two from 1QS V when compared with 1QS IX, 7) there does not seem to be a distinction in meaning between "the sons of Zadok" and "the sons of Aaron" ("Priesthood at Qumran," 100–101).

[32] Joseph Baumgarten, "The Heavenly Tribunal and the Personification of Ṣedeq in Jewish Apocalyptic," *ANRW* 2.19, 1:233–36.

[33] Whether they opposed all of them is a debated point, especially since the publication of 4Q448, the so-called Prayer for King Jonathan (that is, Alexander Jannaeus).

[34] See 4QMMT B 75–82; 4QD[f] frg. 3, 9–15 (attested in other copies as well).

[35] See the summary of the debate about legitimacy in John J. Collins, "The Origin of the Qumran Community: A Review of the Evidence," in *To Touch the Text: Biblical and Related Studies in Honor of Joseph A. Fitzmyer, S.J.* (ed. Maurya Horgan and Paul Kobelski; New York: Crossroad, 1989), 162–65. Collins too finds no evidence in the texts to support the claim that the Qumran community considered the Hasmoneans genealogically disqualified from the high priesthood. See also the negative comments of Phillip Callaway, *The History of the Qumran Community: An Investigation* (JSPSup 3; Sheffield: Sheffield Academic Press, 1988), 156–57 (where he critiques Stegemann's thesis).

Josephus tells a familiar story about John Hyrcanus and his breach with the Pharisees in *Ant*. 13.288–98. Whatever its historical value or lack of it,[36] it is the kind of story that might be expected to disclose the reason(s) why the Pharisees opposed Hyrcanus—and in fact it does so. At a feast to which the ruler had invited Pharisees, whose disciple he was and who thought highly of him,[37] "he begged them, if they observed him doing anything wrong or straying from the right path, to lead him back to it and correct him. But they testified to his being altogether virtuous, and he was delighted with their praise" (13.290 [trans. Marcus, LCL]). Unlike the other guests, a certain Eleazar, utterly devoid of social sense, seized the opportunity to criticize the high priest and head of state. It is not said that he was a Pharisee, though he may have been. Eleazar replied to Hyrcanus: "Since you have asked to be told the truth, if you wish to be righteous, give up the high-priesthood and be content with governing the people" (13.291). When John asked the reason for his bold proposal, he declared: "Because we have heard from our elders that your mother was a captive in the reign of Antiochus Epiphanes" (13.292). The charge, after investigation, was determined to be false. It is debatable whether we may term this a *Pharisaic* accusation because in the sequel they were displeased, although at whom or what they were annoyed is not said (13.292). Moreover, it was the question of what punishment Eleazar deserved that led to Hyrcanus's breach with the Pharisees (13.293–96).

Eleazar's objection to Hyrcanus's high priesthood was indeed genealogical, but not in the sense in which we have been using the term. Far from calling Hyrcanus a non-Zadokite, he was appealing to the law in Lev 21:14–15 regarding the leading priest: "A widow, or a divorced woman, or a woman who has been defiled, a prostitute, these he shall not marry. He shall marry a virgin of his own kin, that he may not profane his offspring among his kin; for I am the Lord; I sanctify him." The passage was understood to include women who had been captured in war and who thus were likely to have been raped. The defilement of the woman would in turn render her children unclean and consequently unfit for the high priesthood.[38] Since John's mother had been a captive and was assumed to have been abused, he was ineligible for the office. The par-

[36] For a study of possible sources and Josephus's own contributions in this section, see Steve Mason, *Flavius Josephus on the Pharisees: A Composition-Critical Study* (SPB 39; Leiden: Brill, 1991), 213–45. He thinks that a traditional story, which was favorable to both Hyrcanus and the Pharisees, received from Josephus an anti-Pharisaic tone when he prefaced it with §288, which charges the Pharisees with envy and malice against Hyrcanus.

[37] If the Pharisees thought the high priest was from an illegitimate family, it is unlikely he would have been characterized as a person who was "a disciple of theirs, and was greatly loved by them" (13.289).

[38] See *Ag. Ap*. 1.7; *m. Ketub*. 2.9.

allel in *b. Qidd*. 66a, while it differs from Josephus's account on several points and places it in the time of Alexander Jananeus rather than the reign of Hyrcanus, agrees with his version regarding the reason for the request that the ruler resign from the high priesthood.[39]

All readers of Josephus must admit that the charge in both versions of the tale is not the same as denying the legitimacy of the Hasmoneans for being from a non-Zadokite priestly family. The accusation affects Hyrcanus (or Jannaeus) alone, with any of his descendants; it would not have affected his uncle (Jonathan) and father (Simon), who had preceded him in the office. The suffering of his mother, not the supposedly non-Zadokite family from which he came, is identified as the disqualifying factor. But scholars have seen more than this emerging, not so much from the lines as from between them.[40] Joseph Klausner, for example, summarized what he understood to be the principal Pharisaic stance in the story as this: Hyrcanus was a high priest who fought wars and shed blood, a ruler who was not Davidic, a high priest who was not from Zadok's line, and a ruler and high priest who considered himself the messianic king who would come from the tribe of Levi, not from Judah.[41] Finkelstein thought a fundamental difference in political viewpoint between the Pharisees and Hyrcanus led to the schism,[42] while others have attributed Hyrcanus's turn from

[39] It is curious that in the talmudic story the rude guest (named Judah) asks Jannaeus to be satisfied with the crown and to leave the high priesthood to Aaron's descendants. As a priest, Jannaeus was, of course, a descendant of Aaron. There has been much discussion about which is more original or even more likely to be historically accurate, Josephus's account or the one in *b. Qidd*. 66a. One argument in favor of the talmudic version (attaching the story to Jannaeus) is the fact that Josephus repeats the charge about the high priest's descent from captives (or a captive) also in the case of Jannaeus (*Ant*. 13.372). However, Shaye J. D. Cohen has made the key point about rabbinic parallels with Josephus's works: "Therefore I assume that, unless there is a clear reason to argue the contrary, the Josephan traditions are older and more 'original' (I do not say more reliable) than the rabbinic. As far as I have been able to determine in not a single case is there a compelling reason to argue the contrary; at best the rabbinic accounts sometimes appear to be coeval with the Josephan, but never prior" ("Parallel Historical Tradition in Josephus and Rabbinic Literature," in *Studies in Jewish History of the Second Temple Period* [collected by Daniel Schwartz; Jerusalem: Zalman Shazar Center for Jewish History, 1995], 118–19; reprinted from *Proceedings of the Ninth World Congress of Jewish Studies*, section 2, vol. 1 [Jerusalem: World Union of Jewish Studies, 1986], 7–14).

[40] As Ed Sanders puts it, Josephus's story and the reference in the context to στάσις make one think of "icebergs and their tips." He adds: "The story about Eleazar's rebuke puts into the terms of personal drama what was more likely serious religio-political opposition. It may even tell us one of the things that the party held against Hyrcanus: his combining the offices of high priest and ruler" (*Judaism: Practice and Belief 63 BCE—66 CE* [London: SCM; Philadelphia: Trinity, 1992], 380). This may be true, but it is not said in the story.

[41] Klausner, *History of the Second Temple*, 3:136–40, esp. 139.

[42] Finkelstein, *Pharisees*, 2:606–9.

the Pharisees to the Sadducees to the needs of the developing Hasmonean state and the friction they caused with Pharisaic ideals.[43]

Josephus's story may not provide a full account of what caused the transfer of Hyrcanus from the Pharisees to the Sadducees, but such a concession does not allow us to manufacture reasons not attested in the historical sources. If we follow Josephus, the objection to Hyrcanus (possibly but not necessarily seconded by the Pharisees present) occurred because of the rumored misfortune of his mother, not for reasons of principle (e.g., that no one person should hold the two highest offices, that Hasmoneans were not Zadokites).

III. Conclusions

The evidence presented above leads to these conclusions.

1. 1 Maccabees 2:54 favors the idea that the Hasmoneans were Zadokites by connecting them with Phinehas, although this could be regarded as propaganda in response to questions about the point.
2. The biblical evidence regarding the line of J(eh)oiarib makes it likely that it belonged in the Zadokite genealogy; it also suggests that J(eh)oiarib was a prominent priestly entity before the rise of the Hasmonean family to the high priesthood. While this could be dismissed as the result of Hasmonean manipulation of the text, there is no evidence for that position.
3. The Qumran references to the Wicked Priest do not support the hypothesis that the community opposed him because he came from an illegitimate family, even though there are concerns about issues of legitimacy elsewhere in the scrolls; and there is no evidence that the designation

[43] E.g., Lee Levine, "The Political Struggle Between Pharisees and Sadducees in the Hasmonean Period," in *Jerusalem in the Second Temple Period: Abraham Shalit Memorial Volume* (in Hebrew; ed. Aharon Oppenheimer, Uriel Rappaport, and Menahem Stern; Jerusalem: Yad Izhak Ben-Zvi, Ministry of Defence, 1980), 61–83. Clemens Thoma thinks that the Pharisees also objected to the combination of the two offices of ruler and high priest in one person, but the story says nothing about this ("The High Priesthood in the Judgment of Josephus," in *Josephus, the Bible, and History* [ed. Louis Feldman and Gohei Hata; Leiden: Brill, 1989], 196–215, esp. 207–8). Joachim Jeremias argues that the problem was the origin of the Hasmoneans from an ordinary priestly family that would therefore not have been eligible for the high priesthood (*Jerusalem in the Time of Jesus: An Investigation into Economic and Social Conditions during the New Testament Period* [Philadelphia: Fortress, 1969], 189). Tcherikover thinks that the Pharisees in the passage were denying that the Hasmoneans were priests (*Hellenistic Civilization and the Jews*, 260, 492–93).

"the sons of Zadok" in the scrolls was selected to critique a non-Zadokite genealogy for the Hasmoneans.

4. Josephus's story about the schism between Hyrcanus and the Pharisees indicates that at least some thought he was disqualified from serving as a priest because his mother had been a prisoner. Whether this was a Pharisaic view is not clear, but the story contains no hint that the charge involved was his membership in a non-Zadokite family.

5. As a result, we have considerable reason to believe that the Hasmoneans were a Zadokite family and no evidence to the contrary.

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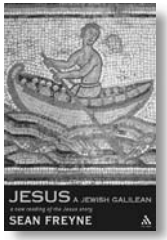

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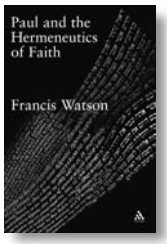

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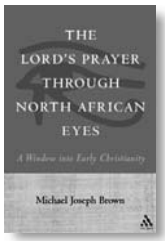

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THE TEMPLE, A PHARISEE, A TAX COLLECTOR, AND THE KINGDOM OF GOD: REREADING A JESUS PARABLE (LUKE 18:10–14A)

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The parable of the Pharisee and the Tax Collector, Luke 18:10–14a, is one of Luke's "example stories," because the context into which Luke has placed the parable (vv. 9 and 14b) makes it clear that in prayer the reader is to have the attitude of the tax collector (and to avoid the Pharisee's attitude). To "go and do likewise" (Luke 10:37) is the obvious exhortation—so much so that this interpretation of the parable in its Lukan context is available to virtually any reader. Nevertheless, even on the level of the Gospel of Luke, careful historical consideration of the characters and setting of the parable can yield a greater sense of the brief story's richness.[1] The focus of this article, however, is on this parable apart from the Lukan context in order to address how the parable may have functioned on the level of Jesus' preaching of the kingdom of God. We begin, therefore, with a summary of the defense of the historicity of the parable[2] and

[1] See, e.g., Kenneth E. Bailey, *Through Peasant Eyes* (Grand Rapids: Eerdmans, 1980), 142–56 (now available in a combined edition with his 1976 work: *Poet & Peasant and Through Peasant Eyes: A Literary-Cultural Approach to the Parables in Luke* [Grand Rapids: Eerdmans, 1983], in which both volumes are still individually paginated), and, for a more recent and fine presentation, see Arland J. Hultgren, *The Parables of Jesus: A Commentary* (Grand Rapids: Eerdmans, 2000), 118–28 (see my review of Hultgren's work in *ETL* 77 [2001]: 214–17).

[2] Authors who support the basic historicity of the parable include Adolf Jülicher, *Die Gleichnisreden Jesu* (2 vols.; Tübingen: Mohr Siebeck, 1910; 2nd ed., Darmstadt: Wissenschaftliche Buchgesellschaft, 1976), 2:608; Joachim Jeremias notes "Semitizing asyndeta (vv. 11, 12, 13)" as well as "other details of language and content [that] reveal the parable as belonging to an early Palestinian tradition" (*The Parables of Jesus* [trans. S. H. Hooke; NTL; New York: Scribner, 1954; rev. ed., London: SCM, 1963, 1972], 140); John Dominic Crossan, *In Parables: The Challenge of the Historical Jesus* (San Francisco: Harper & Row, 1973), 68–69; Bailey, *Through Peasant Eyes*, 145; I. Howard Marshall, *The Gospel of Luke: A Commentary on the Greek Text* (NIGTC 3; Grand Rapids: Eerdmans, 1978), 678; Joseph A. Fitzmyer, *The Gospel according to Luke: Introduction,*

the redactional nature of the Lukan context, v. 9[3] and v. 14b.[4] We will then be prepared to consider the original structure of the parable and note possible

Translation, and Notes (2 vols.; AB 28, 28A; Garden City, NY: Doubleday, 1981, 1985), 2:1183–84; Bernard Brandon Scott, *Hear Then a Parable: A Commentary on the Parables of Jesus* (Minneapolis: Fortress, 1989), 93–98; Craig L. Blomberg, *Interpreting the Parables* (Downers Grove, IL: InterVarsity, 1990), 256–58; F. Gerald Downing, "The Ambiguity of 'The Pharisee and the Toll-collector' (Luke 18:9–14) in the Greco-Roman World of Late Antiquity," *CBQ* 54 (1992): 80–99; John Nolland, *Luke* (3 vols.; WBC 35A, B, C; Dallas: Word Books, 1989, 1993), 2:874; Robert W. Funk et al., *The Five Gospels: The Search for the Authentic Words of Jesus* (New York: Macmillan, 1993), 369 (who print the parable in pink); William R. Herzog II, *Parables as Subversive Speech: Jesus as Pedagogue of the Oppressed* (Louisville: Westminster John Knox, 1994), 173–93; Michael Farris, "A Tale of Two Taxations (Luke 18:10–14b): The Parable of the Pharisee and the Toll Collector," in *Jesus and His Parables: Interpreting the Parables of Jesus Today* (ed. V. George Shillington; Edinburgh: T & T Clark, 1997), 23–33; Hultgren summarizes this judgment of many by noting "that the parable is marked by many Semitisms and reflects customs of Jesus' day" (*Parables*, 125).

[3] On Luke 18:9, Hultgren writes: "The narrative introduction provides an interpretive setting. Although it has been suggested that the verse was in the pre-Lukan tradition, it is more likely that Luke himself has composed it in its present form, as he does elsewhere." Hultgren provides other examples of interpretive Lukan contexts (n. 11): "12:13–16 (for the Rich Fool), 12:41 (for the Faithful and Wise Servant), 14:15 (for the Great Banquet), 16:14–15 (for the Rich Man and Lazarus), 18:1 (for the Unjust Judge), and 19:11 (for the Pounds)" (*Parables*, 120).

Others who note the Lukan character of 18:9 include Jeremias (who specifically notes "characteristic features of Luke's style," namely, εἰπεν . . . πρός, δὲ καί, "probably also ἐξουθενοῦντας," though he does believe that [unlike 18:1] 18:9 "goes well with the parable that follows") (*Parables*, 93 n. 13, 100); Crossan, *In Parables*, 68; Bailey, *Through Peasant Eyes*, 144; Marshall, *Luke*, 678, with some hesitance that v. 9 could come from Luke's source; Fitzmyer, *Luke*, 2:1183; Scott, *Hear Then a Parable*, 93; Blomberg, *Interpreting the Parables*, 256–57; Downing, "Ambiguity," 80, 95–96; Nolland, *Luke*, 2:875; Herzog, *Parables as Subversive Speech*, 175; Farris, "Tale of Two Taxations," 23 n. 1; Walter L. Liefeld, "Parables on Prayer (Luke 11:5–10; 18:1–8; 18:9–14)," in *The Challenge of Jesus' Parables* (ed. Richard N. Longenecker; McMaster New Testament Studies; Grand Rapids/Cambridge: Eerdmans, 2000), 240–62, esp. 258–59 (see my review of this volume in *ETL* 77 [2001]: 217–18).

[4] Luke 18:14b is also found at 14:11, concerning people taking the place of honor at a dinner. Matthew 23:12 uses this saying in the context of the use of titles of respect (cf. the similar expression about becoming like little children in Matt 18:4; see also the similar sentiment in 1 Pet 5:6). It is, therefore, generally held that Luke has placed an independent saying here as his own generalizing lesson. Hultgren notes that because this "application is eschatological in a way that the parable is not speaks in favor of judging it to be an addition" (*Parables*, 125).

Others who judge v. 14b similarly include: Jeremias, *Parables*, 107 (who is hesitant, but seems less so on pp. 112, 144, and 192–93); Crossan, *In Parables*, 68; Bailey, *Through Peasant Eyes*, 155 (who says that it "is quite likely a proverb of Jesus that Luke or his source may have attached to the end of the parable"); Marshall, *Luke*, 678 (with some hesitance that v. 14b could come from Luke's source); Fitzmyer, *Luke*, 2.1183; Scott, *Hear Then a Parable*, 93; Downing, "Ambiguity," 80, 95–96; Nolland, *Luke*, 2:875, 878; Herzog, *Parables as Subversive Speech*, 175; Farris, "Tale of Two Taxations," 23 n. 1; Liefeld, "Parables on Prayer," 259 (who is somewhat uncertain). Blomberg (*Interpreting the Parables*, 257–58) and Darrell L. Bock (*Luke* [2 vols.; Baker Exegetical Commentary on the New Testament, 3A & B; Grand Rapids: Baker, 1994, 1996], 2.1459–60), oppose excising v. 14b from the original Jesus parable.

Lukan touches added to the parable proper.[5] Finally, we will propose a context in Jesus' ministry in which he might have told this parable and the possible reactions and understandings that the parable may have engendered.

The general scholarly acceptance of the parable as an authentic piece of Jesus tradition and the Lukan character of the context can first be supported by noting that only Luke presents some parables as if they were stories told to offer moral examples.[6] Besides the parable treated here, the Good Samaritan (Luke 10:25–37), the Rich Fool (Luke 12:16–21), and the Rich Man and Lazarus (Luke 16:19–31) are included among those parables classified as "example stories."[7] The lack of multiple attestation to the genre of "example stories," at the very least, makes it difficult to affirm the historicity of this form.[8] More specifically with respect to Luke 18:10–14a, if the original intention of the storyteller, Jesus, was to give an example of humility in prayer,[9] it seems

[5] Downing ("Ambiguity," 84 and n. 11) notes that Tertullian (*De oratione* 17, and *Contra Marcionem* 4.36) is the first church father to cite this parable for the purpose of positively presenting the tax collector's humble prayer. For Downing, "[a]t least from Tertullian onward the frame has dominated the picture with success" (p. 97). But Downing would agree with Farris, "Tale of Two Taxations," 23, n. 1: "as a painting should be studied apart from its frame, so too should this parable be studied apart from Luke's interpretive frame."

[6] The classification of some parables as "example stories," that is, *Beispielerzählungen* (also referred to by some as *Beispielparabeln*), was used by Jülicher, *Gleichnisreden Jesu*, 1:112–15. So, too, Rudolph Bultmann, *The History of the Synoptic Tradition* (trans. J. Marsh from the 2nd German ed., 1962; New York/London: Harper & Row, 1976), 177–79. Although Jülicher is often credited with proposing this category of parables, Jeffrey T. Tucker traces the earlier history of this category (*Example Stories: Perspectives on Four Parables in the Gospel of Luke* [JSNTSup 162; Sheffield: Sheffield Academic Press, 1998], 45–70, ch. 2, "The Example Stories before *Die Gleichnisreden Jesu.*"

[7] Hultgren, like Jülicher and Bultmann, accepts this classification of these parables in his third chapter, "Parables of Exemplary Behavior" (*Parables*, 92–128). He explains this form of parables as follows: "What is most characteristic about them is that they set forth examples of human conduct for the disciple of Jesus to follow or to avoid. They do not, properly speaking, provide the hearer with *comparisons* between that which is told in story form and some other reality (such as the kingdom of God)" (p. 92). Tucker has done a thorough study of the genre "example story"; he concludes: "The categorical distinction between example story and narrative parable is suspect because . . . not only do the example stories share a number of formal features in common with other narrative parables in the synoptic gospels, but also because the example stories have not been shown to exhibit either a collective set of features or a singular, peculiar feature that can be invoked as a means of making an absolute (essential) distinction between *Beispielerzählung* and *Parabel*" (p. 399).

[8] Scott, *Hear Then a Parable*, 29: "That all four occur *only* in Luke should arouse suspicions about the proposed genre. . . . [T]he criterion of multiple attestation raises questions about whether the genre of example story belongs among those genres used by Jesus." The presence of a parable similar to that of the Rich Fool (Luke 12:16–21) in *Thomas* 63 does not alter this observation. Luke's context, especially the warning against greed in 12:13–15, gives this parable its exemplary spin, as do the Lukan contexts for the other so-called example stories.

[9] Robert Farrar Capon begins his treatment straightforwardly: "The first thing to get off the

unlikely that Jesus would have chosen a tax collector, with whom his listeners would have been reticent, even unwilling, to identify.[10] On the level of Jesus, then, I take this parable as a story that refers to the kingdom of God,[11] at least implicitly, and perhaps could have done so more explicitly as a response to a query similar to Luke 13:18: "What is the kingdom of God like? To what can I compare it?"[12]

A second indication that judgments about the historicity of the Lukan context on the one hand and the parable on the other hand need to move in opposite directions is the disjuncture between the opening description of the proud, τοὺς πεποιθότας ἐφ' ἑαυτοῖς ὅτι εἰσὶν δίκαιοι καὶ ἐξουθενοῦντας τοὺς λοιπούς (v. 9, "those who were convinced of their own righteousness and despised everyone else"), and the prayer of the Pharisee.[13] Luke's context

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table is the notion that this parable is simply a lesson in the virtue of humility" (*Kingdom, Grace, Judgment: Paradox, Outrage, and Vindication in the Parables of Jesus* [Grand Rapids: Eerdmans, 2002], 338). This volume is a combined edition of three volumes by the same author: *The Parables of the Kingdom* (Grand Rapids: Zondervan, 1985); *The Parables of Grace* (Grand Rapids: Eerdmans, 1988); *The Parables of Judgment* (Grand Rapids: Eerdmans, 1989).

[10] On "tax collector," see p. 107 below, at nn. 88–100. Similarly, if the parable of the Good Samaritan (Luke 10:25–37) were intended by the storyteller to be an example of neighborliness, it seems unlikely that a Samaritan would have been the example chosen. Rather, for both of these parables, a common Israelite would have been a much more appropriate model.

It can also be noted that in addition to the use of prayer in this parable, Luke provides two other parables ostensibly on prayer. The Friend at Midnight (11:5–8), set in the context of Jesus' teaching the disciples to pray, embodies the petition for daily bread in the Lord's Prayer (11:2–4). The Widow and the Judge (18:2–5) teaches the disciples "about the necessity for them to pray always without becoming weary" (18:1; see too, vv. 6–8a, for an *a minori ad maius/qal wāḥômēr* conclusion). But would not these lessons have been made in a more reassuring way for the hearers if the friend had not been a reluctant one and the judge had not been an unjust one? Perhaps it would be best "to get off the table" the idea that these parables are "simply" lessons on prayer (above n. 9). Even Jeremias notes that "neither 18.9–14, nor probably 18.1–8, was originally intended as an instruction about the right way to pray" (*Parables,* 93).

[11] I am partial to the definition of parable offered by Scott, *Hear Then a Parable*, 8: "A parable is a mashal that employs a short narrative fiction to reference a transcendent symbol."

[12] On this double question, see my "'Minor' and 'Major' Matthew—Luke Agreements against Mk 4,30–32," in *The Four Gospels, 1992: Festschrift Frans Neirynck* (ed. F. van Segbroeck et al.; 3 vols.; BETL 100; Leuven: Leuven University Press–Peeters, 1992), 1:649–76, esp. 662–75; and "The Parable of the Mustard Seed—Mark 4,30–32 and Q 13,18–19: A Surrejoinder for Independence," *ETL* 77 (2001): 297–317, esp. 305–13.

[13] The phrase πεποιθότας ἐφ' ἑαυτοῖς refers to those who "depend on themselves" so as to be "self-possessed, able, at least in their own minds, to live honorably before God quite apart from divine mercy," according to Joel B. Green, *The Gospel of Luke* (NICNT; Grand Rapids: Eerdmans, 1997), 646. Jeremias also has this strong sense of the phrase, supporting it by referring to 2 Cor 1:9 (*Parables*, 139–40 n. 38). Crossan notes that in 2 Cor 1:9 the phrase implies "satanic pride where trust in self is opposed to trust in God" (*In Parables*, 68). For Crossan, however, the Pharisee's thanksgiving "may certainly be indicted for human pride and for exalting himself over the publican, but this is a long way from satanic pride and exalting oneself over God." Adding to Crossan's com-

clearly plays into the common Christian bias against the Pharisees, which seems to reflect post-70 C.E. difficulties between the early followers of the risen Jesus Christ and the Pharisees.[14] Consideration of the Pharisee's prayer from the point of view of the time of Jesus, however, has led many commentators to question the presumed arrogance of the Pharisee's prayer.[15]

Most importantly, the entire prayer is one of thanksgiving: Ὁ θεός, εὐχαριστῶ σοι (v. 11; "O God, I thank you"). This opening can be compared to that of thanksgiving psalms.[16] Moreover, some scholars point to other prayers that are comparable to the tone and content of the Pharisee's prayer, but are considered acceptable forms of prayer:

> I praise thee, O Lord, that thou hast not allowed my lot to fall among the worthless community, nor assigned me a part in the circle of the secret ones.[17]

> R. Judah said: "One must utter three praises every day: Praised (be the Lord) that He did not make me a heathen, for all the heathen are as nothing before

ment, Luke uses ἐξουθενοῦντας in 23:11 to describe Herod's and his soldiers' contemptuous treatment of Jesus, which also seems "a long way" from the Pharisee's supposed disdain for others (Acts 4:11 has the passive participle ἐξουθενηθείς for the rejected stone of Ps 118:22; the LXX uses the active ἀπεδοκίμασαν, as does Matt 21:42 and 1 Pet 2:7).

[14] For an excellent and cautious historical presentation of the Pharisees in the time of Jesus, see John P. Meier, *A Marginal Jew: Rethinking the Historical Jesus,* vol. 1, *The Roots of the Problem and the Person*; vol. 2, *Mentor, Message, and Miracles*; vol. 3, *Companions and Competitors* (ABRL; New York: Doubleday, 1991, 1994, 2001), esp. 3:289–388. After the successful Roman squelching of the first revolt, "the only Jewish group to survive intact with significant numbers and the respect of the common people was the Pharisees" (3:299). Thus, Meier notes that in the Gospels "the picture of Jesus clashing with the Pharisees may reflect to a great degree the struggle between the early church and the Pharisees during the first Christian generation" (3:300). For more on the Pharisees, see pp. 106 and 109 below, at nn. 85–87 and 111–13.

[15] Crossan, *Raid on the Articulate: Comic Eschatology in Jesus and Borges* (New York: Harper & Row, 1976), 108: "much . . . is lost on the modern reader who has been indoctrinated by Christian polemics into thinking Pharisees hypocrites and Publicans basically very nice people." See too Scott, *Hear Then a Parable*, 93: "This introduction sets up the character to be rejected as false, untrue to his religiosity. Thus a reader judges the Pharisee before the parable begins." There seems to be a fair bit of unintended irony here, for if the reader accepts Luke's point of view concerning the Pharisee, then the reader is at least a bit like the Pharisee. Scott puts it as follows: "The Christian map in its arrogance decides that the Pharisee's map is self-righteous" (p. 96; on "map," see n. 129 below).

[16] Fitzmyer notes that the opening "formula is Palestinian, occurring often in the Qumran *Thanksgiving Psalms* as *'ôdĕkāh 'Ădōnāy*, 'I thank you, O Lord'" (*Luke* 2:1186). He lists 1QH 2:20, 31; 3:19, 37; 4:5; 7:34. Green lists some psalms, namely, 30; 92; 118; 136; 138 (*Luke*, 648 n. 120). Like Fitzmyer, he notes 1QH 7:34 (cf. the note below).

[17] 1QH 7:34 (or, as classified more recently, 1QH[a] 15:34), quoted from Farris, "Tale of Two Taxations," 26 n. 9, who notes that this source is contemporary with Jesus. Without explanation, Fitzmyer opines that this prayer is "not really parallel to the Pharisee's prayer" (*Luke*, 2:1187). Certainly 1QH 7:34 is not parallel in detail, but it seems to this reader to be quite parallel in sentiment (see n. 20 below).

> Him (Is 40:17); praised be He, that He did not make me a woman, for woman is not under the obligation to fulfill the law; praised be He that He did not make me . . . an uneducated man, for the uneducated man is not cautious to avoid sins."[18]

> I give thanks to Thee, O Lord my God, that Thou has set my portion with those who sit in the Beth ha-Midrash [the house of study] and Thou has not set my portion with those who sit in [street] corners for I rise early and they rise early, but I rise early for words of Torah and they rise early for frivolous talk; I labour and they labour, but I labour and receive a reward and they labour and do not receive a reward; I run and they run, but I run to the life of the future and they run to the pit of destruction.[19]

Although these prayers, like the Pharisee's prayer, may strike egalitarian sympathies as arrogant, none of them is judged by their sources to be self-righteous and disdainful of others. "It *was* appropriate to thank God for a righteous life. Taken on its own terms, the Pharisee's prayer is not self-righteous or arrogant; it properly thanked God, as the true author of righteousness."[20] Turning to a current adage, I would argue that the Pharisee's prayer, *on its own terms*, shows no more arrogance on his part than anyone who has prayed or thought, "There but for the grace of God, go I."[21]

The third and final indication of the parable's authenticity for the purposes of this demonstration is the distinctiveness of the parable when treated outside

[18] *T. Berakot* 7.18 (Tosepta), quoted by Scott, *Hear Then a Parable*, 95, from Eta Linnemann, *Jesus of the Parables* (trans. John Sturdy; New York: Harper & Row, 1966), 59. It is difficult to know how applicable this text might be to the time of Jesus, for it is "usually dated to the 3d or 4th century AD," even though "some of the traditions . . . may be older" (Raymond E. Brown, *An Introduction to the New Testament* [ABRL; New York: Doubleday, 1997], 83).

[19] *B. Berakot* 28b, quoted by Scott, *Hear Then a Parable*, 95, from I. Epstein, ed., *The Babylonian Talmud* (16 vols.; London: Soncino Press, 1961), 1:172. Scott notes that "many commentators" quote this prayer, following Str-B, 2:240. In addition, among others, see Jeremias, *Parables*, 142, who overconfidently states that the prayer "has come down to us from the first century AD in the Talmud"; Blomberg, *Interpreting the Parables*, 257; Hultgren, *Parables*, 122 n. 23. Farris also quotes the text, noting that it "comes from many years after Jesus" ("Tale of Two Taxations," 26 n. 9); Brown accepts a sixth-century date (*Introduction*, 83); Fitzmyer dates it to the fifth century (*Luke*, 2:1187). As stated in the note above, the Talmud, too, has older traditions.

[20] Farris, "Tale of Two Taxations," 27; cf. Scott, *Hear Then a Parable*, 95–96. It can be noted that the three prayers quoted above praise or give thanks to God for where the person has been placed or how the person has been made with respect to others, whereas the parable's Pharisee gives thanks for the kind of person(s) he is not. I, however, understand the laconic nature of the Pharisee's prayer as oral shorthand for much the same sense as expressed in these other prayers.

[21] This adage grew out of an expression by the English martyr John Bradford (1510–1555), who, upon "seeing criminals led to execution," would say, "But for the grace of God, there goes John Bradford" (www.quotations.co.uk; for more on Bradford, see www.born-again-christian.info/foxes.book.of.martyrs/foxes.23.htm).

the Lukan context. The opening line would have been as jarring to hearers of Jesus as a proposed modern rendition would be for today's hearers: "Two people went up to St. Peter's Basilica to pray, one a pope, the other a pimp."[22] In addition, as will be treated in more depth below, that the tax collector goes down to his home justified would have also been quite surprising to Jesus' original hearers.

Given the above summary of the support for the historicity of the parable (18:10–14a) and the Lukan character of the immediate context (18:9, 14b), one can still hypothesize more specifically about the original structure and wording of the parable.[23] Although the parable proper as presented in Luke can be accepted as generally the original Jesus parable,[24] there is some ambiguity in the Greek text of Luke and in the textual tradition. Luke 18:11 reads ὁ Φαρισαῖος σταθεὶς πρὸς ἑαυτὸν ταῦτα προσηύχετο,[25] which creates an ambiguity with respect to whether πρὸς ἑαυτόν modifies the Pharisee's praying or his standing.[26] This ambiguity is already reflected in the textual tradition; variants other than πρὸς ἑαυτὸν ταῦτα[27] are (1) ταῦτα πρὸς ἑαυτὸν;[28] (2) ταῦτα;[29]

[22] Paraphrased from Crossan, *Raid on the Articulate,* 108, who muddles the order of the location and the characters: "A Pope and a pimp went into St. Peter's to pray." Crossan goes on to say: "No matter where the story goes after such an opening the narrator has placed himself in jeopardy by the initial juxtaposition. . . . Jesus' story was a shocking, radical, and double reversal of the metonymic poles of his contemporary ethical world" (pp. 108–9). Scott notes that modern hearers of Crossan's example "would not automatically assume that the pope was self-righteous," and that "[w]ithout Luke's introduction a hearer [of Jesus' parable] would not automatically and initially think of the Pharisee as a negative caricature" (*Hear Then a Parable*, 94).

[23] Scott distinguishes between attempting to reconstruct the *ipsissima structura* and the *ipsissima verba* of Jesus' parables (*Hear Then a Parable*, 18–19). He believes the former to be a more likely pursuit.

[24] Scott accepts Luke 18:10–14a as reflective of the originating structure (*Hear Then a Parable*, 93). He also provides his own translation, in which his pen slips when he translates both ἀνέβησαν (18:10) and κατέβη (18:14) as "went up."

[25] K. Aland and B. Aland, eds., *Novum Testamentum Graece* (27th ed.; Stuttgart: Deutsche Bibelstiftung, 1993 [= NA^{27}]); or B. Aland, K. Aland, J. Karavidopoulos, C. M. Martini, and B. M. Metzger, eds., *The Greek New Testament* (4th ed.; Stuttgart: United Bible Societies, 1993 [= GNT^{4}]). In nn. 27–31, I compare the critical apparatuses of these two editions.

[26] The *New American Bible*, revised edition (RNAB, used in this article unless otherwise indicated) translates the former: "The Pharisee took up his position and spoke this prayer to himself." The NIV translates the same relationship: "The Pharisee stood up and prayed about himself." For the latter option, see the NRSV: "The Pharisee, standing by himself, was praying thus."

[27] A K W X Δ Π 063 f^{13} 28 33^{vid} 565 700 1009 1010 1079 1195 1216 1230 1242 1253 1344 1365 1546 1646 2148 2174 *Byz Lect* it^{a} syr$^{c, s, p, h}$.

[28] $\mathfrak{P}^{75}$ א^{c} B (L αὐτόν) T Θ Ψ f^{1} 579 892 1241 it$^{aur, e}$ vg syr^{pal} cop^{bo} arm Origen Cyprian; this was the reading in Nestle-Aland, 25th ed.

[29] א* l^{1761} it$^{b, c, f, ff^{2}, l, q, r^{1}}$ cop$^{sa, ach}$ eth geo^{1} Diatessaron$^{n, t}$ 844* (it) sa—The REB translates as if it follows this variant: "The Pharisee stood up and prayed this prayer."

(3) πρὸς ἑαυτόν;[30] (4) καθ᾽ ἑαυτὸν ταῦτα.[31] Of all five possible readings, the strongest manuscript evidence supports variant 1,[32] "but internally the more difficult sequence seems to be" the current critical reading.[33] Variant 4 "ameliorated" this *lectio difficilior;* variant 2 solves "the difficulty of construing πρὸς ἑαυτόν (especially when the words stood next to σταθείς)" by omitting πρὸς ἑαυτόν.[34]

Even when the current critical reading, πρὸς ἑαυτὸν ταῦτα, is accepted, the problem of translation remains. To connect πρὸς ἑαυτόν with the Pharisee's praying, understanding it as "to himself," is problematic. First, soliloquies in Lukan parables are normally indicated by ἐν ἑαυτῷ (e.g., 12:17; 16:3; 18:4; see also 7:39).[35] In addition, "the usual manner of praying in antiquity is aloud."[36] Understanding this connection as "about himself" certainly fits nicely with the Lukan introduction (18:9). Nevertheless, this translation works better with variant 1 noted above, ταῦτα πρὸς ἑαυτόν.[37]

[30] sy^{s}; the entire phrase is omitted by 1071.

[31] D it^{d} geo^{2} 2542.

[32] Bruce M. Metzger, *A Textual Commentary on the Greek New Testament: A Companion Volume to the United Bible Societies' Greek New Testament (Third Edition)* (London/New York: United Bible Societies, 1971, corrected ed., 1975), 168. On the basis of this manuscript evidence, Fitzmyer reads this variant (*Luke*, 2:1186).

[33] Metzger, *Textual Commentary*, 168. Hultgren believes that variant 1 is the *lectio difficilior* (*Parables*, 119; and see n. 37 below).

[34] Metzger, *Textual Commentary*, 168. In addition, variant 3 has very little manuscript support (n. 30), but see n. 41 below.

[35] Bailey, *Through Peasant Eyes*, 147; cf. Hultgren, *Parables*, 122. Bailey also makes an interesting observation about how the Lukan context may have encouraged reading πρὸς ἑαυτὸν ταῦτα προσηύχετο as a soliloquy. He describes this reading as an "example of the spilling phenomenon," which happens "when texts have been read together for so long that . . . one text 'spills' into the next. . . . [I]n the previous parable the judge talks *to himself* (*en heautō*); thus perhaps inadvertently the Pharisee has gradually been seen as also offering a soliloquy" (pp. 147–48). For a different formulation of a soliloquy, cf. Luke 12:45, ἐὰν εἴπῃ ὁ δοῦλος ἐκεῖνος ἐν τῇ καρδίᾳ αὐτοῦ ("But if that servant says to himself"; literally, "says in his heart"). In addition, see the use of πρὸς ἑαυτόν with respect to Peter in the textually uncertain Luke 24:12: καὶ ἀπῆλθεν πρὸς ἑαυτὸν θαυμάζων τὸ γεγονός ("then he went home amazed at what had happened").

[36] Hultgren, *Parables*, 119; cf. Marshall, *Luke*, 679; and Bailey, *Through Peasant Eyes*, 149. Nolland observes that "the literal 'prayed to himself [rather than God]' is ruled out by the clear address of God" (*Luke*, 2.876).

[37] Hultgren opts for this variant (= NA^{25}), understanding "the πρός as a 'πρός of reference,' which appears elsewhere in Luke-Acts (Luke 12:41; 14:6; 10:19; Acts 24:16)," and translating the phrase "prayed these things concerning himself" (*Parables*, 119). As noted above (n. 32), Fitzmyer also accepts this reading "in view of the importance of the extrinsic witnesses" (*Luke*, 2:1186). Nolland says that this "word order . . . is uncertain," but he accepts it (*Luke*, 2:873). Hultgren rightly notes: "The question . . . from a text-critical point of view, is what Luke wrote" (*Parables*, 119). To answer that, however, one can ask another question: Which reading best explains the others? Given the Lukan introduction, if Luke had written πρὸς ἑαυτὸν ταῦτα, as argued above, Hultgren's preferred reading may have been a scribal change both to eliminate the ambiguity and to fit

Given the problems with connecting πρὸς ἑαυτόν with the Pharisee's praying, it seems more likely that πρὸς ἑαυτόν indicates that the Pharisee is standing "by himself." First, this word order and meaning correspond "to the semitic style of speech. Πρὸς ἑαυτόν renders an Aramaic reflexive (*leh*), which lays a definite emphasis on the action."[38] Second, Pharisees were known for their concern about ritual purity; to stand apart from others is one way for the Pharisee of this parable to ensure that he does not come into contact with anything or anyone who is unclean, which would result in *midras*-uncleanness for himself.[39] Third, there is scribal evidence of this understanding, namely, the textual variant 4 above, καθ' ἑαυτὸν ταῦτα,[40] as well as other versions of the text.[41] Finally, this understanding of πρὸς ἑαυτόν fits the context of the parable itself, for it corresponds to the description of the location of the tax collector.[42]

In this way, the parable has a rather balanced structure with an introduction and conclusion around the description of the postures, placement, and prayers of the Pharisee and tax collector. There is, however, a certain imbalance in this balanced structure. The description of the Pharisee's stance is brief and that of his prayer lengthy, while the opposite is the case for the tax collector.[43] The general structure of the parable, therefore, can be indicated as follows:[44]

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better Luke's introduction. Therefore, Hultgren's opinion that his preferred reading is the *lectio difficilior* seems difficult to support (see above).

[38] Jeremias, *Parables*, 140.

[39] Bailey, *Through Peasant Eyes*, 148; cf. Scott, *Hear Then a Parable*, 94.

[40] Καθ' ἑαυτόν is the more appropriate way, with respect to classical Greek, to indicate that the Pharisee stood off by himself, according to Alfred Plummer, *A Critical and Exegetical Commentary on the Gospel according to S. Luke* (ICC; 5th ed.; Edinburgh: T & T Clark, 1922), 412, whom Bailey cites (*Through Peasant Eyes*, 147). Some have used this point to reject understanding πρὸς ἑαυτόν as "by himself," but Bailey correctly notes that "classical Greek usage can hardly be determinative in the Lucan Travel Narrative with its many parables and Semitisms."

[41] Bailey offers a rather ambitious second-century date for the Old Syriac evidence that "translates this text in an unambiguous fashion and has the Pharisee *standing by himself*" (*Through Peasant Eyes,* 148). In the "Introduction" to NA[27], 22*–25*, the earliest Syriac version (Bailey's "Old Syriac"), *Vetus Syra*, syr[s] and syr[c] (see above, nn. 27 and 30), is dated "ca. 3/4 cent." (22*; cf. the UBS[4] "Introduction," xxxiv). For an explanation of the textual evidence used by Bailey, see "Appendix A: A Brief Description of the Oriental Versions used in this Study" (*Poet*, 208–12).

[42] Bailey, *Through Peasant Eyes*, 147; Farris, "Tale of Two Taxations," 29 n. 15.

[43] Herzog, *Parables as Subversive Speech*, 185. Bailey rejects this structure, primarily because "the prayer of the Pharisee is five lines while the tax collector's prayer is only one" (*Through Peasant Eyes*, 142–44, here 143). He prefers to see "this parable as another of the seven-stanza parabolic ballads (cf. Luke 10:30–35; 14:16–23; 16:1–8)" (ibid.; see *Poet*, 72–74, for a description of "The Parabolic Ballad"). For him, the inverted parallelism of the stanzas results in the "presentation of the Pharisee's case for his self-righteousness," namely, the Pharisee's pious practices (v. 12), as the structure's center. From my point of view, the paired stanzas in Bailey's proposed structure do not correspond as well as he believes. In addition, it seems that his structure is too influenced by the Lukan context, even though he does not consider the Lukan context original to the parable (see above, nn. 3–4).

[44] See Blomberg, *Interpreting the Parables*, 256; Bock, *Luke*, 2:1460; and Green, *Luke*, 645.

10 Ἄνθρωποι δύο ἀνέβησαν εἰς τὸ ἱερὸν προσεύξασθαι, ὁ εἷς Φαρισαῖος καὶ
ὁ ἕτερος τελώνης.

11ὁ Φαρισαῖος σταθεὶς πρὸς ἑαυτὸν
ταῦτα προσηύχετο,
Ὁ θεός, εὐχαριστῶ σοι
ὅτι οὐκ εἰμὶ ὥσπερ οἱ λοιποὶ
τῶν ἀνθρώπων,
ἅρπαγες, ἄδικοι, μοιχοί,
ἢ καὶ ὡς οὗτος ὁ τελώνης·
12νηστεύω δὶς τοῦ σαββάτου,
ἀποδεκατῶ πάντα ὅσα κτῶμαι.

13ὁ δὲ τελώνης μακρόθεν ἑστὼς
οὐκ ἤθελεν οὐδὲ τοὺς ὀφθαλμοὺς
ἐπᾶραι εἰς τὸν οὐρανόν,
ἀλλ᾽ ἔτυπτεν τὸ στῆθος αὐτοῦ
λέγων,
Ὁ θεός, ἱλάσθητί μοι
τῷ ἁμαρτωλῷ.

14aλέγω ὑμῖν, κατέβη οὗτος δεδικαιωμένος εἰς τὸν οἶκον αὐτοῦ παρ᾽ ἐκεῖνον·

Although the above could be accepted as the originating structure of Jesus' parable, some have gone so far as to suggest that v. 14a should be omitted.[45] I would rather both accept another proposal and put forward my own, less radical approach. It has been suggested that λέγω ὑμῖν ("I tell you") is "a Lukan insertion to stress the conclusion to the parable, which is contained in the rest of v. 14a."[46] Luke has similar endings in a number of parables. In addition to the case considered here, there are other uses in parables specific to Luke (11:8; 15:10; 16:9 [καὶ ἐγὼ ὑμῖν λέγω]; 18:8), and thus this formulation

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Hultgren's treatment (*Parables*, 121–26) seems to see the parable structured in this way. Scott notes the "inclusio [vv. 10 and 14a] that rounds off the parable" (*Hear Then a Parable*, 94). He also indicates the relation between the phrases concerning the position of the two characters (vv. 11a and 13a), noting that the "phrases form a chiasmus" (p. 95):

ὁ Φαρισαῖος / σταθείς / πρὸς ἑαυτόν

ὁ δὲ τελώνης / μακρόθεν / ἑστώς

[45] Downing argues that v. 14a is not part of the original parable, but rather "an 'oracular response' added by someone quite unconvinced that the story is enough on its own" ("Ambiguity," 96–97, here 96, with reference to Luise Schottroff, "Die Erzählung vom Pharisäer und Zöllner als Beispiel für die theologische Kunst des Überredens," in *Neues Testament und christliche Existenz: Festschrift für Herbert Braun zum 70. Geburtstag am 4. Mai 1973* [ed. Hans Dieter Betz and Luise Schottroff; Tübingen: Mohr Siebeck, 1973], 439–61, esp. 445–56). With Downing's article in his bibliography, but without any specific citation, Nolland notes the proposal to excise v. 14a, but does not follow it (*Luke*, 2:874). Similarly, Herzog raises the question concerning v. 14a, which could "be seen as a Lukan conclusion in the form of direct discourse" (*Parables as Subversive Speech*, 175). He does not omit it from the original parable (but see the text at the note below). Finally, Farris ("Tale of Two Taxations," 23 n. 1) clearly indicates that vv. 9 and 14b are part of the "Lukan framing" (see n. 5 above). Nevertheless, his translation of the text of the parable ends with v. 13.

[46] Herzog, *Parables as Subversive Speech*, 175.

could come from his special source.[47] Twice, however, Luke has the phrase in Q parables, but it does not appear in Matthew:[48] the Great Banquet, Luke 14:24 (+ γάρ), addMt 22:10;[49] the parable of the Pounds/Talents, Luke 19:26, addMt 25:29.[50] There are, however, other instances of this phrase that suggest Lukan redaction: Luke 4:24 (+ ἀμήν), addMk 6:4; Luke 11:9 (κἀγώ ὑμῖν λ.), addMt 7:7;[51] Luke 12:4, addMt 10:28a;[52] Luke 12:5 (+ ναί), addMt 12:28b;[53] Luke 12:8 (+ δέ), addMt 10:32;[54] Luke 12:51 (+ οὐχί), addMt 10:34;[55] Luke 17:34, diffMt 24:40;[56] Luke 19:40, addMk 11:10; Luke 22:16 (+ γάρ), addMk

[47] Nolland calls it "a feature of the parables that Luke reproduces from his parable source" (*Luke* 2:878). Nolland does not include 16:9, but he adds 13:3, 5 and 15:7 [*sic;* see n. 59]. Other occurrences in special Lukan passages can be listed: 4:25 (cf. Mark 6:4); 7:14 (σοί λ.); 12:37 (+ ἀμήν); 22:37 (+ γάρ); 23:43 (ἀμήν σοι λ.).

[48] In the interest of full disclosure, it must be noted that the differences between the Lukan and Matthean versions of these parables lead some to propose either that different forms of Q were used by each evangelist or that the parables came to each evangelist from his own special source. For parallel uses of λέγω ὑμιν in Q passages, see n. 59 below.

[49] James M. Robinson, Paul Hoffmann, and John S. Kloppenborg do not include Luke 14:24 in Q (*The Critical Edition of Q: Synopsis Including the Gospels of Matthew and Luke, Mark and Thomas with English, German, and French Translations of Q and Thomas* [Leuven: Peeters, 2000], 448–49).

[50] Robinson et al. do not include Luke's λέγω ὑμῖν ὅτι in Q 19:26 (*Critical Edition of Q*, 554–55).

[51] Ibid., 214–15: "Luke's κἀγὼ ὑμῖν λέγω," though "[λέγω ὑμῖν,]" is printed in the reconstructed Q 11:9.

[52] Ibid., 296–97: "Luke's λέγω δὲ ὑμῖν τοῖς φίλοις μου ["I tell you, my friends"] or Matthew's καί" is posed as possible in Q 12:4, with the nod to "(καί)." But see Matt 10:27, ὃ λέγω ὑμῖν ("What I say to you"), which is printed in brackets as the text of Q 12:3 (pp. 292–93).

[53] Ibid., 298–99: "Luke's ναι λέγω ὑμῖν, τοῦτον φοβήθητε ["yes, I tell you, be afraid of that one."]" is not printed in the reconstructed Q 12:5.

[54] Ibid., 304–5: "Luke's λέγω δὲ ὑμῖν or Matthew's οὖν" is considered, but neither is printed in the reconstructed Q 12:8.

[55] Ibid., 380–81: A choice of either "Luke's οὐχί, λέγω ὑμῖν ["No, I tell you"], or Matthew's οὐκ ἦλθον βαλεῖν εἰρήνην ["I have come to bring not peace"]" is considered with "οὐ(κ ἦλθον βαλεῖν εἰρήνην)" printed in the reconstructed Q 12:51.

[56] The entire section of Luke 17:22–35, 37 (//Matt 24:23, 26–27, 37–39; 24:17–18; 10:39; 24:40–41; 24:28) is complicated with respect to the reconstruction of Q (Luke 17:36 is an interpolation from Matt 24:40, and thus not part of the original text of Luke). Robinson et al. treat Luke 17:22–35, 37 and parallel verses in Matthew (*Critical Edition of Q*, 500–523). In general, they indicate the reconstructed order and content of Q as follows: Q 17:~~22~~, 23–24, ~~25~~, 37, 26–27, ?28–29?, 30, ~~31–32~~, 34–35. This presentation means: (1) Luke 17:22, 25, and 31–32 are not from Q; (2) the order of Matt 24:23, 27, 28 better represents the Q order of sayings than Luke 17:22–37, because Luke, the editors suggest, moved "Where the body is, there also the vultures will gather" (Luke 17:37b//Matt 24:28) to the last verse of his pericope; and (3) Luke 17:28–29 may be from Q, but, with no parallel in Matthew, the editors cannot be certain.

With respect to our specific case, the verses are quite different:

14:22.[57] In conclusion, besides the number of uses of this introductory phrase (or some variant thereof) in Luke's special material, he uses it parallel to Mark[58] and parallel to Matthew in Q passages,[59] but also shows possible redactional additions in both triple- and double-tradition passages. Moreover, perusal of the texts cited in this survey shows that "[t]here is no other third-person narration with a change to an emphatic *legō hymin* concluding address in shared Synoptic tradition."[60] It would not be surprising, therefore, if Luke's use of

Luke 17:34a:	λέγω ὑμῖν,	ταύτῃ τῇ νυκτὶ	ἔσονται δύο	ἐπὶ κλίνης μιᾶς,
Matt 24:40a:		τότε	δύο ἔσονται	ἐν τῷ ἀγρῷ,
Luke 17:34b:		ὁ εἷς παραλημφθήσεται	καὶ ὁ ἕτερος	ἀφεθήσεται·
Matt 24:40b:		εἷς παραλαμβάνεται	καὶ εἷς	ἀφίεται·
Luke 17:34a:	"I tell you,	on that night	there will be two people	in one bed;
Matt 24:40a:		"[Then]	Two men will be	out in the field;
Luke 17:34b:		one will be taken,	[and] the other	[will be] left."
Matt 24:40b:		one will be taken,	and one	will be left."

In the end, the editors (pp. 522–23) do opt to reconstruct Q 17:34 with λέγω ὑμῖν from Luke 17:34, even though there is no parallel in Matt 24:40: λέγω ὑμῖν, ἔσονται δύο [[ἐν τῷ ἀγρῷ]], εἷς παραλαμβάνεται καὶ εἷς ἀφίεται· ("I tell you, there will be two men [[in the field]]; one is taken and one is left").

[57] Luke 22:15–18 treats the cup of blessing which is added to the narrative of the Last Supper in Mark 14:22–25. With respect to the repetition of λέγω γὰρ ὑμῖν of Luke 22:16 in v. 18, the latter can be seen as an anticipation of Mark 14:25, ἀμὴν λέγω ὑμῖν (see note below).

[58] Luke 5:24 (σοί λ.)//Mark 2:11; Luke 9:27 (λ. δὲ ὑ. ἀληθῶς)//Mark 9:9 (ἀμὴν λ. ὑ.); Luke 18:17 (+ ἀμήν)//Mark 10:15; Luke 18:29 (+ ἀμήν)//Mark 18:29; Luke 21:3 (ἀληθῶς λ. ὑ.)//Mark 12:43 (ἀμὴν λ. ὑ.); Luke 21:32 (+ ἀμήν)//Mark 13:30; Luke 22:18 (+ γάρ)//Mark 14:25 (ἀμὴν λ. ὑ.; see note above); Luke 22:34 (λ. σοί)//Mark 14:30 (ἀμὴν λ. σοί).

[59] Luke 3:8 (+ γάρ)//Matt 3:9 (John the Baptist); Luke 6:27 (ἀλλὰ . . .)//Matt 5:44 (+ ἐγὼ δέ); Luke 7:9//Matt 8:10 (+ ἀμήν); Luke 7:26 (+ ναί)//Matt 11:9; Luke 7:28//Matt 11:11 (+ ἀμήν); Luke 10:12//Matt 10:15 (+ ἀμήν); Luke 10:24 (+ γάρ)//Matt 13:17 (+ ἀμήν); Luke 11:51 (ναί λ. ὑ.)//Matt 23:36 (ἀμὴν λ. ὑ.); Luke 12:27 (+ δέ)//Matt 6:29; Luke 12:44 (ἀληθῶς λ. ὑ.)//Matt 24:47 (ἀμὴν λ. ὑ.); Luke 12:59 (λ. σοί)//Matt 10:34 (+ ἀμήν); Luke 13:35 (+ [δέ])//Matt 23:39 (+ γάρ); Luke 15:7//Matt 18:13 (+ ἀμήν).

[60] Downing, "Ambiguity," 96. Luke 12:59 (λ. σοί)//Matt 10:34 (+ ἀμήν) are in the context of direct discourse, as is Luke 15:7//Matt 18:1 (+ ἀμήν; for both, see note above), to which "Luke adapts his" use in 15:10 (ibid., 97). Downing also notes that Luke 16:9 is part of "the cluster of comments following 16:1-8a," much as 18:8 concludes "an extended address after" 18:1–6 (ibid.; for the last three examples, see p. 99 above, at n. 47). In addition, as in 18:8, τὴν ἐκδίκησιν "comes from the same cluster as the *dedikaiōmenos* of v 14, and *dikaioun* in this kind of context does seem purely Lucan among the Synoptics (Luke 10:29; 16:15; 18:14; Acts 13:39)." It echoes the *dikaioi* of v. 9. These observations, however, do not necessitate striking all of v. 14a as Downing suggests (see n. 45 above). First, without λέγω ὑμῖν the third person narrative continues. Second, δίκαιοι in v. 9 can more easily be considered redactional preparation for both ἄδικοι (v. 11b; see pp. 108–9 below, at nn. 104–5) and δεδικαιωμένος (v. 14a), which Luke finds in his source. It can also be noted that Downing is influenced by Michael D. Goulder, *Luke: A New Paradigm,* vol. 1, part 1, *The Argument;* part 2, *Commentary: Luke 1.1–9.50;* vol. 2, part 2 (cont.), *Commentary: Luke*

λέγω ὑμῖν in 18:14a and other "L" passages may also be his own redactional touch, even though it is difficult to say so with full certainty.

In addition to considering λέγω ὑμῖν redactional, rather than excising the rest of v. 14a from the originating structure, my own less radical proposal is that Luke added the concluding παρ' ἐκεῖνον ("not the former"). This is a tentative suggestion. One can argue that the opening line of the parable—ὁ εἷς . . . καὶ ὁ ἕτερος ("one . . . and the other"), expects the inclusion of both characters in the conclusion. Nevertheless, the first indication that the inclusive conclusion here may be secondary is that not infrequently Jesus' parables end without total resolution. Although it is beyond the scope of this article to treat all possible examples, a few can be noted for the purposes of demonstration.[61] Does the shepherd who finds his lost sheep (Luke 15:4–7//Matt 18:12–14) return so as to have one hundred or only one sheep?[62] Does the father who began with two sons end with two sons or only one son (Luke 15:11–32)? How does the merchant (Matt 13:45–46) finance even the most basic needs after he "sells all that he has" to purchase a pearl?[63] Who does get the stuffed granaries of the now deceased rich man (Luke 12:16–20)? Did the Samaritan return to pay up as promised (Luke 10:30–35)? Do the violent tenants take possession of the vineyard, or what does the owner do with the vineyard (Mark 12:1–9a//Matt 21:33–40//Luke 20:9–15)?[64]

9.51–24.53 (JSNTSup 20; Sheffield: JSOT Press, 1989), 2:667–72, who opines that the entire parable is a Lukan composition.

[61] This demonstration will include parables from various sources, namely, Mark, Q, M, and L, so that this multiple attestation can strengthen the historical nature of Jesus ending parables without full resolution.

[62] "We can assume all we like but . . . we do not know what happened to the ninety-nine," according to Bailey (*Poet*, 150). Nevertheless, with respect to Luke's version, he seems to assume that the ninety-nine are left to "a second shepherd to guide the flock back to the village." He bases this in the return home (εἰς τὸν οἶκον, v. 6) of the shepherd, which also indicates, for Bailey, that the shepherd is not a bedouin but a village peasant (p. 149). In addition, with respect to the unresolved endings of the Lukan forms of this parable and the Lost Coin (Luke 15:8–10), with what do the shepherd and housewife celebrate their good fortune? Were their celebrations "funded" by the just-found lost sheep and lost coin, respectively?

[63] Similarly, if the treasure finder (Matt 13:44) has somewhat shadily acquired the field and its treasure, which seems to be indicated by his "cover up" (ἔκρυψεν), is he ever able to use the treasure openly?

[64] With respect to the originating structure of this parable, we can first note the summary of the general agreement concerning the Markan redaction of 12:1–12 in Francis J. Moloney, *The Gospel of Mark: A Commentary* (Peabody, MA: Hendrickson, 2002), 232 n. 87: "Redaction critics agree that 12:1a and 12:12 come from Mark, and that the use of the OT in 12:10–11 has been added to the pre-Markan parable." In addition, he notes that "[m]ost scholars . . . see Mark's hand behind the addition of 'the beloved Son'" in v. 6 (p. 233 n. 95; on Moloney's commentary, see my article "Reading Mark as Mark: Two New Narrative Commentaries," *ETL* 79 [2003]: 134–56). Even with this general agreement, reconstructing this parable's originating structure remains a difficult task.

According to Joseph A. Fitzmyer, the use of the preposition παρά here is "a mode of expressing the comparative," which is also found in Luke 13:2, 4.[65] To these, perhaps Luke 3:13 could be added, even though it specifically has the comparative πλέον with παρά + accusative. All of these examples appear in special Lukan material and thus cannot be clearly determined to be redactional, although they do indicate a Lukan acceptance of the use of παρά + accusative for the purposes of comparison. With respect to Luke's use of ἐκεῖνος, however, there is more redactional evidence:[66] Luke 8:32 ἐκείνους, for Mark 5:12 αὐτούς; Luke 12:47 ἐκεῖνος δὲ ὁ δοῦλος, addMt 24:51;[67] Luke 20:18 ἐπ᾽ ἐκεῖνον τὸν λίθον, diffMt 21:[44] ἐπὶ τὸν λίθον τοῦτον; Luke 20:35 οἱ δὲ καταξιωθέντες τοῦ αἰῶνος ἐκείνου τυχεῖν, addMk 12:24; Luke 22:12 κἀκεῖνος, diffMk 14:15 καὶ αὐτός.

Finally, παρ᾽ ἐκεῖνον works well with Luke's redactional introduction, especially τοὺς πεποιθότας ἐφ᾽ ἑαυτοῖς ὅτι εἰσὶν δίκαιοι, as well as the Lukan theme of reversal. Παρ᾽ ἐκεῖνον plays into the common bias against Pharisees that was noted above. The Pharisee, for Luke, went up to the temple trusting in his own righteousness, but went down (seemingly) unrighteous, that is, not in

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Taking into account the parallel in *Thomas* 65, Scott considers positions concerning the originating structure; he notes that "most commentators . . . hold that . . . the ending is the question and answer about the master's response to the murder of the son" (*Hear Then a Parable,* 245–48, here 248). Scott, however, concludes that the originating structure ended with Mark 12:8a, the killing of the son, without reference to casting him out of the vineyard. This is supported by noting that "normally Jesus does not answer the questions provoked by his parables," and by the improbability that the master who had thus far been powerless would become powerful. The parable, then, "lacked . . . final closure" (Scott, *Hear Then a Parable*, 248; along with Crossan, *In Parables*, 90).

[65] Fitzmyer, *Luke*, 2:1188, who translates "*rather than that other*." Jeremias proposes that this usage translates the Aramaic comparison מִן, which could be translated "more justified than the other," though it is "very often used with an exclusive sense (e.g. II Sam. 19.44 . . . ; Ps 45 [LXX 44].8 . . . ; Rom. 1.25) . . . , 'not to the other'" (*Parables,* 141–42, followed by, among others, Marshall, *Luke*, 553, 681). Fitzmyer, perhaps in a bit of an overstatement, believes that Jeremias "completely misses the point" (*Luke,* 2:1188), even though both he and Jeremias translate the phrase in an exclusive sense. For Fitzmyer, however, the use of παρά is "the substitution of a different comparative expression," which uses על (2:1188). Nolland seems to see validity in both sides of this discussion: "Without the Lukan framework it would seem more natural to take παρ᾽ ἐκεῖνον as 'more than' than as 'rather than,' but the Lukan frame encourages a sharper contrast, and so I have translated as 'rather than' (despite the 'more than' required in 13:2, 4)" (*Luke,* 2:878).

[66] Other special Lukan uses: 11:7 κἀκεῖνος; 12:37, 38 (δοῦλοι) ἐκεῖνοι; 18:3 ἐν τῇ πόλει ἐκείνῃ.

Lukan uses with Synoptic parallels: Luke 11:26//Matt 12:45; Luke 12:43, 45, 46//Matt 24:46, 48, 50; Luke 20:11//Mark 12:4; Luke 22:22//Mark 14:21.

[67] On Luke 12:42–46//Matt 24:45–51, see note above. Luke adds the progression of punishment in vv. 47–48 to this parable, which came to him and Matthew in Q (see my "A Note on καὶ διχοτομήσει αὐτόν [Luke 12:46 and the Parallel in Matthew 24:51]," *CBQ* 63 [2001]: 258–64, esp. 259 on vv. 47–48).

right relationship with the God to whom he showed gratitude. The final line, v. 14a, reverses not only the Pharisee–tax collector order in vv. 9–13,[68] but also the characters' relative uprightness; such reversal is a Lukan theme,[69] which would not be explicit without the concluding παρ' ἐκεῖνον. In addition, this reversal of the characters' uprightness is somewhat related to the Pauline notion of righteousness, which some suggest might be nascent in Jesus' parable.[70] It is doubtful, however, that the extent to which the Lukan context and this ending seem in keeping with Paul's understanding can be traced back to Jesus.[71]

Given Luke's facility with Greek, his redactional context for this parable, his acceptance of παρά + accusative for the purposes of comparison, his redactional use of ἐκεῖνος, and his theme of reversal, it is within reason to suggest that παρ' ἐκεῖνον is Luke's addition to an original ending that did not offer full resolution. In the end, whether or not παρ' ἐκεῖνον can be convincingly excised from the originating structure, an issue to which we will return below, we can now proceed with consideration of how the Jesus parable might have been heard as a comparison for the kingdom of God.

To begin that consideration, we need to address the question of the original hearers of this parable. Even though the Lukan context is redactional, the audience envisioned therein can be a starting point, just as the Lukan text was the starting point for reconstructing the parable's original structure. In Luke 17:20, Pharisees ask Jesus about the coming of the kingdom of God, and after a brief response, Jesus turns his attention to the disciples (17:22). "They," presumably the disciples, ask a question of Jesus (17:37a); he responds to "them" (17:37b) and goes on to tell "them" a parable (18:1). There is no indication,

[68] Bailey, *Through Peasant Eyes*, 143.

[69] This reversal is furthered by the addition of v. 14b, which "contains a generalizing conclusion which affirms a favourite gospel theme, the eschatological reversal of existing conditions" (Jeremias, *Parables*, 142).

[70] On the basis of this parable, Jeremias observed that "the Pauline doctrine of justification has its roots in the teaching of Jesus" (*Parables*, 141). Fitzmyer concurs (*Luke*, 2:1184–85). The parable "may reveal that the NT teaching about the matter is somehow rooted in Jesus' own attitude and teaching: One achieves uprightness before God not by one's own activity but by a contrite recognition of one's own sinfulness before him" (see note below for additional comments). See also Hultgren, *Parables*, 124 n. 33.

[71] Even if one accepts the observation of Jeremias (the note above), one should resist the temptation to read the Pharisee as the original works-righteousness Roman Catholic and the tax collector as the original Reformer "being justified by faith alone" (Farris, "Tale of Two Taxations," 29). Fitzmyer notes that at most the connection with the Pauline teaching is "generic" (*Luke* 2:1185), and thus "one should beware of reading this parable with all the connotations of Pauline justification." See too Nolland, *Luke*, 2:878: "There is no real basis for seeing this text through Pauline eyes and find here, through the mouth of Jesus, God's eschatological verdict in favor of sinners."

however, that the Pharisees have departed; Luke seems to think that they are still present when Jesus tells this parable "to those [τινάς; RSV: "some"] who were convinced of their righteousness."[72] At the very least, therefore, those who hear the parable (according to Luke) are disciples and Pharisees, though it is, for Luke, most pointedly intended for the self-righteous among the hearers.[73] At the very least, it seems safe to say that Luke's mixed audience of disciples and Pharisees might well be reflective of the makeup of Jesus' original hearers of this parable, although there may also have been others present, such as scribes, tax collectors, and peasants. The historical situation is complicated, however, by the likelihood that Jesus may have told this parable more than once and in different locations, which would result in different reactions and understandings of the parable.[74] For the purpose of this consideration, we will assume a rather mixed group.[75] Moreover, given the main characters in the parable and its location in the temple area, we will assume that the parable is told in the vicinity of Jerusalem, perhaps even in the outer courtyard of the temple area.[76]

[72] Compare the translation of Nolland, *Luke*, 2:873: "certain people who were confident in themselves, because they were righteous." "'Because they are righteous' fits the imagery to come better than 'that they are righteous,' which is also a possible translation" (p. 875). Luke Timothy Johnson notes these options as well (*The Gospel of Luke* [SP 3; Collegeville, MN: Liturgical Press, 1991], 271). For Jeremias (*Parables*, 139–40 n. 38), the translation of ὅτι as "because" supports his strong reading of this Lukan phrase (n. 13 above).

[73] Even on the level of the Lukan narrative, then, the parable is not particularly addressed to Pharisees, though a Pharisee is employed as an example. Rather, it is "to warn against a particular way of comporting oneself" (Green, *Luke*, 646; cf. Nolland, *Luke*, 2:875; Hultgren, *Parables*, 120), which would not include all Pharisees nor exclude all disciples—nor all of Luke's implied readers. See also Fitzmyer, *Luke*, 2:1186, who earlier notes that this is made "clear" in the addition of v. 14b (p. 1185).

[74] Downing addresses a variety of contexts and understandings in which the parable would have been heard: the wider Greco-Roman world ("Ambiguity," 82–87); Diaspora Hellenistic Judaism (pp. 87–91); Palestinian (still Hellenistic) Judaism (including early Christianity) (pp. 91–95); and Luke 18:10–13 in the tradition of the teaching of Jesus (pp. 95–99). From my point of view, Downing offers an excellent presentation of how the parable may have been received and understood in the first three contexts, but he seems to be too influenced by them in his treatment of the parable on the level of Jesus.

[75] Jeremias believes that this parable, among others, was "addressed, not to the poor, but to opponents" (*Parables*, 93, esp. 124); its "main object is not the presentation of the gospel, but the defence and vindication of the gospel" in the hopes of winning some of them over. Although some apologetic function may well be part of the original *Sitz im Leben Jesu*, so that there was the intent to address opponents, this does not mean nor does Jeremias claim that only opponents were the original hearers. Fitzmyer sees in the parable "yet another defense of [Jesus'] attitude toward Pharisees and toll-collectors in contemporary Palestinian society (see 5:29–32; 7:36–50)" (*Luke*, 2:1184).

[76] This localization seems a more likely one than somewhere in Jesus' Galilean ministry, for there is "little or no proof of widespread and successful Pharisaic activity in Galilee during the early

Before specifically identifying the "two people," Jesus opens his parable by setting it in "the temple area."[77] As "the concrete embodiment of Jewish identity and tradition," the temple is "a third character" in the parable, along with the Pharisee and tax collector.[78] Because the temple was "the primary system by which Israel knew its God and fulfilled its sacred obligations . . . the outcome of the parable will say something . . . about the institution in whose shadow the drama unfolds."[79] The approach of two people for the purpose of prayer is fitting for this place of worship. Jesus does not indicate the time of these two people's visit. Certainly the temple implies the corporate, public nature of worship; 9:00 A.M. and 3:00 P.M. were the times for the Tamid service, that is, "the twice-daily whole offering" and public worship,[80] although persons could also visit the temple area at other times for private prayer. Although it is certainly popular to assume that these two come to the temple at one of the times for public worship,[81] there is nothing in the parable itself that necessitates this understand-

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1st century A.D. . . . In general, it [Pharisaism] seems to have been an urban rather than a rural movement, demanding as it did a certain level of learning and a certain modicum of leisure (and material resources?) to engage in regular study and punctilious practice of the Law" (Meier, *Marginal Jew*, 3:335).

[77] Although "to the temple" would be a more literal translation of εἰς τὸ ἱερόν, "to the temple area" is appropriate, because neither the Pharisee nor the tax collector would have been praying in the temple building itself. "The temple" and "the temple area" will be used synonymously herein.

[78] Farris, "Tale of Two Taxations," 23.

[79] Ibid., 24; cf. his treatment of the import of the temple and its taxation and tithes (pp. 24–25). It is difficult to overestimate the significance and influence of the temple, not only religiously but also in terms of its "reach [in Judea, Galilee, and] throughout the Diaspora, as the collection of the Temple tax from every observant Jewish man so clearly indicated" (Herzog, *Parables as Subversive Speech*, 178). In addition, "bringing tithes to the Temple was one important way in which the people acknowledged their debt to Yahweh. . . . [N]ot to render to God what is God's left one stigmatized and forever indebted" (p. 179).

[80] For a recent excellent presentation of the importance of this twice-daily service for the evangelist Luke, see Dennis Hamm, "The Tamid Service in Luke-Acts: The Cultic Background behind Luke's Theology of Worship (Luke 1:5–25; 18:9–14; 24:50–53; Acts 3:1; 10:3, 30)," *CBQ* 65 (2003): 215–31.

[81] Jeremias opines that the two men went up to the temple at one of these hours for prayer (*Parables,* 140). Bailey provides a six-point argument for this position (*Through Peasant Eyes,* 178); he is followed, among others, by Scott, *Hear Then a Parable*, 94; Herzog, *Parables as Subversive Speech*, 178; Farris, "Tale of Two Taxations," 31; and Hultgren, *Parables*, 178, who specifies that it was "most likely the afternoon sacrifice when a congregation was present," even though Bailey opts for the time of "the atonement sacrifice . . . (for the sins of the people) at dawn" (*Through Peasant Eyes,* 146). Hamm believes that "the afternoon Tamid service" is the "plausible" reference "that the implied author expects the reader to assume" ("Tamid Service," 223). Hamm is slightly mistaken, then, when he indicates that Bailey "makes exactly this point" (p. 223 n. 16).

In Bailey's six-point argument, that the two characters go up to and go down from the temple area at the same time indicates a formal worship time (points 1–2), but certainly two could arrive and/or leave at the same time outside of the time of a formal worship service. Moreover, the simul-

ing.[82] Perhaps, as will be proposed below, the parable as Jesus originally told and intended it would be better respected if this assumption were not pushed,[83] but rather left as but a possible understanding of the time of the approach of the Pharisee and tax collector.[84]

The first of the two "people" (ἄνθρωποι), a Pharisee (Φαρισαῖος), would have been an expected visitor to the temple. The name, probably from פָּרוּשׁ, "separated one," indicates a member of "a movement (not a denomination in the modern sense) within Judaism."[85] According to Josephus, "ordinary Jews were much impressed by the widespread reputation that the Pharisees enjoyed for their exact knowledge of the Mosaic Law."[86] In general, Pharisees were nei-

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taneity of their arrival and departure (if and only if παρ' ἐκεῖνον is part of the originating structure) serves the story's drama and need not be taken so literally. He also notes (point 3) that "the temple (a place of public worship) is specifically mentioned," but the temple, even by his own admission, was also a place for "private devotions." That the Pharisee "stood apart from other worshipers" (point 4) could also simply mean that the Pharisee "stood apart from other persons at prayer." Likewise, it is not necessary to understand that the tax collector stood "afar off from the rest of the worshipers" (point 5), as he may simply be far off from other persons at prayer, especially from the Pharisee, who most likely ventured farther into the courts surrounding the temple (see pp. 108 and 112 below, at nn. 101 and 130–31). Finally (point 6), that "the tax collector specifically mentions the *atonement* in his prayer" is slightly overstated; he does plead that God atone, reconcile or propitiate him (see p. 113 below, at nn. 143–47), but at no time does he specifically refer to "the atonement sacrifice." Thus, a time of public worship is a possibility, but the storyteller allows for some ambiguity. Bailey does continue to plead his case (*Through Peasant Eyes,* 146–47) (see n. 162 below; on the storyteller's ambiguity, see the following three notes).

[82]Luke 1:10 clearly indicates the time of Zechariah's visit, namely, τῇ ὥρᾳ θυμιάματος ("at the hour of the incense offering"). On Pentecost, Peter defends himself and the other ten apostles against the charge of drunkenness, "for it is only nine o'clock in the morning" (Acts 2:15). In addition, in Acts 3:1, "Peter and John were going up to the temple area for the three o'clock hour of prayer." If, therefore, the specific time had been part of the parable that Luke received, it would be quite likely that he would have included it. Certainly the original hearers would have known of the temple's schedule for public worship, and may have assumed one of the times, but since the storyteller does not provide that detail, it may be best to place this assumption on hold. In my estimation, Nolland (*Luke*, 2:875) is rightly hesitant with respect to Bailey's position (above note): "here there could be a more private use of the temple for prayer."

[83] Although Hamm is commenting on the Lukan context ("Tamid Service," 223), I still find his statement that the afternoon Tamid service "gives body and sharpness to what is otherwise a contrast in a vacuum" rather surprising. The temple, even without specific reference to the Tamid service, is hardly a vacuum.

[84] This raises a larger problem for the study and interpretation of the parables. Should the interpreter assume details not included by the storyteller? For example, it is highly unlikely that any shepherd would have left ninety-nine sheep in the wilderness, and thus it is tempting to supply someone to watch the ninety-nine (see n. 62 above). What if the ridiculously risky action is part of the storyteller's imaging of the kingdom of God?

[85] Hultgren, *Parables*, 120–21. See n. 14 above, for the reference to Meier's presentation of the Pharisees in the time of Jesus.

[86] Meier, *Marginal Jew*, 3:297, who refers to "*J.W.* 2.8.14 §162; *Ant.* 13.10.5 §288; 13.15.5–13.16.1 §401–406; 18.1.3 §15; 18.1.4 §17" (3:355 n. 40). Cf. Hultgren, *Parables*, 121: The

ther among the wealthiest members of society nor of the priestly aristocracy, but "were strongly represented in the 'retainer class' of Judean society—that is, the class of low-level bureaucrats, functionaries, and educators on whom the aristocrats depended."[87]

Jesus' introduction of the second visitor, might have created the first murmur among some of his original hearers.[88] To the extent that the Pharisee would have been an expected visitor, the τελώνης would have been an unexpected one, especially in terms of being paired with a pious Pharisee.[89] Some commentators understand τελώνης to refer to a "toll collector,"[90] that is, a "low-level functionary"[91] who sat "at transport and commercial centers,"[92] "engaged in the collection of indirect taxes (tolls, tariffs, imposts, and customs)."[93] Others understand the word to indicate a "tax collector,"[94] who would have collected "tolls, market duties, and all kinds of local taxes (sales, income, property, and inheritance), making [his] living by overcharging people (cf. the words of Zacchaeus, 19:8), thereby preying upon them."[95] We do not need to settle the par-

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Pharisees were the "most observant of all the identifiable Jewish groups, and they were held in high regard among the masses of people." This is, as noted above (n. 13), quite at odds with the biased point of view that seems implied in Luke 18:9, as well as in many other NT texts.

[87] Meier, *Marginal Jew*, 3:297, with reference (355 n. 41) to Anthony J. Saldarini, *Pharisees, Scribes, and Sadducees in Palestinian Society: A Sociological Approach* (Wilmington, DE: Glazier, 1988), 4–5, 35–49, 87–88, 99–106 (a new edition is now available: Grand Rapids: Eerdmans; Livonia: Dove Booksellers, 2001).

[88] See n. 22 above.

[89] This is not to say that a tax collector would never avail himself of the temple, for certainly those Jews who collected Roman taxes of all kinds (see, e.g, John R. Donahue, "Tax Collectors and Sinners: An Attempt at Identification," *CBQ* 33 [1971]: 39–61, esp. 48), despite their presumed dishonesty (see p. 108 below, at n. 99), may well have visited the temple. Nevertheless, the tax collector's "vocation operated in direct competition to the Temple taxation system [see n. 100 below]. . . . He came there as an interloper" (Farris, "Tale of Two Taxations," 25). On this point, see Hultgren's comment: "What is striking at the outset of the parable is the ease with which Jesus says that the tax collector went to the Temple to pray" (*Parables*, 121).

[90] Donahue, "Tax Collectors and Sinners"; he is followed by, among others, Fitzmyer, *Luke*, 1:469–70; Herzog, *Parables as Subversive Speech*, 173, 187–88; and Farris, "Tale of Two Taxations," 23, 25, 29.

[91] Herzog, *Parables as Subversive Speech*, 188. Within this understanding of the term, Herzog notes that, unlike the chief tax collector, the "toll collectors who actually staffed the booths and cheated the public on behalf of the chief toll collectors or toll farmers whom they served, were visible and socially vulnerable. On these fell the full force of popular resentment toward the whole oppressive system in which they were but the minor functionaries" (p. 180).

[92] Hultgren, *Parables*, 121 n. 18 (this phrase is the ellipsis from the quotation below, n. 95).

[93] Fitzmyer, *Luke*, 1:469.

[94] Fritz Herrenbrück, "Wer warren die 'Zöllner'?" *ZNW* 72 (1981): 178–94; Scott, *Hear Then a Parable,* 93; Hultgren, *Parables*, 121.

[95] Hultgren, *Parables*, 121. In n. 18, Hultgren writes that this understanding "seems to have gained support over the earlier view that the term referred primarily to toll collectors."

ticular meaning of τελώνης, though we will follow the latter translation,[96] because "from A.D. 6 to 44 and . . . [in] Jerusalem . . . the distinction between tax and toll collector would not have the same force as in Galilee since all income went into the Roman coffers."[97] Whatever the precise nuance of τελώνης, it is clear that this character "invites scorn,"[98] probably due to his presumed dishonesty rather than his being considered a traitor.[99] Nevertheless, the tax collector's work is directly at odds with the temple's financial needs, which are met by, among other means, the tithes that the Pharisee mentions in his prayer (v. 12b).[100]

We have already indicated that the Pharisee takes up a position by himself, "far to the front of the Court of Israel within the Temple precincts."[101] The normal practice of prayer was to stand and to speak out loud.[102] The Pharisee thanks God both for what he is not and for what he is able to do.[103] He is thankful that he is not ὥσπερ οἱ λοιποὶ τῶν ἀνθρώπων, ἅρπαγες, ἄδικοι, μοιχοί, ἢ καὶ ὡς οὗτος ὁ τελώνης (v. 11b, "like the rest of humanity—greedy, dishonest,

[96] Even Donahue concedes this translation, as long as "it is taken in the most general sense as referring to anyone who had any role in the collection of taxes" ("Tax Collectors and Sinners," 54). From here on, direct quotations will be altered to this translation, which will be indicated by square brackets.

[97] Donahue, "Tax Collectors and Sinners," 60; see p. 104 above, at n. 76, for the hypothetical placement of this consideration of this parable.

[98] Hultgren, *Parables*, 121; see Herzog, above, n. 91; Nolland, *Luke*, 2:877 (who notes that he is "intrinsically a negative figure"); and Farris, "Tale of Two Taxations," 25. Though this reaction is generally accepted for Jesus' hearers, it may not have been so for Luke's readers, for tax collectors "are regularly found among those who respond positively to the good news, even if they are regarded as outsiders by the pious" (Green, *Luke*, 647; in n. 116 he cites Luke 3:12; 5:27–32; 7:29, 34; 15:1–2).

[99] Donahue investigates the historical data, concluding that the τελῶναι, during "the historical ministry of Jesus in Galilee," were not considered "quislings" ("Tax Collectors and Sinners," 49–53), that is, traitors, or "Jews who made themselves as Gentiles," but "dishonest people" (p. 60). This may have been different in Judea and Jerusalem (see above at n. 97).

[100] For Farris, ὁ τελώνης is "*the* sinner" for not only did he "defraud people and associate with Gentiles—sin enough—but also his very vocation robbed the Temple of its dues, by forcing the faithful to pay taxes rather than tithes, thus supporting the hated Roman occupation rather than the sacrificial system. . . . [H]e also forced his fellow Jews into impurity through failure to pay their tithes. His sin was not his alone. It involved the nation" ("Tale of Two Taxations," 30). See too Herzog, *Parables as Subversive Speech*, 180–84, on the burden of both Roman and temple taxation; "the combination of the two systems of tribute produced a crisis among the peasant population base. The peasants could not avoid direct Roman taxation. . . . But they could avoid Temple tribute, which could not be compelled, although in doing so they faced social ostracism, shunning, and vilification by Temple authorities" (p. 181; on this burden, see also Farris, "Tale of Two Taxations," 24–25, 31).

[101] Fitzmyer, *Luke*, 2:1186.

[102] Scott, *Hear Then a Parable*, 94.

[103] See n. 105 below, for Farris's comment about the structure of the Pharisee's thanksgiving.

adulterous—or even like this tax collector.")[104] "The rest of humanity" had been picked up by Luke in 18:9; perhaps this is also the case for "dishonest," ἄδικοι, by δίκαιοι. As noted above, the first two vices would be commonly thought to be those of a tax collector; perhaps it is to be understood that μοιχοί "is thrown in by the Pharisee for good measure."[105] Ἢ καὶ ὡς ("or even like") is used for "connecting similar terms";[106] οὗτος ("this") is derogatory here,[107] but the contrast will be turned around in v. 14a.[108] The Pharisee's acknowledgment of the tax collector at the very least indicates that he had noticed the tax collector, perhaps when they both came up to the temple area and the Pharisee moved farther into the temple precincts than did the tax collector. It seems a bit of a stretch to imagine that the tax collector overheard the Pharisee's prayer,[109] but surely within the parable "adverting to the tax collector creates dramatic tension."[110]

Although Luke has instructed his readers to understand the Pharisee's list as demonstrating disdain, Jesus' original hearers may have heard the list quite differently. The original hearers would be familiar with the Pharisaic concern for "correct behavior," grounded in "correct interpretation" of the Mosaic

[104] The RNAB translates the list adjectivally, though it could also be translated substantively: "thieves/robbers, swindlers/evildoers, adulterers" (e.g., Fitzmyer, *Luke*, 2:1187; Scott, *Hear Then a Parable*, 95; Hultgren, *Parables*, 122).

[105] Bailey, *Through Peasant Eyes*, 150, who also adds, "like the older son in Luke 15:30." Herzog says that the list "appears to be a serial list of sinners . . . [but] can also be read as three ways of describing the [tax] collector" (*Parables as Subversive Speech*, 186). Nolland notes that the "tax collector is not differentiated from the robbers, evildoers, and adulterers as either better or worse; in the Pharisee's eyes, he is just another example of the same kind of human degradation" (*Luke*, 2:876). See also Marshall, *Luke*, 679. Farris, however, differs: "Not too much should be read into the specifics of the transgressions nor need they be applied to the Temple crowd or even the wretched [tax] collector. Structurally, the list is shorthand for one half of the Pharisee's righteousness" ("Tale of Two Taxations," 27), which is given in terms of both what he avoids and what he does.

[106] Herzog, *Parables as Subversive Speech*, 186. See the careful analysis of the phrase by Bailey, *Through Peasant Eyes*, 150–52. See also Nolland's comment in the above note. Farris says that this "puzzling phrase . . . seems to distance the [tax] collector from the list of sins rather than to connect him" ("Tale of Two Taxations," 27 n. 11). In his treatment, Bailey notes this as a possible reading, but Farris seems to opt for this in order to support his comment in the note above.

[107] Fitzmyer, *Luke*, 2:1187: "The deprecatory dem. pron. *houtos* is used." Hultgren says that "'this tax collector' is to be taken as contemptuous" (*Parables*, 123). Besides being true to the attitudes of Jesus' day, this is consistent with the Lukan narrative, in which "pharisaic animus against the tax-agents is recorded in 5:30; 7:34; 15:1" (Johnson, *Luke*, 272).

[108] Bock, *Luke*, 2:1465.

[109] See Herzog (*Parables as Subversive Speech*, 186), who quotes John R. Donahue, *The Gospel in Parable: Metaphor, Narrative, and Theology in the Synoptic Gospels* (Philadelphia: Fortress, 1988), 188: "He conspicuously steps apart from the other worshippers and utters a prayer heard by *all*. He thus accentuates his piety and humiliates the tax collector" (my emphasis).

[110] Scott, *Hear Then a Parable*, 95–96.

Law,[111] but also with the tendency of Pharisees to show "leniency when passing judgment."[112] Although "the Pharisees struggled to have their views accepted by the common people, they did not consider the common people or other Jews heinous sinners or beyond the pale."[113] The relatively positive assessment of the Pharisees by the common people in Jesus' day would have provided the context in which the original hearers understood the parable's Pharisee. Without Luke's stage directions in v. 9 and without the post-70 C.E. developments, there seems little reason to hear disdain in the Pharisee's thanksgiving for what he is not.

The Pharisee continues his thanksgiving by enumerating the religious acts that he is able to do: νηστεύω δὶς τοῦ σαββάτου, ἀποδεκατῶ πάντα ὅσα κτῶμαι (v. 12, "I fast twice a week, and I pay tithes on my whole income").[114] In both of these acts the Pharisee goes above and beyond what is required.[115] With respect to the Torah, fasting was required only on the Day of Atonement (Lev 16:29–34; 23:27–32; Num 29:7–11). By the first century C.E., however, Purim and other national holidays included fasting.[116] Moreover, fasting was seen as a virtuous, meritorious deed for the purposes of penance, mourning, remorse; it was also considered preparation for service, for communing with God, and even for the Messiah.[117] The Pharisee's twice-weekly fast, most probably Monday and Thursday,[118] reflects "the disciplined piety practice of his group, and not some individual accomplishment."[119]

[111] Meier, *Marginal Jew*, 3:315; a "reputation for their exact or precise (*akribēs*) interpretation of the Mosaic Law" (p. 314) is one of the basic aspects of the Pharisaic position in Meier's "A Minimalist Sketch by Way of Six Points" (pp. 313–30).

[112] Meier, *Marginal Jew*, 3:315; see also 373 n. 117.

[113] Ibid., 3:316.

[114] Jeremias, *Parables*, 140: "V. 12 is grammatically an independent sentence, but it depends logically upon εὐχαριστῶ σοι. . . ." Marshall also notes that v. 12 "logically continues the list of things for which the Pharisee thanks God" (*Luke*, 679).

[115] Jeremias calls these "two works of supererogation" (*Parables*, 140). Having noted this, Bailey says that Amos 4:4 "had some sharp words for this type of religion" (*Through Peasant Eyes,* 152*).* This, however, takes Amos 4:4 completely out of context, for Amos critiques that sacrifices and tithes are taking place in Bethel and Gilgal, rather than in Jerusalem.

[116] Hultgren, *Parables*, 123; Nolland, *Luke*, 2:876; Herzog, *Parables as Subversive Speech*, 186; and Farris, "Tale of Two Taxations," 28.

[117] Hultgren, *Parables*, 123; see too, among others, Nolland, *Luke*, 2:876; Herzog, *Parables as Subversive Speech*, 186; Green, *Luke*, 647; and Farris, "Tale of Two Taxations," 28.

[118] Fitzmyer notes that the reason for these two days is that they are "not contiguous with a Sabbath and themselves as far apart as possible" (*Luke*, 2:1187). In addition to noting the Pharisee's days of fasting, Fitzmyer (ibid.), Nolland (*Luke*, 2:876), and Bock (*Luke*, 2:1463) all mention that *Did.* 8:1 encouraged early Christians not to fast with the "hypocrites," but to fast on Wednesday and Friday. Might it be suggested that the polemical attitude reflected in *Did.* 8:1 is already present in the Lukan presentation of the Pharisee, and/or Matt 6:16–18, where "'the hypocrites' . . . means the Pharisees" (Johnson, *Luke*, 272)?

[119] Nolland, *Luke*, 2:876.

In a Q saying, Luke 11:42//Matt 23:23, the Pharisees are noted for their conscientious tithing[120] while being chided for neglecting weightier matters of the law. This particular Pharisee goes beyond the tithing mentioned there; he tithes even more than his "whole income" (RNAB, quoted above). He tithes all that he "acquires,"[121] that is, "everything that he brings into his household . . . , including foods that he acquires by purchase, lest the tithe had not been paid by the producer, a custom that is known to have existed in antiquity."[122] It is also noteworthy that the language is somewhat reflective of the description of the patriarch of all tithing, Abraham, in Gen 14:20b.[123]

Both the Pharisee's fasting and his tithing reflect a man of some financial means.[124] Moreover, it is likely that these pious, virtuous, and meritorious acts were not taken on only for the Pharisee's benefit. First, "[w]ithin the parable, it appears that the Pharisee is portrayed as understanding his fasting as meritorious or vicarious—surely not as an act of repentance for himself, but possibly for the sins of Israel."[125] Second, as noted, his exceptionally generous tithing is also not only for himself, but he vicariously tithes on behalf of those who did not tithe or, more likely, did not have the means to pay the prescribed tithes—often because of the tax collector's work.[126] Thus, not only is this Pharisee conscientious about tithing (and fasting), but he also seems to have the weightier matters of the law (see, as noted above, Luke 11:42//Matt 23:23) in mind by his willingness to go above and beyond what is required for the sake of those who could not fulfill their duty.

The storyteller now moves to the position and posture of the second person (v. 13a). The tax collector, like the Pharisee, stands, but he does so μακρόθεν, "off at a distance,"[127] which could be from "the holy place, the Phar-

[120] Leviticus 27:30; Num 18:27 and Deut 12:17; 14:13 levy "[t]ithes . . . on grain, wine, and oil," though tithing was extended to other items in later times (Bailey, *Through Peasant Eyes*, 152). Fitzmyer notes a more extensive biblical command: "Deut 14:22–23 prescribes a tithe of all the produce of one's seed, grain, oil, firstlings of the herd and flock—it was to be offered annually at the harvest festival" (*Luke*, 2:1187).

[121] E.g., Marshall, *Luke*, 679–80; Scott, *Hear Then a Parable*, 93; Nolland, *Luke*, 2:873; Hultgren, *Parables*, 123; Farris, "Tale of Two Taxations," 28.

[122] Hultgren, *Parables*, 123. See also Jeremias, *Parables*, 140–41; and especially Fitzmyer, *Luke*, 2:1188, who puts it well: "In other words, he ate not only 'clean' food, but was also careful to eat only tithed food."

[123] Genesis 14:20b: καὶ ἔδωκεν αὐτῷ δεκάτην ἀπὸ πάντων ("Then Abram gave him a tenth of everything").

[124] Farris, "Tale of Two Taxations," 27: "Anyone who can fast twice weekly must be well fed. Anyone who can tithe all he owns had some income to spare. In these ways too he was not 'like other people' and, of course, thankful for it." On the financial wherewithal of Pharisees in general, see n. 76 and the text at n. 87.

[125] Hultgren, *Parables*, 123; Farris, "Tale of Two Taxations," 29.

[126] See nn. 89 and 100 above.

[127] It is instructive to observe the other uses of μακρόθεν in Luke: 16:23 for the postmortem

isee, or others at prayer."[128] In the end, his distance is probably from all three, given both that the tax collector was understood as a sinner[129] and that he, from his own prayer, understands himself as a sinner. He probably remains in the outer courtyard, the place for Gentiles (even though he is probably a Jew),[130] perhaps even as far off as the Eastern gate.[131]

Although it was usual to stand, with eyes and hands lifted, for prayer,[132] the tax collector οὐκ ἤθελεν οὐδὲ τοὺς ὀφθαλμοὺς ἐπᾶραι εἰς τὸν οὐρανόν (v. 13b, "would not even raise his eyes to heaven"). Οὐκ ἤθελεν, literally, "he did not wish/want," is used of the judge in 18:4 in the sense of "[he] was unwilling" or "he refused" (NRSV), while here it has more the sense of "he did not dare."[133] That "he did not dare" to raise his eyes toward heaven, that is, toward the God with whom he pleads, is "a sign of shame, based in a sense of guilt (Ezra 9:6; *1 En.* 13:5)."[134] In addition, the tax collector ἔτυπτεν τὸ στῆθος αὐτοῦ ("beat his breast"), which was normally a practice of women at funerals,[135] though here it clearly is "a sign of extreme anguish or contrition."[136] Moreover, the beating of his breast or chest reflects the understanding that the

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distance between the rich man and Lazarus; 22:54 for the distance at which Peter followed Jesus after his arrest (par. Mark 14:54); 23:49 for the distance from which Jesus' acquaintances and the women (disciples) witnessed the crucifixion (par. Mark 15:40).

[128] Hultgren, *Parables*, 123.

[129] Scott puts it well in his own chosen image: "The temple map . . . determines the tax collector's place" (*Hear Then a Parable*). For Scott, the temple map is responsible for "deciding who is on the inside and who is on the outside" (p. 96) as "part of the social map that draws the line between religious and nonreligious" (p. 92).

[130] Held by, e.g., Marshall, *Luke*, 680; Bock, *Luke*, 2:1464; and Hultgren, *Parables*, 124, who notes that he "obviously [is] a Jewish person, since he goes to the Temple to pray" (see n. 89 above). Fitzmyer places the tax collector much closer: "probably just within the confines of the court of Israel" (*Luke*, 2:1188).

[131] Herzog, *Parables as Subversive Speech*, 185: "the [tax] collector had stationed himself near the gate so as to avoid being shamed by the Temple officials."

[132] Jeremias, *Parables*, 143. Hultgren cites Ps 123:1; John 11:41; 1 Tim 2:8 (*Parables*, 124). Marshall notes that raising one's eyes is "well attested (Mk. 6:41; 7:34; Jn. 11:41; 17:1; Ps. 123:1; 1 Esd 4:58; Jos. Ant. 11:162; *et al.*)" (*Luke*, 680). Moreover, "[t]he significance of οὐδέ, 'not even,' is that he did not even raise his eyes, still less his hands in prayer" (*Luke*, 680). Bailey, however, differs: "The accepted posture for prayer was to cross hands over the chest and keep the eyes cast down" (*Through Peasant Eyes*, 153, citing A. Edersheim, *The Temple: Its Ministry and Services as They Were at the Time of Jesus Christ* [London: Religious Tract Society, n.d.], 156); there is a revised ed., Boston: Ira Bradley & Co., 1881).

[133] Jeremias, *Parables*, 153, who points to a similar use of Herod in Mark 6:26.

[134] Hultgren, *Parables*, 124; cf. Nolland, *Luke*, 2:877.

[135] Bailey, *Through Peasant Eyes*, 153–54, who is picked up by Herzog, *Parables as Subversive Speech*, 188.

[136] Hultgren, *Parables*, 124; he also points to its use at the death of Jesus in Luke 23:48 (as does Bailey, *Through Peasant Eyes*, 153). See too, among others, Jeremias, *Parables*, 141; Scott, *Hear Then a Parable*, 96; and Nolland, *Luke*, 2:877, who cites Joel 2:2 (LXX) and *Barn.* 7:5.

heart holds one's deepest intentions, and thus is also the place of evil intentions and sin (e.g., Mark 7:18–23//Matt 15:15b–20).[137] The tax collector's position and posture clearly indicate that he "knows his place."[138]

With eyes lowered and beating his breast, the tax collector "is saying" (λέγων), Ὁ θεός, ἱλάσθητί μοι τῷ ἁμαρτωλῷ (v. 13c, "O God, be merciful to me a sinner"). His opening address is the same as the Pharisee's, and the content of his plea is as true of his life in the context of the temple as the content of the Pharisee's thanksgiving is of his life in the context of the temple.[139] "The term 'sinners' means: (1) People who led an immoral life (e.g. adulterers, swindlers, Luke 18.11) and (2) people who followed a dishonourable calling (i.e. an occupation which notoriously involved immorality or dishonesty). . . . For example, excise-men, tax-collectors, shepherds, donkey-drivers, pedlars, and tanners."[140]

The tax collector's petition is similar to Ps 51:3 (LXX): Ἐλέησόν με, ὁ θεός, κατὰ τὸ μέγα ἔλεός σου ("Have mercy on me, God, in your goodness").[141] Rather than use the more usual verb for "have mercy/be merciful," the imperative of ἐλεέω,[142] Luke 18:13c has ἱλάσκομαι, which in the active voice means "to make atonement for sin" (cf. Heb 2:17) and in the passive, "be merciful/gracious."[143] Because of the use of ἱλάσκομαι, even "closer" parallels than Psalm 51 to the wording of the tax collector's prayer can be found in "lines from a number of psalms (LXX 24:11; 77:38; 78:9, using *hilaskomai* and *hamartia*, though not *hamartōlos*), as well as some lines in the Prayer of Manasseh (9, 10, 12, 14)."[144] In addition, ἱλάσκομαι

> is a word with cultic resonance, echoing the language of the only passage in the Torah that speaks of the purpose of the daily Tamid, Exod 30:16. Speaking of the "temple tax," the LXX translation of this text mandates that the

[137] Jeremias, *Parables*, 141; Bailey, *Through Peasant Eyes*, 153–54; Marshall, *Luke*, 680. Cf. too Luke 12:45 (above, n. 35).

[138] Scott continues, "according to the temple map" (*Hear Then a Parable,* 96; see n. 129 above), which picks up on an earlier comment: "The temple conjures up a religious standard that gives value to both the characters" (p. 94).

[139] See Scott, *Hear Then a Parable*, 97. Downing, however, believes that the characters in the parable are "twin caricatures" and that both prayers are equally "self-absorbed" ("Ambiguity," 98; see n. 177 below).

[140] Jeremias, *Parables*, 132, with reference to his *Jerusalem in the Time of Jesus: An Investigation into Economic and Social Conditions during the New Testament Period* (trans. F. H. Cave and C. H. Cave, based on a draft by M. E. Dahl; Philadelphia: Fortress; London: SCM, 1969), 303–12.

[141] Jeremias, *Parables*, 144; Marshall, *Luke*, 680.

[142] For its use in the Synoptic Gospels, see Mark 10:47, 48//Matt 20:30, 31 (and 9:27)//Luke 18:38, 39; Matt 15:22 (addMk 7:25); Matt 17:15 (addMk 9:17); Luke 16:24; 17:13.

[143] Hultgren (*Parables*, 124) also refers to this usage in the LXX, 4 Kgdms 24:4; Lam 3:42; Dan 9:19.

[144] Downing, "Ambiguity," 87; "closer" is taken from n. 26.

> Israelites are to "give [the money contributed] for the service of the tabernacle of testimony; and it shall be to the children of Israel as memorial before the Lord, to make atonement [*exilasasthai*]" for their souls.[145]

Here in Luke 18:13b the aorist passive imperative, ἱλάσθητι, has "the sense of 'propitiate or reconciliate'";[146] normally, such propitiation, reconciliation, or atonement was made by a sacrifice at the temple. Thus, the tax collector appears to long and to hope "that the great dramatic atonement sacrifice might apply to him."[147] But, as noted above, the temple sacrifice has not been mentioned explicitly by the storyteller.

"Now, with all expectations laid out for Pharisee, [tax] collector and Temple, it is time for *parable*,"[148] and to that end, the storyteller now moves quickly to the conclusion of the story: λέγω ὑμῖν, κατέβη οὗτος δεδικαιωμένος εἰς τὸν οἶκον αὐτοῦ (v. 14a, "I tell you, the latter went [down] home justified"). "I tell you," is emphatic, either by the storyteller himself[149] or, quite probably, as argued above, by Luke.[150] The perfect passive participle of δικαιόω (δεδικαιωμένος) is a "divine passive," expressing that "God has justified him, declared him to be in right relationship with himself; the man has been 'right-wised.'"[151]

Whatever murmuring may have been heard from the original hearers up until now would most likely reach a fever pitch at this point: How is this possible? What had the tax collector done to have been justified, to have gone from "sinner" to being "upright in the sight of God"?[152] Although "the possibility of forgiveness of even the most heinous of crimes is a fundamental aspect of Jewish faith,"[153] "[o]ne would expect at this point that there is no way that the tax collector, on the basis of his prayer alone, can receive forgiveness."[154] Even if the tax collector's prayer reflects the "sacrifice" of "a contrite spirit, a heart con-

[145] Hamm, "Tamid Service," 224 (the translation and bracketed words are Hamm's); rather than "for their souls," I prefer "for their lives" (RNAB). Exod 30:16: καὶ λήμψῃ τὸ ἀργύριον τῆς εἰσφορᾶς παρὰ τῶν υἱῶν Ισραηλ καὶ δώσεις αὐτὸ εἰς κάτεργον τῆς σκηνῆς τοῦ μαρτυρίου, καὶ ἔσται τοῖς υἱοῖς Ισραηλ μνημόσυνον ἔναντι κυρίου ἐξιλάσασθαι περὶ τῶν ψυχῶν ὑμῶν.

[146] Scott, *Hear Then a Parable*, 96 n. 87; cf. Marshall, *Luke*, 680. See Bailey, *Through Peasant Eyes*, 154: "Expiation and propitiation as English words must be combined with cleansing and reconciliation to give the meaning of the Hebrew *kaffar*, which lies behind the Greek *hilaskomai*."

[147] Bailey, *Through Peasant Eyes*, 154, followed by Herzog, *Parables as Subversive Speech*, 189.

[148] Farris, "Tale of Two Taxations," 30.

[149] Hultgren, *Parables*, 125. Κατέβη is the natural complement for 13:10, ἀνέβησαν. As noted above (p. 109, at nn. 107–8), the derogatory use of οὗτος in v. 11 is reversed here.

[150] See p. 98 above, beginning at n. 46.

[151] Hultgren, *Parables*, 124.

[152] Fitzmyer, *Luke*, 2:1188. Nolland (*Luke*, 2:878) believes that Fitzmyer's expression "catches well the force here of δεδικαιωμένος (lit. 'having been justified')." For the relationship of this language to Paul's usage, see nn. 70–71 above.

[153] Nolland, *Luke*, 2:878.

[154] Hultgren, *Parables*, 124.

trite and humbled" (Ps 51:19),[155] "what had the [tax collector] done by way of reparation?"[156] One might expect him to give up his profession and pay restitution of the amount he had cheated others out of, plus one-fifth (Lev 6:5; Num 5:7), which would be virtually impossible, for there is "no way [he] could even identify the people [he] had extorted."[157]

Nevertheless, "Jesus' pronouncement is the verdict. But such a verdict! . . . The end is puzzling to its hearers, at best: this parable was truly a riddle."[158] Although the caution that "[t]here should be a moment of speechlessness here, not an explanation"[159] ought to be taken seriously, there is little doubt that the original hearers would have attempted to make sense of this dramatic turn of events. At the very least their expectations of what ought to happen in the temple area are challenged, even shattered.[160] The original hearers could not help but ask, "How could this be?" "If the [tax] collector is justified by a mercy as unpredictable and outrageous as this, then who could not be included?"[161]

The storyteller does not explicitly mention the temple sacrifice, even though the tax collector pleads for the atonement or propitiation that would normally be associated with that sacrifice.[162] It seems reasonable to assume that

[155] Jeremias, *Parables*, 144; cf. Marshall, *Luke*, 681.

[156] Jeremias, *Parables*, 144, quoted by Scott, *Hear Then a Parable*, 93.

[157] Herzog, *Parables as Subversive Speech*, 188. Nevertheless, see Zacchaeus's proposed super-restitution in Luke 19:8. See also Jeremias, *Parables*, 143. With respect to Zacchaeus's repentance, "[e]ven the Pharisee would approve of that kind of penitence!" (Farris, "Tale of Two Taxations," 29).

[158] Herzog, *Parables as Subversive Speech*, 189. It is truly "time for *parable*" (see p. 114 above, at n. 148). See Scott, *Hear Then a Parable*, 97: "The audience winces in disbelief." Hultgren notes: "By declaring the tax collector justified, Jesus assumes an authority that belongs to God alone" (*Parables*, 125). This is especially true with the (likely) Lukan λέγω ὑμῖν.

[159] Farris, "Tale of Two Taxations," 30.

[160] Scott, *Hear Then a Parable*, 97: "The [temple] map has been abandoned, it can no longer predict who will be an insider or outsider. This parable subverts the metaphorical structure that sees the kingdom of God as temple. Given this metaphorical system, things associated with the temple are holy and in the kingdom, and things not associated with the temple are unholy and outside the kingdom." In a similar vein, Farris writes: "Expectations have been reversed, assumptions toppled and a whole world of how things work has been brought into question—if the parable is true" ("Tale of Two Taxations," 30). He continues: "What kind of world is disclosed in that moment? One where the Temple sacrifice fails its own proponent and is effective for an opponent against all expectations." I am not willing to go as far as Farris's last comment. First, the sacrifice has not been explicitly mentioned. Second, the "proponent" is failed if and only if παρ' ἐκεῖνον both is part of the originating structure and is to be taken in an exclusive sense (see below, at nn. 164–68). Finally, it is still in the temple area that the storyteller places the atonement of the tax collector.

[161] Herzog, *Parables as Subversive Speech*, 192.

[162] Seemingly sensing that his six-point argument for a time of formal worship may not convince (above, n. 81), Bailey continues to press his case, ending with a suggestion that appears to me to beg the question: "If, however, one concludes that the evidence for corporate worship is yet

some of the original hearers may have attributed the atonement of the tax collector to the temple sacrifice.[163] No doubt the hearers would have hoped, perhaps even expected, that God would bring about atonement for them through the temple sacrifice. That the tax collector went down justified would not preclude others from the sacrifice's atonement, but without specific restitution the justification of the tax collector would likely have struck many as too easy. As the original hearers wrestled with making sense of the storyteller's conclusion, some may have even noted that there had been no explicit reference to the temple sacrifice.

By way of an excursus, we can return to consideration of παρ' ἐκεῖνον. We argued above that παρ' ἐκεῖνον ("not the former") was added by Luke.[164] Nevertheless, it can be noted that if παρ' ἐκεῖνον were part of the originating structure, the shock of Jesus' verdict would not have been any less—it even may have been more startling. If παρ' ἐκεῖνον is taken in the most exclusive sense, then it could be understood that the Pharisee, who presumably went up to the temple in right relationship with God, went down unjustified, unrighteous, no longer in right relationship with God. But how could this be? "What fault had the Pharisee committed?"[165] Rather, it seems likely that "[a]ccording to all expectations, his piety should put him in right standing with God."[166]

In addition, if παρ' ἐκεῖνον were part of the original story, we might ask whether this exclusive sense would have been the meaning of the prepositional phrase. Might the exclusive meaning "not the former," which is rather universally understood here, have resulted from "spillage" from Luke's introduction, 18:9?[167] Without 18:9, perhaps παρ' ἐκεῖνον could be understood differently; even though it is rather rare, παρά + accusative can mean "because of" or "on account of."[168]

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unconvincing as a specific setting for the parable, we are still obliged to assume this same background in general. At dawn each day the atonement sacrifice took place. The smoke from the sacrifice arose over the altar and the temple area. Any believer offering private prayers in the temple any time between the two services stood in the presence of this altar with its burning sacrifice. He knew that it was possible for him to address God with his private needs *only* because the atonement sacrifice had taken place. Any private prayers were, as it were, sandwiched in between the two daily atonement sacrifices. Thus any kind of prayer in the temple area (private devotions or prayer in connection with corporate worship) necessarily presupposes the context of the twice daily atonement sacrifice that is specifically mentioned in the parable itself" (*Through Peasant Eyes,* 146–47, here 147). Even though all of this is true, perhaps the storyteller specifically does not want to refer to the formal atonement sacrifice for the purposes of how he wishes to image the kingdom of God. Therefore, I prefer to work with the starkness of the original parable, which may more respect the original storyteller's intention (see n. 84 above).

[163] With respect to Luke 18:9–14, at the very least, as Hamm puts it (see n. 81 above), this does seem to be what "the implied author expects the [implied?] reader to assume."

[164] See p. 101 above, beginning at n. 61.

[165] Jeremias, *Parables*, 144, quoted by Scott, *Hear Then a Parable*, 93.

[166] Farris, "Tale of Two Taxations," 29.

[167] On "spilling phenomenon," see Bailey's comment in n. 35 above; see also Nolland's comment in n. 65 above.

[168] BDAG, 758, *s.v.* παρά, C "('w. acc. of pers. or thing').5 ('marker of causality, *because of*')."

With the observation that no explicit reference to sacrifice had been made by the storyteller, hearers may have continued to struggle to explain how it could be that the tax collector went down from the temple justified. Might a hearer suggest that the tax collector went down justified because he had benefited from the vicarious virtue of the Pharisee's fasting and tithing?[169] What else does the storyteller offer his hearers? Unquestionably it is God who had effected the justifying, as the perfect passive participle δεδικαιωμένος indicates. In addition, God's justification was effected in the temple area, so that the temple's significance remains. Nevertheless, in the context of the temple, that divine action is normally connected with the sacrifice, so without explicit mention of the temple sacrifice, it does not seem unreasonable to propose that the original hearers would have searched for something with which to replace the sacrifice. Given that the storyteller does explicitly mention the Pharisee's righteousness, fasting, and tithing, all of which go above and beyond, perhaps some hearers may have connected these with God's justification of the tax collector. Although it is difficult to find contemporary texts to support this connection, that Exod 30:16 already connects the payment of the temple tax with atonement[170] seems to allow the suggestion of a similar understanding of the tithing, which also supported the temple.[171] Moreover, that the Pharisee tithes πάντα ὅσα κτῶμαι appears to indicate a concern not only for himself, but also for those who did not or could not pay their tithes.[172] Finally, even the language of ἱλάσκομαι for the forgiveness of sins is not strictly limited to the atonement by God that is specifically related to the temple sacrifice.[173] So again, in the absence of the temple sacrifice and in the face of the Pharisee's tithing and fasting, some original hearers may have connected the latter with the tax collector having been made "upright in the sight of God"[174] by God.

Gen 29:20; Ex 14:11; 1 Cl 39:5f (Job 4:20f); π. τοῦτο *because of this* ITr 5:2; IRo 5:1 (quot. fr. 1 Cor 4:4, where Paul has ἐν τούτῳ). οὐ παρὰ τοῦτο οὐ) (double neg. as a strengthened affirmative) *not for that reason any the less* 1 Cor 12:15f."

In addition, given Fitzmyer's suggestion that behind παρά is the Aramaic על (see n. 65 above), then it, too, could be taken in the sense of "on account of, because of." BDB, 754, *s.v.* על, II.1.(b): "The basis being conceived as involving the *ground*, על denotes the cause or reason, *on account of, because of.*" See also Georg Fohrer, *Hebrew & Aramaic Dictionary of the Old Testament* (trans. W. Johnstone; London: SCM, 1973), 204; and Benjamin Davidson, *The Analytical Hebrew and Chaldee Lexicon* (Grand Rapids: Zondervan, 1970 [orig., London: Samuel Bagster & Sons, 1848), 599.

[169] This may even be the case if παρ' ἐκεῖνον were part of the originating structure, with the sense of "because/on account of the other," as discussed above (p. 116 at nn. 167–68).

[170] See p. 114 above at n. 145.

[171] See pp. 105, 107, and 108, at nn. 79, 89, and 100.

[172] See p. 111 above at nn. 120–26.

[173] See p. 113 above at n. 144.

[174] Above, n. 152.

If any of Jesus' hearers made such a connection it would be hard to overestimate the shock, dismay, and perhaps even anger of the original audience. How else would a pious Pharisee react upon hearing that his fasting and tithing might benefit even a tax collector? How else would other (peasant) hearers, who may have heard themselves reflected or at least implied in the sins listed by the Pharisee, react to this ending? These hearers may even have been hoping that the Pharisee's fasting and tithing might benefit them in their inability to do either. How are they to react upon hearing that the Pharisee's supererogation may benefit, of all people, their nemesis, a tax collector? That is, the one who benefits is precisely the one whose occupation contributes to their inability to pay their tithes (and, perhaps, the temple tax).[175]

But so it is with the kingdom of God, according to Jesus' parable. Expectations, even those connected with the temple, do not obligate the kingdom of God. With this parable (and other parables), Jesus ushers in "the complete, radical, polar reversal of accepted human judgment, even or especially of religious judgment. . . . What, in other words, if God does not play the game by our rules?"[176] But that ought not lead today's reader to a sense of smugness vis-à-vis the original hearers—so as to become like Luke's pharisaic caricature.[177] At some point today's reader needs to be as jarred by the parable as it seems likely the original hearers were. Because, what "if God does not play the game" by anyone's rules? Who, then, can be secure in her or his religious observations? What if God refuses to be obliged by any group that makes exclusive claims on the way to salvation? What if all theologies—if the term can be applied—of indulgences, novenas, or First Friday observances are not games the kingdom cares to play? What if whatever benefits any of these practices by an observant person might effect washes over some unobservant one? What if any or all intercessory prayer uttered in worship services or in private help the intercessors' nemeses as much as or even more than those persons in the intercessors' hearts and minds? What if morality, however important, in the end is not the main concern of the kingdom?[178]

Whatever one imagines about God and how God reigns is called into question by this parable (and other parables) of Jesus and his imaging of the kingdom of God. Questions like those already posed seem to spring up almost

[175] See nn. 89 and 100 above.

[176] Crossan, *In Parables*, 69; idem, *Raid on the Articulate*, 109, and n. 22 above.

[177] For me, the Lukan context caricatures the Pharisee (see Scott's comment, n. 22 above) and the tax collector, whereas the original parable provides *characters*, albeit thumbnail sketches of them (*pace* Downing, "Ambiguity," e.g., 81 and 98, with reference to L. Schottroff, "Die Erzählung"; see Downing's comment in n. 139 above).

[178] Albert Camus said, "We live for something that goes farther than morality. If we could only name it, what silence!" (quoted by Crossan, *Raid on the Articulate*, 68).

nonstop—if Jesus' parable is true[179] (and if this rereading but touches on its truth). As one final consideration, we can recall that Jesus probably used parables, and perhaps even this parable, apologetically to defend his ministry of preaching and healing.[180] If so, then like the kingdom, Jesus did not play by the rules, for he crossed the social boundaries with respect to lepers and women, the religious boundaries surrounding the Sabbath, the table manners that determined with whom one should and should not eat, and so on. If such an apologetic use of this parable was at all the case for Jesus, what Christian man or woman—or, even more pointedly, what Christian church of today— would be in need of a similar defense?

[179] See Farris's comment in n. 160 above.
[180] See n. 75 above.

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OSSUARIES AND THE BURIALS OF JESUS AND JAMES

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In November 2002 the existence of a sensational archaeological artifact was announced to the world: a small stone box called an ossuary inscribed "James, son of Joseph, brother of Jesus."[1] Before this most people had never heard of an ossuary, and many probably still do not know what ossuaries are. But even within the small circle of scholars who specialize in the history and archaeology of Palestine in the late Second Temple period, the reasons for the sudden appearance and relatively short period of popularity of ossuaries (from the late first century B.C.E. to mid-to-late third century C.E.) remain poorly understood.

In the first part of this article I review the archaeological evidence for Jewish tombs and burial customs in the late Second Temple period, focusing especially on Jerusalem. Only the wealthier members of Jewish society could afford rock-cut tombs, which belonged to families and were used over the course of several generations. The poorer classes were buried in simple individual trench graves dug into the ground. Ossuaries were used in rock-cut tombs as containers for the collected, decomposed remains (bones) of earlier burials. The custom of ossilegium apparently has nothing to do with Jewish beliefs in resurrection and afterlife and instead is analogous to the use of cinerary urns elsewhere the Roman world. Since Jews did not cremate their dead, Judean

[1] See André Lemaire, "Burial Box of James the Brother of Jesus," *BAR* 28 (2002): 24–33, 70; Hershel Shanks and Ben Witherington III, *The Brother of Jesus: The Dramatic Story & Meaning of the First Archaeological Link to Jesus & His Family* (New York: HarperSanFrancisco, 2003). I am not concerned here with the paleographical and scientific analyses that have attempted to prove or disprove the authenticity of all or part of the inscription. Instead, I hope to demonstrate that even if the inscription is authentic (ancient), this ossuary would not have contained the bones of James the Just, the brother of Jesus. I am grateful to Andrea Berlin, Bruce Chilton, Karl Donfried, Bart Ehrman, Paul Flesher, Jacob Neusner, and the two anonymous *JBL* reviewers for their comments on this paper. Their advice does not imply agreement with the contents of this paper, for which I assume sole responsibility.

ossuaries were used for the collection of bones, not cremated remains. The appearance of ossuaries is one aspect of the adoption of Hellenistic and Roman fashions by Jerusalem's elite during Herod's reign.

My review of Jewish tombs and burial customs in the late Second Temple period sets the stage for a reconsideration of the archaeological and literary evidence for the burials of Jesus and his brother James. In the second part of this article I discuss the Gospel accounts describing the removal of Jesus from the cross and his burial. In my opinion, these accounts are consistent with the archaeological evidence and with Jewish law. Jesus came from a family of modest means that presumably did not own a rock-cut tomb. Because Jesus died and was removed from the cross on the eve of the Sabbath, there was no time to dig a trench grave for him. For this reason, Jesus' body was placed in the rock-cut family tomb of a wealthy follower (named Joseph of Arimathea in the Gospel accounts).

In the last part of this article I examine the evidence for the burial of Jesus' brother James, including the controversial "James ossuary." The claim that this ossuary contained the remains of James the Just is inconsistent with the archaeological and literary evidence. Not only did James come from a family of modest means, but he was known for his opposition to the accumulation of wealth and the lifestyle and values of the upper classes. James was executed by stoning on a charge of violating Jewish law and was apparently buried in a simple trench grave that would not have contained an ossuary. A second-century C.E. reference by Hegesippus to a tombstone marking the spot of James's grave seems to preserve an accurate tradition concerning the manner of his burial. Therefore I conclude that even if the inscription on the "James ossuary" is authentic and is not a modern forgery, this stone box would not have contained the bones of James the Just, the brother of Jesus.

I. Ancient Jewish Tombs in Jerusalem: The Late First Temple Period

To understand how the Jews of the late Second Temple period disposed of their dead, we must begin with the late First Temple period. In both periods the wealthy Jewish population of ancient Jerusalem interred their dead in rock-cut tombs. The following features characterize these tombs:

1. The rock-cut tombs are artificially hewn, underground caves that are cut into the bedrock slopes around Jerusalem.
2. With few exceptions, the tombs were located outside the walls of the city.

3. Each tomb was used by a family over the course of several generations, as described by the biblical expression "he slept and was gathered to his fathers" (e.g., Judg 2:10; 2 Chr 34:28).[2]

4. When a member of the family died, the body was wrapped in a shroud and sometimes placed in a coffin; it was then laid in the tomb as an individual inhumation, even if the bones were later collected and placed elsewhere.

5. Because of the expense associated with hewing a burial cave into bedrock, only the wealthier members of Jerusalem's population—the upper class and upper middle class—could afford rock-cut tombs. The poorer members of Jerusalem's population apparently disposed of their dead in a manner that has left fewer traces in the archaeological record, for example, in individual trench graves or cist graves dug into the ground.

6. From the earliest periods, the layout and decoration of Jerusalem's rock-cut tombs exhibited foreign cultural influences and fashions. Evidence for such influence—and indeed, for the use of rock-cut tombs—is attested only in times when Jerusalem's Jewish elite enjoyed an autonomous or semiautonomous status: in the late First Temple period (eighth and seventh centuries until 586 B.C.E.) and the late Second Temple period (from the establishment of the Hasmonean kingdom until 70 C.E.). During these periods the Jerusalem elite adopted foreign fashions that were introduced by the rulers or governing authorities.

Rock-cut tombs of the late First Temple period have been discovered to the west, north, and east of the Old City. They include the tombs at Ketef Hinnom, the caves at St. Étienne (the École Biblique), and the caves in the Silwan (Siloam) village.[3] These tombs typically consist of one or more burial chambers

[2] Anthropological analyses of human skeletal remains from several burial caves of the late Second Temple period have confirmed that the individuals in each tomb were related and that the tombs were family-owned; see Yossi Nagar and Hagit Torgee, "Biological Characteristics of Jewish Burial in the Hellenistic and Early Roman Period," *IEJ* 53 (2003): 164–71.

[3] A comprehensive discussion of tombs from the First Temple period lies outside the scope of this article. For general information, including the tombs mentioned here, see Elizabeth Bloch-Smith, *Judahite Burial Practices and Beliefs about the Dead* (Sheffield: Sheffield Academic Press, 1992); Gabriel Barkay, "Burial Caves and Burial Practices in Judah in the Iron Age" (in Hebrew), in *Graves and Burial Practices in Israel in the Ancient Period* (ed. I. Singer; Jerusalem: Yad Izhak Ben-Zvi, 1994), 96–164; idem, "The Necropoli of Jerusalem in the First Temple Period" (in Hebrew), in *The History of Jerusalem: The Biblical Period* (ed. S. Ahituv and A. Mazar; Jerusalem: Yad Izhak Ben-Zvi, 2000), 233-70; Gabriel Barkay and Amos Kloner, "Jerusalem Tombs from the

which were entered through a small, unadorned opening cut into the bedrock. Each burial chamber is lined with rock-cut benches around three sides, on which the bodies of the deceased were laid. Frequently a pit hewn under one of the benches was used as a repository for the bones of earlier burials. In this way, space was made for new interments when the benches were occupied. An undisturbed repository in the Ketef Hinnom cemetery contained large numbers of skeletons as well as the burial gifts that accompanied them, including ceramic vases and oil lamps, jewelry, seals, a rare early coin, and two silver amulets.[4] Many of the decorative elements in these burial caves, such as the benches with carved headrests and parapets, and the cornices carved around the top of the burial chambers (as, for example, at St. Étienne) reflect Phoenician influence (or Egyptian styles transmitted directly from Egypt or through Phoenician intermediaries).[5] Phoenician influence on the tombs of Jerusalem's elite in the First Temple period is hardly surprising in light of the biblical accounts of Phoenician involvement in the construction of Solomon's temple, as well as later contacts between the Israelites and their neighbors to the north.[6]

II. Ancient Jewish Tombs in Jerusalem: The Late Second Temple Period

After the destruction of Jerusalem and Solomon's temple in 586 B.C.E., archaeological evidence for Jewish burial caves reappears only in the Hasmonean period, when Jerusalem again came under Jewish rule. Although the Maccabees were renowned for their opposition to the introduction of Hellenistic culture to Judea, the Hasmonean rulers show signs of Hellenization soon after the establishment of their kingdom. This is perhaps best illustrated by the monumental family tomb and victory memorial built by Simon in their hometown of Modiin, in which he interred the remains of his parents and brothers.

Days of the First Temple," *BAR* 12 (1986): 22–39; Gabriel Barkay, Amihai Mazar, and Amos Kloner, "The Northern Cemetery of Jerusalem in First Temple Times" (in Hebrew), *Qadmoniot* 30–31 (1975): 71–76; David Ussishkin, *The Village of Silwan: The Necropolis from the Period of the Judean Kingdom* (Jerusalem: Israel Exploration Society, 1993); Nahman Avigad, *Ancient Monuments in the Kidron Valley* (in Hebrew) (Jerusalem: Bialik Institute, 1954).

[4] See Gabriel Barkay, "News from the Field: The Divine Name Found in Jerusalem," *BAR* 9 (1983): 14–19.

[5] See Jodi Magness, "A Near Eastern Ethnic Element among the Etruscan Elite?" *Etruscan Studies* 8 (2001): 79–117.

[6] Phoenician influence is evident also in the Proto-Aeolic capitals, carved ivories, and other objects and decorative elements found in the Israelite and Judahite palaces; see Amihai Mazar, *Archaeology of the Land of the Bible 10,000–586 B.C.E.* (New York: Doubleday, 1990), 408–12, 426.

Although no remains of this tomb survive, our literary sources leave little doubt that it was inspired by the tomb of Mausolus of Caria—the so-called Mausoleum at Halicarnassus—which is one of the seven wonders of the ancient world:[7]

> And Simon built a monument over the grave of his father and his brothers, and made it high so that it could be seen, with polished stone on back and front. And he erected seven pyramids in a row, for his father and his mother and his four brothers. And he made devices for these, setting up great trophies of armor for an everlasting memorial, and beside the armor carved prows of ships, so that they could be seen by all who sailed the sea. Such was the monument that he built at Modin, and that still stands today. (1 Macc 13:27–30)

> However, Simon sent some to the city Basca to bring away his brother's bones, and buried them in their own city Modin; and all the people made great lamentation over him. Simon also erected a very large monument for his father and his brethren, of white and polished stone, and raised it to a great height, and so as to be seen a long way off, and made cloisters about it, and set up pillars, which were of one stone apiece; a work it was wonderful to see. Moreover, he built seven pyramids also for his parents and his brethren, one for each of them, which were made very surprising, both for their largeness and beauty, and which have been preserved to this day. (Josephus, *Ant.* 13.6.6)[8]

Like the Mausoleum, the tomb of the Maccabees consisted of a tall podium with a templelike building surrounded by columns and capped by a pyramidal roof (or in the case of the tomb of the Maccabees, seven pyramids, one for each family member). As Andrea Berlin notes, none of these features is found in earlier Jewish or Phoenician tombs in Palestine.[9] Pyramidal, conical, or columnar tomb markers became popular among Jerusalem's elite in the first century B.C.E. and first century C.E. (as well as among neighboring peoples such as the Nabateans). The Jews referred to this type of tomb marker as a *nepheš* (Hebrew meaning "soul").[10]

It is not surprising that the Hasmoneans adopted elements of Hellenistic

[7] See Andrea M. Berlin, "Power and Its Afterlife: Tombs in Hellenistic Palestine," *NEA* 65 (2002): 143–47; Janos Fedak, *Monumental Tombs of the Hellenistic Age* (Toronto: University of Toronto Press, 1990), 71–74.

[8] All translations of Josephus are from William Whiston, *Josephus: Complete Works* (Grand Rapids: Kregel, 1984).

[9] Berlin, "Power and Its Afterlife," 145.

[10] See Lothar Triebel, *Jenseitshoffnung in Wort und Stein: Nefesch und pyramidales Grabmal als Phänomene antiken jüdischen Bestattungswesens im Kontext der Nachbarkulturen* (AGJU 56; Leiden: Brill, 2004); Levy Y. Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three," *BA* 44 (1981): 46.

culture to display their status.[11] By the first half of the second century B.C.E., Jerusalem's elite, including the high priests, were predisposed to embrace Hellenistic culture. These elite families (most prominently, the Tobiads, Simonites, and Oniads) had allied themselves alternately with the Ptolemies, the Seleucids, and/or the Romans.[12] In 175 B.C.E., while the high priest Onias III was in Antioch, his brother Jason seized the high priesthood for himself. Jason requested (and received) Antiochus IV's permission to refound Jerusalem as a Greek polis, and established a gymnasium for the education of the city's Jewish youth:

> But when Seleucus departed this life and Antiochus, who was called Epiphanes, succeeded to the kingdom, Onias' brother Jason obtained the high priesthood by corruption, promising the king in his petition three hundred and sixty talents of silver, and eighty talents from other revenues. Besides this he promised to pay a hundred and fifty more, if he was given authority to set up a gymnasium and a training place for youth there and to enroll the people of Jerusalem as citizens of Antioch. When the king had consented, and he had taken office, he immediately brought his countrymen over to the Greek way of living. (2 Macc 4:7–10)

Commenting on this episode, Martin Hengel said, "The initiative here clearly came from the Hellenists in Jerusalem, who presumably had the majority of the priests and lay nobility, who in practice held all power in their hands, on their side."[13] 2 Maccabees describes how the high priests hurried to finish their sacrifices so they could watch the games:

> For he [Jason] willingly established a gymnasium right under the citadel, and he made the finest of the young men wear the Greek hat. And to such a pitch did the cultivation of Greek fashions and the coming-in of foreign customs rise, because of the excessive wickedness of this godless Jason, who was no high priest at all, that the priests were no longer earnest about the services of the altar, but disdaining the sanctuary and neglecting the sacrifices, they hurried to take part in the unlawful exercises in the wrestling school, after the summons to the discus-throwing. (2 Macc 4:12–14)

[11] The influence of Hellenistic culture on the Hasmoneans is reflected also by their adoption of Greek names, and influence is evident on literary works composed in this period; see Lee I. Levine, *Jerusalem: Portrait of the City in the Second Temple Period (538 B.C.E.–70 C.E.)* (Philadelphia: Jewish Publication Society, 2002), 144–45.

[12] For pro-Ptolemaic and pro-Seleucid factions in Jerusalem, see Henk Jagersma, *A History of Israel from Alexander the Great to Bar Kochba* (trans. John Bowden; Philadelphia: Fortress, 1986), 40–41. Jagersma suggests that Onias III had a pro-Ptolemaic stance, whereas Simon and the rest of the Tobaids were more pro-Seleucid.

[13] Martin Hengel, *Judaism and Hellenism: Studies in Their Encounter in Palestine during the Early Hellenistic Period* (trans. John Bowden: Philadelphia: Fortress, 1981), 277.

Interestingly, the Maccabean revolt was provoked not by Jason's acts but by a decree issued by Antiochus IV a number of years later (in 167 B.C.E.), which resulted in the rededication of the Jerusalem temple to Olympian Zeus (see 1 Macc 1:41–50).[14]

Berlin attributes the adoption of Hellenistic material culture by Simon to the fact that Jonathan, his brother and predecessor, established himself as a dynast who was involved in international politics. Upon Jonathan's death, Simon transformed the "unpretentious family tomb into a dynastic monument fit for a king," modeled after the monuments of the Hellenistic East.[15] Beginning with John Hyrcanus I, Simon's successors adopted Greek names.[16] In contrast, the Qumran community, which was apparently founded by dispossessed Zadokite priests, consciously rejected Hellenistic and Roman culture.[17]

Jason's tomb demonstrates that Jerusalem's elite soon imitated the new tomb style introduced by Simon, which itself was inspired by the Mausoleum at Halicarnassus. Berlin describes Jason's tomb as "the earliest surviving 'display tomb' in Jerusalem."[18] This Hasmonean-period tomb is located in the western Jerusalem neighborhood of Rehavia.[19] It is called Jason's tomb because a graffito incised on one of the walls asks the visitor to lament the death of Jason.[20] Jason's tomb continues the earlier tradition of rock-cut burial caves in Jerusalem but with several innovations.[21] A large stone pyramid was constructed above the tomb. The tomb was approached through a series of long, open courtyards (like a dromos) that gave access to a porch. The porch's entablature was supported by a single Doric column in-antis (a Doric column set between the thickened, projecting ends of the porch walls). The porch gave access to two rooms: a burial chamber (A) and a charnel room (B). Instead of having rock-cut benches like the tombs from the First Temple period, the burial

[14] The Samaritans seem to have complied by requesting that their temple on Mount Gerizim be rededicated to Zeus Hellenios; for sources and a discussion, see Jagersma, *History of Israel*, 50–51.

[15] Berlin, "Power and Its Afterlife," 145–47.

[16] See Hengel, *Judaism and Hellenism*, 64.

[17] See Jodi Magness, *The Archaeology of Qumran and the Dead Sea Scrolls* (Grand Rapids: Eerdmans, 2002), 202–6; but for Hellenistic influence on the Essenes, see Levine, *Jerusalem*, 145.

[18] Berlin, "Power and Its Afterlife," 142.

[19] Levy Y. Rahmani, "Jason's Tomb," *IEJ* 17 (1967): 61–100; for a recent discussion, see Berlin, "Power and Its Afterlife," 142–43.

[20] See Nahman Avigad, "Aramaic Inscriptions in the Tomb of Jason," *IEJ* 17 (1967): 101–11; Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three," 45. Avigad commented, "The name Jason was common among hellenizing Jews as the equivalent for Joshua" ("Aramaic Inscriptions in the Tomb of Jason," 103).

[21] See Rahmani, "Jason's Tomb"; idem, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three," 45.

chamber in Jason's tomb has loculi (Hebrew *kokhim*) cut into the walls. Each loculus was designed to hold an individual inhumation. Like the pyramidal marker and the porch with a column, loculi reflect Hellenistic influence. Loculi are common in tombs in Hellenistic Alexandria and make their first recorded appearance in Palestine at Marisa in Idumaea.[22] Instead of depositing the remains of earlier burials in a pit or repository, as in the tombs from the First Temple period, the bones cleared out of the loculi in Jason's tomb were placed in the charnel room.[23]

Most of the features that appear in Jason's tomb remained characteristic of Jewish rock-cut tombs in Jerusalem until the end of the Second Temple period: a porch in front of the tomb's entrance, sometimes with two columns in-antis; loculi cut into the walls of the burial chambers; and a large pyramidal, conical, or columnar marker constructed over the tomb. The differences between individual rock-cut tombs of the late Second Temple period in Jerusalem mostly concern their size and degree of elaboration; that is, the number of burial chambers, the decoration on the tomb's façade or porch, and the presence of one or more monumental tomb markers. Rock-cut tombs with these features surround Jerusalem on the north, east, and south.[24] Well-known examples include the tomb of Bene Hezir in the Kidron Valley, the tomb of Queen Helena of Adiabene (the so-called Tomb of the Kings) near the American Colony Hotel, the Sanhedria tombs, and Nicanor's Tomb on Mount Scopus.[25] Herod's tomb and memorial to himself—the mountain of Herodium— displays the same features but on a much larger scale: an underground burial chamber with a conical marker above.[26]

[22] See Marjorie S. Venit, *Monumental Tombs of Ancient Alexandria: The Theater of the Dead* (Cambridge: Cambridge University Press, 2002), 175–78; Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three," 45; Byron R. McCane, *Roll Back the Stone: Death and Burial in the World of Jesus* (Harrisburg, PA: Trinity Press International, 2003), 7. Berlin notes that the tombs at Marisa, which were used by the Sidonian population at the site, continue Phoenician traditions (such as the lack of outward display) while incorporating new Hellenistic features (such as loculi) ("Power and Its Afterlife," 139–41).

[23] For other examples of late-second-century to first-century B.C.E. loculus tombs in Jerusalem that antedate the introduction of ossuaries, see Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three," 46.

[24] See Amos Kloner and Boaz Zissu, *The Necropolis of Jerusalem in the Second Temple Period* (in Hebrew) (Jerusalem: Yad Izhak Ben-Zvi, 2003).

[25] For bibliography on these tombs, see ibid.; Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three"; Craig A. Evans, *Jesus and the Ossuaries: What Jewish Burial Practices Reveal about the Beginning of Christianity* (Waco: Baylor University Press, 2003), 17–19. For Nicanor's Tomb, see Nahman Avigad, "Jewish Rock-Cut Tombs in Jerusalem and the Judaean Hill Country" (in Hebrew) *EI* 8 (1967): 119–25.

[26] See Arthur Segal, "Herodium," *IEJ* 23 (1973): 27–29; for a recent discussion with bibliography, see Jodi Magness, "The Mausolea of Augustus, Alexander, and Herod the Great," in *Hesed Ve-Emet, Studies in Honor of Ernest S. Frerichs* (ed. J. Magness and S. Gitin; Atlanta: Scholars Press, 1998), 313–39.

III. Why Ossuaries?

Sometime in the middle of Herod's reign, around 20–15 B.C.E., ossuaries first appeared in Jerusalem's rock-cut tombs.[27] There is no doubt that ossuaries were used as containers for bones removed from loculi. The question is why ossuaries were introduced at this time and why they disappear from Jerusalem after 70 C.E. (with evidence for their use on a smaller and more modest scale in southern Judea and Galilee until the third century).[28] Most of these small rectangular containers are made of stone quarried in the Jerusalem area, usually soft chalk and less frequently harder limestone.[29] They have flat or gabled lids.

[27] Rahmani suggests the date of ca. 20–15 B.C.E.; see Levy Y. Rahmani, *A Catalogue of Jewish Ossuaries in the Collections of the State of Israel* (Jerusalem: Israel Antiquities Authority, 1994), 21. For discussions of the chronology of ossuaries, see Fanny Vitto, "Burial Caves from the Second Temple Period in Jerusalem (Mount Scopus, Giv'at Hamivtar, Neveh Yaʿakov)," *ʿAtiqot* 40 (2000): 98; Yitzhak Magen, *The Stone Vessel Industry in the Second Temple Period: Excavations at Hizma and the Jerusalem Temple Mount* (Jerusalem: Israel Exploration Society, 2002), 135; Jane M. Cahill, "Chalk Vessel Assemblages of the Persian/Hellenistic and Early Roman Periods," in *Excavations at the City of David 1978–1985 Directed by Yigal Shiloh*, vol. 3, *Stratigraphical, Environmental, and Other Reports (Qedem 33)* (ed. A. de Groot and D. T. Ariel; Jerusalem: Israel Exploration Society, 1992), 218. Vitto's discovery of an undisturbed tomb dating to the reign of Herod into which ossuaries were introduced during the last phase of use confirms Rahmani's dating; see Vitto, "Burial Caves from the Second Temple Period in Jerusalem," 103. Interestingly, all of the ossuaries from this tomb are undecorated. On p. 119 n. 3, Vitto correctly notes that R. Hachlili's *terminus post quem* of ca. 10 B.C.E. for the appearance of ossuaries, which is based on evidence from the Jericho cemetery, is too late for Jerusalem. Vitto's evidence also contradicts Cahill's proposed first-century C.E. date for the introduction of ossuaries (Cahill, "Chalk Vessel Assemblages," 233). On the other hand, Hadas's proposed early-first-century B.C.E. date (!), based on the discovery of a single stone ossuary in Tomb 4 at Ein Gedi, is much too early and is unsupported by the archaeological evidence; see Gideon Hadas, *Nine Tombs of the Second Temple Period at ʿEn Gedi* (*ʿAtiqot* 24) (Jerusalem: Israel Antiquities Authority, 1994), 7*: "In view of the suggested date of the tomb, the date for the introduction of ossilegium in stone chests may be moved up to the early first century BCE." The pottery from this tomb includes cooking pots, unguentaria, and a Judean radial oil lamp, all of which represent types characteristic of the Herodian period (that is, the time of Herod the Great, and in some cases continuing later); compare Hadas, 22, fig. 32: 8–9 (unguentaria), 10 (oil lamp), 12–13 (cooking pots) with Rachel Bar-Nathan, *Hasmonean and Herodian Palaces at Jericho: The Pottery* (Jerusalem: Israel Exploration Society, 2002), 165–67 (unguentaria), 170–72 (cooking pots). Although Judean radial lamps date generally to the first century B.C.E., most, if not all, of the specimens from Masada date to the reign of Herod the Great; see Dan Barag and Malka Hershkovitz, "Lamps from Masada," in *Masada IV: The Yigael Yadin Excavations 1963–1965: Final Reports* (Jerusalem: Israel Exploration Society, 1994), 22–24. In other words, although Tomb 4 at Ein Gedi might have been used before Herod's time, burials certainly continued during his reign. There is thus no basis for dating the stone ossuary from this tomb to the early first century B.C.E.

[28] For the post-70 examples, see Rahmani, *Catalogue of Jewish Ossuaries*, 23–25; many of the later specimens from Galilee are made of clay.

[29] Magen, *Stone Vessel Industry in the Second Temple Period*, 133; Rahmani, *Catalogue of Jewish Ossuaries*, 3.

The ossuaries can be plain or decorated (usually with incised or chip-carved designs, rarely in relief, and sometimes with painting).[30] Sometimes the name(s) of the deceased (and infrequently other information such as their title or occupation) were incised on the front, back, side, or lid of the ossuary.[31] Most of the inscriptions are in Aramaic, Hebrew, or Greek (less frequently, in more than one language), and usually they are crudely executed.[32] There is no correlation between the relative wealth and status of the deceased and the ornamentation of the ossuary, since plain or uninscribed ossuaries have been found in tombs belonging to some of ancient Jerusalem's most prominent families.[33] This is also true of the tombs themselves, as indicated by the modest size and appearance of the tomb of the Caiaphas family.[34] Interestingly, some of the largest and most lavishly decorated tombs belonged to émigré families living in Jerusalem: the tomb of Queen Helena of Adiabene (which was crowned by

[30] See Rahmani, *Catalogue of Jewish Ossuaries*, 4–6; Magen, *Stone Vessel Industry in the Second Temple Period*, 133–35.

[31] See Steven Fine, "A Note on Ossuary Burial and the Resurrection of the Dead in First-Century Jerusalem," *JJS* 51 (2000): 75.

[32] Rahmani, *Catalogue of Jewish Ossuaries*, 11–19; also see Fine, "Note on Ossuary Burial," 74.

[33] Rahmani notes that richly decorated ossuaries were found together with the much simpler sarcophagus of Queen Helena: "While it is clear that only wealthy families would have been able to afford the costly varieties of ossuaries, the choice of cheaper types should not be regarded as a sign of comparative poverty or of parsimony" (*Catalogue of Jewish Ossuaries*, 11). Of the seven ossuaries discovered in Nicanor's tomb, three were plain (Avigad, "Jewish Rock-Cut Tombs in Jerusalem," 124). In cave 1 of the Akeldama tombs, none of the ossuaries was inscribed, half were plain, and only three were painted; see Tamar Shadmi, "The Ossuaries and the Sarcophagus," in *The Akeldama Tombs, Three Burial Caves in the Kidron Valley, Jerusalem (IAA Reports, No. 1)* (ed. G. Avni and Z. Greenhut; Jerusalem: Israel Antiquities Authority, 1996), 51. Similarly, there is no correlation between the status of the deceased and the quality of the inscriptions on ossuaries. Therefore, contrary to Evans (*Jesus and the Ossuaries*, 107–8), the relative simplicity of the Caiaphas tomb and the poor quality of the inscriptions on the ossuaries found in it do not disprove its identification as the tomb of the well-known high priest and his family. Instead, the archaeological and literary evidence supports this identification, although it cannot be established with absolute certainty. Rahmani also makes the valuable observation that the seemingly high proportion of inscribed ossuaries is misleading since many plain or uninscribed ossuaries were discarded by the excavators or are unpublished (*Catalogue of Jewish Ossuaries*, 11).

[34] See Zvi Greenhut, "Burial Cave of the Caiaphas Family," *BAR* 18 (1992): 28–36, 76; Levine, *Jerusalem*, 210; McCane, *Roll Back the Stone*, 35; Rahmani, *Catalogue of Jewish Ossuaries*, 174. As McCane cautions: "A poorly constructed tomb might appear to be evidence of a family's lower social and economic status, but conclusions of this sort require careful review, since rich families may have had the means to build a splendid tomb but simply chose to use their wealth in other ways. In fact, there would have been little social incentive for Jewish families in this region and period to expend resources on the construction and ornamentation of a tomb's interior. . . . A roughly hewn burial chamber might therefore be evidence not of a family's poverty, but rather of their inclination to spend wealth in other ways" (*Roll Back the Stone*, 35).

three pyramidal markers),[35] Nicanor's tomb (which contains more burial chambers than any other Jerusalem tomb),[36] and caves 2 and 3 of the Akeldama tombs (which are unique in the quality and quantity of decoration inside the burial chambers).[37] Perhaps these families constructed especially large and lavish tombs to establish their standing among the local elite.

Levy Yitzhak Rahmani has suggested that the appearance of ossuaries is connected with the Pharisaic belief in the individual, physical resurrection of the dead.[38] Prior to the introduction of ossuaries, the remains of earlier burials in rock-cut tombs were placed in pits, repositories, or charnel rooms. The skeletons were therefore mingled and susceptible to separation, breakage, and even loss. This means that in the event of a physical resurrection, an individual would be restored to life missing vital body parts. In addition, Rahmani argues that the collection of bones in an ossuary corresponds to the Pharisaic notion that the decay of the flesh is connected with the expiation of sin.[39] In other words, each individual's remains were preserved intact in an ossuary, in a sinless state, awaiting future resurrection.

Many scholars have pointed to difficulties with Rahmani's explanation.[40]

[35] For summaries and bibliography, see Levine, *Jerusalem*, 211; Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three," 48–49. For the inscribed stone sarcophagus from this tomb, which apparently contained the queen's remains, see Jean-Baptiste Frey, *Corpus Inscriptionum Iudaicarum,* vol. 2, *Asie-Afrique* (Rome: Pontifico Istituto di Archeologia Cristiana, 1952), 320–21 no. 1388.

[36] Other unparalleled features include the use of stone masonry revetment along the interior walls of the tomb and the fact that the two square pillars or piers in the porch are constructed of ashlars instead of being hewn out of rock; see Avigad ("Jewish Rock-Cut Tombs in Jerusalem," 119–24), who describes Nicanor's tomb as "one of the most monumental tombs in Jerusalem" (p. 119; my translation from the Hebrew). Also see Evans, *Jesus and the Ossuaries*, 24, 92–93.

[37] See Gideon Avni and Zvi Greenhut, "Resting Place of the Rich and Famous," *BAR* 20 (1994): 36–46; Avni and Greenhut (*Akeldama Tombs,* 32–33) note, "A possible clue to the occurrence of these decorative schemes and the high standard of workmanship evidenced in Chamber C of Cave 3 may be found in the identity of the cave owners—a wealthy Jewish family from Syria." For the Syrian place-names mentioned on the ossuaries from this cave, see Tal Ilan, "The Ossuary and Sarcophagus Inscriptions," in *Akeldama Tombs,* ed. Avni and Greenhut, 68, who notes the prominent positions attained by some Diaspora Jewish families in Herodian Jerusalem. In addition, only six of the forty ossuaries discovered in the Akeldama tombs lacked ornamentation or an inscription; see Shadmi, "Ossuaries and the Sarcophagus," 50–51. The archaeological evidence supports the Gospel tradition (Matt 27:7–8) that Akeldama (Potter's Field) was a burial ground for foreigners. For a discussion of how this elite cemetery came to be associated with the poor, see Leen Ritmeyer and Kathleen Ritmeyer, "Potter's Field or High Priest's Tomb?" *BAR* 20 (1994): 22–35, 76.

[38] Levy Y. Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part One," *BA* 44 (1981): 175–76; idem, *Catalogue of Jewish Ossuaries*, 53–55.

[39] Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part One," 175; idem, *Catalogue of Jewish Ossuaries*, 53–55; also see McCane, *Roll Back the Stone*, 43.

[40] See, e.g., McCane, *Roll Back the Stone*, 43; Evans, *Jesus and the Ossuaries*, 30; Levine, *Jerusalem*, 264; Fine, "Note on Ossuary Burial," 70–72; Eyal Regev, "The Individualistic Meaning

For example, ossuaries frequently contain the bones of more than one individual, and sometimes parts of the skeleton are missing.[41] Even in tombs with ossuaries, skeletons were sometimes deposited in pits or repositories.[42] In my opinion, the greatest difficulty with Rahmani's explanation is that our sources associate the belief in individual, physical resurrection of the dead with the Pharisees (see, e.g., Josephus, *Ant.* 18.1.3). These same sources tell us that the Sadducees rejected this concept (Josephus, *Ant.* 18.1.4; Matt 22:23). But there is no doubt that the monumental rock-cut tombs with ossuaries belonged to Jerusalem's elite, many of whom were Sadducees.[43] In fact, some of these tombs and ossuaries belonged to high priestly families, such as the tomb of

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of Jewish Ossuaries: A Socio-Anthropological Perspective on Burial Practice," *PEQ* 133 (2001): 40–42; Eric M. Meyers, *Jewish Ossuaries: Rebirth and Birth* (Rome: Biblical Institute Press, 1971), 85–86.

[41] See Magen, *Stone Vessel Industry in the Second Temple Period*, 137; Fine, "Note on Ossuary Burial," 75. For example, the Caiaphas ossuary contained the remains of six individuals: two infants, a child between the ages of two and five, a youth aged thirteen to eighteen, an adult female, and a man about sixty years of age; see Greenhut, "Burial Cave of the Caiaphas Family," 34. The ossuary with the remains of Yohanan, the crucified man from Giv'at ha-Mivtar, contained the partial remains of a second adult as well as a child; see Joseph Zias and Eliezer Sekeles, "The Crucified Man from Giv'at ha-Mivtar: A Reappraisal," *IEJ* 35 (1985): 23–24. For other examples, see the Akeldama tombs (Avni and Greenhut, *Akeldama Tombs*, 51–52), where nearly every ossuary contained the remains of more than one individual. As Ilan observed, "Usually, bones that were collected into ossuaries included remains of more than one individual, at Akeldama and elsewhere" ("Ossuary and Sarcophagus Inscriptions," 66). For ossuaries containing the bones of dogs and other animals together with human remains, see Rahmani, *Catalogue of Jewish Ossuaries*, 124 no. 200.

[42] See, e.g., Avni and Greenhut, *Akeldama Tombs*, 34; also see Hadas (*Nine Tombs of the Second Temple Period at 'En Gedi*, 7*), who notes that the Ein Gedi caves provide evidence for the contemporaneous employment of different burial methods.

[43] See Regev, "Individualistic Meaning of Jewish Ossuaries," 41. Almost thirty-five years ago Meyers, *Jewish Ossuaries*, 86, cautioned, "It would seem hazardous, therefore, to try to relate either ossuaries or sarcophagi to a particular Jewish sect or segment of society in earlier Temple times." On the other hand, there is no doubt that the rock-cut tombs belonged to members of Jerusalem's elite, at least some of whom were Sadducees. For example, Jon Davies, discussing a rock-cut tomb of the late Second Temple period in Jerusalem, noted that "the cost of constructing the grave [tomb] itself indicated wealthy ownership" (*Death, Burial, and Rebirth in the Religions of Antiquity* [New York: Routledge, 1999], 82). Joseph Zias notes in his discussion of a tomb of the late Second Temple period that was poor in finds that "the family was apparently wealthy enough to afford a rock-hewn tomb" ("A Rock-Cut Tomb in Jerusalem," *BASOR* 245 [1982]: 54). Regarding the Akeldama tombs, Zias observes that "the relative wealth of the families buried here, manifested by tomb architecture and the ossuaries . . ." ("Anthropological Analysis of Human Skeletal Remains," in *Akeldama Tombs,* ed. Avni and Greenhut, 118). Peter Richardson suggests that the Sadducees as a religious entity were largely replaced during Herod's reign by a social elite (*Herod: King of the Jews and Friend of the Romans* [Minneapolis: Fortress, 1999], 253). Levine supports the traditional view that the Sadducees were the most influential group politically, although he notes that not all priests or high priests were necessarily Sadducees (*Jerusalem,* 375–76).

Bene Hezir and the tomb and ossuaries of the Caiaphas family.[44] Ossuaries were used by the same members of Jerusalem society who rejected the concept of individual, physical resurrection of the dead.[45] Of course, not all of these tombs and ossuaries were used by Sadducees. But undoubtedly many were. It is not a coincidence that outside of Jerusalem, the largest cemetery with rock-cut loculus tombs containing ossuaries is at Jericho, which was the site of the Hasmonean and Herodian winter palaces and the center of a priestly community.[46] Rahmani argues that the Pharisaic belief in individual, physical resurrection was adopted by the Sadducees by the first century C.E.[47] But our sources —Josephus and the NT—date to this period, and in fact were composed in the late first century. Why assume that they are anachronistic in this regard?

Instead, I prefer a suggestion made by Lee Levine and Gideon Foerster, who have each attributed the appearance of ossuaries to Roman influence on

[44] For the former, see Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three" 47; for the latter, see Ronny Reich, "Caiaphas Name Inscribed on Bone Boxes," *BAR* 18 (1992): 38–44, 76. For ossuaries inscribed with names of deceased identified as priests, see Evans (*Jesus and the Ossuaries*, 53–54), who lists seven specimens, with additional examples on pp. 104–11; Frey, *Corpus Inscriptionum Iudaicarum*, 2:250, no. 1221; Rahmani, *Catalogue of Jewish Ossuaries*, 85 no. 41 (perhaps belonging to the priestly family Boethos), 250–51 no. 829 (inscribed with the names Ananias and Ananas, perhaps the well-known high priests); 259 no. 871 (perhaps containing the remains of the granddaughter of the high priest Theophilos). For ossuaries inscribed with the names of deceased who are identified as scribes, see Evans, *Jesus and the Ossuaries*, 56 (three specimens); Rahmani, *Catalogue of Jewish Ossuaries*, 262–63 no. 893 (inscribed "Yehosef, son of Hananya, the scribe").

[45] Cahill made a similar observation about stone vessels: "If the use of stone vessels was a Pharisaic tradition, why are they commonly found furnishing the homes of the wealthy?" ("Chalk Vessel Assemblages," 233).

[46] See Rachel Hachlili and Ann Killebrew, "Jewish Funerary Customs during the Second Temple Period in the Light of the Excavations at the Jericho Necropolis," *PEQ* 115 (1983): 109–32. Rahmani documents ossuaries up to twenty-five kilometers away from Jerusalem (to Tell en-Nasbeh and ʿAi to the north; Ramat Rahel and Beth Nattif to the south and southwest; and Beth Zayit to the west) (*Catalogue of Jewish Ossuaries*, 23). Another group of ossuaries is associated with the rock-cut loculus tombs at Jericho (see Hachlili and Killebrew, "Jewish Funerary Customs during the Second Temple Period"), and there is a single stone ossuary from a loculus tomb at Ein Gedi (see Hadas, *Nine Tombs of the Second Temple Period at ʿEn Gedi*, 21; this example comes from the only rock-cut tomb with loculi at Ein Gedi). For an ossuary from the Nabataean cemetery at Mampsis in the Negev, see n. 56 below. The distribution of rock-cut loculus tombs containing ossuaries reflects the settlement sphere of Jerusalem's elite, as well as rural elite families who adopted the same display practices. Although ossuaries are usually found in loculus tombs, they can occur in rock-cut tombs without loculi. For example, four ossuaries were discovered on a burial bench in a rock-cut tomb of the late First Temple period in Bethlehem that was reused in the late Second Temple period (see Mikel Dadon, "Burial Caves at Bethlehem" [in Hebrew], *ʿAtiqot* 32 [1997]: 199–201). When the Jewish elite relocated to Galilee in the aftermath of the two Jewish revolts, they displayed their wealth and status by interring their dead in the catacombs at Beth Shearim.

[47] Rahmani, *Catalogue of Jewish Ossuaries*, 54.

Jerusalem's elite.[48] In the late first century B.C.E. and first century C.E. cremation was the prevailing burial rite among the Romans.[49] The ashes of the deceased were placed in small stone containers called *cineraria* (cinerary urns). Like the Judean ossuaries, Roman cinerary urns have lids. The rectangular cinerary urns are usually casket-shaped and have gabled lids.[50] Sometimes they have carved decoration and/or inscriptions.[51] Although they are not uncommon, Roman cinerary urns have not been well studied. They are rarely displayed or illustrated; only a handful can be seen in larger museums such as the Metropolitan Museum of Art or the Boston Museum of Fine Arts, and these examples tend to be exceptional in terms of their decoration.[52]

The presence of cinerary urns on Rhodes and in Asia Minor indicates that their use was widespread. Stone cinerary urns still containing cremated remains are displayed in the Archaeological Museum in Afyon in western-central Anatolia.[53] Aside from the fact that they contain cremations, the Afyon urns are virtually identical to the plain Jerusalem ossuaries: the same size, shape, and with the same kind of lids. Small stone containers or chests (*ostothēkai*) used for the secondary collection of bones are also found in Asia Minor.[54] Like their Judean counterparts, these stone boxes can have carved

[48] Levine, *Jerusalem*, 264–65; Gideon Foerster, "Ossilegium and Ossuaries: The Origins and Significance of a Jewish Burial Practice in the Last Decades of the 1st Century B.C. and the 1st Century A.D.," in *Abstracts of the XVth International Congress of Classical Archaeology* (Amsterdam, 1998); idem, "Sarcophagus Production in Jerusalem from the Beginning of the Common Era up to 70 CE," in *Sarkophag-Studien,* Band 1, *Akten des Symposiums »125 Jahre Sarcophag-Corpus,« Marburg, 4.–7. Oktober 1995* (ed. G. Koch; Mainz: Philipp von Zabern, 1998), 303–4 n. 54, 309.

[49] The basic source is still J. M. C. Toynbee, *Death and Burial in the Roman World* (Ithaca, NY: Cornell University Press, 1971), 40. Also see John R. Patterson, "Living and Dying in the City of Rome: Houses and Tombs," in *Ancient Rome: The Archaeology of the Eternal City* (ed. J. Coulston and H. Dodge; Oxford: Oxford University School of Archaeology, 2000), 273.

[50] Toynbee, *Death and Burial in the Roman World*, 256; Maxwell L. Anderson, "Rome," in *The Metropolitan Museum of Art, Greece and Rome* (New York: Metropolitan Museum of Art, 2000), 114–15: "Until the reign of Hadrian (r. A.D. 117–138), Romans were more often cremated than buried, and they were commemorated by elaborate tombstones, ash urns, or *cippi* (funerary altars)."

[51] Toynbee, *Death and Burial in the Roman World*, 255–56.

[52] For photos, see Davies, *Death, Burial and Rebirth in the Religions of Antiquity*, 124, fig. 14; Marcello Spanu, "Burial in Asia Minor during the Imperial period, with a particular reference to Cilicia and Cappadocia," in *Burial, Society, and Context in the Roman World* (ed. J. Pearce, J. M. Millett, and M. Struck; Oxford: Oxbow, 2000), 172, fig. 17.5.

[53] These cinerary urns are unpublished. I saw them during a visit to the museum in July 2003 but was not allowed to photograph them.

[54] See Spanu, "Burial in Asia Minor during the Imperial period," 172, who notes that these containers are poorly understood and inadequately published. Some may have contained cremations. For examples from Ephesus, see Selahattin Erdemgil, *Ephesus Museum* (Istanbul: Do-gu

decoration and sometimes contain the remains of more than one individual.[55] Closer to Judea, the Nabatean cemetery at Mampsis in the Negev yielded an ossuary containing bones wrapped in linen.[56] This evidence for the use of ossuaries in non-Jewish contexts supports the suggestion that the appearance of ossilegium in Judea is related to funerary customs and fashions that were prevalent in the Roman world instead of to Jewish expectations of resurrection. Finally, the frequent use of the Hebrew or Aramaic term *gĕlûsqĕmā'* (from the Greek *glōssokomon*, meaning casket) to refer to Judean ossuaries and the occurrence on one ossuary of the word *kauka* (written in Palmyrene script and meaning "amphora" in the sense of a funerary urn) provide another indication that Roman cinerary urns were the source of inspiration.[57]

Rahmani objects to Levine's and Foerster's proposal on the grounds that Jerusalem's elite could not have imitated a practice with which they were unacquainted.[58] However, we have seen that other hellenized features in tombs and burial customs were adopted by Jerusalem's elite without personal contact or familiarity (as were other aspects of Hellenistic and Roman culture; see below). Monumental tombs marked by a pyramid became a raging fashion after Simon constructed the family tomb at Modiin.[59] The ultimate source of inspiration for these tombs was the Mausoleum at Halicarnassus, which presumably none of Jerusalem's elite in the Hasmonean period—not even Simon—ever saw. Loculi, which also originated in the Hellenistic world, quickly became universal in Jerusalem's rock-cut tombs.[60] The spread of these features has little or nothing to do with religious beliefs in the afterlife and everything to do with social status. Jerusalem's elite were prohibited by Jewish law from cremating their

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Press, no date), 78: "In the corner just to the right of the Klazomenai sarcophagus is a series of ossuaries found in the cave of the Seven Sleepers."

[55] Spanu, "Burial in Asia Minor during the Imperial period," 172.

[56] *Archaeological Encyclopedia of the Holy Land* (ed. A. Negev and S. Gibson; New York: Continuum, 2001), 99; Avraham Negev, "Kurnub," in *The New Encyclopedia of Archaeological Excavations in the Holy Land* (ed. E. Stern; New York: Simon and Schuster, 1993), 892. I am grateful to Tali Erickson-Gini for pointing out to me this ossuary, which is on display at Mampsis (Mamshit), and for providing me with the published references.

[57] See Rahmani, *Catalogue of Jewish Ossuaries*, 3. Magen comes close when he observes that, "Even the name *gluskoma*, derived from the Greek word meaning a wooden coffin, implies that the form of the chalk ossuary was not original and that it was an exact replica of a wooden casket" (*Stone Vessel Industry in the Second Temple Period*, 134). For the reasons given here, Regev's objections to the suggestion that Roman cinerary urns were the source of inspiration for Judean ossuaries are not valid; see Regev, "Individualistic Meaning of Jewish Ossuaries," 48 n. 15.

[58] Rahmani, *Catalogue of Jewish Ossuaries*, 58–59.

[59] As Levine notes, "The tombs that dotted the Jerusalem landscape are invariably of Hellenistic design but without figural depictions. The *tholos* of Absalom's tomb and the pyramid of Zechariah's tomb are classic Hellenistic architectural components" (*Jerusalem*, 261).

[60] Venit, *Monumental Tombs of Ancient Alexandria*, 175–80; McCane, *Roll Back the Stone*, 7.

dead. Instead, they could and did adopt the external trappings of cremation by depositing the bones of the deceased in ossuaries (urns).[61] Like loculi, once ossuaries appeared, they quickly became universal in rock-cut tombs.

The practice of recording name(s) on ossuaries should be understood as reflecting a concern for recording and preserving the memory of the deceased.[62] The preservation of the names of ancestors was of great importance to the upper classes and priestly families, and above all the high priestly families, who based their social standing and claims of legitimacy on their lineage.[63] An ossuary bearing the Hebrew inscription "house of David" illustrates this concern nicely.[64]

The disappearance of ossuaries supports the suggestion that they were inspired by Roman cinerary urns. If the use of ossuaries was connected with the concept of the individual, physical resurrection of the dead, they should have become even more popular after 70 C.E., when this belief became normative in Judaism. In fact, the opposite is true.[65] After 70 C.E., ossuaries disappeared from Jerusalem. This is because the Jewish elite who used the rock-cut tombs were now dead or dispersed. The appearance of cruder ossuaries in Galilee after 70 is probably connected with the emigration or displacement of some of Jerusalem's elite to that region after the First Revolt. By the mid-to-late third century, the custom of ossilegium died out.[66] At the largest and most prestigious cemetery of this period—Beth Shearim in Lower Galilee—the prevailing burial rite consists of individual inhumations in large stone sarcophagi or hewn

[61] As McCane notes (discussing the appearance of loculi in Judean tombs and the placement of coins on the mouths of the deceased), "All of these burial customs are of Hellenistic origin, so the ossuary would certainly not have been the first aspect of Jewish death ritual to be touched by the interaction of Judaism with Hellenism" (*Roll Back the Stone,* 45).

[62] See ibid.,14, 46.

[63] The names were apparently inscribed on the spot by the relatives of the deceased and are usually executed carelessly and clumsily. This is true even among prominent and high priestly families; see Rahmani, *Catalogue of Jewish Ossuaries*, 11–12. Richardson observes, "The high priests were a natural part of the religious elite—indeed at the center of it—by virtue of family associations" (*Herod,* 241). Regev notes the social importance of the inscriptions ("Individualistic Meaning of Jewish Ossuaries," 43). Similar concerns are evident among the Roman aristocracy, as seen in the late Republican portrait busts depicting very aged men. These may be connected with the wax ancestral masks that were carried in funerary processions and then displayed in the household shrines of aristocratic families; see Diana E. E. Kleiner, *Roman Sculpture* (New Haven: Yale University Press, 1992), 35–38.

[64] See Rahmani, *Catalogue of Jewish Ossuaries*, 173–74 no. 430; Evans, *Jesus and the Ossuaries*, 103–4.

[65] See Levine, *Jerusalem*, 264. Rahmani responds to this objection by arguing that "the increased mobility of families and individuals in this period may have rendered *ossilegium* of relatives impossible" (*Catalogue of Jewish Ossuaries*, 55).

[66] Rahmani, *Catalogue of Jewish Ossuaries*, 21.

troughs in rock-cut tombs.[67] Most of the sarcophagi are crude local products made of limestone, with a few Roman imports of marble.[68] Many of the burial caves at Beth Shearim belonged to individual families, but there are also catacombs containing burials of different elite families.[69] The burial customs at Beth Shearim parallel contemporary developments in Rome and the provinces during the second and third centuries, when inhumation in large stone sarcophagi in catacombs supplanted cremation as the preferred burial rite.[70]

It is not a coincidence that ossuaries first appeared during Herod's reign. This period is characterized by a heavy dose of Hellenistic-Roman influence on other aspects of the lifestyle of Jerusalem's elite. Their mansions were decorated with Roman-style wall paintings, stucco, and mosaics and were furnished with locally produced stone tables modeled after Roman prototypes.[71] As in the case of the tombs, these features were introduced to Judea by the ruler (in this case, Herod) and were imitated or adopted by the Jerusalem elite. Nahman Avigad described the elite dwellings in the Jewish Quarter as follows:

> Construction in the Upper City was dense, with the houses built quite close together; but the individual dwelling units were extensive, and inner courtyards lent them the character of luxury villas. These homes were richly ornamented with frescoes, stucco work, and mosaic floors, and were equipped with complex bathing facilities, as well as containing the luxury goods and artistic objects which signify a high standard of living. This, then, was an upper class quarter, where the noble families of Jerusalem lived, with the high priest at their head. Here they built their homes in accordance with the dominant fashion of the Hellenistic-Roman period. It is generally assumed

[67] Although some ossilegium was still practiced; see Benjamin Mazar, *Beth She'arim: Report on the Excavations during 1936–1940*, vol. 1, *Catacombs 1–4* (New Brunswick, NJ: Rutgers University Press, 1973), 135. Nahman Avigad notes that at Beth Shearim, "The small niches (bone depositories), so common in the earlier catacombs, are almost completely absent" in tombs dating to the mid-third century and later (*Beth She'arim*, vol. 3, *The Excavations 1953–1958* [New Brunswick, NJ: Rutgers University Press, 1976], 267).

[68] For the stone and marble sarcophagi from Beth Shearim, as well as a small number of lead, clay, and wood specimens, see Avigad, *Beth She'arim*, 136–83.

[69] See Mazar, *Beth She'arim*, 132–33; Avigad, *Beth She'arim*, 262–65 (compare and contrast Catacombs 14 and 20).

[70] See Toynbee, *Death and Burial in the Roman World*, 40. McCane, noting the Hellenistic and Roman elements in the Beth Shearim tombs, describes this cemetery as "a case study in the ancient conversation between Judaism and Hellenism" (*Roll Back the Stone*, 7).

[71] See Nahman Avigad, *Discovering Jerusalem* (Nashville: Thomas Nelson, 1983), 83–203; for the wall paintings, see Silvia Rozenberg, "Wall Painting Fragments from Area A," in *Jewish Quarter Excavations in the Old City of Jerusalem conducted by Nahman Avigad, 1969–1982*, vol. 2, *The Finds from Areas A, W and X-2, Final Report* (ed. H. Geva; Jerusalem: Israel Exploration Society, 2003), 302–28.

> that the Jerusalemite nobility was of the Sadducee faction. . . . Thus, it can be assumed that this quarter was occupied chiefly by Sadducees.[72]

The impact of Hellenistic and Roman influence on Jerusalem's elite is evident in nearly all aspects of Jerusalem's material culture, with a wide range of imported and locally produced consumer goods appearing around 20–10 B.C.E. As Renate Rosenthal-Heginbottom observed in her discussion of ceramic imports from the Jewish Quarter excavations: "the imported pottery from Area A is clear evidence for the substantial changes in lifestyle, culinary tastes, trade connections, and marketing strategies which took place during the reign of Herod; yet it was relevant to a minority only [the elite]."[73] For example, Eastern Sigillata A (ESA), a fine red-slipped ware produced in Syria-Phoenicia, becomes relatively common in Herod's palaces in Jericho and Jerusalem and in the homes of Jerusalem's wealthiest Jews beginning around 20–10 B.C.E.[74] At the same time, a high-quality, thin-walled tableware painted with delicate floral designs (usually referred to as Jerusalem[ite] painted pottery and consisting mostly of bowls) began to be produced in Jerusalem.[75] Other ceramic imports that appeared in Jerusalem during Herod's reign (albeit in small quantities) include Italian thin-walled ware, Cypriot Eastern Sigillata D, Western Terra Sigillata, and Pompeian Red Ware.[76] Rosenthal-Heginbottom concluded that

[72]Avigad, *Discovering Jerusalem*, 83.

[73] Renate Rosenthal-Heginbottom, "Hellenistic and Early Roman Fine Ware and Lamps from Area A," in *Jewish Quarter Excavations in the Old City of Jerusalem conducted by Nahman Avigad, 1969–1982*, vol. 2, ed. Geva, 220.

[74] For a recent discussion of the source of ESA, see Kathleen W. Slane, who believes that the evidence points to northern Syria ("The Fine Wares," in *Tel Anafa II, i: The Hellenistic and Roman Pottery* [ed. S. C. Herbert; Journal of Roman Archaeology Supplementary Series 10; Ann Arbor: Kelsey Museum of Archaeology, 1998], 272); also see Kathleen W. Slane, J. Michael Elam, Michael D. Glascock, and Hector Neff, "Compositional Analysis of Eastern Sigillata A and Related Wares from Tel Anafa (Israel)," *Journal of Archaeological Science* 21 (1994): 51–64. For examples from Jerusalem's Jewish Quarter, see Avigad, *Discovering Jerusalem*, 88. Rosenthal-Heginbottom notes that ESA may have already been imported to Jerusalem beginning in the mid-first century B.C.E. ("Hellenistic and Early Roman Fine Ware and Lamps," 214). Even so, most of it dates from the reign of Herod on. Imported wares also make their first appearance in the palaces at Jericho in the middle of Herod's reign; see Bar-Nathan, *Hasmonean and Herodian Palaces at Jericho*, 197.

[75] Malka Hershkovitz, "Jerusalemite Painted Pottery from the Late Second Temple Period," in *The Nabataeans in the Negev* (ed. R. Rosenthal-Heginbottom; Haifa: Hecht Museum, 2003), 31*; Rosenthal-Heginbottom, "Hellenistic and Early Roman Fine Ware and Lamps," 212; Isadore Perlman, Jan Gunneweg, and Joseph Yellin, "Pseudo-Nabataean Ware and Pottery of Jerusalem," *BASOR* 262 (1986): 77–82.

[76] Rosenthal-Heginbottom, "Hellenistic and Early Roman Fine Ware and Lamps," 209, 214–17. Some of the stone vessels manufactured in the Jerusalem area imitated the shapes of these fine wares; see Magen, *Stone Vessel Industry in the Second Temple Period*, 65, 66, 68, 70, 72; Cahill, "Chalk Vessel Assemblages," 202, 204. Monopodial stone tables from the Jewish Quarter also imitated Roman prototypes (ibid., 217).

"[t]he appearance of Italian pans in the houses of the upper class Jewish inhabitants in Jerusalem means that . . . Jews were open to Roman culinary influences and prepared to try and taste new food. Herod the Great could have become acquainted with the dish during his stay in Rome, had it introduced to his household, whence it was copied by others."[77] Similarly, Avigad observed that the discovery of Italian wine amphoras in the elite houses of Jerusalem's Jewish Quarter indicates that "there have always been more and less observant Jews."[78] Donald Ariel has noted that we still do not know when laws prohibiting the eating of Gentile food originated and became common.[79] The evidence for the preparation and consumption of Gentile-style foods and imported wines by members of Jerusalem's elite supports a suggestion that the Sadducees restricted their observance of purity concerns to the temple cult, in contrast to the Pharisees and Essenes.[80]

Steven Fine attributes the appearance of ossuaries to the development of Jerusalem's stone industry.[81] Although I do not accept this proposal, Fine is correct that the production of ossuaries (and other stone vessels) is one aspect of Jerusalem's economy during the late Second Temple period.[82] The heavy dose of Roman cultural influence evident in Jerusalem around 20–10 B.C.E. should be understood within the context of contemporary events. It was during these years that Herod undertook the reconstruction of the Jerusalem temple.[83] He established a theater and an amphitheater (or hippodrome) in Jerusalem, in which athletic competitions, chariot races, and musical and dramatic contests were held (Josephus, *Ant.* 15.8.1).[84] Herod also maintained close contacts with Augustus. Peter Richardson points out that "Herod developed his friendship

[77] Rosenthal-Heginbottom, "Hellenistic and Early Roman Fine Ware and Lamps," 217.

[78] Avigad, *Discovering Jerusalem*, 88.

[79] Donald T. Ariel, "Imported Greek Stamped Amphora Handles," in *Jewish Quarter Excavations in the Old City of Jerusalem conducted by Nahman Avigad, 1969–1982*, vol. 1, *Architecture and Stratigraphy: Areas A, W and X-2, Final Report* (ed. H. Geva; Jerusalem: Israel Exploration Society, 2000), 277.

[80] See ibid., 278; Magness, *Archaeology of Qumran*. This also supports Richardson's suggestion that wealth and social status rather than religious views were the most obvious features of Sadduceeism during Herod's time (Richardson, *Herod*, 253).

[81] Fine, "Note on Ossuary Burial," 73–74. On p. 75 Fine notes that only wealthy Jerusalemites could afford secondary burial (and, by way of extension, interment in rock-cut tombs).

[82] See ibid., 74. Cahill notes that the stone vessels and ossuaries are contemporary, although she seems to favor a first-century C.E. (instead of late-first-century B.C.E.) date for their appearance ("Chalk Vessel Assemblages," 231–32).

[83] See Fine, "Note on Ossuary Burial," 72. Although construction on and around the Temple Mount continued for decades (and was completed only in 64 C.E.), much of the work on the temple building (the Sanctuary) was apparently carried out between ca. 23 and 15 B.C.E.; see Richardson, *Herod*, 197, 238, 245. For a discussion of the contradictory dates provided by Josephus and the suggestion that construction commenced in 20/19 B.C.E., see Levine, *Jerusalem*, 224–26.

[84] See Richardson, *Herod*, 223; Levine, *Jerusalem*, 201.

with Augustus through his children's education."[85] In 22 B.C.E., Herod sent his sons Alexander and Aristobulus (by his Hasmonean wife Mariamme) to Rome to be educated. Alexander and Aristobulus remained in Rome for five years, staying first with Pollio and then with Augustus (*Ant.* 15.10.1). A couple of years later (20 B.C.E.), Augustus traveled to Syria, where he was hosted by Herod.[86] In 17 B.C.E., Herod traveled to Rome to visit Augustus, returning to Judea with his sons, who were now young men about nineteen and eighteen years of age (*Ant.* 16.4.4–5). Two years later (15 B.C.E.) Herod entertained Augustus's son-in-law and heir apparent, Marcus Agrippa, taking him on a tour of his kingdom (*Ant.* 16.2.3).[87] The appearance of ossuaries and other aspects of Romanization in Jerusalem should be understood in the context of the close contacts and interactions between Augustus and his family, on the one hand, and Herod and his family, on the other. It is not surprising that beginning around 20 B.C.E., the style of life—and death—of Jerusalem's elite was heavily influenced by Roman culture.

IV. The Burial of Jesus

The preceding review of Jewish tombs and burial customs has provided the background necessary for understanding the manner in which Jesus and his brother James were buried. According to the Gospel accounts, Jesus' body was removed from the cross on the eve of the Jewish Sabbath (Friday afternoon) (Matt 27:57–59; 28:1; Mark 15:33–34, 42–43; Luke 23:44, 50–54; John 19:31). Because Jewish law requires immediate burial and there was no time to prepare a grave, Joseph of Arimathea placed Jesus' body in a rock-cut tomb.[88] The Synoptic Gospels are in broad agreement in their description of this event:[89]

[85] Richardson, *Herod*, 230.

[86] Our sources mention that Augustus visited Syria, but it is not clear whether this included Judea; see Richardson, *Herod*, 234.

[87] Referred to in Nicolaus's speech; see Richardson, *Herod*, 232–33, 263–64.

[88] See McCane, *Roll Back the Stone*, 95. According to Jewish law (Deut 21:22), burial on the same day is required even for those guilty of the worst crimes, whose bodies were hanged after death (see below).

[89] For a discussion of the differences in the Gospel accounts of this episode, see McCane, *Roll Back the Stone*, 101–2. Here I focus on the accounts of Mark and Matthew, which are generally considered to be earlier and more accurate than that of Luke. The differences between Mark and Matthew include that Joseph is described as a member of the council/Sanhedrin (Mark) or a rich man (Matthew) (these two statements are complementary, not contradictory), and Matthew states that this was Joseph's family tomb, whereas Mark does not. Since rock-cut tombs belonged to families, I believe that Matthew is accurate in this detail.

> Although it was now evening, yet since it was the Preparation Day, that is, the day before the Sabbath, Joseph of Arimathea, a highly respected member of the council, who was himself living in expectation of the reign of God, made bold to go to Pilate and ask for Jesus' body. . . . And he [Joseph] bought a linen sheet and took him down from the cross and wrapped him in the sheet, and laid him in a tomb that had been hewn out of the rock, and rolled a stone against the doorway of the tomb. (Mark 15:42–46)

> In the evening a rich man named Joseph of Arimathea, who had himself been a disciple of Jesus, came. He went to Pilate and asked him for Jesus' body. . . . Then Joseph took the body and wrapped it in a piece of clean linen, and laid it in a new tomb that belonged to him, that he had cut in the rock, and he rolled a great stone over the doorway of the tomb, and went away. (Matt 27:57–60)

Hengel argued that Jesus "died a criminal's death on the tree of shame," since crucifixion was a sadistic and humiliating form of corporal punishment reserved by the Romans for the lower classes (including slaves).[90] Hengel's claim that Jesus was buried in disgrace because he was an executed criminal is now widely accepted and has become entrenched in scholarly literature.[91] In my opinion, this view is based on a misunderstanding of archaeological evidence and Jewish law. Jesus was condemned by the Roman authorities for crimes against Rome, not by the Sanhedrin for violating Jewish law. The Romans used crucifixion to punish rebellious provincials for incitement to rebellion and acts of treason; they were considered to be common "bandits."[92] For this reason, the local (provincial) governor could impose the penalty of crucifixion to maintain peace and order.[93] Although victims of crucifixion could be left on their crosses for days, this was not usually the case.[94] According to the Gospel accounts, Pontius Pilate approved Joseph of Arimathea's request to remove Jesus' body from the cross for burial.[95]

The capital sentences listed by the Mishnah do not include crucifixion. This is because after Judea came under direct Roman rule, crucifixion was

[90] Martin Hengel, *Crucifixion in the Ancient World and the Folly of the Message of the Cross* (Philadelphia: Fortress, 1977), 19, 83, 90.

[91] See, e.g., Evans, *Jesus and the Ossuaries*, 101; McCane, *Roll Back the Stone*, 89; John Dominic Crossan, *Who Killed Jesus? Exposing the Roots of Anti-Semitism in the Gospel Story of the Death of Jesus* (New York: HarperSanFrancisco, 1995), 160–63; Raymond E. Brown, *The Death of the Messiah: From Gethsemane to the Grave: A Commentary on the Passion Narratives in the Four Gospels* (2 vols.; ABRL; New York: Doubleday, 1994), 2:947.

[92] Hengel, *Crucifixion in the Ancient World*, 34, 40, 46–47; Vassilios Tzaferis, "Crucifixion—the Archaeological Evidence," *BAR* 11 (1985): 48.

[93] Hengel, *Crucifixion in the Ancient World*, 49.

[94] McCane, *Roll Back the Stone*, 90, 105; Brown, *Death of the Messiah,* 2:1207; contra Crossan, *Who Killed Jesus*, 160–61.

[95] See McCane, *Roll Back the Stone*, 92–93.

imposed only by the Roman authorities.[96] Those found guilty by the Sanhedrin of violating Jewish law were executed by stoning (like James), or were burned, decapitated, or strangled: "Four modes of execution were given in the court: stoning, burning, decapitation, and strangulation" (*m. Sanh.* 7:1).[97] According to biblical law (Deut 21:22), the bodies of executed criminals could be hanged for the purpose of public display only after they were already dead.[98] The Hasmonean king Alexander Janneus violated biblical law when he had eight hundred Pharisee opponents crucified (hanged while they were still alive), dining with his concubines as his victims writhed in agony (Josephus, *J.W.* 1.4.6; *Ant.* 13.14.2).[99] Janneus's actions are described as an atrocity in the Pesher Nahum from Qumran (4Q169 frags. 3–4), where the distinction between the hanging of a dead body and the crucifixion of a living victim is made explicit: "who hanged living men [from the tree, committing an atrocity which had not been committed] in Israel since ancient times, for it is [hor]rible for the one hanged alive from the tree."[100]

Hanging (of an already executed criminal) is described in *m. Sanh.* 6:4 as follows: "How do they hang him? They drive a post into the ground, and a beam juts out from it, and they tie together his two hands, and thus do they hang him." This passage describes the hands of the deceased being tied together and the body dangling from a pole. In contrast, Roman crucifixion involved spreading apart the arms of a live victim, so that he/she could be affixed to the crossbeam by ropes or nails.[101] Josephus knew the difference between biblical

[96] See Hengel, *Crucifixion in the Ancient World*, 85: "from the beginning of direct Roman rule crucifixion was taboo as a form of the Jewish death penalty." Also see Tzaferis, "Crucifixion—the Archaeological Evidence," 48: "Among the Jews crucifixion was an anathema. . . . The traditional method of execution among the Jews was stoning. . . . At the end of the first century B.C., the Romans adopted crucifixion as an official punishment for non-Romans for certain legally limited transgressions."

[97] All translations from the Mishnah cited in this paper are from Jacob Neusner, *The Mishnah: A New Translation* (New Haven: Yale University Press, 1988).

[98] Geza Vermes, *The Complete Dead Sea Scrolls in English* (New York: Penguin, 1998), 473. Also see Richard Bauckham ("For What Offence Was James Put to Death?" in *James the Just and Christian Origins* [ed. B. Chilton and C. A. Evans; Leiden: Brill, 1999], 221), who notes that according to Jewish law, "hanging is not a method of execution but the exposure of an already dead corpse."

[99] See also Hengel, *Crucifixion in the Ancient World*, 84, with references.

[100] Florentino García Martínez and Eibert J. C. Tigchelaar, *The Dead Sea Scrolls Study Edition* (Grand Rapids: Eerdmans, 2000), 337. According to the Mishnah, hanging was reserved for executed criminals who were already dead, as prescribed by the Hebrew Bible. In contrast, according to the *Temple Scroll* (11Q19 LXIV.7–8), traitors are to be put to death by being hanged alive: "If a man passes on information against his people or betrays his people to a foreign nation, or does evil against his people, you shall hang him on a tree and he will die" (from Martinez and Tigchelaar, *The Dead Sea Scrolls Study Edition*, 1287; also see Vermes, *Complete Dead Sea Scrolls in English*, 473).

[101] Although the exact manner in which the body was affixed to the cross is debated; for two

hanging and Roman crucifixion. When referring to the hanging of a dead victim in the biblical sense, he employs the verb κρεμάννυμι ("to hang"), as, for example: "He that blasphemeth God let him be stoned, and let him hang (κρεμάσθω) [upon a tree] all that day" (*Ant.* 4.8.6). In contrast, Josephus uses the verb ἀνασταυρόω ("to crucify") when describing the crucifixion of live victims at the hands of the Roman authorities as well as the Hasmonean king Alexander Janneus: "he [Alexander Janneus] ordered about eight hundred of them to be crucified (ἀνασταυρῶσαι)" (*Ant.* 13.14.2); "as I came back, I saw many captives crucified (ἀνεσταυρωμένους)" (*Life* 75 §420).[102] All of these sources (Josephus, the Mishnah, and sectarian literature) clearly distinguish between the hanging of dead victims (following biblical law) and the crucifixion of live victims.[103] The following passage from Josephus indicates that the Jews buried victims of Roman crucifixion by sunset in accordance with Deut 21:22: "Nay, they proceeded to that degree of impiety, as to cast away their bodies without burial, although the Jews used to take so much care of the burial of men, that they took down those that were condemned and crucified (ἀνεσταυρωμένους), and buried them before the going down of the sun" (*J.W.* 4.5.2).[104]

The Sanhedrin excluded those executed for violating Jewish law from burial in family tombs or burial grounds: "And they did not bury [the felon] in the burial grounds of his ancestors. But there were two graveyards made ready for the use of the court, one for those who were beheaded or strangled, and one for those who were stoned or burned" (*m. Sanh.* 6:5). However, the Mishnah attaches no stigma to crucifixion by the Roman authorities and does not prohibit victims of crucifixion from being buried with their families.[105] The discov-

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different reconstructions see Tzaferis, "Crucifixion—the Archaeological Evidence," 49; Zias and Sekeles, "Crucified Man, 27). Zias and Sekeles note that death resulted from asphyxiation and not from the trauma caused by nailing the body to the cross ("Crucified Man," 26).

[102] In light of the questions surrounding the relationship between Luke and Acts, it is interesting that in these two books (but not in Mark and Matthew), the distinction between hanging and crucifixion is blurred, with the Greek terms being used interchangeably. See Luke 23:39: "One of the criminals who was hanging there (κρεμασθέντων) abused him"; Acts 5:30: "The God of our forefathers raised Jesus to life when you had hung him on a cross (κρεμάσαντες ἐπὶ ξύλου) and killed him." I thank Bart Ehrman for bringing this to my attention.

[103] Contra Crossan, *Who Killed Jesus*, 166.

[104] Contra ibid., 166, 169. In my opinion, Josephus's rhetorical use of this episode to illustrate the impiety of the rebels (in this case, Idumeans) does not affect the value of his testimony regarding the burial of crucifixion victims in accordance with Jewish law. For Josephus's condemnation of the rebels' lawless and impious behavior, see Shaye J. D. Cohen, *Josephus in Galilee and Rome* (Boston: Leiden, 2002), 88, 97; Tessa Rajak, *Josephus: The Historian and His Society* (London: Duckworth, 1983), 81.

[105] See Brown, *Death of the Messiah,* 2:1210, although he presents the opposite conclusion on p. 1243. According to Josephus, blasphemers who were stoned and then hanged were "buried in an ignominious and obscure manner" (*Ant.* 4.8.6). However, Jesus was not condemned by the Sanhedrin for violating Jewish law, was not executed by stoning, and was alive when he was crucified

ery of the remains of a crucified man named Yohanan in an ossuary demonstrates that victims of crucifixion could be interred in rock-cut family tombs.[106]

John Dominic Crossan claims that Yohanan's interment in a rock-cut family tomb is exceptional and extraordinary because victims of crucifixion would not have received an honorable burial.[107] However, we have seen that Jewish law does not prohibit the burial of victims of crucifixion in family tombs. Crossan argues that "with all those thousands of people crucified around Jerusalem in the first century alone, we have so far found only a single crucified skeleton, and that, of course, preserved in an ossuary. Was burial then, the exception rather than the rule, the extraordinary rather than the ordinary case?"[108] In fact, the exact opposite is the case: the discovery of the identifiable remains of even a single victim of crucifixion is exceptional. Crossan's assumption that we should have the physical (archaeological) remains of additional crucified victims is erroneous for several reasons. First, with one exception (the repository in the late Iron Age cemetery at Ketef Hinnom), not a single undisturbed tomb in Jerusalem has ever been discovered and excavated by archaeologists.[109] This means that even in cases where tombs or ossuaries still contain the original physical remains, the skeletons are often disturbed, damaged, or incomplete. Second, the Jerusalem elite who owned rock-cut family tombs with ossuaries favored the preservation of the status quo through accommodation with the Romans. Presumably, relatively few of them were therefore executed by crucifixion. Instead, the majority of victims crucified by the Romans belonged to the lower classes[110]—precisely those who could not afford rock-cut tombs. Third, and most important, the nail in Yohanan's heel was preserved only because of a fluke:

(not hanged after death). Therefore, it is erroneous to apply this passage to Jesus' execution and burial. On the other hand, this halakah would have applied to James, who was apparently executed by stoning for violating Jewish law and therefore would have been ineligible for burial in a rock-cut family tomb (see the discussion of James's burial below).

[106] As Evans notes (*Jesus and the Ossuaries*, 100–101), contrary to Crossan. Also see Tzaferis, "Crucifixion—the Archaeological Evidence"; Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three," 51; idem, *Catalogue of Jewish Ossuaries,* 131 no. 218. According to McCane, "Dishonorable burial was reserved for those who had been condemned by *the people of Israel*" (*Roll Back the Stone*, 99; emphasis in original). Despite this, McCane concurs that Jesus was buried in shame. The prominence of Yohanan's family is indicated by the fact that another ossuary from this tomb was inscribed "Simon, the builder of the temple," apparently someone who had participated in the reconstruction of the temple under Herod; see Tzaferis, "Crucifixion—the Archaeological Evidence," 47, 50; Brown, *Death of the Messiah,* 2:1210.

[107] Crossan, *Who Killed Jesus*, 168; idem, *The Historical Jesus: The Life of a Mediterranean Peasant* (New York: HarperSanFrancisco, 1991), 391.

[108] Ibid.

[109] For the intact repository at Ketef Hinnom, see Barkay, "News from the Field: The Divine Name Found in Jerusalem."

[110] As Crossan notes (*Who Killed Jesus*, 169).

> The most dramatic evidence that this young man was crucified was the nail which penetrated his heel bones. But for this nail, we might never have discovered that the young man had died in this way. *The nail was preserved only because it hit a hard knot when it was pounded into the olive wood upright of the cross.* The olive wood knot was so hard that, as the blows on the nail became heavier, the end of the nail bent and curled. We found a bit of the olive wood (between 1 and 2 cm) on the tip of the nail. This wood had probably been forced out of the knot where the curled nail hooked into it. When it came time of the dead victim to be removed from the cross, the executioners could not pull out this nail, bent as it was within the cross. The only way to remove the body was to take an ax or hatchet and amputate the feet.[111]

In other words, the means by which victims were affixed to crosses usually leave no discernible traces in the physical remains or archaeological record. Some victims were bound with ropes, which were untied when the body was removed from the cross.[112] When victims were nailed to a cross, the nails had to be pulled out so that the body could be taken down. This is exactly how the *Gospel of Peter* (6:21) describes Jesus' crucifixion: "And then they drew the nails from the hands of the Lord and placed him on the earth."[113] The nail in Yohanan's ankle was preserved only because it bent after hitting a knot in the wood and therefore could not be removed from the body.

Jesus came from a family of modest means that presumably could not afford a rock-cut tomb.[114] Had Joseph not offered Jesus a spot in his tomb (according to the Gospel accounts), Jesus likely would have been disposed of in the manner of the poorer classes: in an individual trench grave dug into the ground. In the Iron Age kingdoms of Israel and Judah, non-elite burials consisted of individual inhumations in simple cist graves.[115] This custom continued through the Second Temple period, when individuals were buried in trench

[111] Tzaferis, "Crucifixion—the Archaeological Evidence," 50 (my emphasis). In their reexamination of this skeleton, Zias and Sekeles found no evidence for amputation, but confirmed that the nail could not be removed from the heel bone because it was bent: "Once the body was removed from the cross, albeit with some difficulty in removing the right leg, the condemned man's family would now find it impossible to remove the bent nail without completely destroying the heel bone" ("Crucified Man," 24, 27).

[112] Tzaferis, "Crucifixion—the Archaeological Evidence," 49; also see Crossan, *Who Killed Jesus*, 135, for a description from the *Acts of Andrew*.

[113] From Brown, *Death of the Messiah*, 2:1319.

[114] Had Jesus' family owned a rock-cut tomb, it presumably would have been located near their home in Nazareth. But in light of what we know of Jesus' family and his background, there is no reason to assume they could afford a rock-cut tomb. See, e.g., Crossan (*Historical Jesus*, 29), who discusses the low social standing of carpenters in the Roman world.

[115] Norma Franklin, "The Tombs of the Kings of Israel: Two Recently Identified 9th-Century Tombs from Omride Samaria," *ZDPV* 119 (2003): 1. I am grateful to Franklin for giving me an offprint of this article.

graves. The body of the deceased was wrapped in a shroud and sometimes placed in a wooden coffin; it was then laid in a hollowed-out space (sometimes described as a "loculus" in modern literature) at the base of the trench. After the trench was filled in, a rough headstone was sometimes erected at one end. The headstones were uninscribed, though some may have had painted decoration or inscriptions that have not survived.

Because trench graves are poor in finds and are much less conspicuous and more susceptible to destruction than rock-cut tombs, relatively few examples are recorded.[116] The best-known cemetery of this type is at Qumran.[117] It is interesting that despite the presence of numerous caves around the settlement, the Qumran community did not inter their dead in caves.[118] I believe this reflects the ascetic and communal nature of the sect and their rejection of the Hellenized/Romanized lifestyle (and death style) of the Jerusalem elite.[119] Instead, the Qumran community chose to bury their dead in the manner of the poorer classes. The graves at Qumran have headstones (stelae) marking one or both ends. They differ from trench graves at other sites in being covered with heaps of stones, as Roland de Vaux noted: "The tombs [graves] are marked by oval-shaped heaps of stones appearing on the surface, often with a larger stone at either end."[120] In my opinion, the heaps of stones covering the graves and the large stones set up at both ends were intended to make the graves visible to passersby, so they could avoid them out of purity concerns.[121]

Other graves of this type have been found at Ein el-Ghuweir and in

[116] See Joseph Patrich, "Graves and Burial Practices in Talmudic Sources," in *Graves and Burial Practices in Israel in the Ancient Period* (ed. I. Singer; Jerusalem: Yad Izhak Ben-Zvi, 1994), 191–92. In Rome, too, the poor were buried in simple holes dug into the ground; see Davies, *Death, Burial, and Rebirth in the Religions of Antiquity*, 148. The corpses of paupers and criminals were disposed of in mass graves; see John Bodel, "Graveyards and Groves: A Study of the *Lex Lucerina*," *American Journal of Ancient History* 11 (1994): 38.

[117] See Magness, *Archaeology of Qumran*, 168–75, with bibliography on 186–87; Patrich, "Graves and Burial Practices in Talmudic Sources," 192.

[118] This despite the fact that the wealthier (including high priestly) residents of Jericho to the north and those at Ein Gedi to the south interred their dead in rock-cut tombs (for Jericho, see Hachlili and Killebrew, "Jewish Funerary Customs during the Second Temple Period"; for Ein Gedi, see Hadas, *Nine Tombs of the Second Temple Period at ʿEn Gedi*.

[119] Magness, *Archaeology of Qumran*, 206.

[120] Roland de Vaux, *Archaeology and the Dead Sea Scrolls* (London: Oxford University Press, 1973), 46.

[121] Unknowingly walking over a trench grave was common enough to occur in a saying attributed to Jesus: "Woe to you [Pharisees] for you [are like] indistinct tombs (Greek *mnēmeia*), and people walking on top are unaware" (Luke/Q 11:44; see McCane, *Roll Back the Stone*, 68). This saying likely refers to trench graves, because they were less visible than rock-cut tombs, which were marked by pyramidal structures or other monumental markers. As McCane notes, unknowingly walking over a grave would have been of concern to Jews who observed purity laws (ibid., 70).

Jerusalem, where they have been identified as Essene burials.[122] Although it is possible that some or all of those buried in these cemeteries were Essenes, there is no archaeological evidence to support this assumption. The graves in Jerusalem and at Ein el-Ghuweir are not associated with identifiable remains of Essene settlements, and they contain proportionate numbers of men, women, and children.[123] In addition, the graves are not marked by heaps of stones or by headstones at both ends.[124] In fact, the presence of thousands of graves of this type in the first- and second-century C.E. Nabatean cemetery at Khirbet Qazone demonstrates that they are not associated only with Essenes.[125] Some of the headstones at Khirbet Qazone are engraved with symbols of Nabatean deities.[126]

When the Gospels tell us that Joseph of Arimathea offered Jesus a spot in his tomb, it is because Jesus' family did not own a rock-cut tomb and there was no time to prepare a grave—that is, there was no time to *dig* a grave, *not* hew a rock-cut tomb (!)—before the Sabbath.[127] It is not surprising that Joseph, who is described as a wealthy Jew and perhaps even a member of the Sanhedrin,

[122] See Pesach Bar-Adon, "Another Settlement of the Judean Desert Sect at ʿEn el-Ghuweir on the Shores of the Dead Sea," *BASOR* 227 (1977): 12–17; Patrich, "Graves and Burial Practices in Talmudic Sources," 192 n. 10; Boaz Zissu, "'Qumran Type' Graves in Jerusalem: Archaeological Evidence of an Essene Community?" *DSD* 5 (1998): 158–71; idem, "Odd Tomb Out: Has Jerusalem's Essene Cemetery Been Found?" *BAR* 25 (1999): 50–55, 62. For another cemetery of this type in the Judean desert, see Hanan Eshel and Zvi Greenhut, "Ḥiam el-Sagha: A Cemetery of the Qumran Type, Judaean Desert," *RB* 100 (1993): 252–59. Bar-Adon mentions large headstones at the southern end of each grave at Ein el-Ghuweir, but does not describe the heaps of stones characteristic of Qumran ("Another Settlement of the Judean Desert Sect," 12). He also notes that at Qumran, large stones mark both ends (north and south) of each grave.

[123] See Magness, *Archaeology of Qumran*, 220–23; Patrich, "Graves and Burial Practices in Talmudic Sources," 192 n. 10.

[124] Zissu, "'Qumran Type' Graves in Jerusalem," 160; idem, "Odd Tomb Out," 52.

[125] See Hershel Shanks, "Who Lies Here? Jordan Tombs Match Those at Qumran," *BAR* 25 (1999): 48–53, 76; Konstantinos D. Politis, "The Nabataean Cemetery at Khirbet Qazone," *Near Eastern Archaeology* 62 (1999): 128.

[126] Shanks, "Who Lies Here?" 51.

[127] As we have seen, the Jewish concern that the deceased be buried on the same day is scripturally based (Deut 21:22; *m. Sanh.* 6:5; for a discussion, see Davies, *Death, Burial, and Rebirth in the Religions of Antiquity*, 102). This explains the haste to bury Jesus, since the onset of the Sabbath would have meant delaying the burial for over twenty-four hours. The Mishnah provides guidelines for quick burials when death occurs during a festival: "They do not hew out a tomb niche or tombs on the intermediate days of a festival. But they refashion tomb niches on the intermediate days of a festival. They dig a grave on the intermediate days of a festival, and make a coffin, and while the corpse is in the same courtyard. R. Judah prohibits, unless there were boards [already sawn and made ready in advance]" (*m. Moʿed Qaṭ.* 1:6). The fact that this halakah refers to rock-cut tombs with loculi suggests it originated in the late Second Temple period. Also note that this passage contains an explicit reference to graves dug into the ground.

had a rock-cut family tomb.[128] The Gospel accounts therefore describe Joseph placing Jesus' body in one of the loculi in his family's tomb. The "new" tomb mentioned by Matthew apparently refers to a previously unused loculus. The Gospel accounts include an accurate description of Jesus' body being wrapped in a linen shroud.[129] When Joseph departed, he sealed the entrance to the tomb by blocking the doorway with a rolling stone.[130]

This understanding of the Gospel accounts removes at least some of the grounds for arguments that Joseph of Arimathea was *not* a follower of Jesus, or that he was a completely fictional character (although, of course, it does not prove that Joseph existed or that this episode occurred).[131] In addition, the tomb must have belonged to Joseph's family, because by definition rock-cut tombs in Jerusalem were family tombs.[132] There is no evidence that the Sanhedrin or the Roman authorities paid for and maintained rock-cut tombs for executed criminals from impoverished families.[133] Instead, these unfortunates would have been buried in individual trench graves. This sort of tradition is preserved in the NT reference to the Potter's Field (Matt 27:7–8).[134] Nor is it necessary to assume that the Gospel accounts of Joseph of Arimathea offering Jesus a place in his family tomb are legendary or apologetic.[135] Unlike Crossan, who "cannot find any detailed historical information about the crucifixion of Jesus,"[136] I believe that the Gospel accounts of Jesus' burial are largely consistent with the archaeological evidence.[137] In other words, although archaeology

[128] Mark 15:43 describes Joseph as "a highly respected member of the council," apparently the Sanhedrin; see Brown, *Death of the Messiah,* 2:1213–14, 1223.

[129] For discussions, see Brown, *Death of the Messiah,* 2:1244–46, 1252.

[130] For a discussion of the type of rolling stone that sealed the tomb in which Jesus' body was placed, see Amos Kloner, "Did a Rolling Stone Close Jesus' Tomb?" *BAR* 25 (1999): 22–29, 76; also see Brown, *Death of the Messiah,* 2:1247–48.

[131] For the suggestion that Joseph of Arimathea was not a follower of Jesus, see Brown, *Death of the Messiah,* 2:1216–18, 1223–24, 1246; for the claim that he was a completely fictional character, see Crossan, *Who Killed Jesus*, 172–73, 176.

[132] Contrary to Brown, *Death of the Messiah,* 2:1249–50.

[133] Contrary to ibid., 1249: "A distinguished member of the Sanhedrin, Joseph may have had access to tombs that served for those whom the Sanhedrin judged against. Into one of these tombs nearby the cross, then, the Marcan Joseph, acting quite consistently as a pious law-observant Jew, could have placed the corpse of Jesus." Two erroneous assumptions underlie this statement: (1) Jesus was condemned and executed by the Sanhedrin for violating Jewish law, not by the Roman authorities for crimes against Rome (as indicated by the reference to "tombs that served for those whom the Sanhedrin judged against"); (2) rock-cut tombs were maintained by the governing authorities.

[134] See Ritmeyer and Ritmeyer, "Potter's Field or High Priest's Tomb?"

[135] Brown, *Death of the Messiah,* 2:1272; Evans, *Jesus and the Ossuaries*, 103; McCane, *Roll Back the Stone*, 103–4.

[136] Crossan, *Who Killed Jesus*, 159; also see idem, *Historical Jesus*, 393.

[137] As noted also by Evans, *Jesus and the Ossuaries*, 15: "what the Gospels depict is consistent

does not prove that there was a follower of Jesus named Joseph of Arimathea or that Pontius Pilate granted his request for Jesus' body, the Gospel accounts describing Jesus' removal from the cross and burial accord well with archaeological evidence and with Jewish law. The source(s) of these accounts were familiar with how wealthy Jews living in Jerusalem during the time of Jesus disposed of their dead.

V. The "James Ossuary"

After the death of Jesus, his brother James became the leader of Jerusalem's early Christian community.[138] Although marginalized in later western Christian tradition, James is widely regarded as a righteous and observant Jew. His pious and ascetic lifestyle earned him the nickname "the Just."[139] Even if the Letter of James was not composed by James (which is a matter of disagreement), its attribution to James suggests that he was known for his opposition to the accumulation of wealth and the fate of the wealthy, as illustrated by the following passages:[140]

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with what is known from archaeology and from literary and epigraphical sources." Unlike Brown (*Death of the Messiah,* 2:1271), I find these accounts to be accurate, not "laconic."

[138] For the sake of convenience I use the term "early Christian community" in this paper to describe the Jewish followers of Jesus during the second and third quarters of the first century C.E. in Jerusalem. For discussions of James's role in this community with references, see John Painter, *Just James, The Brother of Jesus in History and Tradition* (Minneapolis: Fortress, 1999), 3–5; Ben Witherington III, "The Story of James, Son of Joseph, Brother of Jesus," in Shanks and Witherington, *Brother of Jesus,* 121.

[139] See Craig A. Evans, "Jesus and James, Martyrs of the Temple," in *James the Just and Christian Origins,* ed. Chilton and Evans, 246–47; Douglas J. Moo, *The Letter of James* (Grand Rapids: Eerdmans, 2000), 16; Painter, *Just James*, 125; Witherington, "Story of James," 112. Hegesippus (in Eusebius, *Hist. Eccl.* 2.23.4–18) relates that James was "holy from his birth; he drank no wine or intoxicating liquor and ate no animal food; no razor came near his head; he did not smear himself with oil, and he took no baths. He alone was permitted to enter the Holy Place, for his garments were not of wool but of linen. He used to enter the Sanctuary alone, and was often found on his knees beseeching forgiveness for the people, so that his knees grew hard like a camel's." Painter notes that other early (second century) sources preserve the tradition of James's pious and ascetic lifestyle (*Just James*, 125).

[140] As Painter notes, "The vast majority of modern scholars question the authenticity of the letter, although its authorship by James is not without significant defenders" (*Just James,* 239). Witherington believes that James wrote the letter, and he dates it to around 52 C.E. ("Story of James," 144, 146); for a similar opinion, see Pedrito U. Maynard-Reid, *Poverty and Wealth in James* (Maryknoll, NY: Orbis Books, 1987), 7–8. For discussions of the arguments for and against James's authorship, see David Hutchinson Edgar, *Has God Not Chosen the Poor? The Social Setting of the Epistle of James* (Sheffield: Sheffield Academic Press, 2001), 11, 19–22, 223 (who

> A brother of low position ought to be proud of his eminence, but one who is rich ought to rejoice at being reduced in circumstances, for the rich will disappear like the wild flowers. For the sun comes up with its scorching heat and dries up the grass, and the flowers wither, and all their beauty is gone. That is the way rich men will fade and die in the midst of their pursuits. (1:9–11)

> Has not God chosen the world's poor to be rich in faith, and to possess the kingdom that he promised to those who love him? But you humiliate the poor. Are not the rich your oppressors? (2:5–6)

> Come now, you rich people! Weep aloud and howl over the miseries that are going to overtake you! Your wealth has rotted, your clothes are moth-eaten, your gold and silver are rusted, and their rust will testify against you and eat into your very flesh, for you have stored up fire for the last days. Why, the wages you have withheld from the laborers who have reaped your harvests cry aloud, and the cries of the harvesters have reached the ears of the Lord of Hosts. You have lived luxuriously and voluptuously here on earth. (5:1–5)

John Painter observes, "One of the aspects of James that offers some support for the view that the epistle has its context in Judaea and Galilee before the Jewish war is the focus on the exploitation of the poor by the rich."[141] The negative views of wealth expressed in the Letter of James are consistent with the nature of the early Christian community in Jerusalem, which lived a modest, communal lifestyle although some members came from wealthy families.[142] In this regard the early Christian community in Jerusalem resembled the Qumran community.[143] In 62 or 63, during a hiatus in the office of procurator, the Jew-

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believes it is likely a pseudepigraphical composition); Peter H. Davids, "Palestinian Traditions in the Epistle of James," in *James the Just and Christian Origins,* ed. Chilton and Evans, 33–57 (who notes on p. 34 that "the most one can demonstrate with a high level of probability is that the material in James appears to come from the environment in which James lived and functioned and thus *could well* stem from James"); Moo, *Letter of James*, 9–22 (who favors authorship by James); Painter, *Just James*, 234–48 (who believes that the letter was written by a Greek-speaking Diaspora Jew and that it was "intentionally attributed" to James). Even if the letter was not written by James, most scholars seem to agree that it accurately reflects his views on wealth; see e.g., Painter, *Just James*, 13: "Apart from the Epistle of James, none of the New Testament texts is written from the point of view of James." According to Witherington, James's wisdom is intended for the poor and oppressed versus the rich ("Story of James," 153).

[141] Painter, *Just James*, 249. For the theme of wealth and poverty in the Letter of James and the modest lifestyle of the early Christian community in Jerusalem, see Maynard-Reid, *Poverty and Wealth in James*; Edgar, *Has God Not Chosen the Poor*, 133; Moo, *Letter of James*, 35–36.

[142] See, e.g., Painter, *Just James*, 249: "The poverty of the early Jerusalem church is well attested by Paul and the author of Acts. . . . In Jerusalem the believers experimented with an early form of 'communism,' that is, of giving up the private ownership of land and resources to provide resources for all."

[143] Witherington explicitly compares the early Christian community in Jerusalem with the

ish high priest Ananus took advantage of the opportunity to condemn James and had him executed by stoning. James's opposition to the wealthy, who of course included the high priests, may explain why Ananus had him put to death.[144] Josephus provides a contemporary account of this episode: "so he [Ananus the high priest] assembled the sanhedrin of the judges, and brought before them the brother of Jesus, who was called Christ, whose name was James, and some others [or some of his companions;] and when he had formed an accusation against them as breakers of the law, he delivered them to be stoned" (*Ant.* 20.9.1).[145]

According to the second-century C.E. church historian Hegesippus (cited in Eusebius, *Hist. Eccl.* 2.23.4–18), James was buried just below the Temple Mount (presumably in the area of the Kidron Valley or Mount of Olives). Hegesippus mentions that in his time the stele marking the grave could still be seen:

> So they went up and threw down the Just one. Then they said to each other "Let us stone James the Just," and began to stone him, as in spite of his fall he was still alive. . . . Then one of them, a fuller, took the club which he used to beat the clothes, and brought it down on the head of the Just one. Such was his martyrdom. He was buried on the spot, by the Sanctuary, and his stone (*stēlē*) is still there by the Sanctuary. (in Eusebius, *Hist. Eccl.* 2.23.15–18)

Ben Witherington argues that the "James ossuary" should be understood as the stele described by Hegesippus.[146] However, we have no contemporary examples of the use of the word *stēlē* to describe an ossuary. Ossuaries are referred to in ancient inscriptions and literary sources by the Greek words *ostophagos* and *glōssokomon*, and in Hebrew and Aramaic as *gĕlûsqĕmā'*, *'ārôn*, or *ḥalat*.[147] The Greek word *stēlē* (Hebrew *maṣṣēbâ*) denotes a stone such as a

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Essenes ("Story of James," 115). For the suggestion that the Essenes' negative attitude toward the accumulation of wealth and glorification of poverty influenced the Jesus movement, see Magen Broshi, "Matrimony and Poverty: Jesus and the Essenes," *RevQ* 19 (2000): 632–34; idem, "What Jesus Learned from the Essenes," *BAR* 30 (2004): 32–37, 64; Robert Eisenman, *James the Brother of Jesus: The Key to Unlocking the Secrets of Early Christianity and the Dead Sea Scrolls* (New York: Penguin, 1997), 4.

[144] See Painter, *Just James*, 251, 264. Bauckham suggests that James was executed for blasphemy or for leading astray the town ("For What Offence Was James Put to Death?" 229).

[145] Unlike in the case of Josephus's more controversial reference to Jesus (*Ant.* 18.3.3), most scholars do not believe this passage was added or substantially altered by later Christian copyists; see Bauckham, "For What Offence Was James Put to Death?" 198; Witherington, "Story of James," 168.

[146] Ibid., 187, 188. Witherington incorrectly (and misleadingly) translates the Greek word *stēlē* here as "*inscribed* stone" (my emphasis). Painter renders it more accurately as "headstone" (*Just James*, 123).

[147] For discussions of these terms, see Rahmani, *Catalogue of Jewish Ossuaries*, 3; Evans, *Jesus and the Ossuaries*, 11. For an ossuary inscribed twice with the Greek word *ostophagos,* see Avigad, "Jewish Rock-Cut Tombs in Jerusalem," 141. For an ossuary referred to in Palymrene as

cippus or headstone. Stelae were used to mark individual trench graves dug into the ground, whereas monumental columnar, pyramidal, or conical *nĕphāšôt* were erected above underground rock-cut tombs.

Jesus was laid in a rock-cut tomb because he was removed from the cross on the eve of the Sabbath, when there was no time to dig a trench grave for him, and because a wealthy follower offered a loculus in his own family tomb. However, none of our sources indicates that James was placed in a rock-cut tomb. To the contrary, all available evidence suggests the opposite. As we have seen, the family of Jesus and James presumably could not afford a rock-cut tomb.[148] Even if James's family owned a rock-cut tomb, the fact that James was executed by stoning for violating Jewish law means that his remains could not have been placed in it (*m. Sanh.* 6:5).[149] And as we have seen, there is no evidence that the Sanhedrin paid for and maintained rock-cut tombs for executed criminals. Instead, these unfortunates must have been buried in trench graves, in the manner of the poorer classes. Unlike Jesus, James did not die on the eve of a Sabbath or holiday, which means there would have been time to dig a trench grave for him. And finally, James's opposition to the accumulation of wealth and the wealthy makes it hard to believe that he would have been buried in the kind of rock-cut tomb that was a hallmark of the elite lifestyle. We have seen that James's conflict with the Jerusalem elite might even have led to his execution: "James's conflict with Ananus was a result of his opposition to the exploitation of the poor by the rich aristocratic ruling class and in particular the exploitation of the poor rural priesthood by the aristocratic urban chief priests."[150]

Some scholars have suggested that the early Christian community of Jerusalem chose to "honor" James by preparing a rock-cut tomb for him or by offering him a spot in one of their family tombs.[151] Although I cannot exclude

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kauka ("amphora" in the sense of "urn"), see Frey, *Corpus Inscriptionum Iudaicarum*, 2:250 no. 1222; Rahmani, *Catalogue of Jewish Ossuaries*, 3. For ossuaries inscribed with the word "tomb" (probably referring to the ossuary), see Rahmani, *Catalogue of Jewish Ossuaries*, 109 no. 125 (*kibra*); 198 no. 561 (*topou*).

[148] According to Witherington, Joseph would have passed the family trade of carpentry on to his sons: "While carpenters did not rank at the high end of the social structure of society, neither were they at the low end. . . . even a woodworker who simply built furniture might expect to make a living that could support the family" ("Story of Jesus," 101). Also see Crossan, *Historical Jesus*, 29.

[149] Assuming that the prohibition described in the Mishnah was in effect in the second half of the first century C.E.

[150] Painter, *Just James*, 140.

[151] See, e.g., Witherington, "Story of James," 171: "The Jewish Christians who buried James evidently wanted to honor him in death, and they apparently expected some would come and visit the burial spot and see the inscription written on the side of the box." If the inscription on the "James ossuary" were authentic and referred to James the Just, we would expect his place of origin (Nazareth or Galilee) to be indicated, as on other ossuaries containing the remains of émigrés who settled or died in Jerusalem. As Rahmani pointed out, "In Jerusalem's tombs, the deceased's place

this possibility, I believe it is unlikely for several reasons. We have no indication that the members of the early Christian community of Jerusalem abandoned the principle that rock-cut tombs were used by families. In Palestine, the custom of community burial in Jewish (or Christian) catacombs is not attested before the second to third centuries (e.g., at Beth Shearim).[152] There is no reason to assume that James was placed in someone else's tomb, since we have no testimony that this happened (unlike the case of Jesus). In addition, I find it hard to believe that the early Christian community of Jerusalem, which lived an impoverished and communal lifestyle, would have honored a man who supposedly believed that "riches are a mark of the ungodly" by burying him in an elite display tomb.[153] Even if we assume that the early Christians of Jerusalem buried their members as a community instead of as individuals with their families,[154] we should probably envisage a practice analogous to the Qumran burials. Hegesippus's testimony apparently preserves an accurate tradition that James was buried in a trench grave dug into the ground, not in a rock-cut tomb. A stele (headstone) set above a grave identified as James's was still visible in the second century C.E.[155] As Painter has noted, Hegesippus's relatively early date (within a century of James's death) and the fact that he was apparently from Palestine (as Eusebius certainly was) mean that his statement about the stele is probably reliable.[156] The suggestion made by some scholars that all or part of the inscription on the "James ossuary" is an ancient forgery—added by a pious Christian in the fourth to fifth centuries—is anachronistic, since the custom of

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of origin was noted [on ossuaries] when someone from outside Jerusalem and its environs was interred in a local tomb" (*Catalogue of Jewish Ossuaries*, 17). For example, one ossuary from Nicanor's tomb is inscribed: "[these] bones of [the family] of Nicanor of Alexandria who made the gates. Nicanor, the Alexandrian" (see Frey, *Corpus Inscriptionum Iudaicarum*, 2:261–62 no. 1256). For other examples, see Rahmani, *Catalogue of Jewish Ossuaries*, 17; Frey, *Corpus Inscriptionum Iudaicarum,* 2:273 no. 1283, which reads "Judah, son of Judah, of Bethel"; 273 no. 1284, which reads "Maria, wife of Alexander, of Capua"; 276 no. 1285, which reads "Joseph the Galilean"; 314–15, nos. 1372–74, on which "of Scythopolis" is added after the names of the deceased.

[152] Although we have evidence for a community cemetery with individual burials (but not a catacomb) dating to this period at Qumran; see Magness, *Archaeology of Qumran*, 168–75.

[153] See Painter, *Just James*, 52.

[154] As suggested by Witherington, "Story of James," 105, 170 (although on p. 170 he notes that "James was not likely buried in a graveyard specifically for Christians. He was buried with his fellow Jews").

[155] Even if the stele that Hegesippus mentions did not mark the authentic location of James's grave, his testimony indicates that Jerusalem's early Christian community preserved the tradition of the manner in which James had been buried. Jerome's testimony suggests that by the fourth century the stele was no longer visible; see Painter, *Just James*, 223; Eisenman, *James the Brother of Jesus*, 454–55.

[156] Painter, *Just James*, 129. Also see Bauckham ("For What Offence Was James Put to Death?" 200, 206), who concludes that Hegesippus's testimony indicates that like Josephus, the Christian tradition about the stoning of James "had some access to historical fact" (p. 206).

ossilegium had disappeared from Jerusalem long before then.[157] Contemporary Christians would not have been familiar with the custom of ossilegium. Those who encountered ossuaries in earlier tombs would have had no reason to associate these objects with the first century C.E. or with James.[158]

The evidence that James was buried in a trench grave dug into the ground and not in a rock-cut tomb renders the controversy over the "James ossuary" moot. Even if the inscription is authentic, it would not refer to James the Just, the brother of Jesus.[159] By definition, ossuaries and the custom of ossilegium are associated with rock-cut tombs. The bones of individuals interred in trench graves were not redeposited in ossuaries. This was unnecessary because ossuaries held the bones of earlier interments collected in rock-cut family tombs.[160] It would have been a waste of precious time and money (which the poorer classes lacked) to dig up an old trench grave and place the bones in an ossuary.[161] Instead, new trench graves were dug as the need arose.

To conclude, the controversy surrounding the "James ossuary" reflects a fundamental and widespread misconception about the function and social context of ossilegium in late Second Temple period Judaism. There should be no controversy. Even if the inscription is authentic and is not a modern forgery, this ossuary did not contain the bones of James the Just, the brother of Jesus.

[157] See Paul V. M. Flesher, "The Story Thus Far . . . : A Review Essay of *The Brother of Jesus: The Dramatic Story & Meaning of the First Archaeological Link to Jesus & His Family*, Hershel Shanks and Ben Witherington III, HarperSanFrancisco, New York, 2003," *Polish Journal of Biblical Research* 2.2(4) (2003): 64.

[158] By the fourth and fifth centuries, the figure of James had been marginalized in the Western church; see Painter, *Just James*, 178, 220, 271, 274. In contrast, in Gnostic Christianity James enjoyed a prominent position (ibid., 167). For the Nag Hammadi texts, see James M. Robinson, ed., *The Nag Hammadi Library, Revised Edition* (San Francisco: Harper & Row, 1988). For the Byzantine Christian reuse of earlier tombs in Jerusalem, see Gideon Avni, "Christian Secondary Use of Jewish Burial Caves in Jerusalem in the Light of New Excavations at the Aceldama Tombs," in *Early Christianity in Context: Monuments and Documents* (ed. F. Manns and E. Alliata; Jerusalem: Studium Biblicum Franciscanum, 1993), 265–76.

[159] In other words, if the inscription is authentic (ancient), it must refer to one of the other twenty or so first-century C.E. Jews in Jerusalem who could have had this combination of names; see Lemaire, "Burial Box of James the Brother of Jesus," 33.

[160] Ossuaries were frequently placed inside loculi, sometimes alongside primary burials. For examples, see Vitto, "Burial Caves from the Second Temple Period in Jerusalem," 68–71, figs. 3–11. For a rock-cut tomb with a burial chamber containing loculi and a second room that was used as a repository for ossuaries, see ibid., 114.

[161] A possible exception to this scenario is suggested by *m. Sanh.* 6:5–6:6, which prescribes special burial grounds for those executed for transgressing Jewish law and allows their bones to be collected and reburied in family tombs after the flesh had decayed. Since we have no evidence that the Sanhedrin paid for and maintained rock-cut tombs for executed felons, the deceased presumably were inhumed in individual graves dug into the ground. Therefore, this passage probably refers to cases where the deceased belonged to wealthy families with rock-cut tombs who dug up the remains after the flesh had decayed.

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Prophets and Prophecy in the Ancient Near East, by Martti Nissinen, with contributions by C. L. Seow and Robert K. Ritner. Edited by Peter Machinist. WAW 12. Leiden/Boston: Brill, 2003. Pp. xxi + 273. € 92.00; $124.00. ISBN 9004126910.

In keeping with the aims of the Writings from the Ancient World series, this volume is designed to provide general readers with an up-to-date translation of texts concerned with prophecy from the ancient Near East. This must be qualified, however, insofar as the volume does not present Egyptian texts that are sometimes considered prophetic (e.g., Admonitions of Ipu-wer). Rather, it focuses primarily on Mesopotamian texts, especially the Mari letters, and texts from Syria, Canaan, and Israel.

Nissinen defines prophecy for the purposes of this volume as "human transmission of allegedly divine messages" (p. 1). It is a branch of the larger phenomenon of divination. Prophecy is therefore noninductive insofar as it does not rely on systematic observations of phenomena in the world and their scholarly interpretation (e.g., consultation of smoke or oil patterns, of liver features in sacrificial animals). One might question this decision insofar as it is not always certain how prophets who deliver oracles obtain their insights into the mind or will of the divine. Note, for example, that Amos delivers oracles that are based in part on his observations of locust plagues and fire (see Amos 7:1–3, 4–6); Jeremiah observes his own Levitical rod and the pots that he would have used as a Levite in the preparation of sacrificial meals (see Jer 1:11–19); and Zechariah observes the various scenes associated with the building of the Second Temple (Zechariah 1–6). Likewise, the biblical portrayal of Balaam ben Beor (identified by scholars as a *baru* priest) indicates that he delivered oracles based in part upon his use of altars, which would have played a role in the deductive divination characteristic of *baru* priests. This last example is especially noteworthy because the volume includes the Deir ʿAlla inscription, which presents an oracle attributed to Balaam. Although the account of Balaam's oracles in Numbers 22–24 is highly fictionalized, the remembrance of a foreign prophet as a diviner might well suggest to us some insight into the means by which such oracles were obtained. The Mari texts included in this volume present oracular statements by various types of prophets, but it is never clear what motivates them to speak. Can we simply assume that they work with some sort of divine inspiration—as is

frequently supposed for the biblical prophets—or did they too depend upon some sort of deductive observation that our texts do not portray? Nissinen is aware of the problem and notes that our texts leave us in the dark concerning the social conditions in which the transmission of divine messages occurs. Indeed, the supposition that biblical prophets work without such observation is just as questionable as the above-noted examples would suggest.

Texts included in the volume comprise three types: (1) oracle reports and collections that are clearly represented as divine communications; (2) quotations of prophetic messages in letters and other types of literature; and (3) texts with references to persons who have a prophetic title. Excluded texts include (1) those not entirely consistent with the definition of prophecy as transmission, such as the predictive Egyptian texts; (2) texts in which the reference to prophecy is yet to be established; and (3) several texts from Nuzi and Assur in which the term *āpilu*, "answerer," commonly recognized as a prophetic title in the Mari texts and elsewhere, appears to have a different meaning. The various designations for prophets in these texts include the *āpilum*, "answerer," who might possibly be a type of oracle diviner; the *muhhûm*, an ecstatic figure who sometimes seems to be indistinguishable from the *āpilum*; *qammatum*, an uncertain term that might refer to a distinctive hairstyle; the *nabû*, which may be related to biblical Hebrew *nābîʾ*; the *assinu*, a "man-woman," who appears to change gender roles when speaking on behalf of a deity; and the Neo-Assyrian *raggimu*, "proclaimer," who is especially—but not exclusively—associated with Ishtar of Arbela. The Zakkur and Deir ʿAlla inscriptions employ the term *ḥzh*, "visionary," which actually refers to one who "perceives," whether visually or aurally. Although the terms are suggestive of social roles, the texts unfortunately provide us with only scant information.

Each text includes a transliteration of the original language, an English translation in very readable form, references to photographs, copies, transliterations and translations, scholarly discussion of the text in question, and a set of very useful notes that guide the reader through idioms, philological issues, historical background, and so on. All of this is intended to serve the general reader, but scholars can employ these features with profit to track down both the general and the technical aspects of each text.

The first group of texts presented in the volume includes fifty Mari letters that take up various aspects of prophecy as defined above. A brief introduction provides the historical details of the figures presented in the texts, such as the Mari Kings Yasmah-Addu (ca. 1792–1775 B.C.E.) and Zimri-Lim (1774–1760 B.C.E.), who appear so frequently throughout these texts; discussion of the prophetic titles employed; a survey of the contents of the various documents; and references to scholarly discussion. Many of the oracles and oracular reports in these documents deal with political and military matters, the building and maintenance of temples, the worship of deities, and performance of the divine will. Others concern private matters, such as Šelebum's complaints about living quarters and food allotments (no. 8) or the deaths and namings of royal children (nos. 33, 44). The primary concern throughout is the well-being of the king in warfare. He is frequently warned of plots and the dangers of going out on campaign. The rebellion of the Yaminites against Zimri-Lim is a concern, although Nissinen notes the debate as to whether they are the *binî Yamîna*, "Benjaminites," or *mārû Yamîna*, "kings/leaders of the Yaminites." Nissinen favors the latter interpretation. Zimri-Lim's war against Hammurabi is frequently mentioned, although this war ultimately led to Mari's destruction.

These documents are particularly important because they demonstrate the regular interaction between the royal house and prophets on a variety of questions. Prophets are legitimate and recognized counselors to the king on all major topics of governmental interest. They also point to the social location of prophets in relation to the temples of various deities, particularly Ishtar of Arbela.

Section 2 presents fifteen other documents from Mari, including Ishtar Rituals, in which prophets and prophetesses take part; accountings of garments, donkeys, and other expenditures to prophets; and reports of criminal acts. These texts are particularly important because they highlight the professional status of prophets and their liturgical roles. Prophets are paid for their services; they are a professional class in ancient Mari.

Section 3 includes the two Eshnunna oracles, which present the oracles of the goddess Kititum (a manifestation of Ishtar) to King Ibalpiel II of Eshnunna (r. 1779–1765 B.C.E.). Something of the process of oracular inquiry is evident here as Kititum's first oracle notes that she responds to the king with the secrets of the gods because he constantly pronounces her name. As a result, she pronounces a *šulmu,* or oracle, of well-being that grants him power over the land and ensures his throne—so long as his ear is attentive to her!

Section 4 includes twenty-nine Nineveh oracles, which were found in the remains of the royal Neo-Assyrian archive of Nineveh that was destroyed in 612 B.C.E. by the Babylonians and Medes. The prophetic texts appear on two types of tablets, some of which are recorded individually and others that are collected together. The first represent a type of disposable document that was apparently used for an initial recording; the second was intended for long-term preservation. Some might see in this the origins of the writing of prophetic books, although the biblical books appear to have been more highly stylized to present an overall interpretation of the prophet and his times than the Neo-Assyrian collections would suggest. The documents were collected only by Kings Esarhaddon and Assurbanipal, which suggests to Nissinen that they were the only kings to have prophecies filed away. We must be aware that these are the last kings of Assyria. We therefore cannot exclude the possibility that similar collections were made by earlier kings, either to be discarded later or simply not housed in Assurbanipal's archives. Nevertheless, Nissinen notes that they are also the only Assyrian kings to be attentive to prophecy, which may be relevant for the emergence of classical prophecy in Israel during this period. The words of various deities appear throughout these documents, including Ishtar of Arbela, Bel, and Nabu, among others. The addressee is generally the king of Assyria, which points to a social role for prophets similar to that presented in the Mari letters. They cover a similar range of topics, and they emphasize the deliverance of *šulmu* oracles of well-being to the king in his various enterprises. The reassurance formula "fear not!" appears frequently in these oracles as well as in biblical texts.

Section 5 includes twenty-three other Neo-Assyrian documents that are relevant to the study of Mesopotamian prophecy. Documents include royal inscriptions, a succession treaty for Esarhaddon, royal correspondence, the so-called Marduk ordeal, administrative texts, etc. The royal oracles show strong support of the gods for Esarhaddon and Assurbanipal. The Marduk ordeal was apparently related to the return of Marduk's statue to Babylon and the rebuilding of the city at the beginning of Assurbanipal's reign, although Assurbanipal probably regretted his decision when Babylon revolted in 652–648!

Section 6 includes seventeen (not sixteen, as mentioned on p. 179) miscellaneous cuneiform sources, such as lexical lists, temple offerings, chronographic texts, omen texts, etc. All refer in one form or another to prophets. The righteous sufferer from Ugarit is particularly important for its description of the prophets who bathe in their blood, apparently at mourning ceremonies. Such a text might help to explain the actions of Elijah's opponents at Mt. Carmel (1 Kings 18).

Section 7 includes six west Semitic texts prepared by C. L. Seow, including the Amman Citadel Inscription, the Zakkur Stele, the Deir ʿAlla text, and three Lachish ostraca. The Amman text dates to the ninth century and emphasizes Milcom's protection of the city. The Zakkur stele from the early eighth century presents Zakkur's prayer to Baalshamayn for protection against enemies such as Bir-Hadah (Ben Hadad) of Aram and others. The eighth century Deir ʿAlla inscription presents Balaam's visions of the gods or the Shaddayin concerning coming disaster to the land. This text has important implications for understanding the role and dating of Balaam ben Beor in Numbers. Finally, the Lachish ostraca present letters written by Judean military officers during the Babylonian siege of Lachish in 586 B.C.E.

Section 8 presents the episode of a young man's ecstatic prophecy from the Report of Wenamon. This section was prepared by Robert K. Ritner and represents an excerpt from his own forthcoming WAW volume on Egypt's Third Intermediate Period.

The volume concludes with concordances, bibliography, a glossary, and indices of names of people, places, terms for prophets, etc.

Altogether, this is a very useful and readable volume that will well serve its intended audience of general readers as well as specialists in biblical studies, ancient Near Eastern studies, and other areas. Because of its extensive and accessible references to earlier studies, it will likely become the standard reference work for those interested in these texts.

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Biblical Mourning: Ritual and Social Dimensions, by Saul M. Olyan. Oxford: Oxford University Press, 2004. Pp. x + 174. $85.00 (hardcover). ISBN 0199264864.

This volume takes as its subject matter "the understanding of ritual dimensions of mourning as it is represented in biblical [Hebrew Bible] and cognate literatures" (p. 1). With characteristic perceptiveness, Olyan adopts a social approach to the mourning complex, informed in part by social-anthropological perspectives. He ably illustrates how rituals concerning mourning are spaces of potential and actual transformation of the social order because, "like other rites, mourning practices provide a ritual setting for the realisation, affirmation, re-negotiation, or termination of social bonds between individuals, groups, and even political entities such as states" (p. 4). Drawing on theoretical perspectives of Hertz, Van Gennep, and others, Olyan posits a link between the deceased, the mourner, actual death, and social death. Moreover, he broadens the appeal of "mourning rites" from those contexts solely related to death, for "the notion that only mourning the dead is really mourning [is] an idea that is clearly alien to the biblical text and its usage" (p. 24).

To this end, Olyan provides a fourfold typology of mourning rites. First, and most obviously, are mourning rites practiced in the context of death. Mourners are joined by comforters—are "family, friends or allies"—and accordingly are "ritually separated from the sanctuary and from quotidian life for a set period of time, usually seven days" (p. 25). Second are rites of mourning practiced by penitents and petitioners; these often occur in situations of impending crisis, punishment, or subjugation. Third is mourning that occurs at times of disaster and that contains no petitionary elements but rather "seems intended to mark the calamity, serve as a way to express sorrow and horror, and where relevant, affirm, renegotiate, or establish social bonds" (p. 26). Fourth are mourning rites delivered in circumstances of skin disease. These are neither petitionary nor is the disease seen as a disaster; rather, mourning is "a component of a constellation of behaviours that isolate the diseased person from all others" (p. 26). This fourfold typology sets the framework for the rest of the book, which proceeds with a Geertzian "thick description" of biblical texts and comparison of the texts with selected examples of cross-cultural mourning practices.

Olyan first analyzes "Mourning the Dead." Mourning behaviors, rites, and clothing all serve as anti-types to normal behavior (and rejoicing), thus separating the mourner from normal society and religion and enforcing a certain identification of them with the dead. "Petitionary mourning," unlike the domestic space of mourning the dead (specifically confined because of purity regulations), may occupy sacred space. Joel 1–2, Ezra 9–10, 1 Samuel 1 all show such rites performed in the sanctuary. Also, unlike the time stipulations involved in mourning the dead, petitionary mourning "may or may not be temporally restricted" (p. 77). As in situations of mourning the dead, however, petitionary mourning often involves self-debasement and humility.

"Mourning in Other Contexts" takes as its subject rites performed in times of crisis (e.g., the collapse of a city) where no petitionary element is evident. However, certain symbolic elements are shared in common with bereavement for "collective mourning over a destroyed city or a military defeat would function to separate the mourners from others who do not share their sorrow or political and communal attachments" (p. 106). Similarly, those afflicted with skin disease resemble the corpse as a site of uncleanness and "social death." Unlike the mourner of the dead, however, the person with skin disease cannot easily be reintegrated into the community; they "receive no comforters" and are indefinitely, even permanently, isolated from others.

"The Constraints on Mourning Rites" focuses on the proscriptions on priestly and lay forms of mourning, particularly the censorship of shaving and laceration in the Holiness Code and Deuteronomy (Lev 21:5; 19:27–28; Deut 14:1). Olyan conjectures that, unlike other forms of mourning, laceration and shaving are not easily reversible. One cuts and scars the skin; the other involves a lengthy period of regrowing hair. He submits that such reversals would exceed the seven-day mourning time (p. 116); thus mourning behavior would be visible in nonmourning contexts, and would presumably constitute an assault on holiness. Olyan accordingly considers "the attribution of holiness to the whole people may have had the effect of focusing greater attention on potential difficulties caused by mourning tokens on the bodies of those who rejoice" (p. 123). Olyan then catalogues challenges to this position in "The Sanctioned Mixing of Mourning and Rejoicing." Taking Jer 41:4–5 and Amos 8:3 as examples, he shows how descriptions of grief and gaiety are united together in the circumstances of the devastation of the temple and its legacy. He concludes that "it can only be the destruction of the sanctuary and

the loss of a distinct, sanctified ritual space that allows for this sanctioned response of mixing otherwise separate and incompatible ritual modes" (p. 136).

This book is well conceived, logically executed, and lucidly written. Accessible and comprehensive, Olyan has performed a great service in filling a notable lacuna by cataloguing the polyvalent nature of mourning as it is presented in the Hebrew Bible. Moreover, his astute insights and sensitivities to the relationship between rites and society reveal a complex and sophisticated amalgam of theological and anthropological threads. His work will no doubt stimulate, inspire and provide invaluable tools for others.

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Die Rettung der Guten durch Gott und die Selbstzerstörung der Bösen: Ein theologisches Denkmuster im Psalter, by Claudia Sticher. BBB 137. Berlin: Philo Verlagsgesellschaft, 2002. Pp. 379. € 56.00 (hardcover). ISBN 3825702898.

Sticher's revised Passau University doctoral dissertation (2001) studies the theological concept of God's active or passive punishment of the wicked in the conceptual world of the Hebrew Psalter. More precisely, she looks at those psalms where the destiny of doers of good and doers of evil are dealt with in conjunction. Her intention is to determine if God's involvement in punishment is active or passive (or interchangeably both) in these texts. In the brief introduction to her topic (pp. 7–17) she includes the rationale for her textual selection, basing herself on prior studies and concordance analysis of particular terms involving the semantic domain of "enemy." As a result, Sticher identifies twenty individual psalms (1; 6; 14; 20; 25; 27; 36; 37; 40; 49; 57; 63; 70; 71; 91; 92; 104; 112; 118; 141) and a section of Proverbs 1–9 that include both classes of statements: the blessing of the righteous and the punishment of the evildoer. Sticher indicates her intent to work with the canonical final text (p. 13) and emphasizes both the unity of the *Gesamtpsalter* and the importance of the individual psalm. However, that does not imply that she eschews standard historical-critical paradigms; rather, following Zenger, she employs both methodological approaches (p. 17). Finally, concerning the dating of the complete Psalter, Sticher suggests a very late date in the milieu of the wisdom school that distanced itself from the temple aristocracy and their hellenizing tendencies (p. 17).

Sticher next reviews the history of research (pp. 18–31) with regard to God's active/passive involvement in the punishment of the wicked as portrayed in the Hebrew Bible. She focuses especially upon the contributions of Klaus Koch, who introduced the concept of the *destiny-shaping sphere of a deed* ("schicksalwirkende Tatsphäre"), and those of Egyptologist Jan Assmann, who coined the term *connective justice* ("konnektive Gerechtigkeit") in his discussion of Egyptian thinking about Maʿat, the divinely given order of the world. Sticher suggests that, while the concept of connective justice and Maʿat is based upon Egyptian data, the conceptual closeness to biblical thinking about justice and punishment should be taken for granted (p. 26). Based on her critique of and interaction with Koch and Assmann, Sticher suggests a third concept that she describes as *salvicative justice* ("salvikative Gerechtigkeit"), which should be distinguished from Janowski's suggestion of *saving justice* ("rettende Gerechtigkeit"), whereby the sin of

the wicked results in some type of auto-destruction (as per Koch's suggestion). God restores the equilibrium (that had been destroyed by sin) by saving those who allow God this saving act out of a world that is suffering from its own sin (p. 31).

To illustrate her method, Sticher dedicates more than twenty-five pages (pp. 33–58) to an exegetical and theological discussion of Psalm 37, which she considers a paradigm psalm for the issue of active/passive divine punishment of the wicked. In her discussion of each of the twenty psalms Sticher follows the same structure: after presenting the Hebrew text of *BHS* (without the critical apparatus), she provides her own translation and outline, followed by structural observations (including key words and phrases, etc.) and a discussion of the literary unity of the psalm. She next deals with the genre and the date of the particular psalm. Finally, she considers the psalm in light of her hypothesis, that is, the psalm's assertions concerning the fate of the wicked in relation to divine action. In most of her exegetical observations Sticher includes five different elements: (1) statements in the text that deal with the blessings of the righteous without the specific mention of God; (2) statements about divine action in favor of the righteous; (3) statements about the end of the wicked; (4) terms utilized to describe the righteous; and (5) terms employed to describe the wicked. Additionally, Sticher includes—always connected to the relevant psalm—pertinent additional information that is organized in four different excursuses: excursuses 1 and 2 are connected with Psalm 1 and deal with the Hebrew root אבד (pp. 63–68) and the wrath/anger of God (pp. 71–73). Excursus 3 (part of the discussion of Psalm 41) deals with the semantics of the Hebrew verb פחד, "tremble (for fear)" (pp. 91–92), and excursus 4 (part of the discussion of Proverbs 1–9) discusses the action of divine laughing and mocking (pp. 292– 99).

Sticher's concluding chapter focuses on two distinct issues: the kind of worldview observed in the textual corpus (pp. 304–32); and the *Gottesbild* demonstrated in these texts (pp. 333–44). Regarding the first, Sticher perceives an unusually high percentage of terms connected to a theology of the poor in the Psalms: eleven or twelve of her twenty psalms are considered to belong to this particular group (p. 311); however, other psalms that belong to this collection do not share the same theological perspective about active/passive divine punishment of the wicked (p. 312). Furthermore, Sticher postulates a general theological tension in the selected psalms that sees humanity (be it the individual Israelite in conflict with the Torah, the personal enemy, or the national enemy) in constant conflict with the negative forces of this world (p. 325). In this perspective, God becomes active only through the redemptive act of those who choose God but not as an actively punishing God. Finally, Sticher includes an intriguing discussion of the theological concept of original sin (pp. 324–32) in the light of her findings. She argues that there is no unified theology of original sin in the Hebrew Bible but rather a variety of distinct theologies (plural). Sticher's concluding discussion of the *Gottesbild* perceivable in the selected psalms recognizes that this particular subgroup espousing a differentiated theological perspective cannot be connected directly to a specific social group in Israelite society. God is acting in favor of the poor and the oppressed. God saves the good but does not actively destroy the wicked. Sticher emphasizes two important elements here. First, there is an assurance of hope; that is, God will save the righteous and those needing God's saving grace. Second, salvation and righteousness are relational. In this sense it is difficult to make absolute statements about God (p. 342).

Rather, instead of describing God's character, God's saving involvement in human affairs is portrayed.

Sticher's contribution in the area of biblical theology should be recognized. Her observations are mostly accurate and demonstrate a close contact with the Hebrew text. While her method is not entirely literary (or "narrative," if one could speak of narrative theology in the context of poetry, following Adele Berlin), she is aware of the important literary elements of the text. Also, her work is characterized by a remarkable intellectual transparency that seeks to avoid jumping to conclusions and indicates problems, even when the data would fit—at least partially—into the mold of her main thesis (e.g., she recognizes the morphological difficulty of distinguishing clearly between indicative and jussive verbal forms, which results in the weakening of her thesis [p. 13 n. 15]). Her work is well documented—she includes a total of 996 footnotes in 343 pages, and her bibliography covers thirty-five pages (pp. 345–79). The editing has also been very careful. Unfortunately, the volume does not include any index, which somewhat diminishes its usefulness and should not occur in this age of digital publishing. However, while not ignoring the positive aspects of her work, some critical remarks seem to be in order.

As is unfortunately often the case, especially in published doctoral dissertations, Sticher's work is drawing primarily on German (and to a lesser degree continental) scholarship of the Psalms. While her bibliography is international and very copious, in the crucial footnotes in the text she depends mostly on a limited number of German works, particularly the publications of Erich Zenger and Norbert Lohfink. To be sure, both scholars have made important contributions to Psalms scholarship, but there are other voices in the academy worth engaging. I noted several English or French works that appear in her bibliography but did not make it into even one footnote.

A further problematic issue concerns her dating of the Psalms in general and of the individual twenty selected psalms in particular. Sticher consistently insists on a fourth- or third-century B.C.E. date, based on traditional historical-critical scholarship. Again, other voices should not only be recognized but engaged. For example, in her extensive discussion of the dating of Psalm 37 (her paradigm psalm) she argues for a late date because of the employment of terminology typical for P. Obviously, the late dating of P would also suggest a late dating of this particular text. I could not find any discussion of the complex issue concerning the date of P based on terminology, especially in view of the fact that there appears to be a growing awareness that P (if it existed as an independent source) should be dated earlier (see here, e.g., the works of Avi Hurvitz, Jacob Milgrom, Mark Rooker, and others). While I perceive a paradigm change in the discussion of pentateuchal dating schemes (see Rolf Rendtorff, "The Paradigm Is Changing: Hopes—and Fears," *BibInt* 1 [1993]: 34–53; and also my own discussion of methodological issues in historical criticism found in Gerald A. Klingbeil, "Historical Criticism," in *Dictionary of the Old Testament: Pentateuch* [ed. T. Desmond Alexander and David W. Baker; Downers Grove, IL: InterVarsity, 2003], 401–20), at a minimum these differences should be recognized and the critical issues addressed, even if she does not agree. I find it also interesting that Sticher interacts only once with Mitchell Dahood's important (albeit deficient) psalm commentary in the Anchor Bible series (p. 197). In this particular instance Sticher agreed with Dahood's interpretation and was most probably cited because of this. Sticher does not note, however, the many times where she differs from his views. Another example of overly brief sorties into complex areas is Sticher's

succinct interaction with the dating (= late and post-Priestly) of the narrative of the fall found in Genesis 2 (pp. 326–27), where she depends entirely on a brief study by Eckart Otto in a Festschrift published in 1996. This fits into her discussion of original sin, which in itself is somewhat surprising in her work (at least I did not expect this turn of events while reading the volume) and seems to reflect her Catholic roots. A final point of critique involves a statement on p. 339, where Sticher suggests that in the ancient Near East the king was always connected with the savior image. She then goes on to present evidence from Greece and—less convincing—from Egypt (where one can dispute the fact that the Pharaonic "balancing act" of Maʿat should always mean salvation). She offers no other evidence, however.

My critical comments should not overshadow the significant contributions of Sticher's work. The questions she raises and the observations she makes are indeed helpful and often also enlightening. By limiting the dates of her textual corpus to a late period of Israelite history (as appears to be the current trend), she projects an incredible amount of theological activity into a relatively short and—at least to the modern reader—fairly murky historical period. At the same time, she envisions some type of intellectual and theological vacuum in the earlier periods of Israelite history, particularly the preexilic era. This is not Sticher's problem alone, but seems to be a general issue. In the particular case of the Psalms, after the extremes of the pan-Ugaritic school, we seem to be in the era of the pan-late-Second-Temple school. Both extremes are not helpful. I am grateful to Sticher for calling the modern reader's attention to the fine nuances in theological outlook that appear in the Psalms, which often suffer from a tendency to bulldoze away differences for the sake of seeing and describing general trends. The issue of God's saving justice and active intervention for those who call upon God is a timely topic. Whether God's punishing action is active, passive, or determined by cause-effect paradigms remains to be seen.

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Von Hebron nach Jerusalem: Eine redaktionsgeschichtliche Studie zur Erzählung von König David in II Sam 1–5, by Alexander Achilles Fischer. BZAW 335. Berlin: de Gruyter, 2004. Pp. viii + 386. €98.00 (Hardcover). ISBN 3110178990.

All historical and literary disciplines experience times when old reconstructions come under close scrutiny as new methods emerge or problems in the regnant interpretation reach a high enough level. Certainly the study of the Deuteronomistic History furnishes a parade example of such a line of inquiry under fire. The date, provenance, purpose, and in some cases even the existence of the underlying sources of this work, as well as of the work as a whole, all are provoking extensive reexamination, particularly in English-language scholarship.

Proving that the notorious insularity of German scholarship can be breached, Fischer has written a volume (his Jena *Habilitationsschrift*) reexamining the literary history of 2 Samuel 1–5, a section often ignored in redaction-critical discussions. Fischer identifies within these chapters five layers: early source material, a seventh-century pro-Davidic redaction, an early Deuteronomistic redaction (Dtr[Sam]), a later Deuterono-

mistic redaction (Dtr[S]), and postredactional accretions. Apart from this reconstruction, his work provides useful commentary on the chapters (indeed, the basic structure of the book is a pericope-by-pericope analysis) as well as excursuses on Ishbosheth's realm, the archaeology and history of Mahanaim, the location of Geshur, the relationship between Ishbosheth and Mephibosheth, and the hermeneutic of suspicion [especially regarding the charges against David]). A comprehensive bibliography ends the book. Again, numerous comments on particular passages (for example on connections between 1 Samuel 4 and 2 Samuel 1 [pp. 18–19]) shed light on difficult problems. However convincing Fischer's redaction-critical analysis may be, his volume does help us understand the extraordinary tales of David more clearly.

It may be instructive to compare Fischer's reconstruction with another recent one, that of Anthony F. Campbell and Mark A. O'Brien's *Unfolding the Deuteronomistic History* (Minneapolis: Fortress, 2000). Campbell and O'Brien retain the older idea of a pre-Deuteronomistic Prophetic Record, which they find in most of 2 Samuel 1–5 (except 2:10–11; 3:2–5; 4:2b–4; 5:2bβ, 4–5, and 13–16, most of these verses being glosses of the Josianic redactor). In contrast to this rather simple analysis, Fischer finds his five layers woven intricately throughout chs. 1–5, though chs. 1–2 (except 2:10b–11, which are Dtr[S]) consist entirely of the Davidic redaction and its sources, thus agreeing in essence with the position of Campbell and O'Brien. For chs. 3–5, on the other hand, Fischer's analysis is almost bewilderingly complex, imagining significant reshaping of stories and finding in every shift of perspective a new source. Of course, simplicity does not guarantee accuracy, but arguably complexity may indicate a tendency, which many Americans find in older German redaction criticism, toward arbitrary overreading.

Still, generalizations about the merits or otherwise of redaction criticism cannot substitute for close arguments. We still lack clear criteria for deciding whether a retouching of a text occurred five minutes or five centuries after its composer put down the pen. Perhaps such decisions will always be ad hoc and controvertible, dependent on cumulative evidence differently evaluated by different scholars. Fischer does offer a detailed, if ultimately unconvincing, defense of his dating of the Davidic Redaction to the late monarchy (pp. 280–91): an earlier dating seems improbable to him because the pro-southern views of 2 Samuel 1–5 do not reflect the political realities of an earlier time and there is no evidence (*contra* Baruch Halpern's magisterial *David's Secret Demons: Messiah, Murderer, Traitor, King* [Grand Rapids: Eerdmans, 2001]) for a Davidic state document behind this material, among other reasons. However, this proposal depends in part on assigning verses mentioning a bipartite state (3:9–10, 19b; 5:1–2) to Fischer's first Deuteronomistic redaction, dating to the seventh century, a problematic move in view of his implied principle that texts reflect current political realities. More generally, Fischer argues (against Leonhard Rost and most others) for a "Fragmenten- und Ergänzungshypothese" (p. 316) as the best explanation for the development of 1–2 Samuel, with a late monarchic proto-Deuteronomistic redaction responsible for the basic architecture of the material. This proposal, though bound to be controversial, deserves serious attention, though at some level Fischer's reconstruction differs from Rost chiefly in lowering the date of the major shaping of the material from the era of David or Solomon to that of Josiah and positing later additions.

Fischer's study, along with the contemporary English-language work of Baruch Halpern, Dale F. Launderville, Stuart Lasine, and others, at least by implication raises

the important question of how we should understand the motivations of those transmitting the tales of David. Are the stories propaganda legitimating David's rule, attempts by later royal chanceries to legitimate subsequent rulers, popular tales circulating beyond the court, or something else? Given 1–2 Samuel's ambivalence toward David (as Otto Kaiser pointed out some years ago), what sort of propaganda (granting that the word is anachronistic for ancient states) could such tales in their extant form be? Unfortunately, redaction criticism is unlikely to be a tool for answering these questions, but perhaps studies such as Fischer's can help us clarify the development of these texts as they pass through a series of literary settings with different intellectual and political (or even entertainment) needs. We do know that the Davidic tales provoked several generations of Israelites, not merely because the larger-than-life successes and failures of the great perennially entertain, but because kingship was thought to be a locus of Yahweh's presence and vehicle of Yahweh's grace among human beings. The stories fascinate many readers today for the same reasons.

In sum, Fischer's weighty volume reexamines older analyses of these too little studied chapters, offering a sustained argument for a multilayered literary history. Avoiding extremes and engaging in a commonsensical reading of the text, he offers a reconstruction that will challenge us for some time. Even one who finds, as I do, his analysis overly complex and thus unpersuasive in all its details, must take it seriously. For this, Fischer deserves our thanks and a hope that he will step beyond close reading to larger historical-critical issues.

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The Disarmament of God: Ezekiel 38–39 in Its Mythic Context, by Paul E. Fitzpatrick. CBQMS 37. Washington, DC: Catholic Biblical Association of America, 2004. Pp. xvii + 243. $11.50 (paper). ISBN 0915170361.

Fitzpatrick assumes that the final form of Ezekiel is a literary work of integrity, although the entire book does not derive from Ezekiel. This last (and "late") book should be understood as resulting from efforts to actualize the myths of Israel and the ancient Near East.

The first chapter (pp. 1–48) reviews rather thoroughly the critical study of Ezekiel 38–39 within the context of the book of Ezekiel, including a first phase (ca. 1830–1900), when most scholars attributed the whole book to Ezekiel himself and thus took it to be unified literary work (e.g., S. R. Driver); a second phase (ca. 1900–1950), when most studies underlined the unrelatedness of Ezekiel 38–39 to its context and generally assigned it to a later date; and a third phase (1950–present; twenty-nine authors), when many take into account successive redactional layers in the book (e.g., Walther Zimmerli), most discern clear evidence of redaction plus more elements (interruption, misplacement, etc.), and others, although sensitive to greater unity in the work, fail to evaluate its mythic elements. That is where Fitzpatrick takes up the task.

Chapter 2 (pp. 49–73) deals with the significance of myth. Fitzpatrick makes no reference to the structuralist approach (i.e., Claude Lévi-Strauss) but progresses quickly from Lucien Lévy-Bruhl to Paul Ricoeur: myths are efforts to respond to experiences of

superhuman powers, whether in polytheistic or monotheistic contexts, and consideration of the two concepts of "mythopoeic" (constant remaking of a myth, integrating new data) and "mythopoietic" (metaphoric use of mythic images, i.e., in literature). The aim of this chapter is to expound the importance and form of combat narrative or fundamental conflict between chaos and order. From the third millennium until the second century A.D., *Chaoskampf* dominated cosmogony and the legitimation of political power (monarchy): the victory of the divine warrior and his enthronement followed by the completion of his temple, a process of legitimation that linked divine kingship with creation.

There remains between the original victory and final ordering of creation an interval where earthly kingship acts and where there is room for Ezekiel 38–39. The major decisive struggle there stands rightly between Ezekiel 1–37 and 40–48. The Ugaritic Baal myth appears most useful in depicting the unfinished quality of cosmogony. The final form of Ezekiel draws a new mythopoeic conclusion to the story of the victory of the Creator over chaos, a renewed source of eschatological hope for Israel in historical distress.

Chapter 3 (pp. 74–81) studies briefly "textual links between the Gog pericope and other sections" of Ezekiel (vocabulary, formulas, but no comparison of narrative structures). Chapter 4 is the exegetical study of Ezekiel 38–39 itself: "a cosmogony completed" or "a covenant of peace fulfilled." Although the division of the text remains elusive, three heroes make up three main phases: Gog in 38:2–17; YHWH and the forces of nature instrumentalized in 38:18–39:8; and the creation, after the battle, in 39:9–20 and 21–29. The subject matter is ultimate cosmic battle, and its topos is eschatology at the center of the earth (not Jerusalem); at stake is the promised covenant of peace (see Ezekiel 34; 37). The vast burial remains Israel's responsibility. The victory feast that follows (rather oddly) is a sequence that asks for investigations into myth. Creation is finally completed through the restoration of a renewed people. Ancient Near Eastern combat myth contributes important elements of the narrative, but some are missing (consultation among gods, journey of the champion to confront the enemy); the sacrificial meal (at odds with Lev 3:16–17) is well set against Ugaritic mythic references (e.g., Anat's treatment of Mot, Baal's banquet on Mount Zaphon), although with inversions (the animals feasting on warriors who thought of themselves as gods).

Chapter 5 (pp. 113–92) takes up "mythic elements and cosmogony" in Ezekiel 1–37 and 40–48. The throne chariot vision (1:4–28), a theophany of the storm god combined with a throne theophany, establishes YHWH's function as both creator and judge. YHWH's departure from the temple (Ezekiel 8–11), as compared to Sumerian laments or Babylonian prophecies, shows original elements (no divine indifference or weakness). The oracles against foreign nations (Ezekiel 25–32) do not indict Israel's enemies but warn Israel about hubris and explain Jerusalem's fall in Ezekiel 33. The oracles of restoration (Ezekiel 33–37) introduce the mythic shepherd, here YHWH as God and King, and the "covenant of peace" documented from Atrahasis to Noah (see Isa 54:7–10; Num 25:12; Gen 9:8–17). It implies cosmic judgment, a covenant of lasting peace, and a giving of a sign with its consequence, the "pouring of peace" onto the earth (see Baal-Anat's myth). It is this new creation (Ezekiel 37) that introduces Ezekiel 38–39, the scene of the last decisive conflict where the global enemy is wiped out, concluded with the final "disarmament of God," after the disarmament of chaos. The completion of the

temple is, of course, the object of Ezekiel 40–48, where ordering, building, and cosmogony are united. There is no more need for an earthly king or for a claim of recognition by the nations. The Creator, creatures, and creation now live in peaceful security, absolute and eternal.

Consequently, the whole book of Ezekiel is viewed as a remodeling of an ancient cosmogonic myth in a time of historical duress. Questions, however, remain. How safe is it to mix the mythopoeic and the mythopoietic indiscriminately? This leads to a nonhierarchical use of the reference to myth alongside probably frozen literary uses of mythic metaphors as elements of an archaizing style (a form well documented in times of crisis, as in apocalypses). The mixture weakens the demonstration of the global reference to *Chaoskampf* (especially when studying the oracles against the foreign nations; Tyre and Egypt might well be more than pedagogical scarecrows). On the other hand, how well can a holistic approach to the book stand with no more than a vague reference to 587? What if Hellenistic hegemony were the context ? Maybe not only political but identity survival could be at issue, and the revival of theological ghosts would be a structural evidence of this. This would show up under careful structural, systemic study of the articulations in the text more than through a contemplation of the reminiscence of cosmogonical images. At any rate, this book will alert the reader to the impressive number of clear references in Ezekiel to ambient myths reconsidered. It certainly demonstrates the importance of the covenant of peace ideology in a milieu yet to be more precisely defined. The fruitful articulation of synchronic with diachronic approaches is made here the more desirable as Fitzpatrick makes his "final text" so fascinating.

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Developments in Genre between Post-Exilic Penitential Prayers and the Psalms of Communal Lament, by Richard J. Bautch. SBL Academia Biblica 7. Atlanta: Society of Biblical Literature; Leiden: Brill, 2003. Pp. xiv + 201. $95.00 (hardcover)/$33.95 (paper). ISBN 1589830474/9004127127.

With the publication of his dissertation, written under direction of Joseph Blenkinsopp at the University of Notre Dame, Richard J. Bautch has made a substantial contribution to the discourse on penitential prayer that has been conducted throughout the last years in the monographs of Volker Pröbstl (1997), Daniel K. Falk (1998), Rodney A. Werline (1998), Marl Boda (1999), and Judith H. Newman (1999), as well as in the consultation on this subject at the national SBL meetings (2003–5). Turning from the orientation to *Traditionsgeschichte* that has characterized this discourse, Bautch's work endeavors to provide an in-depth treatment of the literary form and the social setting of postexilic laments as a resource for those studying the traditions and sources in these texts. To achieve this goal, Bautch employs the form-critical method, which he understands as "inquiry into the genre and setting of a text" that aims to "advance our knowledge less of [its] historical origins and more of its literary evolution" (p. 11). Thus, instead of searching for the ultimate source of postexilic penitential prayer, Bautch focuses on its immediate predecessor, which he identifies with the preexilic psalms of communal lament, and how it is transformed into a new genre. He concerns himself,

however, not just with these prayers' history of composition, but also with the *Sitz im Leben* of each. Inasmuch as this gifted exegete presents the findings of long hours of literary analysis and interacts with past research, even scholars who question the usefulness of form criticism (at least as it is conventionally practiced) will find much of value in his work. Particularly helpful is the way in which Bautch connects form-critical study to the discussion of innerbiblical exegesis, which often has been confined to ideas and phrases to the neglect of the larger forms and genres.

In ch. 1 (pp. 1–27), Bautch places his research in its scholarly context and defends his methodology. In addition to the many insightful remarks on Second Temple prayer and intertextuality in the fifth and sixth centuries, I would have appreciated a clearer presentation of the thesis of the book. Moreover, a reference to Klaus Koch's standard work on form criticism, *Was ist Formgeschichte?* (4th ed.; Neukirchen-Vluyn: Neukirchener Verlag, 1981), is noticeably absent from Bautch's discussion of his method.

The study continues in chs. 2–4 (pp. 29–136) with analyses of three exemplars of penitential prayer: Isa 63:7–64:11; Ezra 9:6–15; and Neh 9:6–37. Each begins with a translation and treatment of the text-critical issues, moves to a form-critical evaluation, and concludes by establishing the setting in life for the respective texts. In general, Bautch discusses the individual prayers in the same intelligent and even-handed manner known to his *Doktorvater,* and he omits many of the extraneous details that so often find their way into published dissertations.

By concentrating on the confession of sin in the prayers he studies, Bautch successfully demonstrates the genetic relationship between them and the psalms of lament, and future research on these texts cannot afford to neglect his findings. They are, however, not beyond dispute on several important points.

With regard to Isa 63:7–64:11, Bautch proposes a history of growth that began in the seventh century or earlier (63:15–19a), a composition from the mid to late sixth century (64:4b–11), and a historical section (63:7–14) and a call for epiphany (63:19b–64:4a) that were added not long thereafter. The prayer appears indeed to have matured over a lengthy period, and one can only respect Bautch's courage to engage in redaction criticism at a time when biblical scholarship is only beginning to reacknowledge that this method is essential to the exegetical enterprise. Nevertheless, I find it difficult to embrace the dates he suggests. For instance, if one should understand the description of the destroyed sanctuary in 63:15–19a as referring to a situation in the seventh century or earlier, more probative evidence than the presence of several terms that may have been used by the classical prophets is required, especially as Bautch himself admits that these terms appear also in much younger texts (p. 58). With regard to 63:7–14, one must ask: How does the fact that this historical recital focuses on the exodus story indicate that this section "presupposes a redaction of pentateuchal material that predates P's final form of the five books" (p. 56)? Would it not be easier to explain the attention given to the exodus themes as the author's selective use of the biblical material? For a definitive answer to this question, see a study that demonstrates the post-P character of the language in this passage: J. Goldenstein, *Das Gebet der Gottesknechte: Jesaja 63,7–64,11 im Jesajabuch* (Neukirchen-Vluyn: Neukirchener Verlag, 2001). This work, which Bautch surprisingly does not mention, follows O. H. Steck in proposing a much later date for the prayer and displays the great extent to which it derives its contents from young passages in the book of Isaiah itself.

For Ezra 9:6–15, Bautch argues that the Chronicler "had the prayer available to him as he was writing the final portion of Ezra and . . . wove the prayer into his own composition" (p. 92). The view that the Chronicler had a hand in the writing of Ezra 9–10 departs from the growing consensus that Ezra-Nehemiah and 1 and 2 Chronicles originated separately. While Bautch demonstrates a certain proximity in the formulations of the narrative framework of the prayer and passages from 1 and 2 Chronicles, many scholars will need more substantial arguments to accept the unity of authorship of these texts and to deny the unity of authorship for Ezra 9:6–15 and its narrative introduction. A fundamental problem that Bautch does not address is why the editor would leave Ezra 9 in the first person without reformulating Ezra 10, which is in the third person. Comparison of Ezra 9 with the rest of the book reveals that this whole chapter incorporates many salient features from the first and final passages of Nehemiah's Memoir (1:1ff. and 13:23ff.), rendering it probable that it represents an unified literary creation preparing the reader for Nehemiah's report of his subsequent accomplishments (see my dissertation on Nehemiah's account of the restoration and its reception in Ezra-Nehemiah [Universität Göttingen, 2003]).

With respect to Neh 9:6–37, Bautch suggests again that this prayer was composed for a different setting and later appropriated by the Chronicler (i.e., the editor of Nehemiah 8–10). That Nehemiah 9 antedates its present context is not a new idea, yet it deserves to be seriously questioned. Although rarely noticed, the lengthy recital of Israel's history remarkably never mentions the temple, while the theme of adherence to the Torah dominates. Similarly, the narrative introduction to the prayer in Nehemiah 8–9 incorporates central aspects of the account in Ezra 3 yet replaces all references to the temple and the priests with an emphasis on the Torah and the scribe Ezra. It is thus likely that a later hand composed this prayer for its present literary setting, especially as one finds it difficult to conceive how it was transmitted for a century or more before it gained acceptance into the book. In searching for the sources of inspiration for the prayer, Bautch unfortunately fails to devote attention to the book of Ezra-Nehemiah itself. Even after concluding that the prayer represents an older "source," one must still explain why the authors selected precisely this text for their work instead of drafting a new one.

The final chapter (pp. 137–72) is in many ways the most successful one. Not only does Bautch helpfully summarize the results of the foregoing literary analyses, but he reflects on them with the aim of examining "The Form-Critical Legacy of the Communal Laments in the Hellenistic and Roman Periods." Important are the several points of discontinuity Bautch ably delineates between the prayers studied in chs. 2–4 and those from the late Hellenistic age. Despite the degree of difference between the former and the latter, one wonders whether the temporal gap separating the two groups is as wide as Bautch maintains.

While many will not be able to embrace all of Bautch's conclusions, this book promises to advance future research on penitential prayers and the theologies they present.

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The Self as Symbolic Space: Constructing Identity and Community at Qumran, by Carol A. Newsom. STDJ 52. Leiden: Brill, 2004. Pp. x + 382. $155 (hardcover). ISBN 900413803X.

Although Carol Newsom's approach to the Dead Sea Scrolls is familiar from several essays published in the early 1990s, her book is very much a novelty in the world of scrolls scholarship. Her dialogue partners are M. M. Bakhtin and Michel Foucault, rather than Lawrence Schiffman and James C. VanderKam, although she is also fully conversant with recent (and not so recent) scholarship on the scrolls. Critical theory has hitherto made even less impression on Qumran studies than on biblical scholarship. (Maxine Grossman's study, *Reading for History in the Damascus Document* [STDJ 45; Leiden: Brill, 2002], is the main exception that comes to mind). In part, this is due to the fact that scholarly energy in the past decade has been absorbed by the task of editing the texts, but in larger part it is due to the persistent fascination with historical questions about the scrolls. Newsom does not question the validity of such questions, but they do not set her agenda. Rather, she uses the categories of discourse analysis to investigate how "the Qumran community" constructed itself and engaged its larger social context.

The book is divided into six chapters. The first of these outlines the theoretical approach, which is indebted to the work of Bakhtin and his circle. All communities construct themselves in large measure through their discourse. The discourse of a sectarian community has distinctive features, as it needs to distinguish itself from other communities. Discourse also forms the identities of individuals. "We first emerge as subjects in the context of language and receive our identities from various symbolic practices" (p. 12). Discourse also provides "strategies for the encompassing of situations," in the phrase of Kenneth Burke. Newsom cites with approval the dictum of Fredric Jameson, that the symbolic act of a text is "the function of inventing imaginary or formal 'solutions' to unresolvable social contradictions" (p. 16). So it is possible to uncover "the political unconscious" of a text, or the way it attempts to address a historical or ideological problem. Especially important is the insight of Foucault that "discourse is power, because it is what gives meaning to the world" (p. 19). In any society, one may speak of a dominant discourse, which can be identified with the practices of the establishment. A sectarian discourse is a counter-discourse, which has to make a place for itself by making problematic what the dominant discourse takes for granted. Such a discourse is not necessarily polemical all the time, but it is of necessity interruptive or disruptive, as it presents a challenge to the status quo.

The second chapter is an attempt to map the various "strategies of discourse" in Second Temple Judaism. To a great degree, the competing discourses of this period may be regarded as a debate about the proper construal of the Torah. Newsom accepts in broad outline E. P. Sanders's view of a "common Judaism," or a broadly consensual religious culture in the Palestinian area. Nonetheless, it was difficult to establish a monopoly on the interpretation of Torah, even by groups with official status. She goes on to discuss the various roles played by scribes, and their attitudes to Torah. For Ben Sira, "wisdom is the master discourse into which the discourse of halakah is inserted" (p. 41). Daniel scarcely talks about the Torah at all. Nonetheless, Newsom notes evidence of a common scribal ethos, shared even by figures whose ideologies of knowledge are quite different. The Pharisees are taken to represent a form of nonscribal expertise. Most constructions of Torah view it as a kind of knowledge, whether guaranteed by

ancestral tradition or by special revelation. But not everyone made knowledge the key to the will of God, as can be seen from the Maccabean focus on "zeal for the law." The sectarians saw themselves as a new Israel, and accepted the common concept of covenant as the basis of their identity. They insisted, however, that, while some things were revealed to all Israel, true Torah could only be known within the sect, so that to enter the covenant was in effect to enter the community.

After these two introductory chapters, Newsom turns to the scrolls and devotes two chapters each to the *Community Rule* and the *Hodayot.* The first of these, ch. 3, is a relatively brief discussion of the treatise on the Two Spirits. Two features of the discourse are emphasized. First, "even at the level of syntax, the passage claims that one cannot really know one thing without knowing many other things and their relationships. Things are joined together in webs of significance. If one wants to know about human character or why the righteous sin, one has to know about the plan of God for all creation from beginning to end" (p. 80). Second, there is the use of balanced pairs, light and darkness, truth and perversity, which simplify the complexity of the whole. Newsom argues that this model of knowledge is implicitly semiotic, insofar as it attempts to account for particular phenomena, such as traits of character, as elements in a system of relationships. She acknowledges, of course, that there are important differences between the metaphysical assumptions underlying the Qumran text and postmodern semiotics, but she argues that even the notion of God is nuanced by semiotic assumptions insofar as the divine plan involves a set of structured relationships. Following Fredric Jameson's idea of the political unconscious, she argues that the treatise can be seen as a response to the domination of Israel by foreign empires, although, in contrast to overtly political books like Daniel, here the political concern is displaced into anthropology.

Chapter 4 is a much longer, sustained discussion of the rhetorical dynamics of the *Community Rule.* Newsom works with the form of the *Rule* found in 1QS, with occasional reference to the Cave 4 manuscripts. She accepts that the *Rule* is composite, but she argues for structural coherence nonetheless: "the Serek ha-Yahad is roughly shaped to recapitulate the stages of life as a sectarian: from motivation, to admission, instruction, life together, and leadership" (p. 107). The *Serek* is a book of instruction and formation. The rules are illustrative samples rather than comprehensive laws. The treatise on the Two Spirits construes the self as the product of the balance of spirits, an unstable construct liable to change in either direction. It is not simply a piece of anthropological and cosmological speculation but relates "what one must know about oneself" (p. 189). The emergence of an elite community in column 8 can be understood as an expression of the highest potential of the sect. The Maskil described in the closing columns is "a model of the ideal sectarian self" (p. 167). Newsom draws on Foucault to describe the *yaḥad* as a disciplinary community, where people are formed not only by instruction but also by practices. Even the character of the Maskil is formed not so much by conceptual knowledge as by experience of God and humankind (p. 173). Becoming a sectarian requires entry into a fictive or "figured" world, "in which various privileged words, tropes, embedded narratives, patterns of behavior, and constructions of time create a distinctive form of reality and selfhood. By engaging in structured social practices and learning to speak the language of the figured world, the novice both receives a new identity and contributes to the construction of the community" (p. 187).

While the *Community Rule* addresses community life explicitly, the *Hodayot* are engaged in the formation of subjectivity. According to Newsom, subjectivity is not simply "natural" but is acquired in a social context. Oddly enough, the so-called hymns of the community do not talk about the community but presuppose it. The kind of subjectivity fostered in the *Hodayot* is described as "the masochistic sublime": "The model of God as absolute being that one finds in the *Hodayot* generates and is generated by a language of the self as nothingness" (p. 220). The hymns cultivate a sense of estrangement from the dominant culture, but they do not talk about the integration of the speaker into the community of the sect. Instead, they offer a proleptic resolution of earthly problems by speaking of fellowship with the angelic world. The distinctive character of the rhetoric of these hymns is nicely illustrated by a contrast with Psalm 119 (p. 270).

The last full chapter of the book, before a brief conclusion, is devoted to the so-called Teacher Hymns. Newsom is skeptical about attempts to specify the authorship of these compositions. While she does not think the evidence sufficient either to establish or to disprove the view that the Teacher's persona is reflected in these hymns, she argues that it is important "to loosen the grip that this hypothesis about the Teacher of Righteousness has had on our scholarly imaginations" (p. 288). Newsom's interest is not in historical questions about the Teacher, but in the ways in which these hymns were read, to shape the ethos of sectarian life. So she proposes that the Hodayot articulate a "leadership myth that was appropriated by the current leader in much the same fashion that the ordinary member identified with the 'I' of the so-called Hodayot of the community" (p. 288). The references to trials and opponents may be real or imagined. Newsom notes that sectarian communities need to maintain a sense of persecution and opposition as part of their rationale. These *Hodayot* can be read as complementary to the *Community Rule.* They articulate the affective dimension of sectarian existence, which was obscured in the rhetoric of legal regulations.

The world of modern scholarship, no less than that of Second Temple Judaism, is a world of competing discourses, each with its own "figured world" and distinctive language, which the student must learn to speak. Much of contemporary academic discourse is couched in the language of theorists such as Foucault. The most obvious achievement of this book is that it is the first major study to apply such language to the study of the scrolls. Readers who are broadly versed in the humanities and already familiar with such languages will welcome this development as long overdue. Old-fashioned historical critics who look with suspicion on new-fangled phrases and theoretical abstractions will probably greet it with apprehension. But they may at least take comfort from the fact that the author is no ideological polemicist, and that, while she is attempting to reorient the discussion the scrolls, she is well versed in the more conventional scholarship and is by no means repudiating it.

One obvious gain from the new form of discourse is new vocabulary, which entails new insights or at least offers attractive ways of expressing old ones. "The masochistic sublime" offers some advantages for English speakers over the German *Niedrigskeit-doxologie.* But Newsom's discourse analysis also benefits from sustained attention to the literary and rhetorical character of the text. The difference made by her approach is perhaps most clearly evident in her discussion of the so-called Teacher Hymns. Undeniably, the great temptation of historical criticism is to move too quickly from references in a text, often taken out of context, to historical reconstruction. Discourse analysis, as

practiced by Newsom, is a powerful antidote to this temptation, while it does not at the same time dispute the inherent value of historical questions. Throughout the book, she shifts the focus away from authorial intention to the effects these texts would have had on their readers or hearers. Her use of Foucault heightens the reader's awareness of issues of power. Her reading of the *Community Rule* is, to my knowledge, the most persuasive attempt yet to imagine how this text might have functioned in a community. It is not a descriptive account of the actual practices of a community, but rather an illustrative prescription that attempts to shape community life, and an articulation of normative ideals. Again, the discussion of the Two Spirits shifts the focus from the cosmology as such (although that is a perfectly legitimate subject of investigation) to the way it is being used to mold character.

If the book has limitations (and what book does not?), they lie in the rather abstract character of the discussion. To be sure, a measure of abstraction is inevitable, since we lack specific details about the life and history of the sect. The suggestion that the treatise on the Two Spirits is a response to political domination may be valid, but its validity must be sought rather deep in the unconscious. One may wonder whether Newsom's reading of the Teacher Hymns as a leadership myth does full justice to the distinctive voice we encounter in those poems, although her reading would not be negated if the Hymns could be shown to be the work of a specific individual such as the Teacher. The location of the Scrolls among the "strategies of discourse" of Second Temple Judaism might emerge more clearly from a detailed historical comparison of specific texts and movements. But here again, this would not invalidate what Newsom has written, which is meant to be suggestive rather than comprehensive in any case.

It is unlikely that future discussion of the scrolls will be dominated by Foucaultian discourse, but it should be enriched by the numerous insights of this pioneering study. We are indebted to Newsom for expanding our horizons and opening up a new angle of vision on these intriguing texts.

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The Worldly and Heavenly Wisdom of 4QInstruction, by Matthew Goff. STDJ 50. Leiden: Brill, 2003. Pp. xii + 276. $113.00 (hardcover). ISBN 900413591X.

Matthew Goff's book represents a watershed of sorts for both the study of 4QInstruction and the wisdom material from Qumran. While Goff does not necessarily revolutionize our understanding of 4QInstruction, his cautious approach to both the text's fragmentary manuscripts and its frequently enigmatic vocabulary, combined with a comprehensive overview and critique of the scholarship on the text to date, results in the first study on 4QInstruction to discuss both the past and present state of scholarship on this material while simultaneously highlighting several areas in need of further study.

A revised version of Goff's Ph.D. dissertation written under the supervision of John J. Collins at the University of Chicago, this well-written study is primarily concerned with "how 4QInstruction should be understood in relation to wisdom and apocalypticism" (p. 27). According to Goff, 4QInstruction's content and place within the literature of the Second Temple period cannot be truly appreciated without taking into

consideration both its practical advice, written in a style that is reminiscent of Proverbs and Ben Sira, and its divinely revealed knowledge, relating to the order of creation, the authority of God, and eschatological judgment.

Divided into six chapters, the book begins with a brief description of the copies of 4QInstruction discovered at Qumran (1Q26, 4Q415–418, 423). This is followed by a survey of the efforts to reconstruct the overall shape of 4QInstruction, which, Goff rightly suggests, is nearly impossible due to the fragmentary nature of the manuscripts and the absence of any discernible order to the material. The remainder of the first chapter is devoted to a comprehensive and even-handed assessment of the scholarship on 4QInstruction, starting with its official publication by John Strugnell and Daniel Harrington (DJD 34), and includes discussions on the major contributions of Armin Lange, Torleif Elgvin, and Eibert Tigchelaar. Also considered in this chapter are the publications of a handful of scholars who have taken up specific topics in 4QInstruction, such as George Brooke's study on the use of Scripture in the wisdom literature from Qumran, Catherine Murphy's work on poverty and financial issues in the Dead Sea Scrolls, and Collins's examination of eschatology in 4QInstruction.

Chapter 2 examines the concept of revealed wisdom in 4QInstruction by focusing on *raz nihyeh,* a phrase that occurs twenty times in the text and is translated by Goff as "the mystery that is to be." Goff convincingly argues that *raz nihyeh,* a major theme in 4QInstruction, represents a type of hidden wisdom that can be accessed only through divine revelation. Individuals who have been given access to this knowledge are able to understand the divine order of the universe from its creation and deterministic structure to its final eschatological judgment. Furthermore, comprehension of *raz nihyeh* was meant to inspire its recipients to live righteous and moral lives on earth, which, according to Goff, is emphasized in 4QInstruction by combining practical wisdom on various topics, such as marriage and filial piety, with the concept of *raz nihyeh* in order to suggest that one who has access to "the mystery that is to be" will act correctly in each case and will be blessed both on earth and in the afterlife.

Chapter 3 is devoted to the so-called vision of Hagu pericope (4Q417 1 i 13–18), which divides humanity into two distinct groups of individuals: the "spiritual people" who have access to the vision of Hagu and those of the "fleshy spirit" who do not. Although the exact nature of the vision of Hagu is unclear, Goff theorizes that it is a "heavenly book in which is inscribed the judgement against the wicked" (p. 122). Goff argues that the vision of Hagu, connected with Genesis 1–3 by the authors of 4QInstruction, was used to suggest that those of the "fleshy spirit" were unable to discern between good and evil. By contrast, the "spiritual people," who had been given access to both the vision of Hagu and the "mystery that is to be," were provided with divine knowledge regarding the order of creation and proper conduct (i.e., knowledge of good and evil). As one might expect, the addressees of 4QInstruction are urged to be like the "spiritual people."

Chapters 4 and 5 take up the diverse issues of financial instruction (ch. 4) and eschatology (ch. 5). Heavily influenced by the work of Catherine Murphy, Goff argues that 4QInstruction's focus on financial matters is similar to that of traditional wisdom literature, but is modified to emphasize both the poverty of its addressees and their elect status as recipients of *raz nihyeh.* According to Goff, by combining these elements together the authors of 4QInstruction ground the elect status of their audience in the

practical reality of their financial situation rather than simply reminding them to be sympathetic to the poor as Proverbs suggests. As for the eschatology of 4QInstruction, Goff is careful to create a balance between its wisdom and apocalyptic elements. While he acknowledges that there are many similarities between Daniel 9, the *Apocalypse of Weeks,* and 4QInstruction, he is also quick to point out their differences, such as the absence of a period of wickedness in 4QInstruction or any references to messianic figures. Goff also notes a connection between the theophanic judgment of 4QInstruction and *1 Enoch;* however, unlike *1 Enoch,* 4QInstruction suggests that righteousness alone is not enough to secure one's eternal reward. Rather, eternal life is obtained by establishing a balance between a moral and ethical existence on earth and contemplating one's elect status as a recipient of *raz nihyeh.*

In the final chapter Goff summarizes his position and attempts to place 4QInstruction within the textual world of the Second Temple period. This is followed by a discussion about 4QInstruction's possible status as a sectarian composition. After comparing the differences and similarities between 4QInstruction and the so-called "undisputed writings of the Dead Sea Sect" (p. 224), Goff concludes that "there is a relationship between 4QInstruction and the Qumran Community. But it is one that is rather loose" (p. 227). To this he adds, "The Dead Sea Sect is not a good model for understanding the group behind 4QInstruction" (p. 228). Based on this conclusion Goff forwards a hypothesis for the composition of 4QInstruction that suggests that it was written by a scribe in the second century B.C.E. who was trained in the traditional wisdom literature of Israel. Addressed to the common Israelite, who, like many individuals during this period, struggled with financial security, 4QInstruction was eagerly adopted by the Qumran community, which possessed multiple copies of the text and was influenced by its phrases and concepts.

Overall Goff's work is a well-balanced effort that consistently places his own work in the greater context of those who have come before him. Goff's respect for his interlocutors is evident throughout the book, but he does not shy away from disagreeing with their work when deemed necessary. For example, regarding 4QInstruction's place as a written document relative to the wisdom and apocalyptic genres, Goff pits Lange and Elgvin in opposition to one another while adopting a cautious position somewhere between the two. According to Lange, 4QInstruction is, at its core, a wisdom text that has been infused with eschatological notions through the natural evolution of the deed/consequence relationship present in the "postcrisis" sapiential tradition. In contrast to this, Elgvin argues that the presence of the phrase *raz nihyeh* in 4QInstruction represents a break with traditional wisdom that was most likely the result of an attempt to revise its shape and content by combining two different layers of material: a wisdom layer and an apocalyptic layer. Compare this with Goff, who suggests that "4QInstruction's apocalyptic world view is more simply understood as a consequence of the reception of older wisdom in the late Second Temple period in light of perspectives and traditions common to this era" (pp. 41–42). Such caution pervades Goff's study and gives his work a tremendous amount of strength, but it also prevents him from revolutionizing our understanding of 4QInstruction.

Aside from a four-page excursus at the end of chapter 3 on the "spiritual" and "fleshy" types of humankind in Paul (which, although providing a foil for 4QInstruction's use of the terms, seems out of place and disrupts the flow of the book), the major

weakness of Goff's work lies in his assessment of 4QInstruction's relationship to the so-called Qumran community. Although he successfully avoids this issue in chs. 2–5 by referring to the "author" and "addressees" of 4QInstruction in an appropriately generic fashion, Goff repeatedly uses phrases such as "Dead Sea Sect" and "Qumran Community" without qualifying what he means by them. While this may have been acceptable in the past, surely the work of Gabriele Boccaccini and others has shown, at the very least, that one must provide one's audience with an explanation for such terms even if that explanation appears only as a footnote. On a similar note, Goff underestimates the impact that his study may have on the attempt to identify the authors of the Dead Sea Scrolls. By focusing on the differences between 4QInstruction and the "undisputed writings of the Dead Sea Sect" (p. 224), Goff minimizes their similarities and attributes 4QInstruction's authorship to an anonymous wisdom author in the second century B.C.E. who was interested in the poverty and financial difficulties of his audience. Putting aside the question of how a person from a low socioeconomic background in the Second Temple period could have read such a text in the first place, one should not overlook the use of hyperbole in the scrolls and the possibility that one group could have been responsible for a diverse range of thought and vocabulary. That is not to say, however, that we should automatically attribute the Dead Sea Scrolls to one group. On the contrary, given the increasingly apparent diversity within the scrolls, one wonders if the time has not come for a total reappraisal of the Qumran community hypothesis and the baggage that comes along with it.

The Worldly and Heavenly Wisdom of 4QInstruction is a well-written study that has much to offer readers. Goff's cautious approach to 4QInstruction's primary and secondary literature is truly the strength of this book. With this volume Goff has composed a well-balanced study that not only considers the shape, content, and possible history behind 4QInstruction's composition but also has much to say regarding the transmission and reception of the wisdom and apocalyptic genres in the Second Temple period. While not without difficulties, Goff's important contribution sheds light on 4QInstruction and has the potential to illuminate other areas of study in the field of Dead Sea Scrolls research.

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Ancient Judaism and Christian Origins: Diversity, Continuity, and Transformation, by George W. E. Nickelsburg. Minneapolis: Fortress, 2003. Pp. 264. $23.00 (paper). ISBN 0800636120.

This is an important book. Nickelsburg describes how the new insights into early Judaism, won over the past five decades due to the discovery of the Dead Sea Scrolls, archaeological finds, and new methodologies, have changed our view of the origins of Christianity, or rather should have changed those views, for still all too often, Nickelsburg says, NT scholars ignore or neglect the rich harvest of early Jewish studies much to their and their students' detriment. Chapter 1 ("Scripture and Tradition") discusses the often very similar ways in which the Bible was interpreted in both Second Temple Judaism and early Christianity (NT methods of scriptural interpretation were part of its

Jewish heritage) and the similar problems with which both movements had to wrestle (e.g., the limits of the canon, discrepancies in the textual tradition).

In ch. 2 ("Torah and the Righteous Life"), Nickelsburg shows that acting righteously in the Hebrew Bible is a responsibility born of the covenantal relationship; for that reason, we should not presume that Judaism was characterized by a "works-righteousness" that excluded the grace integral to the structure of biblical covenantal theology. A comparison with the NT indicates more similarity and continuity than the traditional paradigm has allowed. That God recompenses everyone for what he or she has *done* is a current NT motive as well (see, e.g., Rom 2:9), the primary difference between Judaism and Christianity on this issue being of a christological nature.

Chapter 3 ("God's Activity in Behalf of Humanity") sketches the variegated ways in which ancient Judaism conceived of salvation and shows that Christianity adopted most of these paradigms. Again, however, "the principal factor that differentiates Christianity from its Jewish matrix is the centrality and indispensability of Jesus Christ" (p. 88). In ch. 4 ("Agents of God's Activity"), Nickelsburg discusses the wide variety of agents, both human and divine, through which God interacted with humanity, as they occur in the Jewish literature of the Second Temple period, and the equally wide variety of ways in which early Christianity adopted and adapted these models in its interpretations of Jesus.

Chapter 5 ("Eschatology") describes the heightened eschatological perspective in postbiblical Judaism in all its varieties, with the accompanying phenomena of apocalypticism and pseudepigraphy. "Most of the wide spectrum of eschatological belief in the NT can be attested in contemporary Jewish writings, and conversely, the NT attests most forms of eschatological belief found in these writings. The defining characteristic of Christian eschatology was its connection with Jesus of Nazareth" (p. 146).

In ch. 6 ("Contexts and Settings"), the longest of the book, Nickelsburg sketches the historical context of the writings discussed in the previous chapters. Here he argues that almost all texts reflect bad times or very problematic circumstances and express a heightened sense of evil. He also briefly goes into such matters as the interactions between Hellenism and Judaism, the origin and spread of the synagogue, the various religious groups (Samaritans are unfortunately overlooked), and the like. He emphasizes how many of the specifics of each of these groups remain uncertain. But what these widely variegated groups have in common is that perceived threats in the religious environment "caused people to pull the wagons into a circle" (p. 182). The early church was one of these groups, but what distinguished them was that Christology rather than Torah was determinative of one's status as a true Israelite, with the consequence that early Christianity "gradually came to deny the covenantal status of the majority of ethnic Jews" (p. 183). However, even in this respect the church parallels the community of the Qumran scrolls, as both are conceived in the matrix of radical apocalyptic Judaism.

In the concluding ch. 7, Nickelsburg discusses the implications of all this. There are many more points of continuity between ancient Judaism and Christianity than earlier paradigms allowed. The gradual discovery of the very variegated nature of Judaism (fortunately, Nickelsburg avoids using the ugly and misleading plural "Judaisms") has enabled us to see considerably more points of contact between early Christianity and its matrix. It was, according to Nickelsburg, only in the first half of the second century that the crisis sparked by Marcion made mainline Christianity a substantially Pauline Chris-

tianity that devalued Judaism as an inferior religion. On the closing pages Nickelsburg offers some sensitive and sensible suggestions as to how we can bring these new insights to bear upon the dialogue between Jews and Christians today.

This is a sympathetic book written by a scholar with an impressive record in both early Jewish and ancient Christian studies (for which he was honored recently with a two-volume Festschrift: *George W. E. Nickelsburg in Perspective: An Ongoing Dialogue of Learning* [Leiden: Brill, 2003]). Nickelsburg is right in emphasizing how obnoxious it is that so many textbooks continue to repeat the outdated view of Judaism that new research has made untenable. One can only agree with that. If only for that warning, I would recommend this book. It is a book from which not only students at an undergraduate and graduate level but also scholars in other fields of theology may learn much.

That is not to say that the book is without shortcomings. Among the less weighty of these is the fact that in his select bibliographies on topics or documents Nickelsburg does not always give the selection one may expect. It is amazing, for instance, that in his short list of six major publications on Pseudo-Philo's *Liber Antiquitatum Biblicarum* (p. 204 n. 29) Nickelsburg does not mention what is by far the most important work ever written on that document, Howard Jacobson's magisterial two-volume work, *A Commentary on Pseudo-Philo's* Liber Antiquitatum Biblicarum (Leiden: Brill, 1996). What is more regrettable is the absence of an index of subjects; although there is one of modern scholars, an index of subjects is usually consulted a hundred times more often than one of scholars (at least one may hope so).

My only major problem with the book is that, in his sketch of early Judaism, Nickelsburg focuses almost solely on the Qumran Scrolls, the Apocrypha, and the Pseudepigrapha (admittedly the areas where Nickelsburg is at his best). He excludes from his picture the rabbinic corpus, the Jewish mystical (*hekhalot*) literature, and the epigraphic material. That is regrettable. Of course, Nickelsburg rightly warns against the uncritical use of rabbinic literature for the reconstruction of pre-70 Judaism (p. 25) and says that he "will not discuss rabbinic texts, since they achieved their present form 150 to five hundred years after the rise of Christianity" (p. 44). But that is too easily said, for even when one is fully aware of the late date of rabbinic texts in their present form there is no reason to discard them wholly as unusable in the reconstruction of earlier phases of the Jewish religion, as the methodologically careful work of recent scholars such as Markus Bockmuehl and Peter Tomson has shown (and as may also be seen in Jacobson's commentary on *Liber Antiquitatum Biblicarum*). The same applies to the mystical literature: most of the manuscripts are medieval, but meticulous analysis makes it possible to detect ancient strata in these traditions that hark back to the turn of the era, as the work of recent scholars such as Christopher Morray-Jones and Christopher Rowland has demonstrated (see especially their forthcoming volume entitled *Jewish Mysticism and the New Testament,* to be published in 2005). Some epigraphic material is available from the period Nickelsburg deals with and, though not yielding as much information as the literary sources, is far from negligible. I believe that Nickelsburg has too easily discarded these potential sources of information that might have enriched his picture of early Judaism. Even so, there is reason enough to be grateful for this book.

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Jesus and Gospel, by Graham N. Stanton. Cambridge: Cambridge University Press, 2004. Pp. 252. $23.99 (paper). ISBN 0521008026.

In his new book Graham Stanton, Lady Margaret's Professor of Divinity at the University of Cambridge/UK, asks one of the great questions of NT studies. How is it possible that a canon of four different *written* NT Gospels developed out of one oral gospel, that is, the *kērygma* of and about Jesus of Nazareth? If an author gives an answer to a frequently asked question and succeeds to develop new exegetical perspectives, then, without doubt, his or her book is an important one. *Jesus and Gospel* obviously is one of these rare cases. The volume is arranged in three main parts, each consisting of several chapters. Chapter 1, a short introduction, presents the book's main lines of argumentation. Chapter 2, "Jesus and Gospel," asks how Christian use of the term "gospel" has developed. Jesus himself understood his own role and his preaching in terms of a fulfillment of Isa 61:1–2; nevertheless, he himself did not use the word εὐαγγέλιον or its Aramaic equivalent. Moreover, the word εὐαγγέλιον in Christian texts from Paul to Justin can be found merely in the singular, whereas in the Septuagint (only in 2 Sam 4:10 LXX) and in the papyri of the time it always occurs in the plural. It also seems that Septuagint passages containing the verb εὐαγγελέω were not received in earliest Christianity (with the sole exception of Isa 52:7 in Rom 10:15). The evidence in the Pauline letters and the book of Acts suggests that the specific Christian use of the term was coined by Greek-speaking Jews in Antioch and/or Jerusalem at a very early date. Although it is not possible to determine the emergence of the term unambiguously, the word was surely understood in the context of "Counter-Gospels" (for example, in the Roman imperial cult).

In any case, Christianity did not only adapt an old term, but reinterpreted it radically and filled it with a Christian meaning: "The very earliest Christians developed their own 'in-house' language patterns, partly on the basis of Scripture, especially in the Septuagint, and this partly in the light of their distinctive Christian convictions, but also partly by way of modifying contemporary 'street' language. In this way they developed their own 'social dialect,' and in turn this was very influential on their self-understanding and their worldview" (p. 52). Stanton reconstructs several partly overlapping phases in the development of the term: first, "gospel" meant the spoken *kērygma* about the importance of Jesus' salvific death and resurrection. Second, the Gospel of Mark is the oldest extant source where the word "gospel" also describes Jesus' words and deeds. A last step can be seen in the Gospel of Matthew, where the term for the first time is related to written stories.

Chapter 3 is devoted to a new question: When and why did the early church begin to accept four Gospels (or a fourfold gospel) as its "founding document"? What are the consequences of this decision? Stanton discusses sources like Irenaeus of Lyon or the Muratorian Fragment, but bases his argumentation on material artifacts, namely, the earliest extant Christian codices, which seem to witness a "Four-Gospel-Canon" near the end of the second century. Even earlier evidence can possibly be seen by means of Justin, the Gospel titles, and the division between the Gospel of Luke and the book of Acts: "Taken cumulatively, this evidence suggests that the adoption of the fourfold Gospel may well have taken place in some circles (though not necessarily everywhere)

shortly before Justin's day" (p. 81). The decision for a fourfold gospel seems not to have been made as a demarcation against heretics; if so, it would have made more sense to decide in favor of a *single* Gospel. Instead Stanton reminds us of the fact that Christians very early began to prefer books in the form of a codex to scrolls, which allowed them to produce volumes containing more than one Gospel. Of course, it can be discussed whether this argument is decisive, but Stanton here points to a factor in the development of the canon which is only rarely considered. Stanton is aware that at least some of his arguments are a bit speculative; his theses always show a high level of methodological sensitivity. Simultaneously, Stanton's enormous knowledge about material relics of ancient Christian culture allows him to tread new paths and formulate important theses. On the whole, Stanton describes the development of the "Four-Gospel Canon" as a gradual process, which unfolded not everywhere in the same way and which for a long time was paralleled by oral tradition. With that idea he objects to theories presupposing a kind of a central authority which was responsible for the development of the Christian canon. Stanton also recalls that, on the one hand, in many Christian circles (e.g., around Marcion or Tatian) the demand for a *single* authentic Gospel was kept alive for a long time; on the other hand, many groups read texts which today would be considered apocryphal (e.g., the *Gospel of Peter*). The chapter closes with a discussion of theological, christological, hermeneutical, and liturgical implications of the decision for a fourfold gospel. Chapters 4 and 5 are quite short. Stanton discusses Jesus and gospel traditions in the writings of Justin and Irenaeus and the interpretation of the phrase "the law of Christ" (from Gal 6:2 through the second century until Martin Luther).

The second section is titled "Jesus." Chapters 6 and 7 are devoted to accusations against the Christian preaching in ancient times. Chapter 6 discusses the argument that Jesus was a magician and a false prophet who led the people astray. In his discussion of sources like Justin, rabbinic traditions (*b. Sanh.* 43a; 107b), the apocryphal *Acts of Thomas*, and the *Testimonium Flavianum,* Stanton finds a pattern common to all these texts. This indicates a stable form of polemic against Jesus, which Stanton traces back to the first century. From here he moves on to texts that witness only one theme—magician *or* false prophet. He concludes that the historical Jesus was accused of being a magician by his opponents—and quite probably—of being a false prophet. Chapter 7 discusses ancient objections to the preaching of Christ's resurrection. These objections not only allow us to reconstruct ancient ideas of a life after death; they also show in which way the Christian *kērygma* was understood by Jews and pagans, and how the opponents influenced the Christian proclamation. Stanton here discusses Celsus's arguments in Origen's *Contra Celsum*, Trypho's (fictitious) argumentation in Justin's dialogue, and Jewish and pagan reactions to the Pauline mission told in the book of Acts.

The third section brings together the discussions of the term "gospel"—with the extant material artifacts of earliest Christian culture. Chapter 8 asks the much disputed question: What are the reasons why ancient Christians choose the form of the codex for their writings? Again Stanton rejects theories that see a single reason for this decision. Instead, he reconstructs a gradual, three-step process. He starts with the well-known fact that with the beginning of the fourth century C.E. non-Christian scribes increasingly adopted the format of the codex. He connects this shift with the changing status of Christianity during that time. From here Stanton proceeds to step 2. Contrary to authors like Colin H. Roberts or T. C. Skeat, he argues that mainly pragmatic aspects led

to the use of the codex among Christians. Another reason was that the new format allowed the novelty of the movement to be expressed more explicitly. Then Stanton points to the main problem: What are the roots of the use of the codex in early Christianity? Stanton here recalls the use of papyrus notebooks (*membranae*) mentioned in 2 Tim 4:13. The first non-Christian codices containing important texts are from the second half of the first century C.E. Perhaps Christian scribes imitated this pagan innovation, but it is also possible that the first Christian experiments with substantial texts in the form of codices took place independently of pagan influences:

> The first followers of Jesus will have been familiar with several forms of notebooks, whether they were in Judaea, in Galilee, or in eastern Mediterranean cities. So it is natural to suppose that notebooks will have been used for *testimonia* and for other collections of excerpts of Scriptural passages, for drafts and copies of letters and for short collections of sayings of Jesus, perhaps grouped thematically. . . . [O]nce Christian scribes discovered how useful the "page" format was, it very quickly became the norm for copies of Paul's letters and of the gospels, and for Christian copies of Scriptures. (p. 189)

This scenario seems to be quite plausible, though I am not sure it supplies a full explanation of the evidence. Why did the format of the codex gain such a universal acceptance in Christian circles (which, of course, did not solely consist of wandering preachers who needed small notebooks for their purposes) while pagan circles realized the (potential) advantages of the new format only centuries later? Chapter 9 is extremely innovative. Once more Stanton illuminates the question What is a Gospel? from a perspective rarely discussed in theological circles. What do the oldest papyri of the NT reveal about how ancient Christians classified their "Gospel-literature"? The earliest extant fragments of Gospel manuscripts are not written in the style of documentary papyri. Instead they show that early Christianity was interested in the transmission of its literature. This evidence shows that Roberts's and Skeat's old thesis that the Gospels were not interpreted as "literature" is wrong:

> [T]he recently published papyri suggest that, by the second half of the second century; much earlier than has usually been assumed, their literary qualities and their authoritative status for the life and the faith of the church were widely recognized. By then, if not even earlier, some copies of the gospels were prepared most carefully, probably for use in worship. The often-repeated claim that the gospels were considered first to be utilitarian handbooks needs to be modified. (p. 206)

Stanton has presented a brilliant book that hopefully very soon will find its way not only into university libraries but also into the bookcases of many exegetes. Stanton's arguments are always well balanced; they enable the reader to understand contrary positions, and stimulate new questions and discussions. At the same time, Stanton often treads new paths. His immense knowledge of ancient Christian, Jewish, and pagan sources and his acquaintance with the extant material artefacts and their impact on our understanding of ancient Christian culture are extremely fruitful.

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Godly Fear: The Epistle to the Hebrews and Greco-Roman Critiques of Superstition, by Patrick Gray. SBL Academia Biblica 16. Atlanta: Society of Biblical Literature; Leiden: Brill, 2003. Pp. x + 278. $133.00 (hardcover)/$39.95 (paper). ISBN 1589831004/ 9004130756.

Patrick Gray addresses the extent to which the Christianity found in Hebrews qualifies as superstition. He proposes that the author of Hebrews articulates a Christian faith that may be understood in the context of debates about appropriate and inappropriate fear comparable to Plutarch's thoughts on superstition (*deisidaimonia*). The author of Hebrews communicates a Christian self-understanding that neutralizes the potential charge of being superstitious (pp. 6–9).

Gray states three specific reasons why Plutarch can be used to understand Hebrews and the symbolic world in which it participates. First, Hebrews and Plutarch are contemporaries; Plutarch's date ranges from 70 C.E. into the second century, and Hebrews was most likely written between 52 and 95 C.E. This means that Hebrews overlaps with Plutarch's most prolific period. Second, Plutarch was from the Greek mainland but spent considerable time in Rome and Italy, and Hebrews was written either to or from Italy ("those from Italy" [Heb 13:24]); thus Plutarch and the author of Hebrews shared the same geographical milieu. Third, Plutarch and Hebrews were both influenced by Platonic tradition.

The introduction addresses the question under investigation ("superstition" or "godly fear"?), gives a self-definition of how the early church perceived itself (Christianity as superstition), describes the common milieu between Plutarch and the Epistle to the Hebrews, situates the Epistle to the Hebrews within its Hellenistic context, and puts forward Gray's methodology. In ch. 2, Gray examines the Greek vocabulary employed by Plutarch to describe superstition, particularly the cognates of *deisidaimonia* that reveal how fear is the most pervasive characteristic. Plutarch regards the gods as benevolent, reiterating that there is never any cause for fear in one's relations with them. Thus, "fear of the gods is a negative thing." The concept of fear is similar to various other philosophers (Aristotle, the Stoics, the Epicureans). Fear is considered an unpleasant feeling that signals some deficiency in the virtue of courage. This is the major symptom of superstition.

Chapter 3 examines passages in Hebrews that address the subject of fear. In Hebrews, fear is itself an undesirable state and usually serves as an indicator of peril or disordered priorities. However, against the thinking of the philosophers and Plutarch examined in the previous chapter, fearlessness is achievable only because of what has transpired with Christ, not because of the belief that it is associated with superstition. Chapter 4 concentrates on Heb 5:7 and 12:18–29, where Hebrews portrays fear in a positive light and consequently makes the author and his readers susceptible to a charge of superstition. Hebrews 5:7, where the author speaks of the "godly fear" (*eulabeia*) of the human Jesus, emphasizes Jesus' reverent subordination of his will to God's. This prompts Jesus to acquiesce to his own death. Hebrews 12:18–29 teaches how "reverent awe" is a fitting response of thanksgiving and worship offered to God under the new covenant inaugurated by Jesus' sacrifice. In the last chapter Gray draws together the key insights of the preceding chapters. The fear of God for both Hebrews and the critics of superstition such as Plutarch is not anxiety directed at an unpredictable deity; fear is associated with wrongdoing and the threat of punishment by the deity. Hebrews is simi-

lar to the understanding of superstition of the Greek philosophers in that the fear of God is associated with death and divine judgment. However, Hebrews makes the claim that there is *parrēsia* because of the new covenant inaugurated by Jesus, which provides an effective solution to human sin, the root of the gravest fears. Hebrews leaves intact the basic premise that fear of God alone is legitimate. It is this idea that leaves Christianity susceptible to the charge of *deisidaimonia* for observers after Plutarch.

Gray's study provides us with a wealth of information on the subject of superstition in the Greco-Roman world. He engages in analytical studies on Aristotle and the Hellenistic schools and summarizes their core components. He concludes that fear is an unpleasant feeling that usually signals some deficiency in the cardinal virtue of courage. Plutarch takes this philosophical estimation of fear and, with modifications, applies it to popular religious beliefs and observances in his essay on superstition.

Gray's study attempts to situate early Christianity in its Mediterranean milieu. He examines how the Christian faith and its understanding of fear in Hebrews would be received in the context of ancient debates about superstition. At various points in this investigation, Plutarch is brought into the discussion with Hebrews (e.g., pp. 186, 225–27). This is intended to highlight both the differences and similarities between their respective understandings of fear. The reader finds this both engaging and thought-provoking. However, Gray takes this too far when he states, "The author [of Hebrews] has an apologetic interest in addressing the perception that Christianity is a superstition" (p. 6, cf. p. 216). Most agree that the major purpose of Hebrews was to warn against apostasy and exhort the readers to faithfulness (Heb 2:1–3; 3:6, 12–14; 4:1, 11–13). The concept of "fear" must be related to this concern in the letter. If the author of Hebrews was attempting to guard against portraying Christianity as a superstition, why does he place the words "I tremble with *fear*" on Moses' lips and his experience on Sinai (Heb 12:21), when it is not found in the OT? This would make Christianity more susceptible to the charge of superstition according to the standards employed by Plutarch. The inclusion of *fear* here in Heb 12:21 indicates that the author had other priorities in mind. The author wants to keep Christian believers from the temptation to return to their former life of Judaism. Those who have been to Mount Zion (the heavenly Jerusalem, Jesus, and new covenant) can never contemplate a return to Moses and Mount Sinai. The author's concern here is not with the idea that the Christian faith may qualify as a superstition.

In his explanation of Heb 5:7, Gray claims that the use of *eulabeia* instead of *phobos* was the author's manner of using fear in a positive way in Jesus' prayer and consequently neutralizing the charge of *deisidaimonia* (p. 188). But could it not be that the author intended to put a positive spin on the tradition associated with the Gethsemane scene, where Jesus is portrayed as having an emotional breakdown (Mark 14:32–36 ["I am deeply grieved, even unto death" [14:34]; "he [Jesus] threw himself on the ground" [14:35]])? There are significant alterations to this scene by Luke, which, contrary to Mark, portrays Jesus as confident and submitting to God's will for his life (Luke 22:39–46; Luke leaves out any indication of Jesus' *fear* of death and the idea that Jesus loses his composure under pressure, cf. 22:41, where Jesus kneels down [an indication of submission to God's will] and prays). The use of *eulabeia* meaning "a measured quality of fear and reverent subordination to God's will" in Heb 5:7 coincides precisely with Luke's version of "not my will, but yours be done" (Luke 22:42). Therefore, the author's use of

eulabeia instead of *phobos* in Heb 5:7 does not *specifically* prove that he was attempting to guard against the perception that Jesus experienced a fear indicative of superstitious belief. Rather, his thought is parallel to the contemporary tendency to remove any objectionable action of Jesus in the Gethsemane tradition. Here in the Epistle to the Hebrews any hint of weakness shown by Jesus in these decisive moments before his death would run contrary to proving how Jesus' obedience unto death was the source of eternal life that led him to his current role as high priest before God.

In sum, Gray's work makes a significant contribution to the understanding of superstition and fear in the Greco-Roman world and, in particular, how fear in Hebrews would have been perceived as superstition as seen through the eyes of Plutarch. However, this book must be read with caution. The proposition that the author of Hebrews intended to neutralize the charge that Christianity was a superstition has not been convincingly proven.

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Scripture as Logos: Rabbi Ishmael and the Origins of Midrash, by Azzan Yadin. Divinations. Philadelphia: University of Pennsylvania Press, 2004. Pp. xiii + 231. $55.00 (hardcover). ISBN: 0812237919.

The central thesis of *Scripture as Logos* is that the Tannaim (second–third centuries C.E. rabbis) who composed the Ishmaelian midrashic collections (basically the *Mekhilta of Rabbi Ishmael* and *Sifre Numbers*) instituted a relatively restrained approach to the interpretation of Scripture. The notion of a fully polysemous Torah was not shared by these rabbis. Their motto might be summarized as "Be silent until the text speaks," a motto that contrasts with that which they ascribe to their opponents, who say to the text, "Be silent until I expound." The reader of Scripture is to engage in moderately passive hermeneutics; the meaning of Scripture is not entirely open, as some literary theorists might propose, but rather semi-closed. The reader must accept interpretive cues from Scripture itself and not impart them from without. Scripture speaks to its interpreter and acts as its interpreter's teacher in a system where ultimately authority and control belong to the text itself.

The classification of the midrashic schools into those of R. Ishmael and those of R. Aqiva upon which Yadin's work rests is worthy of note. Over one hundred years ago, David Zvi Hoffman demonstrated that the halakic/tannaitic midrashim can be separated into these two schools. This classification was reinforced by the research of Jacob Nahum Epstein and Menahem Kahana, among others. Recently the classification was challenged by Gary Porton and Jay Harris. Yadin's book is a welcome response to their challenge. While we can no longer be certain that these midrashic collections reflect the opinions of their eponymous fathers, we can be certain of the basic differences between them. Overwhelming textual evidence for such a classification has been documented, and neither Porton nor Harris directly addresses this evidence. Yadin refutes Harris's implication that nineteenth-century polemical scholars/rabbis constructed the idea of the Ishmaelian school and its "simpler," less fanciful approach to biblical interpretation.

Yadin convincingly demonstrates that such an approach did exist and is not a scholarly fantasy.

Yadin begins by analyzing the different uses of two terms which frequently appear in Ishmaelian midrashim: *Torah* and *ha-katuv* ("the verse"). As a term, *Torah* stands for the voice of revelation and is usually used to introduce Scripture itself. It is a voice of authority, but it speaks in the past and is not active. In contrast, *ha-katuv* is the midrashic voice, a teacher of Scripture, and it stems from Scripture itself. The personification of *ha-katuv* as Scripture teaching the hermeneutics of Scripture serves as a basis for the remainder of the book.

In ch. 2, Yadin examines the restraint demanded of the Scriptural reader in Ishmaelian midrashim. He elucidates a fascinating exchange between R. Eliezer and R. Ishmael, in which the latter rebukes the former for replacing the proper submission to the verse with aggressive hyper-interpretation. While R. Ishmael listens to the verse and then interprets, R. Eliezer tells the verse to "be silent" until he is done interpreting.

As part of their hermeneutical strategy, Ishmaelian midrashim claim that certain words in Scripture are "marked" and therefore "available" for interpretation. The reader is to search for and locate such marks (superfluity, anomalous spellings, and other such phenomena) and then and only then interpret them. Even this search for "markers" is restrained. Not all verses are "marked" and some "markers" merely lead toward understanding the simple, noninterpreted meaning of the verse. Without evidence of "marking," the Scriptural interpreter has no right to engage in creative exegesis. In contrast, the Sifra, the pinnacle of Aqivan midrashic creation, perceives all words as potentially "marked" and hence makes the category of "marked" meaningless since it has no contrast. The common (mis)understanding that the rabbis considered every word of Scripture to be hermeneutically meaningful is a result of the dominance of the Aqivan midrashim and their influence on the two Talmudim.

Throughout the book Yadin clarifies terms whose definitions lacked precision in previous scholarly writings. For instance, in a long exposition of the word *ki-shmuo* ("as it is heard"), Yadin asserts that the term typically signifies an interpretation of a biblical word in its immediate context or usual syntax. This understanding is then contrasted with an understanding that stems from examining the word or law in its larger context of the entire Torah. *Ki-shmuo* is rarely to be understood as "literal" or contrasted with nonliteral.

Chapter 5 is an examination of the famous "Thirteen Hermeneutical Principles (*middot*) by which the Torah is Expounded," attributed in the Sifra to R. Ishmael. Yadin rejects the connection between this source and the Ishmaelian midrashim. Most of the principles are never used in Ishmaelian midrashim and there is no reliable record in Ishmaelian midrashim of thirteen principles. Hence, he is free to examine the middot which are used in Ishmaelian midrashim. Rather than "logical" rules to be compared with Greek syllogisms, in Ishmaelian midrashim middot are hermeneutical restraints placed on the reader to prevent him from interpreting a text too broadly. Brilliantly, Yadin rejects the translation of middot as "hermeneutical principles." Rather he connects it with another meaning of the word in tannaitic literature, namely, behavior. "This is a *middah* in the Torah" is translated, "This is the typical mode of behavior of Scripture." Again, what others perceive as active interpretation, Yadin regards as passive:

when interpreting Torah the reader should know how Torah typically behaves. Once Torah's regular behavior is perceptible, the reader has the hermeneutical keys by which to interpret the whole.

Chapter 6 explores the role of logic (*din*) in determining the correct halakah. *Din* is often found to yield uncertain results in determining biblical interpretation. Without the aid of Scripture itself, conclusions may not be derived. However, Yadin also demonstrates that logical argumentation is nevertheless common in Ishmaelian midrashim. He resolves this seeming contradiction by demonstrating that *ha-katuv,* the personified biblical verse teaches not only halakah but also hermeneutical principles. *Ha-katuv* serves as a model for the scriptural reader, providing him or her with the necessary interpretive methods to interpret. The reader is not to impart his own logic to the text; rather she is to employ the hermeneutical keys encoded in Scripture itself. The Torah is "presponsive": it anticipates that the reader will respond correctly to its hermeneutical cues and adjusts itself accordingly.

The penultimate chapter contends with the place of the Ishmaelian midrashim within their contemporary rabbinic landscape. While the Pharisees were famous for their halakot (extra-scriptural traditions), Ishmaelian midrashim rule that halakah bypasses Scripture only three times. The authority of R. Ishmael's statements rests upon Scripture and not the authority of those from whom he learned. Indeed, the Ishmaelian school did not compile a Mishnah—a set of laws disconnected from Scripture. This places the Ishmaelian midrashim at odds with their Aqivan counterparts over the very institution that is usually considered the heart of rabbinic culture, namely, the Oral Torah. Stated otherwise, R. Aqiva and his school creatively interpret Scripture to accommodate it to received traditions and their own innovations, whereas R. Ishmael and his school "listen to Scripture," allowing tradition to bypass it on only three occasions. I should note that, in my opinion, the claim that Ishmaelian midrashim oppose the oral traditions may be an overstatement, one that might put them beyond the rabbinic pale. Perhaps Ishmaelian midrashim interpret Scripture so that there rarely exists conflict between it and the oral traditions. The idea that Scripture leads the interpretive process is an ideology, one that might mask beneath its surface the reality that the halakic results do not always stem directly from Scripture itself.

In the final chapter, Yadin discusses the relationship of Ishmaelian hermeneutic practice with that of Jewish/Christian contemporaries. Unfortunately, this chapter is somewhat sloppier than the remainder of the book. It contains several incorrect interpretations that ultimately lead to wrong conclusions. The evidence which Yadin brings connecting the Ishmaelian school with the Qumran community is scant. The parallels and connections he draws between Ishmaelian midrashim and Ben Sira, priestly circles and Clement of Alexandria are creative, clever, and thought-provoking, but the evidence for their actuality is too brief. The shortcomings of the final chapter reveal the book's one major deficiency: it lacks a comprehensive comparison with other rabbis, especially the Aqivan midrashic school. The relationship of Ishmaelian midrashim to key rabbinic figures such as the houses of Shammai and Hillel or R. Eliezer is barely explored at all. One of Yadin's major points is that scholars have often characterized rabbinic literature as a whole based on their analysis of Aqivan sources and the two Talmudim, which are basically Aqivan inheritors. If he wishes to refine our understanding of rabbinic literature as a whole, the distinctions between the two midrashic schools

need to be more fully delineated. Yadin is presently working on the Sifra, the pinnacle of the Aqivan midrashim, and we can hope that such comparisons will be more plentiful in this work.

The book's title, "Rabbi Ishmael and the Origins of Midrash," is misleading since there is almost nothing in it about the origins of midrash. A more descriptive title would have been "Rabbi Ishmael and the Nature of Midrash" or "The Restrained Hermeneutics of Rabbi Ishmael."

Despite these critiques, the book's merits are plentiful. Yadin's work is a masterful combination of technical expertise and cultural/hermeneutical theory. He uncovers midrashic terminology using sound philological tools and then demonstrates how that terminology is a vehicle by which the midrashic author brings the reader into his interpretive world. Yadin's use of midrashic terminology as a window into the author's midrashic world is a creative and brilliant twist on classical philological research.

The book is also remarkably readable. Each text is presented in Hebrew and in a lucid English translation and then briefly but cogently explained. Yadin does not become bogged down in argumentation but rather moves quickly from one argument to the next.

The book is significant for scholars of ancient biblical interpretation, rabbinic or otherwise. Yadin forces us to appreciate that the rabbis debated the proper hermeneutical approach to Scripture. The portrait of the rabbis as a monolithic whole in their interpretive strategies does unwarranted damage to our understanding of rabbinic hermeneutics. Ultimately, Yadin refines our understanding not only of the Ishmaelian midrashim but of the rabbis as a whole. We should anticipate and hope for a speedy appearance of his work on the Aqivan midrashim.

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The Johannine Corpus in the Early Church, by Charles E. Hill. New York: Oxford University Press. Pp. 550. $150.00 (cloth). ISBN: 0199264589.

One current emphasis in NT scholarship is a renewed interest in biblical interpretation in the early church. Charles E. Hill's *The Johannine Corpus in the Early Church* contributes to this interest by looking at references to Johannine literature in the second century. Hill's driving question is: To what extent did second-century Christian writers use the Fourth Gospel and what was their attitude toward it? The formulation of the question is mine, but it captures the sense of this meticulously researched monograph.

As an introduction, Hill surveys a broad spectrum of Johannine scholars and finds that the majority of them (the primary exception is Martin Hengel) adhere to a "orthodox Johannophobia paradigm (OJP)." This paradigm includes three theses: (a) that by the end of the second century, orthodox writers were wary of dangerous tendencies in John; (b) that gnostics in particular latched onto John; and (c) that writers before Irenaeus were virtually silent regarding John. According to this paradigm, Irenaeus helped wrench the Gospel back into the orthodox fold through a strong defense of it in *Against Heresies*. Hill systematically attacks each of these components of the paradigm by painstakingly combing through all available sources. He concludes that the OJP is

wholly foundationless: "The long-prevalent understanding of the rise of the Johannine corpus in the Church must be abandoned and replaced with something more historically accurate" (p. 475). This "something" is that throughout the second century, the Gospel of John held a prominent place within orthodox Christianity and was only marginally useful to gnosticism. Hill's book does not seek to nuance current scholarship; he aims to overthrow it.

The book addresses the three legs of the OJP, and I will describe and evaluate Hill's treatment of each of these. In order to dismantle the notion that the gospel needed "saving" from the clutches of heterodoxy at the time of Irenaeus, Hill begins with incontrovertible references to John in the late second century (pp. 170–200). Using a pattern that his entire book follows, Hill explores almost every possible writer and text; in this section, that would be Theophilus, Athenagoras, the Epistle of Vienne and Lyons, Irenaeus, Hegesippus, the Sibyllines, Polycrates, Victor of Rome, Clement of Alexandria, the Muratorian Fragment, Apollonius of Ephesus, Tertullian, Perpetua and Felicitas, Gaius's Dialogue with Proclus, and a host of biblical manuscripts. I will not recite such catalogs for the other sections of the book, but the voluminous sources are impressive throughout. Hill also includes an interesting section on Christian art works (with photos) that illustrate particular Johannine scenes such as the raising of Lazarus and the Samaritan Woman.

This argument is the strongest of the book, and after examining it, one wonders why this first leg of the OJP ever was formulated. Irenaeus is the main figure here, and serves to demonstrate Hill's insights. Irenaeus, of course, placed John alongside the synoptics in the fourfold canon in the famous passage of *Against Heresies* 3.9.1. This passage led Hans von Campenhausen, among others, to say that Irenaeus was the first proponent of the four-Gospel canon and led other scholars to assert that Irenaeus strives to defend the Gospel against heretics. In contradiction to the idea that Irenaeus is mounting a defense, Hill writes, "Looking at his use of this Gospel as a whole, however, we fail to see the signs of this [defense]. Irenaeus does not defend the Fourth Gospel, he merely uses it. He uses this Gospel unselfconsciously and authoritatively" (p. 98). The commonsensical explanation (which applies to many other writers of the late second century) of the relationship between John and the church is that Irenaeus feels at ease about using John because his audience feels the same way. His lack of concern in differentiating John from the Synoptics also argues in favor of the preexistent familiarity with John that Irenaeus's audience must have had. Hill does not skirt the difficult issues of Valentinian exegesis of John in *Against Heresies*, but he handles such issues convincingly under the broader thesis of orthodox acceptance of all the Johannine writings.

The second section of the book (following an excursus on Gaius), while just as forceful as the first, is slightly less convincing. Hill explores whether gnostics (especially Valentinians) demonstrate a clear affinity for John over and above other NT writings and whether that affinity was one of devotion or antagonism. Two emphases govern this section. First, Hill wants to demonstrate that many gnostics appropriate John not out of admiration but out of opprobrium. Second, he shows that gnostic use of John does not hinder orthodox use.

The second of these points is well taken and needs little elaboration. The first is harder to argue. Not all of the texts that Hill cites necessarily support his argument. With regard to the *Gospel of Truth,* for instance, Hill claims that the *Gospel* engages in

"interpretive distortion" of John (p. 267). But this, to some extent, begs the question. Throughout this section, Hill consistently argues for a well-defined incarnational christology for John (based primarily on 1:14), and therefore, any interpretation that leans towards docetism must be controverting the purposes of the Gospel. By having a clear preconceived notion of the correct interpretation of John (and by wanting to divide exegesis from eisegesis), Hill stacks the deck in favor of orthodoxy and cannot fully engage gnostic exegesis on its own terms.

The third section of the book mines sources between 100 and 170 C.E.. Again leaving no stone unturned, Hill finds multiple examples of the use of John in writers such as Justin and Ignatius. In aggregate, this section certainly demonstrates that the OJP has overlooked some convincing evidence. His argument about Justin is particularly well reasoned. Some others (like his treatment of Aristides) rest on vocabulary patterns that are less compelling. Hill makes a complex argument for the reliability of Papias that is too long to summarize here but is sure to provoke discussion.

Evaluating a work like Hill's poses difficulties. On the one hand, the voluminous marshaling of evidence and the cogency of the argument is impressive. Few of his points fail to stand up to scrutiny, and Hill usually supports them well. On the other hand, I wonder whether Hill places more weight on the OJP than it deserves. Many times he states that a particular point is "hard to overstate" or "hard to overestimate" (cf. pp. 55, 96, 373, 469). As he repeats the difficulty of overstatement, it becomes quite easy to overstate, and Hill tends toward exaggeration (the name Johannophobia illustrates the point). I simply doubt whether the OJP matters that much to most studies of John. Even though Hill rightly points to the existence of such a paradigm among scholars, it is more difficult to see how this paradigm actually affects their reading of the text itself (Ernst Käsemann might be an exception). I do not think that the major commentaries of Rudolf Schnackenburg, Gail O'Day, C. K. Barrett, or D. A. Carson, to name a few, would be substantially different if they granted most or all of Hill's points.

Finally, I wish Hill had stated with greater clarity what is at stake. For Hill, and he makes this point obliquely, the argument against the OJP redirects attention to the trustworthiness of the Johannine tradition and of the church itself. He implies that if the OJP is right, this questions the legitimacy of the Johannine corpus to faithfully record Christian doctrine and opens the door for the church "to be ever welcoming of theological diversity" (p. 62). The appearance of "corpus" in the title also signifies that Hill possibly wants to claim Johannine authorship for all these books. (At least I think that is his claim, but he is a bit coy on this issue.) In other words, this historical research supports certain religious claims, but Hill does not make the relationship between history and religion very clear.

Hill's book, therefore, sheds some light on Johannine origins, but only in the narrowest sense of connecting the book to apostolic times and a broad readership. It does not concern itself much with the actual interpretation of the gospel, however, and without even a reference to J. Louis Martyn, Wayne A. Meeks, or David K. Rensberger, this book limits its value among other Johannine studies. It has much greater value as a conversation partner among scholarly works devoted to second-century Christianity.

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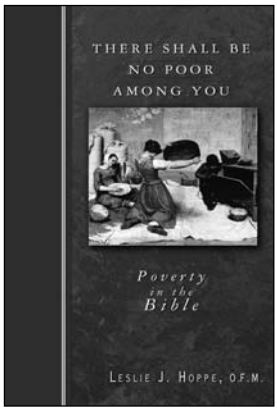

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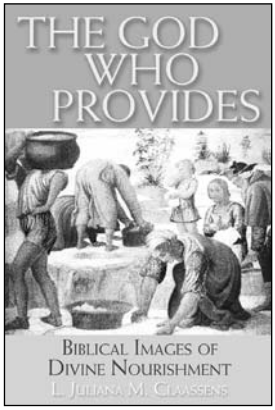

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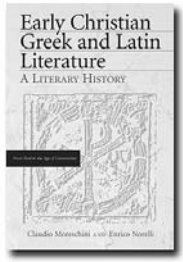

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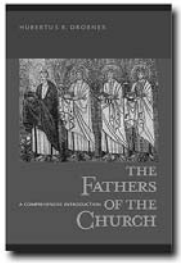

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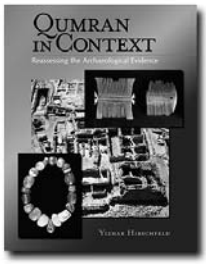

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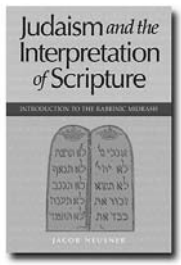

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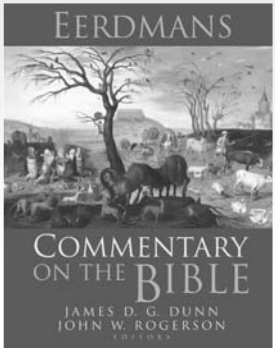

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