

STVDIA ANTIQVA

THE JOURNAL OF THE STUDENT SOCIETY
FOR ANCIENT STUDIES

WINTER 2003
VOLUME 3, NUMBER 1

BRIGHAM YOUNG UNIVERSITY
PROVO, UTAH

The Student Society for Ancient Studies at Brigham Young University is pleased to present this issue of *Studia Antiqua*. From its inception, the Society has sought to provide BYU students from all disciplines of ancient studies opportunities to further their academic interests. Certainly one element that is critical for such a specialized field is that of student research and publication. To provide this venue of student publication, *Studia Antiqua* ("Ancient Studies") has been created. The journal is dedicated to publishing original undergraduate and graduate research in all areas of ancient studies. It is hoped that such a publication will offer students the opportunity to improve their research and writing abilities, allow them to experience the editing and publication process, as well as prepare them for further educational pursuits by building their academic resume. The Society hopes that this opportunity will motivate ancient studies students in their current class work by allowing them to expand their academic vision and goals.

The process employed by the journal first has the students submitting papers they have written which are reviewed by the Student Editorial Advisory Board (consisting of the Society Presidency). Once the board decides which papers represent the highest quality of original research and writing, those selected papers are given to the appropriate member of the Faculty Review Board. As respected faculty in each area of ancient studies review their respective papers, the students are given helpful and professional suggestions for improvement, making each paper more academically credible. The papers are also given to competent student editors who help with grammar, structure, and formatting.

SUBMISSIONS of original ancient studies articles will be accepted during the first week of every Fall and Winter semester, and should be turned in to the Ancient Studies Office in 5435 HBLL. All articles must be of sufficient length to cover the topic and should be fully documented in Chicago Style. For questions regarding submissions, applying for an editorial position, or for any other comments contact the journal's Editor in Chief through the Ancient Studies secretary (801 422-3498) or at studia_antiqua@yahoo.com.

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FOR ANCIENT STUDIES
BRIGHAM YOUNG UNIVERSITY

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Studia Antiqua is a semi-annual student journal dedicated to publishing the research of undergraduate and graduate students from all disciplines of ancient studies at Brigham Young University. The views expressed in this publication are solely those of the authors and do not necessarily represent the views of the Student Society for Ancient Studies, Brigham Young University, or The Church of Jesus Christ of Latter-day Saints.

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EDITOR'S PREFACE

The Student Society for Ancient Studies is pleased to present this fourth issue of *Studia Antiqua*. This is a landmark issue as it marks an important transition for both the Society and the journal. In the fall 2001 semester a handful of students had the idea for the creation of a student organization for the promotion of ancient studies. Soon the idea of having a journal to represent that organization was also discussed. With much effort this initial group of students organized the BYU Student Society for Ancient Studies as well as its journal *Studia Antiqua*. Along with the success the Society has enjoyed over the past two years, those involved with the journal have also been extremely pleased with the growth and accomplishments of such an upstart publication. Beginning with next to nothing, owing to the generous donations from various departments and the countless hours of volunteer student editors, the journal is now on its fourth issue and has become the standard for student publications in ancient studies at BYU.

Following this edition, the journal and Society will officially be under the leadership of a "second generation" of ancient studies students. Matt Grey was the founding editor in chief of the journal and has put untold hours and effort into seeing it brought to the light of publication. Matt could not have accomplished this without the indispensable help of Robert Ricks, Mindy Anderson, Andrea Ludwig, and Lani Axman, who have been excellent managing editors for journal's first four issues. We would like to thank these ambitious students for allowing this publication to become a reality.

As appreciative as we are of the invaluable work of this initial group of students, we are also quite excited about the future of the journal and Society under its new leadership. The journal is pleased to announce Tyson Yost as its new editor in chief. Tyson is one of the valuable few among students who have an interest and talent in both ancient studies as well as publishing. We are confident that with his enthusiasm, vision, and abilities he will raise the journal to new heights. Surely with Tyson and his upcoming group of editors, *Studia Antiqua* will continue for future

generations of ancient studies students to enjoy as a primary source of publication.

Indications of the journal's perpetuation beyond its founding leadership include plans already in process for the future. For example, this summer (2003) will see a special issue of the journal featuring student articles on Hebrew law in the Book of Mormon. This issue will be co-published by the Student Society for Ancient Studies and the Foundation for Ancient Research and Mormon Studies (FARMS) and represents the type of high-profile activity we hope becomes standard for the journal. We also hope that with the induction of a new Society presidency, the journal will soon be available to a wider audience in an electronic format on the Society website. This will hopefully allow for a greater distribution and recognition of the fine work being done by ancient studies students at BYU.

We again thank all those who have been involved in the formation of this journal as well as those assuming responsibility for it in the future. We also hope our readers will enjoy this fourth issue. In many ways, we feel this to be one of the strongest issues, in regards to content, the journal has yet produced. Hopefully the quality of work found in this issue will continue in setting the standard of academic excellence in issues to come.

Matthew J. Grey
Tyson J. Yost
Editors in Chief

June 2003
Provo, Utah
Brigham Young University

UPDATE ON THE STUDENT SOCIETY FOR ANCIENT STUDIES

As the Student Society for Ancient Studies finishes its second full year its future looks brighter than ever. This, the fourth edition of *Studia Antiqua*, represents the culmination of another great year and a lot of hard work by the students involved. We are most grateful for the students who take part in this journal and the Society. We also extend our thanks to those who offered other assistance and suggestions for improvement.

This last semester enjoyed many insightful and engaging lectures. We were very excited to host Professor Richard Averbeck from Trinity Evangelical Divinity School. His informative lecture on history and the Bible was a wonderful inaugural presentation for this semester. Other exciting lectures followed: Donald Parry on the Dead Sea Scrolls, John Gee on Egyptian Christianity, Richard Holzapfel on the earliest records of the Passion in the writings of Paul, Cynthia Finlayson on women in Palmyra, Paul Hoskisson on law in the Book of Mormon, and Kristian Heal on early Christian Syriac texts. Each lecture was well attended and we were excited to see many new faces at each lecture.

As is tradition, and mandated in the Society's by-laws, we held elections toward the end of April. Taking over as president will be our former historian, Elizabeth Siler. Her energy and boundless enthusiasm during the last two semesters contributed most significantly to our success and the Society should only prosper and grow under her leadership. David Staheli is returning to the presidency but will be assuming the responsibilities of the vice-president. Together, Elizabeth and Dave will continue to lead the society in new and exciting directions.

It has been a pleasure to be associated with this student Society and with the people who took part in it. Each semester the Society continues to grow and students across campus from many

different disciplines take an interest in the ancient world. More students are submitting papers for the journal and the quality continues to rise. As always, the endless efforts of Matt Grey and his editorial team are the lynchpin for the journal's success. As the reigns of leadership are passed along in the presidency, so too are they passed along in the position of editor in chief as Matt embarks on the adventure of graduate school and the efficient and most capable Tyson Yost fills his position. The level of the journal will continue to increase as the Student Society for Ancient Studies and *Studia Antiqua* continue to offer this outlet to those interested in ancient studies.

Once again, we thank everyone who donated their time and energy to the journal and Society. We offer our sincere gratitude to those departments whose generous contributions help make this journal possible and something we can all be proud of. The Society continues to strive to improve in all aspects and sincerely invites comments for improvement and new ideas.

Robert D. Hunt
Society President

June 2003
Brigham Young University

BIBLICAL LAW

Women in Hebrew and Ancient Near Eastern Law

Carol Pratt Bradley

The place of women in ancient history is a subject of much scholarly interest and debate. This paper approaches the issue by examining the laws of ancient Israel, along with other ancient law codes such as the Code of Hammurabi, the Laws of Urnammu, Lipit-Ishtar, Eshnunna, Hittite, Middle Assyrian, etc. Because laws reflect the values of the societies which developed them, they can be beneficial in assessing how women functioned and were esteemed within those cultures.

A major consensus among scholars and students of ancient studies is that women in ancient times were second class, oppressed, and subservient to men. This paper approaches the subject of the status of women anciently by examining the laws involving women in Hebrew law as found in the Old Testament, and in other law codes of the ancient Near East. Such topics as marriage and divorce, vows, widowhood, dowries, inheritance rights, and laws of sexual purity—including incest, rape, and adultery—are all examined.

Etan Levine calls for a “holistic approach to history whereby women, as well as men, are the subjects of inquiry and the measures of significance.”¹ He also calls for a different approach than that of scholarly tradition which either misunderstands or ignores

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¹ Etan Levine, “On Exodus 21, 10 ‘Onah and Biblical Marriage,” *Zeitschrift Für Altorientalische und Biblische Rechtsgeschichte* 5 (1999): 133.

women. Levine seems unable, however, to view the status of women beyond that found in former scholarship, based on four main criteria. First, in Levine's view, the Hebrew word *bet'ab*, meaning the father's or patriarch's house, automatically indicates the inferior status of the wife. The second deals with the terms "give a wife" and "take a wife," which Levine feels make the woman an object in marriage. A third criteria that Levine feels indicates the subservience of women is the purchase of a wife, which in his view then established the power of the husband over the wife. Fourth, the husband was *ba'al*, or master, lord and owner of his wife, a wife being listed among her husband's possessions.² But do these interpretations irrefutably signify the inferior status of women anciently?

Concerning this topic, examples of scholarly opinions include: "The dominant impression left by our early Jewish sources is of a very patriarchal society that limited women's roles and functions to the home."³ In another scholarly opinion: "If one were to look at scripture alone, it would seem that marriage is a right exercised by a man and that a woman he marries is simply there for his use."⁴

These perspectives reflect the viewpoint that male dominance in a society inevitably indicates female inferiority and subservience. But is that assumption, so pervasive within the study of women in ancient times, accurate? Is there another way to view ancient society?

Although most scholars concur with the opinions previously cited, some do not. Carol Meyers offers a different perspective of the nature of relationships in the ancient world. In her opinion,

² *Ibid.*, 135, 136.

³ "Women NT," in vol. 6 of *The Anchor Bible Dictionary*, ed. David Noel Freedman (New York: Doubleday, 1992), 957–8.

⁴ David Novak, *Covenantal Rights: A Study in Jewish Political Theory* (Princeton, New Jersey: Princeton University Press, 2000), 133.

women were a vital, intricate part of the fabric of ancient life. She warns against judging ancient history by modern assumptions and standards:

Just as the family was inextricably connected with its landholdings, so too were individual family members economically and psychologically embedded in the domestic group. . . .⁵ In the merging of the self with family, one can observe a collective, group-oriented mind-set, with the welfare in the individual inseparable from that of the living group. . . . In assessing the participation of adult woman in family labor, it is important to avoid the trap of looking at female household work as somehow less important than male tasks. . . . [B]oth males and females worked in the household . . . the boundaries of a woman's world were virtually the same as those of a man's in . . . early Israel. . . .⁶ Men's and women's labors together were marked by their . . . interdependence.⁷

Scholars often comment on the isolation of women within the confines of their own homes, as noted earlier. But Meyers refutes this:

Women . . . were hardly a segregated or isolated subset of the family household. . . . Enmeshed as they were in the larger kinship community, the activities of the household members were hardly contained by the family household. . . . The spheres of activity of a family household transcended its own persons and property. *The affairs of household thus took on a public character.*⁸

Meyer's explanation of the biblical term for family unity—*bet 'ab*, or father's house—differs from that expressed by Levine. In

⁵ Carol Meyers, "The Family in Early Israel," in *Families in Ancient Israel* (Louisville, Kentucky: Westminster John Knox, 1997), 21.

⁶ *Ibid.*, 24–25.

⁷ *Ibid.*, 27.

⁸ *Ibid.*, 38, 40; italics added.

her opinion, *bet 'ab* “refers to the descent reckoning along male lines but not necessarily to male dominance in household functioning,” which she feels points to the high level of gender interdependence that existed within the ancient Hebrew family.

Meyer’s ideas present a very different picture than most scholarly research on the ancient world which tends to view ancient history from two main assumptions: first, a woman was confined to home doing less important things than a man; and second, if a woman was part of a family with a man at the head, she was automatically oppressed. But are these assumptions correct? Were women as a rule isolated, confined, and subservient in the ancient world? This study attempts to find answers to this question by examining Hebrew and other ancient Near Eastern laws from the standpoint that the laws of a society reveal its values. These laws yield strong evidences that women in ancient society may not have been universally viewed or treated in that manner, but instead were seen as an integral and valued part of the family and community.

Some modern scholars note that the codes found in the Hebrew Bible were addressed only to men, concluding that the codes were solely concerned with the rights of males, excluding and demeaning women. The purpose of this paper is to show that the ancient law codes, principally Hebrew law, can also be viewed from a different perspective. Instead of establishing male superiority, these provisions addressed the stewardship and responsibility of a man to his family, instead of simply establishing male superiority. When viewed in this light, men were addressed by God as the heads of their families with a divine mandate to provide for their temporal and spiritual well-being and conduct. Fathers then, were accountable for their families to God and were accountable to their families to lead, protect, and provide; they were also responsible for the protection of their holiness. Within this perspective, women were not inferior or subordinate. They held an equal place in the family and in society, and were protected and valued.

Much has been said among scholars concerning comparisons between ancient Near Eastern and Hebrew laws. According to one scholar, “the most fruitful of these studies have been those which refrained from allowing the many analogues and similarities between biblical literature and other ancient Near Eastern texts to obscure the significant distinctions between them.”⁹ In this paper, I attempt to contrast the similarities and differences between Hebrew and other ancient law codes. Though there are numerous similarities in the laws, but in many instances the intent of Hebrew law transcends that of the laws of its surrounding cultures, including the place of women within the codes.

Marriage and Divorce

Marriage in antiquity is typically seen by scholars as a mere legal contract. The concept of marriage by purchase was first initiated by a scholar, P. Koschaker in 1917, and is still the most commonly accepted view.¹⁰ In this case, the bride was considered to be purchased by the groom by the payment of a brideprice. She was then considered to be his property to be disposed of at will. Ruth 4, where Boaz stated that he had purchased Ruth to be his wife, and Genesis 31, in which Leah and Rachel protested their father treating them as foreigners, or less than daughters, are usually cited as evidence. Yet other scholars, such as Gordon Hugenberger, contend this theory by arguing that marriage was a sacred covenant in Hebrew society, not simply a purchase.

Various evidences exist within the Bible that marriage was more than a legal contract. The main evidence is found in the marriage of Adam and Eve. The text reads, “Therefore a man shall

⁹ Levine, 133–64.

¹⁰ Raymond Westbrook, *Old Babylonian Marriage Law* (A-3580 Horn, Austria: Verlag Ferdinand Berger & Sohne, 1988), 7; see also Gordon P. Hugenberger, *Marriage as a Covenant* (Grand Rapids, Michigan: Baker, 1988), 244.

leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh” (Gen. 2:24). Malachi referred to marriage being a sacred covenant. His message was addressed to husbands, reminding them that God is witness in a marriage, with a wife as a man’s companion, or “the wife of thy covenant.” Malachi testified that God hates “putting away” (Mal. 2:14–16). His words—“did not he make one?” (Mal. 2:15)—recall the original law of marriage in Genesis for a man and woman to be “one flesh.”

Christ also quoted Genesis when he was approached by the Pharisees with the question, “Is it lawful for a man to put away his wife for every cause?”¹¹ He replied:

Have ye not read, that he which made them at the beginning made them male and female, and said, For this cause shall a man leave father and mother, and shall cleave to his wife: and they twain shall be one flesh? Wherefore they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder (Matt. 19:4–6; see also Mark 10:2–12).

In response, they confronted Jesus with the question: “Why did Moses command to give a writing of divorcement, and to put her away?” (Matt. 19:7). The Pharisees spoke as if Deuteronomy 24:1–4 was Moses’ command to divorce. But Christ did not concur: “Moses because of the hardness of your hearts suffered you to put away your wives: but from the beginning it was not so.” He then stated divine law forbidding divorce except in cases of fornication (Matt. 19:7–9). This appears to concur with the provision concerning divorce found in Deuteronomy 24:1–4.

When Jesus counseled his apostles privately after the public confrontation with the Pharisees, he appeared to acknowledge the ability of either spouse to divorce: “Whosoever shall put away his wife, and marry another, committeth adultery against her. And if a woman shall put away her husband, and be married to another,

¹¹ Matthew adds the phrase “for every cause”; Mark does not.

she committeth adultery” (Mark 10:11–12). Paul also, in his admonition to the Corinthians, stated: “Let not the wife depart from her husband . . . and let not the husband put away his wife” (1 Cor. 7:10–11). These New Testament references to a woman initiating divorce are attributed by scholars to the gentile audience that Mark and Paul were addressing.¹²

In his study, Hugenberger offers the opinion “that the Old Testament viewed marriage as a divinely protected covenant between husband and wife,” a notion that is ignored or dismissed in most studies of ancient Hebrew marriage.¹³ Falk also views marriage as a covenant, and refers to Ezekiel 16:8 and Hosea 2:19–20 as evidence reflecting the practice of an oath and a covenant being required for marriage to be a general custom, as well as symbolism of God’s relationship with Israel.¹⁴ This is perhaps a major reason divorce did not figure prominently in the statutes of Moses, a law intended for a covenant people. As clarified by Jesus in his answer to the Pharisees centuries later, Moses suffered divorce only because of the hardness of the people. Marriage was intended to be for the Israelite nation as it had been originally given to Adam and Eve by God—a sacred covenant not to be broken (Mark 10:3–12).

Scholars acknowledge the absence of biblical sources on divorce.¹⁵ Deuteronomy 24:1–4 has been presumed by some scholars to be the Jewish law of divorce, but that view has been abandoned by most for the prevailing view is that the husband alone could terminate the marriage.¹⁶ Blekinsopp says that, “[the] Bible never excludes the possibility of divorce by the wife, but

¹² John J. Collins, “Marriage, Divorce, and Family in Second Temple Judaism,” in *Families in Ancient Israel*, (Louisville, Kentucky: Westminster John Knox, 1997), 120.

¹³ Hugenberger, 338

¹⁴ Ze’ev W. Falk, *Hebrew Law in Biblical Times* (Provo, Utah: Brigham Young University Press, 2001), 146.

¹⁵ Joseph Blekinsopp, “The Family in First Temple Israel,” in *Families in Ancient Israel* (Louisville, Kentucky: Westminster John Knox, 1997), 65.

¹⁶ *Ibid.*

neither does it ever envisage it, and so most commentators have assumed that no such right existed.”¹⁷

There is evidence that women could initiate divorce in Hebrew society. In the laws in the Fifth century B.C. Jewish settlement of Elephantine in Egypt, either partner could divorce without a stated reason. This evidence is usually attributed by scholars to local Egyptian influence and is dismissed as evidence of standard Israelite practice.¹⁸ But several scholars question that assumption. E. Lipinski states that divorce by the woman appears in Egyptian law only during the Persian period and instead attributes the practice to Hebrew influence.¹⁹ Jacob Rabinowitz also concludes that the Egyptians copied from the Jews.²⁰

The evidence found in the Aramaic papyri allowing for divorce by either husband or wife should not be dismissed so lightly in scholarly research. This presents needed evidence that the Jews in Egypt may not have deviated from their original laws but were practicing them as their ancestors in Israel did. As stated by Hugenberger, “one cannot assume without further proof that it was a legal innovation for the Jews at Elephantine to permit their women to initiate divorce.”²¹

The law as stated in Deuteronomy 24:1–4 appears to have been an attempt to curtail divorce—it was to be permitted only in cases of “uncleanness,” or indecency. The law also protected the woman if her husband divorced her. He was required to provide her with a written document as evidence which then enabled the woman to marry again. Deuteronomy 24 emphasized the woman’s right to proof of divorce. It also restricted a man from remarrying his divorced wife. This appears to have had economic motives: if

¹⁷ Collins, 121.

¹⁸ Blenkinsopp, 65; see also Collins, 115.

¹⁹ Edward Lipinski, “The Wife’s Right to Divorce in the Light of an Ancient Near Eastern Tradition,” *Jewish Law Annual* 4 (1981): 9–27.

²⁰ Jacob J. Rabinowitz, “Marriage Contracts in Ancient Egypt in the Light of Jewish Sources,” *HTR* 46 (1953): 91–97.

²¹ Hugenberger, 318.

a man took his former wife again, he might have stood to profit twice financially. This law prevented that from occurring.

If Deuteronomy 24:1 had been a provision permitting only a man to divorce, the text offers no conclusive evidence of this. The law clearly called for the husband's accountability. It does not appear that it excused or condoned him in breaking his vow of marriage. Instead, the law given in Deuteronomy 24 treated divorce as a serious action reserved only for cases of serious transgression.

The act of divorce was not without a financial penalty, and involved the husband's responsibility to provide for the economic needs of his wife and any children. Usually the woman was entitled to take with her the brideprice and dowry. Perdue states that "a bill of divorce granted the woman freedom to remarry, and she was dismissed by her husband with the economic protection of a marriage fee and perhaps a dowry."²² In the Elephantine divorce documents, either husband or wife was severely fined if they initiated the action.²³ This appears to have been intended to be a deterrent to divorce. According to Perdue:

In ancient Israel, laws governing divorce were designed primarily to protect the economic interests and rights of both the households that had arranged the marriage and the divorced couple themselves. . . . Yet the wife's interests and rights, along with those of her household, were also guarded. She was protected against slander, which would shame her and her household. She also was provided the legal writ that allowed her to return to her paternal household after her divorce and then to remarry, while her husband's *mohar* and perhaps her family's bridal dowry provided her some economic support.²⁴

²² Leo G. Perdue, "The Household, Old Testament Theology, and Contemporary Hermeneutics," in *Families in Ancient Israel* (Louisville, Kentucky: Westminster John Knox, 1997), 181.

²³ *Ibid.*, 187.

²⁴ *Ibid.*

Later Jewish law, found in the Talmud and the Mishnah, restricted the initiation of divorce to the husband. In his assessment, John Collins quotes Mishnaic law: “A woman [was] divorced irrespective of her will; a man [divorced] of his own accord.”²⁵ Collins explains, “The Mishnah also [recognized] that a woman may have [had] a right to a divorce under certain circumstances, and that she [could] appeal to the courts to require her husband to grant her a divorce. She [did] not, however, have the power to divorce her husband directly.”²⁶ He points out, however, that in the debate on justified reasons for divorce in the first century B.C., neither Rabbi Hillel, who advocated divorce by the man for any reason, nor Akiba, who reserved divorce only for cases involving fornication, “exempted the man from paying the divorce settlement.”²⁷ No matter the reason, a man was required to provide economic support for a divorced wife.

Divorce in other ancient Near Eastern laws is also the subject of debate. Westbrook, in his study of Neo-Babylonian Marriage Laws, states, “The right of a wife to divorce her husband in Old Babylonian law has been the subject of considerable dispute,” with opinions ranging from no rights to equal rights for the wife.²⁸ Marriage contracts contained penalties for the husband if he divorced his wife, which usually involved a monetary payment. But the usual penalty stated for a wife who divorced her husband indicated capital punishment—she was to be bound and thrown into the water or thrown from a tower. These penalties were stated as possible future events, so it is not possible to determine if the penalty was actually carried out from the documents. Also, in the divorce documents included in Westbrook’s *Old Babylonian*

²⁵ Collins, 120.

²⁶ *Ibid.*, 120, 121.

²⁷ *Ibid.*, 118.

²⁸ Westbrook, *Old Babylonian Marriage Law*, 79.

Marriage Law, none deal with a wife who actually divorced her husband, only the husband who divorced his wife.²⁹

Within the marriage documents, there were various penalties listed for divorce by the woman besides capital punishment. Several stated the penalty that the woman would be sold into slavery if she divorced her husband.³⁰ In another marriage document from Isin, the woman would incur a substantial financial penalty. If she chose to divorce her husband, she would forfeit house, field and property, and pay one-third a mina of silver.³¹ A similar penalty for either spouse is found again in a marriage document from Nippur. If either husband or wife divorced the other, they were to forfeit house, field, and orchard.³² Another marriage document stated that if the wife initiated divorce, she forfeited her adopted daughter; but if the husband divorced her, she could take her daughter with her.³³

A substantial penalty was to be paid by a divorcing husband in a marriage document from Kish. If he initiated divorce, he would forfeit “the household that they will build up” and also “pay half a mina of silver.” She, however, would be bound and thrown into the water if she divorced him.³⁴ In another document, the two wives were entitled to keep everything they brought in to their husband’s house, plus be paid a given amount of silver.³⁵ A similar document stipulated that if the husband chose to divorce, he was to lose his right to his house, and, as an added penalty, he would also lose his children.³⁶ An additional document included a

²⁹ *Ibid.*, 117, 119, 122, 123, regarding CT 2 44; CT 6 26a; CT 8 7b; CT 48 50; CT 48 51; CT 48 52, CT 48 55.

³⁰ *Ibid.*, 115, 124, regarding BE 6/2 48; CT 48 61.

³¹ *Ibid.*, 116, regarding BIN 7 173.

³² *Ibid.*, 129, regarding PBS 8/2 155.

³³ *Ibid.*, 136, regarding VAS 18 114.

³⁴ *Ibid.*, 129, regarding PRAK 1 B 17.

³⁵ *Ibid.*, 131, regarding TIM 4 46.

³⁶ *Ibid.*, 138, regarding YOS 14 344; see also YOS 15 73.

financial penalty for the husband if he chose to divorce, but no penalty was stipulated for the wife.³⁷ It can be observed from these documents that there appear to have been no fixed penalties. They were individualized according to the wishes of those who drew up the contracts.

One document from Sippar seems to have been drawn up later than the actual divorce. It announced that the husband had divorced the wife, and that, if another man married her, the former husband would not raise claims. A statement that both had sworn the oath of Shamash was included.³⁸ This resembles Deuteronomy 24, in which a woman was entitled to a written document of divorce that relinquished the husband's right to her, and enabled her to marry another man.

Old Babylonian divorce documents referred to cutting the wife's hem.³⁹ One fascinating document from Sippar tells of a husband who cut the hem of his wife and subsequently did not support her or her children. He apparently had been trying to "make claims and demands, from chaff to gold" from her, which were later rejected by the judges.⁴⁰ This document is very significant in that it shows the obligations of a man to provide support for his family, even after divorce. This concept is found again in a document from Larsa—several witnesses testified that after a husband had divorced his wife, he had not given her a food and clothing allowance.⁴¹ These documents are also noteworthy to prove that the divorced wife had the right to recourse in a court of law. The code of Hammurabi contains several provisions in which it appears that a woman could initiate divorce. CH 142 dealt with the right of a faithful woman to divorce her unfaithful husband and to return to her father's house. She declared that her husband could not have

³⁷ *Ibid.*, 130, regarding TCL I 61.

³⁸ *Ibid.*, 128, regarding Meissner BAP 91.

³⁹ *Ibid.*, regarding Newell 1900.

⁴⁰ *Ibid.*, 134, regarding VAS 8 9–10.

⁴¹ *Ibid.*, 135, regarding VAS 18 1.

marital relations with her and went to the authorities, who investigated her record. If she was proven not to be at fault, even though her husband had been disparaging her greatly, then that woman incurred no blame—she could take her dowry and return to her father's house. Note the similarity to Deuteronomy 22:13–19, but in that case the husband was not allowed to divorce her—he was required by law to provide for her for life. CH 149 covered the case of a diseased wife whose husband took another wife. She had the right to take her dowry and return to her father's house.

A husband was justified in divorcing his wife in CH 141 if she had made up her mind to leave in order to engage in business, thus neglecting her house and humiliating her husband. A legal investigation was mandatory, for the allegations must be proven before she could be convicted. In that case, the husband could choose whether to divorce her or not; if he did, he was not required to give her a divorce settlement. It appears that in this case the woman was able to provide for herself. He could also decide to keep her while taking another wife—the first wife remained in the home as a servant or slave. This provision illustrates that a wife had a responsibility to her husband and family—just as a husband had that responsibility.

Evidence of the significant monetary compensation due a divorced wife existed in the laws of Urnammu—sixty shekels of silver, or, if she was a former widow, thirty shekels (LU 9, 10). The code of Hammurabi envisioned several scenarios to guarantee the economic security of a divorced wife. In the first, a woman whose husband divorced her was entitled to take her dowry and also half the field, orchard, and property so that she could rear her children (CH 137). If she had no children, the husband owed her the full amount of her marriageprice and also her dowry before he was allowed to divorce her (CH 138). If there was no marriage price, he had to give sixty shekels of silver as a divorce settlement (CH 139). Class distinction was a consideration in the monetary

payment. If the husband was a peasant, he owed her only twenty shekels (CH 140). Law of Eshnunna 59 included a very severe penalty for a man who was divorcing a wife who had born him children and marrying another—he was to be driven from his house and from whatever he owned. The assumption here is that his wife and children were entitled to stay on the property, whereas he had to leave.

These documents show that marriage was highly valued in ancient society. The dissolution of a marriage was a very serious step—one that warranted serious consequences. This is clearly seen in the severe penalties attached. However, there are no indications that a woman actually suffered the death penalty if she initiated divorce. In fact, the documents list penalties other than death, such as loss of property, suggesting that the death penalty for divorce was not the common practice. The severity of the penalties also suggests that divorce was not prevalent or widely accepted in the ancient world. Both a husband and a wife were expected to fulfill their family responsibilities, indeed were legally obligated to do so. The obligations of a man to provide for the physical needs of his family are very apparent, continuing even after divorce.

While the ancient Near Eastern laws appear to be concerned with financial arrangements concerning marriage and divorce, these concerns are not readily apparent in the biblical codes. But this does not constitute proof that they were not part of Hebrew society, or that a Hebrew woman was more vulnerable than women of the surrounding societies. Also, while the law codes in the Old Testament provided for the use of a divorce document, they were silent concerning the use of marriage contracts. But the Elephantine papyri did use marriage contracts and provided guarantees for the woman's economic security. Also, a study of Israelite marriage, gleaned from the biblical codes and prophetic statements, reveals that it was considered to be much more than a mere financial arrangement: marriage was a sacred, binding covenant.

Brideprice and Dowry

Evidences of the practice among the Hebrews of the payment of a brideprice to the family of the bride and the giving of a dowry by the bride's family can be found throughout the Old Testament. The brideprice was a payment made by the groom to his prospective bride's father on the eve of their betrothal. The dowry was property given by the bride's father to his daughter upon her marriage. Although at first glance there appear to be no specific provisions in the Bible dealing with dowry or brideprice in connection with marriage, Exodus 22:17 referred to a payment to be made to a bride's father, "according to the dowry of virgins."⁴² A similar provision found in Deuteronomy gave fifty shekels of silver as the price to be paid to the father (Deut. 22:28–29).

One example of the use of brideprice and dowry is found in Rebecca's marriage to Isaac, in which Rebecca and her family were presented with presents by the family of her prospective husband (Gen. 24:22, 30, 47, 53). Another example is the marriages of Leah and Rachel to Jacob. In Jacob's case, the payment of a brideprice was taken care of by his servitude to Laban. When they were given no dowry by their father, Leah and Rachel were angry, "Is there yet any portion or inheritance for us in our father's house?" They accused their father of treating them as foreigners, or less than daughters (Genesis 31:14). Proverbs 31 refers to the high price of the virtuous woman, a possible reference to the brideprice (Proverbs 31:10). According to Westbrook, the reason the term for dowry occurs only two or three times in the Bible "lies in the very centrality of the institution: for the biblical authors the dowry was a common, everyday thing; it needed mention only in circumstances that made it unusual."⁴³

⁴² As pointed out in a conversation with David R. Seely (Brigham Young University).

⁴³ Raymond Westbrook, *Property and the Family in Biblical Law* (Sheffield: JSOT, 1991), 142.

Even if the evidence is scarce within the Bible, dowry and brideprice were an integral part of Jewish marriage and divorce documents in the Elephantine papyri. In two of the three Elephantine marriage contracts, the brideprice, or *mohar*, was paid by the groom to the bride's father and returned by the father to the bride, included with the dowry. In Yaron's opinion, this means "that the nominal recipient of the brideprice [derived] no actual benefit from it."⁴⁴

The marriage contracts found in the Elephantine papyri mentioned the brideprice and the dowry, as well as cash, clothing, and household items. But it is interesting to note that these contracts did not include all of the bride's property. Two of the brides had previously been deeded houses by their fathers which are not listed in the marriage contracts. Yaron interprets this to mean that "the need to safeguard the rights of the wife was not felt in the case of land, where there were other documents, deeds of sale or gift, to prove her title."⁴⁵ There is no evidence in the documents that upon the marriage, the houses automatically became the property of the husband. Because they were not included in the marriage contract, they appear to be outside the husband's ownership.

It is difficult to determine from the documents if the property brought into the marriage by the wife became the husband's property, or if it remained separate—scholars differ greatly in their opinions on this issue. Yaron points to a provision in one of the marriage documents in which the husband declared that he would not take his goods and possessions from his wife. If he did, he was required to pay two hundred shekels. This meant that the wife must "concur in the alienations of any property by her husband."⁴⁶ Two hundred shekels would have been a huge amount in a society which Yaron concludes did not have much cash.⁴⁷

⁴⁴ Reuven Yaron, *The Law of the Aramaic Papyri* (Oxford: Clarendon, 1961), 48.

⁴⁵ *Ibid.*, 50–51.

⁴⁶ *Ibid.*, 52.

⁴⁷ *Ibid.*, 59.

If either party divorced the other, the wife was entitled to the dowry. According to Yaron:

It is for this purpose that the detailed valuation is included in the marriage contract. At the time of divorce the objects used by the wife—whether initially brought in by her or subsequently acquired in the course of the marriage—[were] estimated, and the husband [had] to cover any deficiency in the total; he [also had] to repay the cash he had received. It [was] desired to ensure that on the dissolution of the marriage the wife [would] leave with belongings equal in value to those she brought in.⁴⁸

Ancient Near Eastern laws are abundant concerning the economic rights of women within marriage and divorce. Scholars state that the dowry became part of the husband's estate, but was apparently kept separate for her maintenance in case of divorce or the husband's death, then divided among her children after her death. If the wife had borne no children, the dowry was to be returned to her father's house. The laws did not anticipate the right of the husband to hold an exclusive power over her property, and he was not entitled to it after her death, even if there were no children (CH 162, 163, 164, 173, 174, 176A).

Ancient Near Eastern laws strove to regulate the brideprice given by the prospective husband to the bride's parents. In the laws of Lipi-Ishtar, in the event that a marriage agreement was broken, either by the groom or the parents, the father of the prospective bride was to return twofold the presents brought at betrothal (LI 15, LI 29). Comparable provisions are found throughout the ancient law codes—Hittite Law (HL 28, 29, 30), the Code of Hammurabi (CH 159, 160, 161), the Middle Assyrian Laws (MAL A27, A29, A30, A31, A42, A43), Neo-Babylonian Law (NBL 9, 10, 11, 12, 13), and the laws of Gortyn (G 9). The codes also regulated

⁴⁸ *Ibid.*, 59–60.

the distribution of the brideprice and dowry in cases where the father had died. For instance, in the Code of Hammurabi, a girl who was unmarried at the death of her father was entitled to be provided a dowry by her brothers (CH 184).

Significantly, much of ancient law was concerned with the economics of marriage, of which the economic rights of women were a major part. Even when the marriage was severed, the woman was entitled to economic protection. There is ample evidence that the laws were concerned with widowed and divorced women, ensuring that they were not left to become destitute.

Vows

Hebrew law included provisions for the making and keeping of vows within a family relationship, between a husband and wife, and a father and unmarried daughter (Num. 30). Both men and women could make vows with God. These vows were considered sacred between an individual and God, occurring at the temple or tabernacle with the involvement of the priest, as seen in 1 Samuel. The making and keeping of vows was part of an Israelite marriage. Evidence of this is found in the story of Hannah in 1 Samuel. Her husband Elkanah went yearly to the tabernacle at Shiloh with his family. It is recorded that he gave his two wives portions for the payment of their vows, and also his sons and daughters. To Hannah, who was childless, he gave “a worthy portion,” perhaps more than the thirty shekels required for a woman (1 Sam. 1:4–5).

In Numbers 30, a vow made by a married woman was to be ratified by her husband in order to be valid, or if a daughter was unmarried, her vow should be ratified by her father. If the husband or father heard the vow and assented by his silence, the vow stood. Or he could learn of it and choose to disallow the vow, in which case the vow would not stand. The woman was absolved, and the father held responsible: “The Lord shall forgive her,

because her father disallowed her” (Num. 30:5). But a husband or father must disallow on the same day he heard of the vow (Num. 30:8); and if this was the case, “the Lord shall forgive her” (Num. 30:12). Every vow and every binding oath must be established or voided by the father or husband of the woman. A binding oath was written down (Num. 30:13).⁴⁹ The man’s subsequent responsibility is stated clearly in verse 15: “But if he shall any ways make them void after that he hath heard them; then he shall bear her iniquity.”

This provision does not indicate that a man dictated his wife’s or daughter’s vows. The choice was hers to decide what vows she wished to make and when. She could make and keep her own vow without her father or husband ever knowing. But when he was informed by her, or became aware, his avowal or disavowal became essential. This act formed a partnership between them. Hannah’s vow to dedicate her son to the Lord was initially decided alone, and made at the tabernacle without her husband’s presence, the priest Eli being witness (1 Sam. 1:17). At some period, Elkanah became aware of her vow, for at the time she declined to go up to Shiloh until her son was weaned, he knew of the plan to consecrate their son to lifetime temple service. Elkanah then ratified her vow in his words, “Do what seemeth thee good” (1 Sam. 1:22-23).

Leviticus 27 lists the monetary costs for the taking of vows to be offered at the temple or tabernacle before the priest. Though sacred in nature, vows appear to be monetary, involving the consecration of persons and property. The psalmist wrote of the payment of vows to the Lord: “Pay thy vows to the most High.” (Ps. 50:14; see also Pss. 22:25; 76:11; 116:14). Estimates were given for payment in Leviticus 27 according to an individual’s gender, age, and financial situation (Lev. 27:8). Males aged twenty to sixty were to pay fifty shekels of silver, females thirty shekels, and male

⁴⁹ As explained by John Welch in a class discussion (Brigham Young University).

children aged five to twenty paid twenty shekels, females ten shekels. Very young children, ages one month to five, were included—a male gave five shekels, a female gave three shekels. Males over sixty paid fifteen and females paid ten. This could be adjusted according to a person's need. The estimates given in this chapter have been used as evidence that a woman was worth less than a man, but there seems to be no real connection. According to Carol Meyers, “[t]hat passage, typically read as indicative that males were valued above females, actually is a very different kind of text . . . it contains valuations that allow for the redemption of property or persons from a shrine.”⁵⁰

An interesting reference to vows is found in Jeremiah 44. Women had made vows involving the practice of idolatry. Jeremiah confronted them and their husbands. “Then all the *men which knew* that their wives had burned incense unto other gods, and all the women that stood by,” refused to hearken to his counsel to repent (Jer. 44:15, italics added). The women responded defiantly: “But we will certainly do whatsoever thing goeth forth out of our own mouth,” claiming they were better off when practicing idolatry. It is important to note that the women stated that when they engaged in these idolatrous practices, they did not do so without their men (Jer. 44:17, 19).

Jeremiah's response was directed to the husbands, “Ye and your wives have both spoken with your mouths” (Jer. 44:25). Both were accountable, but the men who knew of the unrighteous vows of their wives were held responsible, both for the vows made by their wives and their own. The punishment spoken by Jeremiah appears to be directed to the men—“and all the men of Judah that are in the land of Egypt shall be consumed by the sword and by the famine” (Jer. 44:27). This seems to reflect the same responsibility found in Numbers 30 in which a husband bore the responsibility for his wife's vow.

⁵⁰ Meyers, 33.

Clearly the responsibility of a husband and father to be involved in the religious actions of his wife and daughters was to be accomplished only in righteousness. Evidence of this is found in the Dead Sea Scrolls, which include a reference to “any binding oath by which a person takes upon himself to keep a commandment of the Torah.” An oath was only valid if it was in accordance with God’s commandments. The passage further clarified a man’s responsibility for the oath of his wife or daughter: “If [the oath] is to transgress the covenant, let him annul it and not allow it to stand.” It was within his bounds to annul only if it transgressed the covenant.⁵¹ This brings possible clarification of the phrase found in Numbers 30, in which a man bore the iniquity of his wife or daughter (Num. 30:15). If her oath transgressed the covenant, and her father or husband learned of it and still allowed it to stand, then he was to bear the responsibility.⁵²

Sexual Purity

This section poses three crucial questions. Were Hebrew laws governing sexual purity more restrictive than those of their surrounding cultures? Were these laws more restrictive for women than for men? Can the laws be interpreted as discriminating against women?

⁵¹ Joseph M. Baumgarten, *Qumran Cave 4. XIII: The Damascus Document (4Q266-273)* DJD 18 (Oxford: Clarendon, 1996), 156–7; 178–9.

⁵² Ancient Near Eastern law does not describe the taking of vows in the same manner as in Hebrew law. But there are references to oaths undertaken at the temple in the name of the god, and a person undergoing the divine river ordeal. The divine river ordeal is used in the laws of Urnammu for a man accused by another of some wrong doing (LU 13), and a wife accused of fornication (LU 14). If the accused survived being thrown into the river, they were considered innocent, if they did not survive they were guilty. This is also in the code of Hammurabi in cases of adultery, and the swearing of an oath of innocence at the temple (CH 131, 132). The swearing of innocence and the river ordeal are found in Middle Assyrian laws A22, A24, and A47.

It is significant to note that the Hebrew codes contained in Leviticus 18 and 20 concerning sexual purity are addressed to the men. Commonly termed by scholars as the “incest codes,” these provisions meticulously prohibited certain relationships with close kin and were concerned with proper marriage relationships. They specify the responsibility of both men and women alike to be virtuous. Similar provisions prohibiting incest can be found in the ancient Near Eastern laws, but there are noticeable differences that will be discussed.

Hebrew law appears to be an attempt to separate the Israelites from the traditions and practices of the surrounding cultures. Leviticus 18 and 20 both conclude with Moses’ strict command to the Israelites to shun the customs of the nations which had inhabited the land before them. He defined their practices as abominations which had defiled the land and were abhorred by God (Lev. 18:24–30; 20:23). Clearly, the Israelites were to live in a different manner than the societies surrounding them. The various law codes reflect this difference.

Both Hebrew and Near Eastern codes were concerned with a man having sexual relations with his mother or stepmother. In Hittite Law, a man who engaged in sexual relations with his stepmother was not punished if his father was dead. But if his father was still living, it was a capital crime (HL 190). Hebrew law did not concern itself with whether or not the father was living—in either case, both the wife and her stepson were to be put to death (Lev. 20:11). The provision concerning sexual relations with a mother or stepmother in the code of Hammurabi is significantly similar to Hebrew law. If a man had sexual relations with his mother, even after the death of his father, both guilty parties were to be burned (CH 157). But sexual relations with a foster mother after the father’s death was not a capital offense, the punishment being disinheritance from the parental estate (CH 158).

Both Hebrew and ancient Near Eastern laws forbade sexual relations between a father and his daughter or daughter-in-law.

The punishment for incest with a daughter brought banishment for the father under the code of Hammurabi (CH 154). In this same law, the punishment for a man who had sexual relations with a daughter-in-law was to be “thrown into the water,” but he must be caught in the very act (CH 155). A father was forbidden to engage in sexual relations with his son’s betrothed wife. If he did, there would be a fine of thirty shekels of silver, and he would be ordered to restore her dowry so she would then be able to marry someone else (CH 156).

Another difference between Hebrew and ancient Near Eastern law concerned sexual relations with related women. Hittite law concerned itself with class status; the punishment was based on whether the woman was free or a slave. Hittite law allowed a free man to have sexual relations with a free woman, her sisters, and her mother as long as they did not live in the same household. But if the man engaged in these acts at the same location and was aware that the women were related, it was then a capital crime (HL 191). The situation was radically different if the woman involved was a slave. A father and his sons could have sexual relations with the same slave girl or harlot, and it was not a punishable offense. A man could engage in sexual intercourse with several slave girls, even if they were mother and daughter, regardless of where they lived (HL 194). Also in Hittite law, it was considered a capital crime for a man to approach his free wife’s daughter sexually. But it is assumed that the law did not apply if his wife was a slave (HL 195).

To contrast these codes with Hebrew law, a man was forbidden to take both a wife and her mother, or they were to be burnt with fire (Lev. 20:14). It was also unlawful to take a woman and her daughter, or her son’s or daughter’s daughter (Lev. 18:18). The intent of the Near Eastern laws indicates that slave women were viewed as property, and the principle of preserving their virtue was of no concern. In contrast, Hebrew law considered free and slave women as equals in terms of the preservation of their virtue.

A major distinction between Hebrew law and the other law codes is the fact that Hebrew laws addressing sexual purity did not involve vicarious punishment. As stated by Falk, “Hebrew courts did not inflict punishment on ascendants or descendants.”⁵³ A person was responsible for his own violation of the law, and family members were not punished for that crime. In contrast, the Middle Assyrian laws are saturated with vicarious punishments. For instance, if a man raped a free man’s daughter, the father could then take the wife of the rapist “and give her to be ravished.” He did not return her to her husband, but could keep her (MAL A55). This appears very harsh. However, another Middle Assyrian law appears to protect the wife of the ravisher. If the husband involved swore that the virgin involved gave herself willingly to him, he would then be allowed to pay the girl’s father the amount in silver of the value of a virgin, and the girl’s family could have no claim on his wife (MAL A56). In other words, if rape was not involved, the guilty man’s wife was protected from any punishment.

Class distinction does not seem to be a determining factor in Hebrew law, although it occurs quite prevalently in the other ancient Near Eastern laws. It is interesting to note, however, that one case in Hebrew law does concern itself with the class status of women. In the case of a betrothed bondmaid who had sexual relations with a man who was not her betrothed, her servitude became a factor in the judgment. The record specified that if she was not redeemed by her kin, she was not free, and was therefore to remain the property of her owner, and the two could not marry. Neither she nor the man were to be put to death as punishment for the crime (Lev. 19:20). But the offending man was to make atonement for his sin before the priest at the temple in order to be forgiven. It is clear that the act was an offense, even if the woman involved was a slave (Lev. 19:21–22). This is a major difference between Hebrew and other ancient law.

⁵³ Falk, 68.

The law found in Exodus 21:7–11 also reveals that coming from a differing class did not dissolve the rights of a woman. This provision involved the rights of a daughter who was to be sold by her father “to be a maidservant,” presumably for the payment of a debt. It was clearly for the intent of marriage. The woman was to become a member of the man’s family, either as his own wife or his son’s. In the event that he then decided not to take her to wife, he was forbidden by law to sell her as a slave. He was to allow her to be redeemed by her family. To go back on the agreement he had made with her father was not condoned, as seen in the wording that he had “dealt deceitfully with her.” The law also envisioned that this could have been a plural marriage. In that case, the husband was forbidden to lessen “her food, her raiment, and her duty of marriage.” Duty of marriage is commonly interpreted by scholars to mean the woman’s right to bear children. If he did not provide those three things for her, then she could leave without being redeemed by her family. Or if the man had betrothed her to his son, he was to “deal with her after the manner of daughters.” It is not clear if this involved his giving her a dowry as he would one of his own daughters. But clearly the law envisioned that the woman was to be treated as one of his family.

The violation of chastity was a serious offense in the law of Moses and also in other ancient Near Eastern laws. In a case of rape, Deuteronomy states, “[F]or as when a man riseth against his neighbour, and slayeth him, even so is this matter” (Deut. 22:26). This is significant—forcible violation of chastity was equivalent to murder in Hebrew law. This is a standard not found in Near Eastern law. Punishment was severe because the offense was usually considered a capital crime. Punishment could also include a monetary fine, but only in the case that the woman involved was not betrothed. In this case, the man was obligated by law to marry her. He was to pay a prescribed amount of money to the father, even if the father exercised another option and refused to give her to the man in marriage. In both cases, the amount to be paid by

the man was to be identical to the dowry of a virgin, which is quite significant (Deut. 22:28–29).

Monetary fines for the violation of chastity were more common in ancient Near Eastern laws. A monetary fine is listed in the laws of Lipit-Ishtar for a false accusation of immorality against the daughter of a free man, the fine amounted to ten shekels of silver (LI 33). Monetary fines are also listed in the laws of Gortyn as punishments in cases of adultery also—fifty to one hundred saters if the woman was free but only five if the woman was a slave (G 8). In most cases, however, both Hebrew and Near Eastern laws did not use monetary fines for the violation of chastity. Many involved the use of the death penalty.

Both Hebrew and ancient Near Eastern laws used capital punishment for violation of chastity. In both, the location of the crime was crucial in determining the severity of the punishment. Middle Assyrian laws distinguished between rape that occurred either in the open country, at night in the street, in a granary, or at a city festival. Similar distinctions are found in Deuteronomy 22. In this case, the city or the field were the noted locations. Location appears to help establish the punishment for the woman, but not the man; for in either case he was condemned to death. If the act occurred in the field, presumably a place where if she called for help she would not be heard, the woman was not to be punished (Deut. 22:23–26). It is clear from the codes that rape was a serious offense in both Hebrew and ancient Near Eastern laws. The laws of Eshnunna called for capital punishment for a man if he abducted and raped a woman, but no punishment for the woman is indicated (LE 26). The woman's innocence was also honored in the Code of Hammurabi. The rape of a betrothed virgin brought the death penalty for the man, but the woman was to go free (CH 130). These codes are the same as in Hebrew law, as noted in Deuteronomy 22:25–26.

Conduct short of sexual relations was also not tolerated in these ancient laws. It is significant to note that this is found in

Middle Assyrian law, which is considered by many to be the harshest against women. The code stated that if a free man treated the wife of another free man disrespectfully, the case could be brought to trial. After prosecution and conviction, the man was to be sentenced to have one finger cut off. And if he had gone so far as to kiss her, they were to draw his lower lip along the edge of the blade of an ax and cut it off (MAL A9). This was clearly a punishment in which the penalty was to fit the crime. He had used his lips to kiss the woman, so the offending lip was to be cut off. The courts also prosecuted a person for making false accusations of promiscuity against a married woman (MAL A17, 18). These provisions prove that even within the harshest set of laws there is evidence that married women were to be shown respect by men, and were to be protected from improper advances.

Adultery

Adultery with another man's wife was punishable by death in Hebrew law, with no extenuating circumstances presented (Deut. 22:22; Lev. 20:10). There is one difference between the law given in Leviticus and the later provision in Deuteronomy. Deuteronomy includes the phrase "if a man *be found* lying with a woman" (italics added). The death penalty for both men and women is also found in other Near Eastern laws. There is no evidence in Hebrew law that the husband determined the punishment for his adulterous wife, nor was he allowed to lessen or eliminate the punishment. This was to be handled by the courts. In contrast, both Hittite and Middle Assyrian laws allowed the punishment for an adulterous wife to be determined by her husband, who could choose to have his wife put to death or spare her life. Also, whatever punishment was inflicted on the wife also became the punishment for the offending man—whether it be death, mutilation, or freedom (MAL A15; HL 198). But a judicial procedure was to be part of the process. The king or judges were

involved in the prosecution and conviction, as is also found in Hittite law (HL 198), and in the Code of Hammurabi (CH 129). It is important to note that punishment for adultery was not to be performed at will by a husband with no authorities involved.

One consideration in adultery involved seduction by the woman. Seduction of another man by another man's wife in the law of Urnammu warranted the death penalty for the woman, whereas the man received no punishment (LU 7). The act was considered to be her responsibility. This was also the case in Middle Assyrian law, with the wife's punishment being determined by her husband. But a distinction such as seduction by the woman was not a factor in Hebrew law. Both sexes were held responsible.

Several Hebrew law codes concerning adultery warrant a more detailed examination in order to obtain a clearer picture of how women were regarded with respect to adultery. The case of the despised wife in Deuteronomy 22:13–19, of a woman divorced by her husband for uncleanness in Deuteronomy 24:1–4, and the case of the suspected adulteress found in Numbers 5:12–31 will be discussed and contrasted. The fact that these codes only address infidelity by a wife will be discussed at the end of this section.

Deuteronomy 22 presents a case in which a husband had married a woman and then despised her. He publicly slandered her by accusing her of being unchaste before marriage (Deut. 22:13–14). He apparently wanted to divorce her, so he attempted to find charges against her. This provision matches Deuteronomy 24:1–4, in which a man must find some uncleanness in his wife in order to divorce her. According to one scholar, Deuteronomy 22 suggests that a man must have a serious reason to divorce; he could not divorce just for just any reason.⁵⁴

The girl's father and mother brought the case before the elders at the city gate. This was a public affair. Her father then

⁵⁴ Blenkinsopp, 65.

accused the husband before the authorities of wrongful conduct: “[H]e hath given occasions of speech against her” (Deut. 22:17). Her father and mother testified of her innocence and presented physical proof of her virginity at the time of her marriage. The husband was then publicly chastised by the elders of the city, and fined one hundred shekels of silver—a much larger sum than a divorce settlement—that was to be given to her father. The reason for this is given in the record: “because he hath brought an evil name upon a virgin of Israel” (Deut. 22:19). He was forbidden by law to ever divorce her. By publicly slandering his wife, he had lessened the likelihood of a subsequent marriage for her; therefore he was obligated by law to provide for her for the rest of her life. The husband was clearly at fault, and his actions were not condoned. And because he had publicly defamed his wife, he was publicly condemned.

The next two verses in the text stand as a warning to all Israelites, and do not appear to be connected with the case in which the wife was clearly innocent. The message was clear. If a woman was not virtuous, there was a severe penalty—she would be taken by the men of her city and stoned at the door of her father’s house (Deut. 22:20–21). From this evidence, it can be seen that chastity was prized even above life in ancient Israel.

It is clearly shown in Hebrew law that the violation of chastity was an offense against God, not merely against the husband. Punishment against offenders was intended to purify the community and safeguard the covenant between God and Israel.⁵⁵ As stated by Falk, “[t]he individual who committed a grave offense was ‘cut off from the people;’ the nation was asked ‘to purge the evil from its midst’ and the blessing or curses of the covenant were addressed to every individual Israelite. If the community failed to call the culprit to account, however, it was held collectively responsible to the divine overlord.”⁵⁶ Understanding this aspect of

⁵⁵ Falk, 73.

⁵⁶ *Ibid.*, 67.

Hebrew law clarifies the stoning of the unchaste wife in Deuteronomy 22:13–21.

The case discussed in Deuteronomy 22:13–22 can be contrasted with the so-called divorce clause found two chapters later in Deuteronomy 24. In this provision, a man who had found some indecency in his wife was to give his wife a divorce and do nothing to inhibit her ability for remarriage. The text does not specify exactly what constituted indecency, which has given rise to centuries of debate. Could it be possible that the provision in Deuteronomy 24:1–4 giving a wife the right of divorce and remarriage was a direct outgrowth of the occasion that had warranted Deuteronomy 22:13–19? In that case, because the man had publicly defamed his wife with accusations that would have made it difficult for her to remarry anyone else, he was forbidden to divorce her, which was a talionic punishment, according to Falk.⁵⁷ Yet in Deuteronomy 24, with the case of the woman found by her husband to have committed some “uncleanness” or indecency, the law conferred on her the right to be able to marry again.

How is this to be reconciled with the severe penalty of Deuteronomy 22:20–21, in which a guilty wife was to be stoned? Her condemnation in that provision was that she had played the whore in her father’s house. The punishment was connected with her father, not her husband. In Leviticus 21:9, the daughter of a priest who profaned herself by playing the whore, also profaned her father, and she was to be burnt with fire. Deuteronomy 23:17 states, “[T]here shall be no whore of the daughters of Israel.” Leviticus 19:29 clarifies that this was also the father’s responsibility. A father was not to prostitute his daughter, “to cause her to be a whore.” This appears to refer to the practices of the surrounding idolatrous cultures, in which parents gave their daughters to the temple to serve as temple priestesses, which involved immorality and prostitution. Falk states: “The status of women in biblical law

⁵⁷ *Ibid.*, 152.

must be understood as a reaction against the worship of female goddesses and the role of women in fertility cults.⁵⁸ This can be found in the account of the sons of Eli who were accused of lying with the women who assembled at the door of the tabernacle. Had they, through their priestly authority, attempted this idolatrous practice? The record is not clear what the purpose of these women was. It appears they had some official function there, which the wicked priests corrupted. Their father condemned the actions of his sons and accused them of causing the people to transgress (1 Sam. 2:23-23).

Contrasting the account in Deuteronomy 22 with Numbers 5 can also help to bring a clearer understanding of the issue of adultery in Hebrew law. Numbers 5 differs greatly with Deuteronomy 22. Instead of being public, it depicts a private affair between a husband and wife. He suspected his wife of adultery, but she was not caught in the act, and there were no witnesses. In this case there was no public accusation and no public trial. The husband did not broadcast his suspicions, as the husband in Deuteronomy 22. Instead, the husband and wife went together to the tabernacle and presented themselves before the priest, who then brought her “before the Lord” (Num. 5:16). There appears to be rich symbolism in the jealousy offering of barley, to bring “iniquity to remembrance,” and the dust from the floor of the tabernacle, mixed with the holy water in an earthen vessel (Num. 5:15-18). The priest then charged her “by an oath,” that no harm would come to her if she was innocent. But if guilty, she faced divine punishment: “[T]he Lord make thee a curse and an oath among thy people, when the Lord doth make thy thigh to rot, and thy belly to swell” (Num. 5:21-22). The priest then wrote the curses in a book, and blotted them out with the bitter water, and had the woman drink it. The next step is significant. The couple quietly went home. There were no penalties for either party—

⁵⁸ *Ibid.*, 189.

not for false accusation by the husband nor punishment for adultery for the wife. If she was guilty, she lost her ability to procreate; if innocent, she could conceive (Num. 5:27–28). The event was religious, not legal, in nature, involving divine, not civil, judgment.

Hugenberger offers the opinion that the husband in Numbers 5 suspected his wife of adultery because of an unexpected pregnancy, making this case “not marital harmony so much as pater-nity.”⁵⁹ It is significant to note that pregnancy was a factor in the case of the suspected wife found in the Dead Sea Scrolls. The texts stated that a man was not to bring her before the priest “unless her blood does not come forth.” In other words, she had to have skipped a period. Claims of rape could also be a factor—line three of the translation states: “If she said I was raped.”⁶⁰

The taking of an oath in cases of adultery is found in ancient Near Eastern law. In the code of Hammurabi, a wife accused of adultery, who was not caught in the act, could “swear her innocence by an oath by the [god],” and then return to her house (CH 131, 132). This appears to be very similar to the account in Numbers 5.

Also interesting to note is the connection between the wording in Numbers 5 and Numbers 30. A penalty was attached to annulling the vows of a wife—“[T]hen he shall bear her iniquity” (Num. 30:15). Similar wording is found again at the end of Numbers 5, after the sacred ceremony in which the husband set his wife before the Lord: “[T]hen shall the man be guiltless from iniquity, and this woman shall bear her iniquity” (Num. 5:31). With this procedure before the priest at the tabernacle, the husband appears to absolve himself from responsibility for the actions of his wife.

A major difference between Hebrew law and other Near Eastern law is the fact that Hebrew law did not envision any right of a husband to determine or inflict punishment on his errant

⁵⁹ Hugenberger, 318.

⁶⁰ Baumgarten, 78–9; 152–3.

wife.⁶¹ The punishment of a wife by her husband is found in three Middle Assyrian laws. Two of the codes state that the punishment must be justified, and cannot be inflicted except in the presence of the authorities. But the third code appears contradictory to the previous two in that it allowed a husband to inflict further penalties on his wife that had not been previously specified on a tablet—such as plucking out her hair, twisting her ears, or striking her—with no liability being attached to the husband (MAL A57, 58, 59). These provisions appear to be an attempt to regulate any punishment of a wife by her husband. Even when the husband was granted the right by law to punish his wife, it was to be tightly regulated. It was not to be done in the privacy of their home, but in the presence of a court. Again, there are no provisions in Hebrew law that deal with public punitive punishment of a wife by her husband.

Another important concept to aid in understanding the status of women in Hebrew society involved the responsibility of a husband and father to his wife and daughters. While Hebrew law had no vicarious responsibility for an individual to suffer for the sins of another family member, there was vicarious liability for a husband and father.⁶² In relation to the women of his family, a man was held responsible for the righteousness of his wife's or daughter's vows, with any penalty attached to him. This accountability of the husband can also be seen in Jeremiah 44, in the vows of the idolatrous wives and their husbands, with the penalty apparently paid by the husbands (Jer. 44:27). Also, he was forbidden against prostituting his daughters (Lev. 19:29).⁶³ Thus, a man was responsible not only for his own sexual purity, but also for that

⁶¹ Falk, 124.

⁶² *Ibid.*, 68. This is found in the Book of Mormon—Lehi placed the cursing of the children of Laman and Lemuel upon the heads of their parents (2 Nephi 4:6); also in the Doctrine and Covenants—parents are responsible to teach children, or the sin is upon their heads (D&C 68:25).

⁶³ Falk, 68.

of his family. Modern interpretation focuses on the suppression of individual agency, and thus the subjugation of women. However, this must be used with caution in attempting to understand an ancient society, which operated on the concept of collective, not individual, responsibility.⁶⁴

The concept of the responsibility of the husband and father to his family can also be found in the other ancient law codes. In Old Babylonian Marriage Law, in a marriage contract from Sippar, the father of the bride was to be held “responsible for the performance of [his daughter’s] obligations and for her misdeeds,” not the new husband.⁶⁵ Also included in another marriage contract were the words of a father giving his daughter to a husband: “Any trouble with regard to her is her fault.”⁶⁶ Her conduct was apparently not the responsibility of her husband, but continued with the father, unless he absolved himself. Even after her marriage, the responsibility of a father to his daughter apparently did not terminate. Even in the case in which he relinquished responsibility for her conduct, he still appeared to refer to her personal accountability. It is interesting to note that the father does not turn the responsibility for her over to her husband. She, not her husband, is clearly responsible for her conduct. This challenges modern interpretations that a husband held total control over his wife.

Numbers 5:12–31, Deuteronomy 22:13–19, and Deuteronomy 24:1–4 only address a woman’s infidelity. But was a husband not also held accountable for fidelity? Hugenberger writes that some scholars believe that there is an “alleged existence of a double standard in Israel whereby a wife had to be exclusively loyal to her husband, while a husband was allowed to indulge in extramarital sex with unattached women without censure.”⁶⁷ This study concludes that both Hebrew and ancient Near Eastern laws put a high

⁶⁴ Falk, 67.

⁶⁵ Westbrook, *Old Babylonian Marriage Law*, 124, regarding CT 48 56.

⁶⁶ *Ibid.*, 134, regarding VAS 9 192–3.

⁶⁷ Hugenberger, 313.

value on chastity and fidelity, with both the man and the woman held accountable. On close examination, the laws do not appear to be more restrictive for women than for men. As seen in Hebrew law, even if the woman involved in sexual transgression was a slave, in which case the couple could not marry, the text is clear that the man had committed a sin and must atone for it (Lev. 19:20–22). If the woman involved was not betrothed, the man was then required to marry and support her for life, or pay a financial penalty if the father refused the marriage (Deut. 22:28–29). If the woman was betrothed, the offender warranted capital punishment, whether or not she had consented (Deut. 22:23–26). And in the case in which the woman was married, the man died as well as the woman (Deut. 22:22). Taken together, these provisions provide compelling proof of a man's accountability for his sexual conduct. This accountability of men toward women in sexual matters can be viewed as further indication of the woman's place of respect in society.

Widows

Provisions for the economic concerns of widows are found throughout ancient Near Eastern laws (MAL A35, A46; NBL 13; G 10; CH 177). The code of Hammurabi addressed a widow's right to stay in her husband's home and also protected a dead husband's estate in order to ensure the inheritance for his children (CH 172). In this case, a widow was required to obtain a judge's permission before remarrying. She and her new husband were then entrusted with her dead husband's estate. Note that the new husband could not take over the dead man's estate. Both were restricted from selling the household goods and legally required to protect the estate for her children's inheritance (CH 177).

The care of widows was an integral part of Hebrew law. Ideally, they were to be a part of family households, provided and cared for by their families, or, if that was not possible, by others

outside the family.⁶⁸ Divorced women were included in this care—as seen in Leviticus, where a priest's daughter, who was either widowed or divorced, and had returned to her father's house, was entitled to eat of her father's meat, the sacrificial offerings given to the priests for their use (Lev. 22:12–13). The entire community was responsible for the care of women who did not have husbands to provide for them. The tithe of every third year was to be given to widows and fatherless children. They were also to receive the excess of orchards, vineyards, and fields (Deut. 24:19–21; 26:12–13). The law also restricted the taking of a widow's raiment as payment for a pledge (Deut. 24:17). The law of levirate marriage, in which the brother of the dead husband was required to marry his wife, appears to be given partly to provide for the needs of a widow, but was also concerned with raising up posterity for the dead man. To forfeit this responsibility could lead to public disgrace. With a levirate marriage, the woman would continue to be provided for by her husband's family, and, if sons were born, they would then care for her (Deut. 25:5–10).

Ancient Near Eastern laws were also concerned with the economic needs of women whose husbands were missing or taken captive (LE 29, 30; also CH 133A, 133B; CH 134, CH 135, CH 136; MAL A36). Middle Assyrian law A45 envisioned several scenarios in which the economic needs of the wife of a missing husband were to be taken care of. If the woman did not have sufficient to live on, she could appeal to the community or palace. And if her husband had owned property, the judges could lease it to her for her maintenance for two years, after which time she was free to remarry. Her father could also support her.

Some modern interpretations of ancient conditions offer a bleak view of widowed or divorced women being forced into begging or prostitution in order to survive. However, an examination of the protections provided by law to widows, divorced women,

⁶⁸ Perdue, 167, 171.

and wives whose husbands are missing, proves that Israelite and other ancient societies did not envision leaving women vulnerable economically and made specific efforts to provide for their maintenance. Not only the woman's family but also the entire community was required by law to assume this responsibility.

Inheritance

Scholarly opinions vary widely on the issue of women's inheritance in ancient Israel. Westbrook presents his opinion that "[t]here is repeated evidence from the earliest cuneiform records onwards that a daughter could receive an inheritance from her father's estate, whether as sole heir or dividing with the other heirs. A daughter did not, therefore, lack the legal capacity to inherit."⁶⁹ But Westbrook disagrees somewhat with another scholarly opinion in which the dowry was a form of inheritance, on the basis that the dowry presented to the daughter by her father was a voluntary gift.⁷⁰

Numbers 27:1-11 and 36:1-13 include the public petition of the daughters of Zelophehad to have their dead father's inheritance in the promised land pass to them: "Why should the name of our father be done away from among his family, because he hath no son? Give unto us therefore a possession among the brethren of our father" (Num. 27:4). This was the first time in hundreds of years that land was to be included in a family's inheritance. These women must have felt they had a strong case to present to Moses, that of a right to their father's inheritance in the absence of sons.

Moses' answer to their request, given by divine revelation, became a "statute of judgment" (Num. 27:11). It was recorded that the Lord spoke unto Moses, saying, "The daughters of

⁶⁹ Westbrook, *Property and the Family in Biblical Law*, 158.

⁷⁰ *Ibid.*, 157.

Zelophehad speak right” (Num. 27:6–7). These women were free to choose their own marriage partner, even after the protest to Moses by their father’s brothers found in Numbers 36, the only stipulation being to choose marriage partners among their own kin in order to keep the inheritance within the tribe (Num. 36:6). Apparently their father’s brothers had no right or responsibility to arrange marriages for these women in the absence of their father.

The laws of Gortyn contain similar provisions to marry within the tribe. A groom-elect, or close kinsman, was to marry an heiress. Three of the laws dictate what happened if either party did not wish to marry the other. If there were no kinsman, the girl was free to marry whomever she wished among her tribe. If the groom-elect refused to marry her, the girl’s relatives could bring the matter to court, and the judge was to order the marriage to occur within two months. This did not occur if the girl did not wish to marry the groom-elect. The two apparently shared the property between them even before they married, and, if the marriage did not take place, the property was divided between them (G 30, 31, 32).

Under Hittite law, both of the prospective bride’s parents were involved in the negotiations (HL 29). This was also the case in the biblical marriage of Rebecca to Isaac. Rebecca’s mother and her brother were involved in the process. They both received gifts from Abraham’s servant, as well as Rebecca. And both of them asked Rebecca her wishes in the matter (Gen. 24:53–58).

What, if any, precedence was there in Hebrew history for daughters inheriting from their father’s estate that could have been known to the daughters of Zelophehad? Jacob’s wives Leah and Rachel expressed anger and disgust at not receiving a share in their father Laban’s estate—“Is there yet any portion or inheritance for us in our father’s house? Are we not counted of him strangers? For he hath sold us, and hath quite devoured also our money” (Gen. 31:14–16). This was a scathing assessment of their father.

They accused him of treating them more as strangers than daughters, even of selling them, and taking their rightful inheritance. This must have been the reason Rachel felt justified in taking some of her father's property—his images—when they left. She went to great lengths to hide them from him and succeeded (Gen. 31:19, 34–35). Job, who gave his three daughters an inheritance among their brothers, provides additional biblical evidence that women could inherit. In this instance, they inherited even though they had brothers (Job 42:15).

The inheritance of the daughters of Zelophehad is found again in the list of inheritances given to the children of Manasseh in Joshua 17. After listing the male children, the record states that “Zelophehad . . . had no sons, but daughters: and these are the names of his daughters, Mahlah, and Noah, Hoglah, Milcah, and Tirzah” (Josh. 17:3). Perhaps years after first presenting their case to Moses, the daughters repeated their claim before Eleazar the priest, Joshua, and the princes, reminding them of God's command to Moses to give them inheritance among their brethren (Josh. 17:4). The record then states that, “therefore according to the commandment of the Lord,” they were given inheritance, bringing the number of portions allotted to the tribe of Manasseh to ten (Josh. 17:5). The granting of the claims of these women to inherit became an integral part of the inheritances distributed to the tribe of Manasseh.

Manasseh was not the only tribe affected by a woman's landed inheritance. The recorded account of the inheritance of the tribe of Judah includes a man named Caleb and the land he gave to his daughter, who had been given in marriage to Caleb's brother's son Othniel. The record states that Achsah “moved” her new husband to ask her father for a field, after which her father asked her directly, “What wouldest thou?” She answered, “Give me a blessing; for thou hast given me a south land; give me also springs of water.” He then granted to her the upper and lower springs (Josh. 15:16–19; Judg. 1:12–15). The daughter Ashcah's inheritance is listed among the inheritances of Judah (Josh. 15:20).

It is significant that these two instances in which a daughter inherited land were carefully included in the record of the inheritances of the twelve tribes. Ashcah's land, and also the daughters of Zelophehad, were not included with their husband's, but were kept separate as inheritances under their father's names. There is no indication that these were dowries that were then absorbed into the estates of their husbands, even though they came from the same tribe. These inheritances clearly belonged to the women. Significantly, in both instances, the author of the record emphasizes that this was done according to the commandments of God (Josh. 15:13; Josh. 17:4). These cases significantly affected the division of inheritances in the Israelite promised land.

Other ancient Near Eastern laws acknowledged a daughter's right to inherit from her father's estate. Under the Code of Hammurabi, a priestess must have a written tablet from her father granting her permission to give her estate to whomever she pleased. If her father did not do this, her estate belonged to her brothers, but they were required to provide for her needs. They were instructed in the laws to "give her food, oil and clothing proportionate to the value of her share." This maintenance had to be satisfactory to her, or she could "give her field and orchard to any tenant" of her choice to support her. The property was hers to use as long as she lived, but she could never sell it, for it legally belonged to her brothers, unless she had been given written evidence from her father (CH 178).

One provision in the law of Lipit-Ishtar (1930 B.C.) granted a daughter an equal share along with her brothers in her father's estate (LI 22). The Code of Hammurabi envisioned a wife inheriting her husband's property, as found in CH 150, in which the husband presented a field, orchard, house, and goods to his wife, and made out a sealed document for her. After his death, her children could not then lay claim to that property and take it from her. When she wished, she could give her inheritance to the son of her choice, but she was forbidden by law to give it to anyone

outside the family. Under Hittite law, a mother could disinherit her sons (HL 171). A widow with no children in Neo-Babylonian law was entitled to take the size of her dowry from her husband's property. If he had given her a marriage-gift, she was entitled to that also. If she had no dowry, a judge appraised the property of her husband and appropriated something commensurate (NBL 12).

Under the Code of Hammurabi, a widow with minor children who wished to remarry must receive permission from the judges, who would examine her dead husband's estate, and entrust it to her and her new husband together. The authorities were to record a tablet with the widow and her new husband pledging to look after the estate and rear the children without selling any of the estate, which was to be kept in trust for the children's use (CH 177). Apparently the woman was to be very much involved in the ownership and maintenance of the property.

One Middle Assyrian law stated that any property a widow owned became completely her new husband's if she entered his house; however, if he entered her house, anything he brought became the woman's (MAL A35). In another Middle Assyrian law, a woman whose husband had not given her a deed stating that she could live in his house after his death was to be supported by her sons. It appears she did not own the property unless her husband had deeded it to her before his death, but the laws stipulate various circumstances for her care. She could live where she chose in a house of one of her sons, who was required to support her and treat her with the same consideration as his own wife. If the widow had no sons, she could choose to live with one of her husband's sons. The law also envisioned that one of these sons could marry her (MAL A46).

The widow is not mentioned in Numbers 27 and 36 as being an heir to her husband's property, which some scholars give as proof that in Hebrew law a widow did not inherit her husband's

estate.⁷¹ Naomi selling the property of her dead husband Elimelech to the next of kin is considered to be an exceptional case.⁷² In another argument, the land did not belong to Naomi, but she could act as agent for her dead husband and dispose of it, as found in the wording of Ruth 4:3—“Naomi selleth a parcel of land, which was our brother Elimelech’s.”⁷³ Another biblical account of a widow appearing to possess her husband’s estate is the widow from Shunam who appealed to the king to have her house and lands restored when she returned from the land of the Philistines. She appears to be entitled to inherit her late husband’s estate, as the king ordered, “restore all that was hers” (2 Kings 8:1–6).

Worthy of note is a provision found in the laws of Gortyn. As long as the father lived, he was restricted from selling or mortgaging the possessions that belonged to his children or his wife. Nor could a son sell his mother’s possessions. Included in the provision is this significant statement: “And if anyone should purchase or take on mortgage or accept a promise otherwise than is written in these writings, the property shall be in the power of the mother and wife” (G 22).

In his examination of the Elephantine documents, Yaron concludes that a daughter could inherit if there were no sons, as is found in Numbers 27; thus, a daughter or a sister was “not necessarily excluded from the inheritance.”⁷⁴ But it is not known from a study of the documents if a daughter or sister could compete with a son or brother. Yaron concludes that they could not because of the frequent occurrence of gifts, with women always the recipients. Yaron states, “This does suggest an inferiority in intestate succession which it was sought to overcome by resort to gifts. But . . . the small number of documents available demands

⁷¹ *Ibid.*, 83.

⁷² Blenkinsopp, 55, 72.

⁷³ Westbrook, *Property and the Family in Biblical Law*, 80.

⁷⁴ Yaron, 67.

caution in our conclusions.⁷⁵ These documents also referred to the claims of the widow or widower. One marriage document stated that if the husband died without a male or female child, the wife was to have power over all his property, and if the wife died without bearing male or female children, her husband was to inherit her possessions.⁷⁶

In Hebrew and ancient Near Eastern laws dealing with inheritance, women can be seen to inherit, to own, and to maintain property that is separate from their husbands'. The husband did not possess total control over the assets of the family, but was held accountable by law to protect the property and inheritances of his wife and also his children. The woman's right to appeal to a court of law for her rights is also established. Again, these laws were greatly concerned with the economic protection and security of women.

Conclusion

Each section addressed in this paper could be discussed at much greater length, but the purpose of this study is to provide an overall perspective, and to offer the opinion that the study of women in ancient times warrants additional examination. When viewed as a whole, Hebrew and ancient Near Eastern laws provide compelling evidence that women had a more central role in ancient society, were held in higher esteem, and were granted more rights than is commonly recognized in scholarly tradition.

To comprehend the position of women in ancient times fully and accurately, researchers need to strip away modern perceptions and biases and view ancient history on its own terms. For instance, the chastity and fidelity of men and women is not valued by most modern societies. Thus, the harsh penalties in the laws

⁷⁵ *Ibid.*, 68.

⁷⁶ *Ibid.*, 69.

concerning fornication and adultery are condemned by many as oppressive, particularly for women. But these codes must be understood from within the ideals of that culture, not our own.

I concur with Carol Meyers:

Patriarchy is related to ideas of male dominance, but what does male dominance mean? [It] cannot be equated with female passivity or lack of autonomy. . . . At best it is a risky business to apply these distinct spheres and attendant value known from modern experience to societies that are smaller and less complex than our own. At worst, doing so means failing to grasp the important position of women in such societies. . . . Gender differences that appear hierarchical may not have functioned or been perceived as hierarchical within Israelite society.⁷⁷

As discussed earlier in this paper, Levine calls for a new approach to ancient history that acknowledges and understands the place of women. Evidences of a higher status for women that are found within the laws must not be ignored in this endeavor. The law codes, chiefly Hebrew law, can be considered from a different perspective than exclusive male domination. They can instead be seen to signify the accountability of a husband and a father to his wife and children. When ancient society is viewed in this way, previous assumptions of women's universal oppression and subservience are seriously challenged.

⁷⁷ Carol Meyers, *Discovering Eve: Ancient Israelite Women in Context* (Oxford: Oxford University Press, 1988), 30, 32.

Slave Systems of the Old Testament and the American South: A Study In Contrasts

Nathan Andersen

Though a sketchpad of the Israelite slave system is available in Old Testament text, it is still difficult to ascertain exactly how biblical masters and slaves related to one another on a daily basis. How should modern biblical readers understand slavery in the Bible? They should understand that slavery did exist and probably flourished in ancient Israel. However, biblical slavery can be distinguished from Southern slavery in important ways. The Old Testament slave laws established a threshold level of humanity and dignity, which the Israelites were obligated not to cross, whereas the Southern slave system negated the existence of the person, evidencing a total devaluation of humanity. The check that prevented the Israelite slave system from paralleling the Southern slave system was the realization by each Hebrew master that they too were slaves to their God.

Language is not static but, in fact, changes over time. Culture, demography, and historical circumstance all influence how societies define the words they use. Thus, for a proper reading of ancient texts, it is imperative for modern readers to take into account the way in which a given term was defined in the ancient context.

The word “slave,” as used in Old Testament text, is a term often misunderstood by contemporary readers of the Bible because contemporary readers seek to understand the biblical slave system by overlaying a modern definition upon it. One scholar has noted, “The problems attending the use of the term slavery are basic to the very nature of language. The meaning of the term

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‘slavery’ is determined not only by the spoken or literary setting, but also by the effective history of a given people.”¹ Modern notions of slavery are complicated by the fact that in many ancient societies, the term “slave” was used to refer to many different forms of servile conditions,² not just the chattel slave familiar to modern readers of the Bible.

Modern readers of the Old Testament³ may equate modern notions of slavery with the forms of slavery practiced in ancient Israel. Such modern notions of slavery are heavily influenced by the American civil rights movement, the American Civil War, and the African slave trade,⁴ and have recently experienced a public revival of sorts via dialogue regarding slave reparations. Putting the two slave systems on an equal footing, without a proper comparison, denies modern Bible readers a full understanding of the legal and religious ramifications of slavery in the Bible.

This paper juxtaposes the slave laws in the Old Testament with those of the pre-Civil War American South. Part II introduces various ancient Near Eastern laws that may have influenced

¹ Dexter Callender, Jr., “Servants of God(s) and Servants of Kings in Israel and the Ancient Near East,” *Semeia* 83/84 (1998): 67–68.

² Raymond Westbrook, “The Development of Law In the Ancient Near East: Slave and Master In Ancient Near Eastern Law,” *Chicago-Kent Law Review* 70 (1995): 1631, 1634, 1640. Westbrook explains, “[T]he term ‘slave’ was used to refer not only to a person owned in law by another but to any subordinate in the social ladder” (1634). Professor Westbrook provides several examples of servile conditions that may have been encompassed under the ancient term “slave.” Such examples include: subjects of a king, subjects to God, heads of households, “classes of workers attached to an institution (palace or temple) or to an estate, debtors who volunteer themselves into servitude to repay a debt, and non-citizens in a foreign nation” (1634–38).

³ The purpose of this article is to contrast the slave system of the Old Testament Israelite nation with the slave system in place in the Antebellum South. Evidence of slavery may be found in the New Testament; however, it is not the intent of this article to expound upon those connections.

⁴ *Ibid.*

the slave laws of the Old Testament. Part III discusses the legal mechanisms by which individuals were initiated into servitude—how individuals became slaves in the Old Testament as well as in the South. Part IV compares the legal status of Old Testament slavery to that in the American South by analyzing the master/servant relationship, laws regarding property ownership, the duration of servitude, manumission laws, and fugitive slave laws. Part V examines the legal parameters regarding the treatment of slaves in each respective legal system, and finally, Part VI offers a brief conclusion.

Ancient Near Eastern Laws

Old Testament texts clearly reveal that slavery existed as a vibrant Israelite institution. The Code of the Covenant (Exod. 21–22),⁵ the Holiness Code (Lev. 25), and the Deuteronomic Code (Deut. 15) collectively provide much of what modern scholars know and understand regarding the legal rules and regulations of

⁵ The extent to which the Code of the Covenant is one coherent legal code or the result of multiple redactions is an issue modern scholars have yet to resolve. For example, Raymond Westbrook argues that the Code of the Covenant is “part of a widespread literary-legal tradition and can only be understood in terms of that tradition. The starting point for interpretation must therefore be the presumption that the Covenant Code is a coherent text comprising clear and consistent laws, in the same manner as its cuneiform forbears.” Raymond Westbrook, “What is the Covenant Code?” in *Theory and Method in Biblical and Cuneiform Law: Revision, Interpolation and Development*, ed. Bernard M. Levinson (Sheffield, England: Sheffield, 1994) 15, 36. Others refute Professor Westbrook’s theory that diachronic analysis is “methodologically invalid,” arguing that the inconsistencies and incoherency in the Covenant Code evidence the existence of many different influences on the text itself and substantial textual reworking. See, e.g., Bernard M. Levinson, “The Case for Revision and Interpolation within the Biblical Legal Corpora,” in *Theory and Method in Biblical and Cuneiform Law: Revision, Interpolation and Development*, ed. Bernard M. Levinson (Sheffield, England: Sheffield, 1994) 37–39.

slavery in biblical society.⁶ These texts, however, fail to adequately explain where the slave tradition in the Old Testament originated. Considering that the Israelites viewed themselves as the subjects of harsh Egyptian servitude,⁷ it is somewhat surprising that slavery existed as such a dominant aspect of Israel society. What factors contributed to this irony? How was the institution of slavery transposed from a harsh institution into the societal norm? Many scholars suggest that the slave traditions of neighboring ancient Near Eastern societies may have significantly influenced the conception of slavery in ancient Israel.⁸ Thus, before the Southern and Old Testament systems of slavery can be effectively compared, it may be helpful to identify how ancient Near Eastern slave laws influenced the sources, legal status, and treatment of slaves in the Old Testament.

Sources of Slavery in the Ancient Near East. Much of what modern scholars know regarding the laws of ancient Near Eastern societies comes from ancient law codes,⁹ which one scholar described as “academic treatises on law expressed in casuistic form” rather than the legislatively enacted legal codes familiar to

⁶ Modern biblical scholars present varying conclusions as to how these three code sections relate to each other. For example, Adrian Schenker argues that “the [collective] laws for the release of slaves form a coherent system.” Adrian Schenker, “The Biblical Legislation on the Release of Slaves: The Road from Exodus to Leviticus,” *Journal for the Study of the Old Testament* 78 (1998): 23, 33.

⁷ Exodus 1:14 describes Israelite servitude to the Egyptians as “bitter with hard bondage.”

⁸ See, e.g., Schenker 23–41 (asserting that political pressure from foreigners living within Israelite society greatly influenced the shaping of the Israelite laws regarding debt-slavery).

⁹ The main law codes and sources of law relied upon in this article are as follows: The Code of UrNammu (CU), the Code of Lipit-Ishtar (CL), the Code of Eshnunna (CE), the Code of Hammurabi (CH), the Hittite laws (HL), the Middle Assyrian Laws (MAL), and the Neo-Babylonian Laws (NBL). For a summary of many of the scholarly questions that have arisen with respect to these law codes, see Jeffries M. Hamilton, *Social Justice and Deuteronomy*, Society of Biblical Literature Dissertation Series, no. 136 (Atlanta, Georgia: Scholars Press, 1992) 56–62.

contemporary society.¹⁰ Another scholar referred to them as an “enumeration of case decisions around a series of themes with the purpose of serving as a guide to judges.”¹¹ Regardless of the exact purpose behind these law codes, they serve as an invaluable porthole into the legal and social world of the ancient Near East and perhaps help to explain the origin of certain Old Testament slave customs.

There are essentially four general ways in which slaves were acquired in the ancient Near East. First, the majority of slaves were most likely prisoners of war¹² or chattel slaves, who were carried back to the capturing nation to work manual labor.¹³ These slaves were often purchased “into the service of temple communities, royal estates, or the estates of high ranking nobility rather than the private households of average citizens.”¹⁴ Such may have been the case with Joseph who was sold by the Midianites to Potiphar in Egypt (Gen. 37:38).¹⁵ Foreign slaves, used to replenish the slave supply during times of peace, were often granted different rights and privileges than native slaves.¹⁶

The second source of slaves was that of a debt-slave. Debt slavery was often limited by a specific duration of anywhere from

¹⁰ Westbrook, “The Development of Law in the Ancient Near East,” 1631, 1633.

¹¹ Victor H. Matthews, “The Anthropology of Slavery In the Covenant Code,” *Theory and Method in Biblical and Cuneiform Law: Revision, Interpolation and Development*, ed. Bernard M. Levinson (Sheffield, England: Sheffield, 1994) 119, 120.

¹² *Ibid.*, 122 (“Despite the increased numbers of persons taken in warfare, the idea of permanent chattel status, on the North American model . . . was unknown in the ancient Near East”).

¹³ Muhammad A. Dandamayev, “Ancient Near East,” vol. 6 of *The Anchor Bible Dictionary*, ed. David Noel Freedman (New York: Doubleday, 1992) 58, 59. These slaves were mainly used to construct canals, roads, palaces, and other public improvements (58–59). See also James Moss, *Slavery in the Book of Mormon*, 3 (forthcoming).

¹⁴ Matthews, 124.

¹⁵ *Ibid.*

¹⁶ See Moss, 3–4.

three to fifty years,¹⁷ as well as by a general release for all slaves and their families.¹⁸ Westbrook asserts that, where a debtor pledged himself or another in order to repay a debt, the creditor understood that “[t]he seller was, under certain conditions, allowed to buy back, to ‘redeem,’ that property at the original price.”¹⁹ A debt-slave who had been redeemed was usually not exonerated from all liability but merely became subordinate to a new creditor.²⁰

Destitute and impoverished freemen could sell themselves²¹ and sometimes their children²² into slavery during times of famine:

Enslavement for famine was similar to enslavement for debt, but was not always identical. The sale of a child in times of famine could always be regarded as a sale made under duress with the price being a debt. Sometimes, however, there was no price. Rather, free persons gave their children or themselves into slavery in return for being kept alive until the famine was over.²³

¹⁷ Dandamayev, 59. The Code of Hammurabi, CH 117, provided that a man could sell his wife or son to pay a debt. The wife and/or son would serve in the house of the creditor for three years, only to be released into freedom on the fourth year. In Nuzi, debt slavery often lasted up to fifty years. However, no such law limiting the duration of a debt slave existed in Assyria.

¹⁸ Ibid. “[T] Babylonian king Ammisaduqa in the 17th century issued an edict, according to which all inhabitants of his kingdom who had been compelled by debt to become slaves should be released together with their families” (59).

¹⁹ Westbrook, 1651.

²⁰ Ibid., 1652. These new creditors were often family members.

²¹ Dandamayev, 59. See also Moss, 7–15.

²² Dandamayev, 59. See also Moss, 5–7.

²³ Sadly, some impoverished parents, normally during times of famine, abandoned their children, hoping a passerby would pick the child up and raise it. See, e.g., Westbrook, 1646; Dandamayev, 59.

Additionally, a man who lacked inheritance rights might sell himself into slavery in order to secure some form of inheritance upon the death of his master.²⁴ In “Neo-Babylonian documents and Aramaic papyri of the fifth century B.C. from Egypt, slaves were sometimes freed with the stipulation that they continue to serve the master or provide him with food as long as he was alive.”²⁵

Third, an individual could be born into slavery.²⁶ “Such slaves could have been the offspring of a union of master and slave . . . or of slaves.”²⁷ For example, the Code of Hammurabi (CH 171) provides that a child born to a slave woman and fathered by the slave’s master does not inherit with the master’s freeborn children, but may be freed upon the master’s death.

Fourth, free persons could become enslaved by breaking the law.²⁸ For example, the Law Code of Hammurabi (CH 53–54) provides that “where a negligent farmer had managed to flood the whole district and did not have the means to compensate all his

²⁴ Professor Westbrook suggests that these “reciprocal arrangements whereby the slave was freed in return for continuing to look after his master” took several forms: “[F]irst, the master manumitted the slave upon his death, in return for support during the rest of his life.”

Second, the slaves’ obligation continued after their master’s death with respect to his son even though they were free; they were bound by contract, not status, from that point on. Third, even during their remaining period of slavery, the grant of freedom was irrevocable. Their misconduct would result in a contractual penalty, not in cancellation of the grant. The contract thus mitigated the effects of slavery, at least in law. In practice, however, the impossibility of paying the huge penalty would inevitably lead to their re-enslavement. (“The Development of Law in the Ancient Near East,” 1648)

²⁵ Dandamayev, 61. A Sumerian law (LS 4) provided that an adopted son who estranged himself from his adopting parents by saying “You are not my father; you are not my mother,” would be disinherited.

²⁶ Russ VerSteeg, *Early Mesopotamian Law* (Durham, North Carolina: Academic Press, 2000) 153; Westbrook, “The Development of Law in the Ancient Near East,” 1643.

²⁷ Westbrook, “The Development of Law in the Ancient Near East,” 1643.

²⁸ Dandamayev, 59.

neighbors for their loss,” the neighbors could sell the negligent farmer into servitude and divide the proceeds.²⁹ This type of law was presumably an equitable remedy necessary to compensate the surrounding farmers for the man’s breach of contract. Another example, found in the Hittite Laws (HL 35) states, “If an overseer or a shepherd elopes with a free woman and does not bring the bride-price for her” that he was legally obligated to pay, the woman becomes a slave for three years to the man who was legally entitled to receive the bride-price. Additionally, according to Sumerian law, “[t]he wife and children of a murderer who had been sentenced to death, were also condemned to slavery.”³⁰

Legal Status of Slaves in the Ancient Near East. Introducing every aspect of a slave’s legal status is beyond the scope of this analysis. Nevertheless, there are several important aspects of a slave’s legal status that reveal what a slave’s day-to-day rights were in comparison to his or her ancient Near Eastern master. This section will briefly introduce laws relating to the following general topics: alienability, property ownership, manumission, and fugitive slaves.

Generally, slaves in the ancient Near East were “chattels and could be sold, pledged, hired, given as gifts, inherited, and forfeited.”³¹ However, some scholars assert that debt-slaves and famine slaves were more protected from alienability than the ordinary chattel slaves due to their rights of redemption.³² Logically, if a debt-slave was able to redeem himself, he must have been able to earn and hold some forms of property.³³ Most likely, slaves in the ancient Near East were only permitted to hold property if “the[ir]

²⁹ Westbrook, “The Development of Law in the Ancient Near East,” 1644.

³⁰ Dandamayev, 59.

³¹ Westbrook, “The Development of Law in the Ancient Near East,” 1660.

³² *Ibid.*, 1662; VerSteege, 155.

³³ Dandamayev, 61, stating that “[s]ometimes slaves were permitted to possess various kinds of property (peculium).”

master took an interest” in the slave.³⁴ A master who had accepted a slave under the slave’s debt repayment plan may have been more willing to allow the slave to accumulate property in order to hasten ultimate satisfaction of the debt.

There are many reasons why a slave in the ancient Near East would have most been able to hold property. Because of the rights of redemption and the law regarding the general release, slaves were often not slaves for life, and therefore would have, at some point in time, the opportunity to reenter society as free individuals.³⁵

Some scholars even argue that such slaves could serve as witnesses and parties in legal proceedings.³⁶ However, it is important to note that even though an ancient Near Eastern slave could mortgage/buy/sell their property, they could not mortgage/buy/sell themselves; they “remained the property of their masters, at whose whim they could be deprived of their property and influence.”³⁷

Many ancient Near Eastern laws dealt with the issue of fugitive slaves. As Westbrook explained, “flight was a social phenomenon. . . . In the case of slaves, counter-measures were directed both against the slave himself and against third parties from whom he might seek assistance or refuge.”³⁸ The first general group of laws imposed punishments for housing or assisting a fugitive slave.³⁹ The Law Code of Hammurabi (CH 16) may have imposed the most serious penalty for aiding and abetting

³⁴ Ibid.

³⁵ The following quote describes activities in which a slave could participate:

In 1st-millennium Babylonia enterprising slaves owned land, houses, and considerable amounts of movable property. They actively participated in all spheres of economic activity, were engaged in trade, ran taverns and workshops, taught other persons various trades, pawned and mortgaged their property, and they themselves received the property of others as security for loan. (Dandamayev, 61)

³⁶ Ibid.

³⁷ Ibid.

³⁸ Westbrook, “The Development of Law in the Ancient Near East,” 1670.

³⁹ See, e.g., HL 24, CH 16, CH 15, LI 13, LI 12.

a fugitive slave—death. Another law (LE 49–50) imposed a monetary “fine of two times the value of the slave . . . for the concealment of a fugitive slave.”⁴⁰

The second group of laws provided rewards for returning a slave to his master.⁴¹ One law (LU 17) established a reward of two shekels of silver for returning a runaway female slave to her master. Another law (CH 17) provided a similar reward for returning any slave to his or her master. The Hittite Laws (HL 22–23) based the amount of the reward on the extent to which a person had to go to retrieve and return a slave. These laws evidence the economic necessity of being able to retain and control property in ancient Near Eastern society.⁴²

Treatment of Slaves in the Ancient Near East. What measures could masters take to control and subvert their slaves into submission? In some ancient Near Eastern societies like Assyria, a debt-slave, enjoying the right of redemption, could not be treated as harshly as a chattel slave.⁴³ Nevertheless, the laws regarding the treatment of slaves in ancient Near Eastern societies were not uniform. Some laws imposed penalties on those who harmed another’s slave. For example, the Laws of Eshnunna (LE 23) imposed a fine of two slave girls on a man who detained another man’s slave girl in his house, causing the slave girl to die. Slaves were usually not the beneficiaries of such laws; masters of the harmed slaves reaped the benefits.

Further, some laws prevented masters from abusing their slaves while disturbingly, other laws codified such mistreatment. Westbrook argues that—with the exception of MAL A44 and CH 282, which allowed masters to cut off the ear of their disobedient slave—“a master did not have a general right to disfigure his

⁴⁰ Dandamayev, 60.

⁴¹ See, e.g., LU 17, CH 17, HL 22.

⁴² See also VerSteeg, 154, for other examples of fugitive slave laws.

⁴³ Westbrook, “The Development of Law in the Ancient Near East,” 1666; see also VerSteeg, 155–56.

slave.”⁴⁴ Other scholars agree, however, that “[s]ome slaves were subjected to cruel forms of exploitation.”⁴⁵ In particular, Chattel slaves were most likely the recipients of maltreatment. Aside from the actual treatment slaves received from their masters, most slaves were marked or branded, whether physically or by wearing a tag, for identification purposes.⁴⁶

Becoming Slaves in Ancient Israel and in the American South

Old Testament Sources of Slavery. Modern scholars suggest three source divisions of ancient Israelite slavery: chattel slaves, debt-slaves and forced slaves. First, the laws regarding the purchase of chattel slaves were different depending on whether the slaves were foreigners or Hebrews.⁴⁷ Israelites were instructed that they could only purchase chattel slaves from foreigners (Lev. 25:44).⁴⁸ Hebrew slaves were never to be purchased in fee.⁴⁹ God explained the reason for this policy: “For [the Israelites] are my servants, which I brought forth out of the land of Egypt; they shall not be sold as bondmen” (Lev. 25:42). The Israelites, per God’s scriptural instructions, believed that God was to be their master because he had redeemed them from their Egyptian masters. It

⁴⁴ Westbrook, “The Development of Law in the Ancient Near East,” 1667.

⁴⁵ Dandamayev, 60–61.

⁴⁶ Moss, 17.

⁴⁷ Ultimately, a slave’s legal status in Old Testament times was probably more closely aligned with “that of a *filius-familias* than to that of a mere chattel” depending on whether the slave was a Hebrew or a foreigner. Although chattel slavery did occasionally exist in the Old Testament, most scholars agree that the Israelite economy was not dependent upon the practice, and therefore, the practice, most likely, did not flourish for sustained periods of time in ancient Israel. Ze’ev W. Falk, *Hebrew Law In Biblical Times* (Provo, Utah: Brigham Young University Press, 2001) 114.

⁴⁸ See also Callender, 74.

⁴⁹ Efraim Elimelech Urbach, *The Laws Regarding Slavery* (New York: Arno Press, 1979) 28.

was therefore contrary for any Hebrew to be the master of another Hebrew in fee simple absolute when God, in fact, owned them: “For unto me the children of Israel are servants” (Lev. 25:55). As a result of this public policy against Israelites owning Hebrew slaves in fee, the term of servitude for a Hebrew slave was limited to six years (Exod. 21:2, Deut. 15:12). A Hebrew master was to release his slave “in the seventh” year “for nothing” (Exod. 21:2). Although such a practice may have been the ideal,⁵⁰ it makes sense that ancient Israel would frown upon extended periods of servitude for members of their own community, for Israel had experienced the shackles of extended servitude in Egypt for over 430 years (Exod. 12:41). On the other hand, foreign slaves, unlike Hebrew slaves, could be owned “forever” (Lev. 25:46). Although the law of the jubilee, which provided for a general release of all slaves every fiftieth year (Lev. 25:10)⁵¹ seems, on its face, to apply to both foreigner and Hebrew alike, the Jubilee probably only applied to Hebrew slaves (see, e.g., Lev. 25:46).

Interestingly, there seems to be some textual inconsistency between the seventh-year release of slaves and the general release of the jubilee every fiftieth year. Both seem to apply to the release of a Hebrew slave. Falk offers two explanations for this discrepancy: First, “the law of Exodus 21:2–6 was perhaps unknown at the time of Lev. 25:10, or, [second,] . . . the former rule was not obeyed.”⁵² Falk believes that the most probable explanation was

⁵⁰ The account in Jeremiah 34:8–16 illustrates that, perhaps for economic reasons, the Israelites found it difficult to strictly adhere to the manumission laws recorded in the Holiness Code and the Code of the Covenant.

⁵¹ Lev. 25:10: “And ye shall hallow the fiftieth year, and proclaim liberty throughout all the land unto all the inhabitants thereof: it shall be a jubile unto you; and ye shall return every man unto his possession, and ye shall return every man unto his family.” This concept of the jubilee year originates in “the religious framework of the periodical *restitutio in integrum* where all things come back to the original creation and to the original founding order. It is a periodical eschatology and a periodical purification of human society from the distortions of life and bad luck” (Schenker, 37).

⁵² Falk, 87.

that the seventh-year release was simply not obeyed.⁵³ This belief is supported by the account in Jeremiah 34 in which Jeremiah rebukes the Israelites for having neglected to release “their Hebrew slaves, male and female,” every seventh year (Jer. 34:9). Ancient Hebrew prophets, such as Jeremiah, repeatedly rebuked the Israelites for failing to comply with the laws of their God. The slave laws would have been, and in fact were, sometimes ignored. Nevertheless, prophets repeatedly reminded the Israelites of the impetus behind the public policy of limiting terms of servitude: If the people wanted God to keep them free, they, as a people, must be willing to keep their slaves free (see, e.g., Jer. 34:16–17).

It may be instructive to discuss the factors that would have motivated a Hebrew or a foreigner to voluntarily subject themselves into servitude (Exod. 21:5). Such a concept would be completely ludicrous today. Nevertheless, voluntary servitude was practiced in Old Testament times. A person lacking any rights of inheritance may have voluntarily given himself to a master who, in the absence of legal heirs, would gift inheritance rights to the trusted slave.⁵⁴ Such a symbiotic relationship most likely benefited both parties, the master and the slave. The master received a legal heir and someone to take care of him in his old age. The slave received an inheritance upon the death of the master. Additionally, individuals in extreme poverty were able to voluntarily give themselves into slavery (Lev. 25:39–40). Such individuals would be held as a “hired servant” rather than a “bondservant” and would be subject to the release of the jubilee (Lev. 25:39–40).

The second source of biblical slavery was that of a debt-slave. “Israelites who became heavily indebted could be forced to surrender or sell children or themselves” to appease the demands of their creditors.⁵⁵ Scriptural clarification of the law surrounding

⁵³ Ibid.

⁵⁴ See Falk, 115.

⁵⁵ Callender, 74; see also Westbrook, “The Development of Law In the Ancient Near East,” 1631, 1651–54.

debt-slavery is limited at best. There is, however, one example of how these laws were applied:

Now there cried a certain woman of the wives of the sons of the prophets unto Elisha, saying, Thy servant my husband is dead; and thou knowest that thy servant did fear the Lord: and the creditor is come to take unto him my two sons to be bondmen. (2 Kings 4:1)

Either the borrower or the borrower's sons could become a servant to the creditor (see Prov. 22:7). This type of servitude was subject to the seventh-year release provision found in the Covenant Code as well as the general release in the jubilee year. A debt-slave could, however, extend his term of servitude beyond the sixth or forty-ninth year for life (see Exod. 21:5)—a relationship similar, if not identical, to chattel slavery. Thus, under these circumstances, “debt-slaves were extremely vulnerable to being forced into chattel slavery.”⁵⁶ During harsh economic conditions, including times of famine, the difference between those that “wax-eth poor” and those that couldn't pay their debts was probably insignificant. Hebrews would have been forced to sell themselves into slavery for life—a close cousin to selling title to a person in fee simple.⁵⁷ Even though this may have been the general practice, Old Testament prophets, like Nehemiah, continually brought the Israelites back to the ideal principle of debt forgiveness (see, e.g., Neh. 5:1–13). Although absolute forgiveness may not have been frequently granted, biblical law also provided for redemption of the

⁵⁶ Callender, 74.

⁵⁷ One author noted, “All that scholars have written regarding enslavement through debt loses much of its importance once it is appreciated that the borderline between the enslavement of debtors and the voluntary sale of children or self is one that is very easy to obscure” (Urbach, 12–13).

debt by a debtor's next of kin⁵⁸ or possibly even by the debtor if the debtor was wealthy enough (Lev. 25:47–49).⁵⁹ Most likely, redemption did not completely exonerate the debtor; it merely transferred the debt to a more charitable master. “It must be presumed that . . . the majority of those who redeemed Jews who had been sold as slaves to Gentiles retained them as slaves in their own service.”⁶⁰ This presumption is valid due to the way in which Jehovah redeemed the children of Israel: “For I brought thee up out of the land of Egypt, and redeemed thee out of the house of servants” (Mic. 6:4), “and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God” (Mic. 6:8). Jehovah was the new debtor and set the new terms of servitude.

Finally, at certain times in Israelite history, captives of war provided a significant source of forced labor.⁶¹ Of course, this source proved more fruitful during times of war than during times of peace. This may explain why Hebrew masters in Jeremiah 34 found it so difficult to release their Hebrew slaves—the supply of captured slaves had been depleted and so the Israelites were relying upon Hebrew slaves to replace prisoners of war in the economic societal structure. During monarchical periods, forced labor was used to build the temple and other large-scale projects.⁶² Forced servitude upon Hebrews was contrary to biblical law and policy: “For unto me the children of Israel are servants; they are

⁵⁸ The previously referenced example in 2 Kings 4:1–6 provides an example of the symbolic significance of Jehovah as the ultimate redeemer. Although the prophet Elisha is the pronouncer of redemption in the story, the reader recognizes that his calling as Jehovah's servant (or agent) makes Jehovah the redeemer, not Elisha. Jehovah is the one who provides the means whereby the debt is repaid. Therefore, the woman would have been the servant of Jehovah thereafter.

⁵⁹ See also Falk, 117.

⁶⁰ Urbach, 14.

⁶¹ Falk, 114.

⁶² Callender, 75.

my servants whom I brought forth out of the land of Egypt: I am the Lord your God” (Lev. 25:55).

Southern Sources of Slavery. In America there was not the same distinction between a foreigner and a community citizen as there was in biblical law: The primary source of slaves was from the African slave trade. Slavery in America became a legal institution during the 1660s. Prior to 1660, legal records and statutes referred to negro laborers as servants, not slaves.⁶³ In 1664, a Maryland statute declared, “[A]ll negroes or other slaves already in the Province, or to be imported thereafter, should serve for life.”⁶⁴ Such laws constituted the initial passport of the African slave trade in America.

It has been suggested that even the most ardent supporters of the slave trade itself “admitted that the slave trade was barbaric and immoral.”⁶⁵ The maritime journey from Africa to the American colonies was so arduous that only one out of every three slaves survived.⁶⁶ Nevertheless, despite this high mortality rate, the slave trade continued to produce significant profits.⁶⁷ The slave trade was a point of debate in the Constitutional Convention of 1787; yet, due to the bipolar positions of the Northern and the Southern states, the Convention chose to table the matter in hopes of obtaining other compromises.⁶⁸

By the time the Constitution was ratified in 1789, most states, both Northern and Southern, had outlawed the slave trade. For example, a 1787 Rhode Island statute “censure[d] [the slave trade]

⁶³ Robert B. Shaw, *A Legal History of Slavery in the United States* (Potsdam, New York: Northern Press, 1991) 4. Act XVI of Virginia statutes (1659–1660) was the first statute to grant colonists a specific right to “import ‘negro slaves’” (Shaw, 4).

⁶⁴ *Ibid.*, 5.

⁶⁵ Paul Finkelman, *Slavery in the Courtroom* (Washington, D.C.: Library of Congress, 1985) 211.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

in strong terms, as contrary to the principles of justice, humanity, and sound policy”⁶⁹ and imposed a pecuniary penalty “on every citizen who as master, agent, or owner shall buy, sell or receive on board his ship for sale any slave.”⁷⁰ Nevertheless, despite the Slave Trade Prohibition Act of March 2, 1807, which prohibited the slave trade on a national level, slave traders continued to operate on a limited basis,⁷¹ and slavery continued to flourish.

The elimination of the slave trade did not, by any means, eliminate slavery or its source. The slave trade had been, in principle, eliminated, or at least drastically reduced. Nevertheless, by the early part of the nineteenth century, there were hundreds of thousands of negro slaves in the South, increasing for their masters in perpetuity. Slaveholders were not as dependent on the slave trade to supply them with slaves because of the natural increases in the negro population. However, race perpetuated what the slave trade had started.

Although race has historically been an irrelevant factor in slave systems throughout the world (e.g. the slave system in the Old Testament), it played a central role in American slavery.⁷² Historians recognize that, for the most part, “in other times and places enslavement was never confined to a single race or ethnic group.”⁷³ Not until the American slave system did such a peculiarity occur.

This principle of selecting slaves based upon race evidences one of the most significant differences between the Israelite slave system and slavery as it took place in the South. In the South,

⁶⁹ John Codman Hurd, *The Law of Freedom and Bondage in the United States*, vol. 2 (New York: Negro Universities Press, 1968), 49.

⁷⁰ *Ibid.* The following state statutes express a prohibition on the slave trade: Delaware (1789); South Carolina (1792); Georgia (1798); Mississippi (1798); Alabama (1823); Louisiana (1804) (Hurd, 49, 75, 95, 101, 143, 150, 156).

⁷¹ Finkelman, 211–12.

⁷² Paul Finkelman, “The Centrality of Slavery in American Legal Development,” in *Slavery and the Law*, ed. Paul Finkelman (Madison, Wisconsin: Madison, 1997) 5.

⁷³ *Ibid.*

“[o]nly blacks could be slaves; no one else, however great their misfortune.”⁷⁴ On the other hand, the Israelite slave system provided not only for the enslavement of its own people but also limited the terms of enslavement in order to prevent misfortune from involuntarily enslaving an individual for life; debts could be paid or redeemed, providing the Israelite citizen with an opportunity to regain social status and respectability. The American slave system denied blacks this opportunity. Even free blacks in the South⁷⁵ were prevented from full social equality simply because of their race.⁷⁶ The United States Supreme Court, in *Dred Scott v. Sandford* summarized the peculiar race-based system driving slavery in America:

[Blacks] had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to

⁷⁴ Ibid., 6.

⁷⁵ Ibid. Despite only referring to free blacks in the South, the author of this paper does recognize that blacks living in the North were also not treated equally as whites. Nevertheless, blacks in the North were granted much more social equality than blacks in the South.

⁷⁶ See Mark V. Tushnet, *The American Law of Slavery* (Princeton, New Jersey: Princeton University Press, 1981), 142–47 (suggesting that there were conceptual problems in the South with a presumption based on race).

[I]t was administratively inefficient to create presumptions flowing from race, and, despite the conceptual problems entailed by the need to adjust those presumptions to the rule that status and not race was dispositive, the pervasive racism of Southern society supported the move away from status and toward race as a categorizing device. (Tushnet, 147)

dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion.⁷⁷

Chief Justice Taney further asserted “that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as part of the people, nor intended to be included in” the Constitution.⁷⁸

There was no legal mechanism to prevent race-based slavery in America. America’s slave system was never clearly defined in statutory form; rather, it merely evolved according to the social policy and economic demands of American society. Because the American slave laws were never conclusively established before the practice took root in American society, trying to embrace subsequently established slave laws within the already established body of common and statutory law was like trying to fit a square peg into a round hole.⁷⁹ The slave laws in America simply did not harmonize with the constitutional principles that people in the United States, even immigrants from other European countries, had been “created equal” and “endowed by their Creator with certain inalienable rights.”⁸⁰ There was a serious disconnect between the laws governing slavery and the accepted body of common and statutory law.⁸¹

⁷⁷ *Dred Scott v. Sandford*, 60 U.S. 393, 407 (1856).

⁷⁸ *Ibid.*

⁷⁹ See, e.g., Finkelman, “The Centrality of Slavery,” 14.

⁸⁰ The Declaration of Independence, para. 2.

⁸¹ See, e.g., Eugene D. Genovese and Elizabeth Fox-Genovese, “Slavery, Economic Development, and the Law: The Dilemma of the Southern Political Economists, 1880–1860,” *Wash. & Lee L. Rev.* 41 (1984): 1–3. (They argue that slavery constituted the very foundation upon which Southern society rested. The slave system of the South produced a conflict between political and economic principles. Accordingly, slavery in the South “created a bifurcation of Southern law, as if to render the economy unto Caesar and social relations unto God.”); see also Tushnet, 71–90.

It may be helpful at this point in the analysis to point out that the biblical slave system did not suffer from such a disconnect between the laws themselves and the legal policies of the society. Although current ambiguities exist regarding the interpretation of biblical slave laws, the laws corresponded with the lodestar policy that Jehovah was the ultimate master, and that because he provided mercy to the enslaved Israelites in Egypt, the Israelites themselves should provide mercy to their fellow citizens.

Points of Legal Comparison

In addition to the differences regarding how individuals were enslaved, the Old Testament and the South granted slaves varying levels of legal status, the analysis of which presents a plethora of complex legal and social issues. Among the issues researched by scholars today are (1) the extent to which male and female slaves were treated differently under the law,⁸² (2) the slave's right to vote and participate in local and national government processes, (3) the slave's legal right to file and/or be a party to a lawsuit, (4) the extent of the master's sexual rights over the slave, and (5) the slave's right to marry and have children. Extensive research has been done with respect to each of these elements of legal status. However, this paper attempts to narrow the scope of the analysis by examining Hebrew law and the laws of the American South with respect to (a) the master-servant relationship, (b) the duration of servitude, and (c) the slave's ability to own property.

The Master and Servant in the Old Testament. As stated earlier, the master-servant relationship in biblical law was symbolic of the relationship between Jehovah and his people. On numerous occasions in the Old Testament, Jehovah explains to the children of Israel that he is their master and they are his servants (or slaves),

⁸² See, generally, Matitiah Tsevat, "The Hebrew Slave According to Deuteronomy 15:12-18," *JBL* 113-4 (1994): 587-95.

and should therefore be submissive to doing His will (see, e.g., Lev. 25:42, 55; Mic. 6:4; Deut. 5:15, 7:8, 9:26, 13:5, 21:8). Moreover, the temporary nature of the master–slave relationship between a Hebrew master and a Hebrew slave “provided for a friendly relationship between master and servant.”⁸³ Thus, the slave system of the Old Testament, like many other aspects of the Hebrew Law, had a tendency to remind the Israelites of their relationship to God as they interacted socially with their slaves or masters.

The Lord’s continual reminder to the Israelites that He had “brought [them] out of Egypt, from the house of slavery” (Deut. 7:8), reinforces the notion that the children of Israel are servants “and therefore cannot rightfully be ‘servants’ of others, whether another god, a domestic or foreign king, or another Israelite.”⁸⁴ As servants of Jehovah, the Israelites were required to strictly obey the Lord’s commandments (see Lev. 25:18).⁸⁵ Failure to do so would subject the Israelites individually and collectively to the Lord’s punishment. Nevertheless, the master-servant analogy in Israelite society begins to break down with respect to the master’s power over the agent. In theory and practice, the Hebrew master did not have unlimited power.⁸⁶ But, God had unlimited power over his people. Perhaps this break in the symbolism was strategic in eliciting humility and submission from the Israelites, from both the masters and the slaves. The Hebrew master was not above the law but was obligated to adhere to it, whereas the Southern master actually molded the law in order to maintain the divisive social structure.

The Master and Servant in the South. In *Chastain v. Bowman et al.*, the court held “that a master may constitute his slave his

⁸³ Falk, 116.

⁸⁴ Callender, 79.

⁸⁵ Lev. 25:18: “Wherefore ye shall do my statutes, and keep my judgments, and do them; and ye shall dwell in the land in safety.”

⁸⁶ See Part IV for further elaboration on the limitations placed upon Hebrew masters.

agent,” and that there was no “distinction between the circumstances which constitute a slave and a freeman an agent. They are both the creatures of the principal, and act upon his authority.”⁸⁷ Despite this court’s assertion that the agency laws of the freeman and the Southern slave were the same, in reality they were quite different in the extent to which the master could punish the agent and the extent to which the agent could seek redress for unlawful punishment.

Wheeler notes that because a Southern slave was considered the master’s property, the master could exercise “unlimited power” over the slave.⁸⁸ It is a weak argument indeed to suggest that a white agent during the same time period was the legal property of his master. But was the master’s power really unlimited? Many Southern states enacted laws that limited the types of punishments a master could render to his slave.⁸⁹ However, most scholars agree that these limits were without any real practical effect: “If limitations to [a master’s power] have, at some points, and in some of the [s]tates, appeared to be interposed, it has been found, on a close scrutiny, to be only an appearance, and not a reality.”⁹⁰

⁸⁷ Jacob D. Wheeler, *A Practical Treatise on the Law of Slavery* (New York: Negro Universities Press, 1968) 228. “A slave is one who is in the power of a master to whom he belongs. The master may sell him, dispose of his person, his industry and his labor. He can do nothing, possess nothing, nor acquire any thing, but what must belong to his master” William Goodell, *The American Slave Code* (New York: Negro Universities Press, 1968) 23 (quoting a Louisiana statute, Civil Code, Art. 35).

⁸⁸ Goodell, 155.

⁸⁹ See Part IV for examples of slave laws that, on their face, limit the master’s power to punish.

⁹⁰ Goodell, 155.

In the vitally important matters of absolute purchase, sale, seizure for debt, inheritance, distribution, marriage, (or rather, no marriage,) annihilation of family sanctities, incapacity to possess property, to make a contract, or to receive wages in the appointment of labor, supply of food, clothing, and habitations, we have seen the power of the master every thing, the rights, the protection, the defense, the redress, and the power of the slave, nothing!

The only real limitation to a master's power was that "he had to live under rules designed to protect all of Southern society."⁹¹ For the most part, "Judges refused to interfere with the master-servant relationship if other free persons benefited from a shareowner's actions," but Judges would quickly interfere when the master's actions posed a threat to the protection of the slave system in the South.⁹² For example:

[M]asters could beat their slaves but could not withhold food. People could host parties to distract slaves from daily burdens or to keep slaves busily making quilts or foodstuffs, but they usually could not give slaves drums, horns, or guns. Slave owners could trust slaves to convey and receive certain goods, but they could not ask slaves to whip white trespassers masters could beat their slaves but could not withhold food. People could host parties to.⁹³

Additionally, in Southern society, black agents were restricted from bringing actions against their masters; black agents had no legal method of recourse. The 1856 *Dred Scott*⁹⁴ decision illustrates this principle, holding that a black man could not bring an action against a white master because the Constitution did not grant citizenship to a black man.⁹⁵ There was no set of laws that protected the Southern slave from abuse or mistreatment. State courts and legislatures in the South failed to provide protections for the black minority class.⁹⁶ Thus, in all reality, slave laws in the South failed

⁹¹ Jenny Bourne Wahl, *The Bondsman's Burden: An Economic Analysis of the Common Law of Southern Slavery* (Cambridge: Cambridge University Press, 1998) 8.

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ See, e.g., *Dred Scott v. Sandford*, 60 U.S. 393 (1856).

⁹⁵ *Ibid.*, 454.

⁹⁶ See Goodell, 157–58. Goodell suggests that the slave laws were, in fact, elevated above the courts and the legislature, giving a Southern master supreme authority over his slaves.

to impose any real restrictions on a master's power over his agent (slave) other than those societal restrictions that were required to maintain order within the established slave system.

Duration of Servitude in the Old Testament. As previously discussed,⁹⁷ Hebrew slaves were required by law to be released after six years of service: "And if thy brother, an Hebrew man, or an Hebrew woman, be sold unto thee, and serve thee six years; then in the seventh year thou shalt let him go free from thee" (Deut. 15:12; see also Exod. 21:2–3, Jer. 34:13). And, although the law of the jubilee supposedly granted a release to "every man unto his possession" (Lev. 25:10) every fiftieth year, Leviticus 25:44–46 supports the notion that the jubilee release only applied to the Hebrew slave.

On the other hand, the Holiness Code makes it clear that the duration of servitude for a foreign slave (a heathen) could extend for the lifetime of the slave and beyond (Lev. 25:44–46). Accordingly, heathen slaves could be purchased "as bondsmen" or a chattel slaves (Lev. 25:42), and could therefore be passed in perpetuity in the estate of the master: "And ye shall take [your heathen slaves] as an inheritance for your children after you, to inherit them for a possession." (Lev. 25:46). It follows that in order to pass through inheritance, heathen slaves would have been classified as property. There is no indication as to whether the Israelites viewed their heathen slaves as real property or personal property. Nevertheless, heathen slaves were bought and sold on the open market (Lev. 25:42, 45). One assumes the Israelites did not journey to a foreign land simply to purchase foreign slaves. Thus, one can deduce that there was probably some kind of international commerce (or slave trade) that transported foreign slaves to Israelite masters. However, it is debatable just how extensive this slave trade was. Jeremiah 34:8–16, however, suggests that, approximately 600 B.C., foreign slaves were very rare; thus, the

⁹⁷ See Part II.

Israelites had resorted to holding their Hebrew slaves beyond the year of the jubilee.

The Hebrew laws regarding fugitive slaves are not explicit. Nevertheless, they provide some guidance as to how fugitive slaves were treated under the law. There seems to be some indication that a Hebrew slave owner had the right to repossess slaves that had fled from his rightful possession (see, e.g., 1 Sam. 30:15; 1 Kings 2:39). However, as Falk suggests, there is also scriptural support for the notion that “the land of Israel, being a divine domain, was therefore an asylum for fugitive slaves.”⁹⁸ This argument seems impractical because slaves served an important labor function in Israelite society. Slaves had a fair market value and were relied upon for social progress. Nevertheless, the laws regarding the seventh year release and the jubilee release may have decreased the need for a Hebrew slave to flee from his master. The foreign slave, however, did not enjoy such temporary servitude. In any event, it was permissible for a Hebrew master to manumit⁹⁹ his slaves without restriction.¹⁰⁰ Falk even suggests, “we may assume some manumissions to have taken the form of a dedication to God and to have been witnessed by a deed.”¹⁰¹

Duration of Servitude for Southern Slaves. Perhaps the greatest reason American slavery flourished even after the elimination of the slave trade was that slavery continued in perpetuity, thereby allowing Southern masters to increase their slave populations internally rather than having to solely rely on external sources for increase. Southern law and policy makers justified this rule, reasoning that “the hereditary nature of slavery [had] probably been an incident of the institution in every age and among every

⁹⁸ Falk, 121, note 37.

⁹⁹ For a general discussion regarding the structure of the manumission laws in Deuteronomy 15, see Hamilton, 19–31.

¹⁰⁰ See *ibid.*, 117.

¹⁰¹ *Ibid.*

people where the institution [had] been tolerated.”¹⁰² Therefore, issue born to a slave woman was the property of the master and continued to be the property of the legatee in the master’s estate.¹⁰³ Because slaves were considered personal and real property they passed through the master’s will,¹⁰⁵ and if the master had no will through intestate succession.

Many Southern states passed legislation, declaring slaves to be the property of their masters. For example, Virginia passed a law in 1792–1793 in which slaves were adjudged to be part of the “personal estate” of their masters.¹⁰⁶ A 1798 Kentucky statute deemed slaves to be real estate.¹⁰⁷ Louisiana passed a statute in 1806 defining slaves as “real estate.”¹⁰⁸ Although states had legislatively defined black slaves as property, enforcing them as such was altogether another matter.

Relying upon Article IV, Section 2, clause 3 of the Constitution,¹⁰⁹ Congress passed the Fugitive Slave Act of 1793, which authorized the arrest of fugitive slaves who had fled from their masters and prescribed procedure for the slaves’ eventual return to their masters.¹¹⁰ The Fugitive Slave Act of 1850, which

¹⁰² George M. Stroud, *A Sketch of the Laws Relating to Slavery* (New York: Negro Universities Press, 1968), 41.

¹⁰³ Wheeler, 23.

¹⁰⁴ For further information regarding the classification (real or personal) of slave property, see Wheeler, 36–39; Goodell, 23–24.

¹⁰⁵ Wheeler, 37; see also Goodell, 69–76.

¹⁰⁶ See Hurd, 5.

¹⁰⁷ See *ibid.*, 15.

¹⁰⁸ See *ibid.*, 157.

¹⁰⁹ U.S. Const. art. IV, § 2, cl. 3:

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

It is interesting that the word “slave” is inconspicuously left out of this clause.

¹¹⁰ For a brief history of the fugitive slave laws, see Stroud, 110–17.

replaced the 1793 Fugitive Slave Act, essentially increased the powers to apprehend fugitive slaves. Southern states, especially those that bordered the North, demanded some type of enforcement mechanism for apprehending fugitive slaves. Southern masters “recognized that the influence of escapes on those remaining in slavery was considerable.”¹¹¹

Similar apprehensions existed in the South regarding the manumission of slaves. “Although the [Southern] legal system countenanced kindness to slaves, it curtailed masters’ indulgence of their slaves if such behavior infringed on the well-being of the community.”¹¹² In most states, a master was prevented from manumitting his slaves unless legislation permitted doing so. For example, an 1852 Louisiana law permitted a master to manumit his slave “only on condition that [the slave] be sent out of the United States.”¹¹³ An 1834 Alabama statute stated, “County courts may authorize owners for meritorious causes to emancipate, provided that the emancipation shall remove out of the State ‘never more to return.’”¹¹⁴ From the perspective of Southern society, the manumission of slaves would produce unwanted social consequences: “By setting one’s slaves free, one might release an agitator, weaken the profitable system of forced labor, dump a nonproductive individual on the state, or remove the value of slave property from the tax base or the reach of creditors.”¹¹⁵ Although this reasoning seems ludicrous today, it existed in the minds of Southern policy makers and judges.¹¹⁶ Ultimately, holding people

¹¹¹ Larry Gara, “The Fugitive Slave Law: A Double Paradox,” in *The Law of American Slavery*, ed. Kermit L. Hall (New York: Garland Pub., 1987), 230.

¹¹² Wahl, 160.

¹¹³ Hurd, 165.

¹¹⁴ *Ibid.*, 151.

¹¹⁵ Wahl, 160. Wahl suggests that “most manumission laws clearly aimed to deter masters from shifting costs onto the public after previously enjoying the economic benefits of slavery” (161).

¹¹⁶ See Tushnet, 150–53.

as chattel property required Southern masters to claim title not only to the body but also to the soul of the slave¹¹⁷—a despicable proposition.

Property Rights of Old Testament Slaves. Israelite slave law suggests that Hebrew slaves had limited property rights.¹¹⁸ Even while the Israelites were enslaved in Egypt they were allowed to own property: “And the Lord shall sever between the cattle of Israel and the cattle of Egypt: and there shall nothing die of all that is the children’s of Israel” (Exod. 9:4). The Israelites were able to own cattle during their enslavement in Egypt. After the Code of the Covenant was received, Hebrew slaves continued to have some property rights. A Hebrew slave who was heavily in debt and had become enslaved to a creditor could either be redeemed by a relative “or if he [was] able, he [could] redeem himself” (Lev. 25:49). This suggests that Hebrew slaves were not prohibited from owning property even during the time of servitude.¹¹⁹ Additionally, a Hebrew master was commanded to give of his personal property to a slave upon the slave’s release:

And when thou sendest him out free from thee, thou shalt not let him go away empty: Thou shalt furnish him liberally out of thy flock, and out of thy floor, and out of thy winepress: of that wherewith the Lord thy God hath blessed thee thou shalt give unto him. (Deut. 15:13–14)

It is possible that the master would have been at liberty to distribute some of his property to his slave prior to the slave’s release.¹²⁰

¹¹⁷ See Goodell, 69.

¹¹⁸ See, e.g., Ezek. 46:17 (giving a servant a life interest in a gift made by a prince); Prov. 17:2 (stating the possibility that a servant can have a part in the inheritance of his master); Prov. 29:21 (suggesting that a master who raises a servant from childhood has a duty to provide for the servant).

¹¹⁹ See Falk, 116.

¹²⁰ The author of Ecclesiastes 10:7 states “I have seen servants upon horses, and princes walking as servants upon the earth.” If this scripture is to be taken literally, it suggests that there may have been some Israelite slaves that owned horses or other articles of personal property.

Neither the Code of the Covenant, the Holiness Code, or the Deuteronomic Code indicates whether foreign slaves were entitled to own property. Because the Israelites themselves had been granted the privilege of owning and acquiring personal property while enslaved in Egypt, it is likely that they would have continued this practice to a limited extent with their own foreign slaves.

Property Rights of Southern Slaves. Southern slaves laws, on the other hand, prevented slaves in America from owning any property, real and personal. This rule was established in both the Southern common law as well as in Southern legislative acts. For example, in *Brandon et al. v. Planters' and Merchants' Bank of Huntsville*, the court held that a slave was prevented from acquiring or possessing property.¹²¹ An 1806 Louisiana statute states, "As the person of a slave belongs to his master, no slave can possess anything in his own right or dispose in any way of the produce of his industry without the consent of his master."¹²² In the event that a slave was able to acquire any property, the property instantly belonged to the master.¹²³ In some Southern states, it was unlawful for the master to even allow the slave to be hired out for the personal gain of the slave. For example, in Virginia, if the master permitted "his slave to hire himself out, it is made lawful for any person and the duty of the sheriff, &c. to apprehend such slave, &c.; and the master shall be fined not less than ten dollars nor more than thirty."¹²⁴ The purpose of the Southern slave laws regarding property, both the laws defining slaves as property and the laws preventing them from acquiring it, were calculated to keep the slave in complete subjection to the master. The master was

¹²¹ Wheeler, 6.

¹²² Hurd, 157. Other states enacted similar laws. For example, a law passed in 1740 in South Carolina provided, "It shall not be lawful for any slave to buy, sell, trade, &c. without a license from the owner" (Stroud, 30).

¹²³ Stroud, 29, 31.

¹²⁴ *Ibid.*, 31.

elevated above the law and was the supreme authority over his slaves—able to do with them as he pleased.

Treatment of Slaves

Old Testament Treatment of Slaves. Modern knowledge of how Israelite masters, in fact, treated their slaves, both Hebrew and foreign, is extremely limited. What is known, however, is how the Egyptian masters treated their Israelite slaves and the laws contained in the Covenant Code, the Holiness Code, and the Deuteronomic Code regarding the treatment of slaves.

The Israelites were treated very harshly by their Egyptian masters: “And the Egyptians made the children of Israel to serve with rigour: And they made their lives bitter with hard bondage, in mortar, and in brick, and in all manner of service in the field: all their service, wherein they made them serve, was with rigour” (Exod. 1:13–14). The account of Moses killing the Egyptian who was caught “smiting an Hebrew, one of his brethren” (Exod. 2:11) is also illustrative that Egyptian masters beat and whipped their slaves into submission.

The Hebrew Law regarding the treatment of slaves suggests that the Israelites did not forget their misery under their heavy-handed Egyptian masters. In general, the Israelites were instructed not to “oppress one another” (Lev. 25:17): “Thou shalt not rule over [thy slave] with rigour; but shalt fear thy God” (Lev. 25:43). Hebrew masters were not to treat their slaves as to incite fear in them; that was the job of Jehovah – their supreme master. This general principle was applied in several specific instances. One law provided that if a master smote his slave, and the slave died within two days, the master would be put to death (see Exod. 21:12, 20–21). The presumption was that proximate cause did not exist after the two-day period lapsed.¹²⁵ If a master put out the eye of his slave, the slave would be set free without any compensation to the master (Exod. 21:26). The same was true if a master knocked

¹²⁵ See Falk, 116.

out his servant's tooth (see Exod. 21:27). Finally, the requirement that a master freely impart of his substance to a departing Hebrew slave (see Deut. 15:13–15) suggests that the ultimate objective of the biblical law was not subjection to the master but liberation from servitude. A Hebrew master “could beat his slave and punish him for alleged misconduct,”¹²⁶ but, because the slave would most likely return to equal standing in the community with the master after the slave's release, it was in the master's best interest to treat his slaves kindly. There was no social or economic pressure to do otherwise, at least not ideally. This ideal may not have always reflected reality.¹²⁷

Southern Treatment of Slaves. Southern society saw a great contradiction in the laws regarding the treatment of slaves and the actual treatment of slaves. Many Southern states passed laws that, on their face, required masters to treat their slaves humanely. For example, a 1799 Tennessee law prescribed the death penalty for any person who “willfully or maliciously kill[ed] any negro . . . [and] shall be deemed guilty of murder, as if such person so killed had been a freeman.”¹²⁸ However, a proviso is added to the act, stating, “this act shall not be extended to any person killing any slave in the act of resistance to his lawful owner or master, or any slave dying under moderate correction.”¹²⁹ The Georgia Constitution contained a similar provision.¹³⁰ How moderate was “moderate correction”? Most likely, very severe treatment was justified as moderate correction.¹³¹

¹²⁶ Ibid., 115.

¹²⁷ See Neh. 5:1–13 (suggesting that servitude was often harsh and definitely not the desired way of life even for the poor, indebted Israelites).

¹²⁸ Stroud, 23; see also Hurd, 150 (describing a similarly drafted Alabama statute enacted in 1819).

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ In 1740, South Carolina passed a law prohibiting a master from willfully cutting out his slave's tongue, putting out the slave's eye, castrating, scalding, burning, or doing any other form of cruel punishment to the slave, “other than by whipping, or beating with a horsewhip, cowskin, switch, or small stick, or by putting irons on, or confining or imprisoning such slave” (Goodell, 159–60).

It may be helpful to examine several more typical state statutes that, on their face, provide some protection to the slave, but in reality leave the door open for master brutality. An 1852 Alabama law provided that “[t]he master must treat his slave with humanity and must not inflict upon him any cruel punishment.” Yet, the master was also permitted to “enforce obedience on the part of the slave to all his lawful commands.”¹³² A Louisiana statute stated, “The slave is entirely subject to the will of his master, who may correct and chastise him, though not with unusual rigor, nor so as to maim or mutilate him, or to expose him to the danger of loss of life, or so as to cause his death.”¹³³ Here again, if what is “unusual” is defined by the customary norm, then the slave could be treated extremely harshly and it would not be done with “unusual rigor.”¹³⁴

In addition to the law not providing adequate protection against master abuse, the law also failed to protect a slave against cruel and unusual criminal punishment. Shaw contends that, in general, slaves were penalized much more severely than their white counterparts.¹³⁵ He refers to the extreme example in Virginia where there were three crimes (treason, first degree murder, and arson) for which the death penalty was invoked on a white man but sixty-eight crimes for which a slave could be put to death.¹³⁶ There were two principle reasons for this oddity:

First of all, it was one of the techniques for keeping slaves in absolute subjection to the white community and imbuing them with a spirit of docility and instant obedience. Secondly, for persons already bound to life-long servitude, imprisonment by itself was not a particularly strong deterrent.¹³⁷

¹³² Hurd, 153.

¹³³ Goodell, 161.

¹³⁴ For a more detailed explanation of this argument, see Goodell, 161–62.

¹³⁵ Shaw, 175–76.

¹³⁶ *Ibid.*, 176.

¹³⁷ *Ibid.*

However well intentioned the Southern slave laws may have been in protecting the slave from mistreatment, the real evil of the system was its inability to enforce the laws.¹³⁸ Stroud asserts that this situation arose because black slaves were not permitted to testify against their white masters at trial.¹³⁹ Indeed, the possibility of convicting a white master in the South was very slim if all black testimony was excluded from trial. In the end, state statutes failed to protect slaves from mistreatment by their masters.

Conclusion

Modern scholars know much more about the slave laws in the American South than they do about the slave laws in ancient Israel. Though a sketchpad of the Israelite slave system is available in Old Testament text, it is still difficult to ascertain exactly how biblical masters and slaves related to one another on a daily basis. It is therefore inappropriate for modern readers to apply modern notions of slavery to biblical texts. How should modern biblical readers understand slavery in the Bible? Need modern readers ignore the biblical institution of slavery altogether? Such a question should be emphatically answered in the negative. The reality is that slavery did exist and probably flourished under the Law of Moses. Slavery was most likely a dominant aspect in biblical society.

But, biblical slavery can be distinguished from Southern slavery in important ways. The Southern slave system negated the existence of the person, evidencing a total devaluation of humanity, whereas the Old Testament slave laws established a threshold level of humanity and dignity, which the Israelites were obligated not to cross. The check that prevented the Israelite slave system from paralleling the Southern slave system was the realization by

¹³⁸ See Stroud, 20.

¹³⁹ *Ibid.*

each Hebrew master that they too were slaves—slaves to their God: “Behold, we are servants this day, and for the land that thou gavest unto our fathers to eat the fruit thereof and the good thereof, behold, we are servants in it” (Neh. 9:36). God had given the Israelites the land; therefore, the land belonged to the Lord—their master: “Behold, as the eyes of servants look unto the hand of their masters, . . . so our eyes wait upon the Lord our God until that he have mercy upon us” (Ps. 123:2). Ultimately, Israelite slavery, if practiced according to divinely established law, was more than an economic social structure; it was a daily reminder of an Israelite’s identity—for the slave and the master.

NEAR EASTERN
STUDIES

The Reconciliation of Adam and Israelite Temples

James L. Carroll

Modern researchers have shown that ancient temples were often associated with the creation, the Garden of Eden, and reconciliation. All three of these elements can be found in Genesis 1–3 if one assumes that Adam and Eve repented of their transgression in the Garden as many apocryphal elements attest. The methods of reconciliation that they record form a unifying principal for understanding the significance of the tripartite divisions found in Israelite temples which seem to have represented the heavenly throne of God, the Garden of Eden, and the fallen world where Adam and Eve worked out their reconciliation with God.

There are several elements that most temples of the ancient Near East have in common. These include such things as references to creation, secrecy, sacred ascent, waters of life, astral orientation, the dead, law and government, kingship, washing, anointing, clothing, feasts and communal meals, divination, fertility, and sacred marriage.¹ It has been shown that many of these elements are also found in the biblical account of the Garden of Eden. Donald Parry and others have postulated that the Garden of Eden itself may have functioned as a prototype sanctuary that

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¹ See John M. Lundquist, "What Is a Temple? A Preliminary Typology," in *Temples of the Ancient World*, ed. Donald W. Parry (Salt Lake City and Provo, Utah: Deseret Book Company and the Foundation for Ancient Research and Mormon Studies, 1994), 83–117, hereafter TAW; and John M. Lundquist, "The Legitimizing Role of the Temple in the Origin of the State" in TAW, 179–235.

may have proved an inspiration for the later Israelite sanctuaries. Parry lists eleven main elements that the Garden shares with Israelite sanctuaries:

1. The tree of life was located both in the garden and in the temple.
2. Both the garden and the temple were associated with sacred waters.
3. Eastward orientations played a role in the garden story and in subsequent Israelite temples.
4. The cosmic mountain was symbolically affiliated with the garden and temple.
5. The account of the earth's creation is closely connected with the Garden of Eden pericope and the temple.
6. Cherubim, or heavenly beings, function as guardians of the garden and the temple.
7. Revelation was an essential part of the garden and the temple.
8. Sacrifice existed in the garden and in subsequent temple systems.
9. Similar religious language existed in both the garden and the temple.
10. Sacred vestments were associated with Adam and Eve in the garden and with the priesthood in the Jerusalem temple.
11. Abundance was associated with the garden and the temple.²

This list of similarities shows that there is a definite connection between the temples of the ancient world and the account of the Garden given in Genesis. However, numbers five and eight

² Donald W. Parry, "Garden of Eden: Prototype Sanctuary" in *TAW*, 126–127.

of Parry's list took place either before the Garden of Eden was planted (Gen. 2:8), or after Adam was expelled from the Garden. There is no doubt that sacrifice could not have taken place within the Garden proper, as the Garden was a place specifically associated with the immortal status that Adam and Eve had before their fall. This means that because there was no death in the Garden, there could also have been no sacrifice in the Garden. Nevertheless both sacrifice and creation are closely associated with the account of the Garden of Eden even if they did not take place within the Garden itself. This implies that Israelite sanctuaries were meant to represent both the Garden of Eden, as Parry theorized, as well as those events that immediately preceded and immediately followed the Garden account.

That the Israelite temples are associated with the creation and Garden of Eden has already been clearly shown by others,³ but to connect the Israelite temples with Adam and Eve's post-Edenic attempts at reconciliation with God requires that we first investigate the extra-biblical traditions regarding Adam and Eve's reconciliation in general and then explore the possible connections with the Israelite sanctuaries. This information can then be used to create an overview of the general significance of the tripartite divisions found in Israelite sanctuaries, showing how they represented God's heaven, the Garden of Eden, and the fallen world where Adam and Eve's reconciliation took place.

Reconciliation

Israelite temples were primarily places of atonement and reconciliation. It was there that an Israelite went to offer sacrifices to be cleansed of his sins. It was there that, on the Day of Atonement, the High Priest confessed the sins of Israel and transferred them to the heads of the scapegoat and the Lamb.

³ Ibid. and Stephen D. Ricks, "Liturgy and Cosmogony: The Ritual Use of Creation Accounts in the Ancient Near East," in *TAW*, 118–125.

Although it is clear that Israelite temples were associated with reconciliation, it remains to be seen whether this reconciliation was tied to Adam and Eve's post-Edenic reconciliation. The penalties for Adam and Eve's transgression as explained in Genesis are twofold: first, expulsion from God's presence, and, second, physical death. These two penalties can be clearly seen in the Genesis account of Adam and Eve's fall, in Genesis 3:24 and 2:17. In Romans 6:23 we read that "the wages of sin is death." The Apocalypse of Elijah reads, "Now, as for the sinners, they will be shamed and they will not pass by the thrones, but the thrones of death will seize them and rule over them because the angels will not agree with them. They have alienated themselves from his dwellings."⁴ This clearly illustrates the two penalties for sin, they will "not pass by the thrones" but will be taken by death, and they cannot enter God's presence because they have alienated themselves from his dwellings, i.e. the houses of God.

The rites of the temple were designed to symbolically reverse the penalties of physical death and separation from God that are found in Genesis 2 and 3. A lamb was slain as a substitute, dying instead of the sinner, like the lamb that was slain by Abraham instead of his son Isaac. Furthermore it was at the temple that once a year the High Priest reversed the second penalty and reversed Adam and Eve's expulsion from the presence of the Lord. The scapegoat was cast out of the dwelling of the righteous, thereby being symbolically expelled from God's presence in the place of Israel so that the High Priest, as a representative of Israel, could enter back into the presence of the Lord in the Holy of Holies. But did the rites of the Israelite temples mirror the path of restitution that Adam and Eve took?

We are used to thinking of Adam and Eve as representations of the first sin, but in Israelite and early Christian tradition they

⁴ "The Apocalypse of Elijah" in *The Old Testament Pseudepigrapha*, ed. James H. Charlesworth, vol. 1 (New York: Doubleday, 1983), 737, hereafter OTP.

were also seen as a representation of the first repentance. From the biblical account alone it is unclear whether Adam and Eve repented after their transgression, but early Christian tradition supports the idea that they did. Irenaeus wrote: “[T]he Lord . . . made a recapitulation of a very comprehensive dispensation, and He sought after His own handiwork. Therefore, it was necessary for Him to save that very man who had been created after His image and likeness—that is, Adam.”⁵ There are four main elements of Adam’s reconciliation with the Lord that are found throughout the extra-biblical narrative:

1. Confession
2. Sacrifice
3. Ritual Washing
4. Resisting Further Temptation through obedience to heavenly instruction

These elements, especially numbers two and three, are clearly related to ancient Near Eastern temples. We will next examine each of these elements in turn.

Confession

The account of Adam and Eve’s confession of their transgression is found in the Bible itself:

And they heard the voice of the LORD God walking in the garden in the cool of the day: and Adam and his wife hid themselves from the presence of the LORD God amongst the trees of the garden. And the LORD God called unto Adam, and said unto him, Where art thou? And he said, I heard thy voice in the

⁵ David W. Bercot, *A Dictionary of Early Christian Beliefs* (Massachusetts: Hendrickson, 1998), 5.

garden, and I was afraid, because I was naked; and I hid myself. And he said, Who told thee that thou wast naked? Hast thou eaten of the tree, whereof I commanded thee that thou shouldest not eat? And the man said, The woman whom thou gavest to be with me, she gave me of the tree, and I did eat. And the LORD God said unto the woman, What is this that thou hast done? And the woman said, The serpent beguiled me, and I did eat. (Gen. 3:8–13)

Tertullian remarks that, “God did not actually curse Adam and Eve, because they were candidates for restoration. That is because they had been relieved by confession.”⁶ Thus Tertullian believed that God cursed the ground rather than Adam or Eve directly because of their confessions. These confessions formed the first step towards Adam and Eve’s “restoration” back into the paradise of God. It opened the way for the further process of reconciliation that followed.

The process of confession was also part of the rites of Israelite temples: “And Aaron shall lay both his hands upon the head of the live goat, and *confess* over him all the iniquities of the children of Israel, and all their transgressions in all their sins, putting them upon the head of the goat, and shall send him away by the hand of a fit man into the wilderness: And the goat shall bear upon him all their iniquities unto a land not inhabited: and he shall let go the goat in the wilderness” (Lev. 16:21–22). Thus, in the Israelite temple rites, a method for bearing away the sins of Israel was provided through the confession of those sins by the High Priest, a proxy for the rest of the Israelites, over the scapegoat. This act symbolically transferred the sins of Israel to the goat, which then carried those sins away into the wilderness.

⁶ Ibid., 6.

Sacrifice

Sacrifice is perhaps the most evident element of reconciliation with God in Israelite temples. Although the Bible records the sacrifices that two of Adam and Eve's children offer, the Bible does not directly record Adam's or Eve's ever having offered sacrifice. There is, however, an indirect mention of what could have been a sacrifice by Adam and Eve, as well as ample extra-biblical traditions supporting the notion that the offering of sacrifice began with Adam and Eve.

One hint that the Bible gives concerning sacrifice and Adam and Eve is the coats of skins given to them by God. The coats of skins most likely came from a sacrifice that would have been offered immediately after, or as part of, their expulsion from the Garden. This sacrifice must have been offered either by Adam, or by the Lord himself.

In the apocryphal work *The Conflict of Adam and Eve*, Adam and Eve were so distraught after their expulsion from the garden that they attempted to commit suicide by jumping from a mountain. After God's "Word" intervened by bringing Adam and Eve back to life, Adam took the blood from his attempted suicide and offered it upon the altar to the Lord. This was thought to represent Jesus' eventual sacrifice by his own blood. According to this text, after their attempted suicide, Adam, Eve, and their sons offered sacrifice daily upon the altar.⁷

It is the Latter-day Saint Book of Moses, however, which provides the most direct account of Adam and Eve offering sacrifice after their expulsion from the Garden of Eden: "And he [God] gave unto them [Adam and Eve] commandments, that they should worship the Lord their God, and should offer the firstlings of their flocks, for an offering unto the Lord. And Adam was

⁷ Duane Wilson, "Temple Symbolism in *The Conflict of Adam and Eve*," *Studia Antiqua* 2 (2002): 44–46.

obedient unto the commandments of the Lord. And after many days an angel of the Lord appeared unto Adam, saying: Why dost thou offer sacrifices unto the Lord? And Adam said unto him: I know not, save the Lord commanded me” (Moses 5:5–6).

In Israelite temple worship, various sacrifices were offered according to a complex code. The details of this code are found scattered throughout the Pentateuch. However the majority of the requirements can be found in Leviticus. Sacrifices were offered to cleanse a leper (Lev. 14:2–32), after touching a corpse (Num. 19), on the Day of Atonement (Lev. 23:27–28), daily in the temple (Exod. 29:38–42; Num. 28:24, 29:6; Dan. 8:11; Heb. 7:27), and for various other ritual impurities and sins. The Pentateuch (known as “The Law”) is so full of references to ritual sacrifice that Paul wrote: “almost all things are by the law purged with blood” (Heb. 9:22).

Ritual Washing

The extra-biblical accounts are full of references to Adam and Eve’s ritual washings in the course of their quest for reconciliation. In *The Life of Adam and Eve*, we read of Adam’s and Eve’s attempted reconciliation by washing. Eve was to stand in the Tigris River up to her neck, while Adam stood in the Jordan River up to his neck. Eve was to stand in the Tigris for thirty-seven days, while Adam stood in the Jordan for forty days. According to the narrative, this attempt failed because Satan again appeared to Eve and deceived her, telling her that the Lord had forgiven her, so she left the river early.⁸

The Book of Moses records that “when the Lord had spoken with Adam, our father, that Adam cried unto the Lord, and he was caught away by the Spirit of the Lord, and was carried down into the water, and was laid under the water, and was brought forth out

⁸ See “The Life of Adam and Eve” in vol. 2 of OTP.

of the water. And thus he was baptized, and the Spirit of God descended upon him, and thus he was born of the Spirit, and became quickened in the inner man” (Moses 6:64–65).

Ritual washings also played an important part in the rites of the Israelite temples. The laver of water stood just behind the altar of sacrifice in the Tabernacle of Moses and served for ritual washings of both the sacrifices⁹ and the priests¹⁰: “And he set the laver between the tent of the congregation and the altar, and put water there, to wash withal. And Moses and Aaron and his sons washed their hands and their feet thereat: When they went into the tent of the congregation, and when they came near unto the altar, they washed; as the LORD commanded Moses” (Exod. 40:30–32).

In the Temple of Solomon, the tabernacle’s single laver was replaced with ten brazen lavers. A much larger “brazen sea” was also added which stood upon the backs of twelve oxen. The brazen sea seems to have served the same ritual purpose as the smaller lavers that surrounded it. Although it was large enough, it was most likely not used for immersion washings. The lavers were too small for such a purpose, and there is no indication of the rituals changing between the Tabernacle of Moses and the Temple of Solomon.

Isaiah made special mention of these ritual washings. He first condemned Israel’s hypocrisy saying:

When ye come to appear before me, who hath required this at your hand, to tread my courts? Bring no more vain oblations; incense is an abomination unto me; the new moons and sabbaths, the calling of assemblies, I cannot away with; it is iniquity, even the solemn meeting. Your new moons and your appointed feasts my soul hateth: they are a trouble unto me; I am weary to bear them. (Isa. 1:12–14)

⁹ See Lev. 1:9,13; 8:21.

¹⁰ See Exod. 29:4; 30:19.

Isaiah rhetorically asked the Israelites why they were performing the rituals of sacrifice, burning incense, and washing at the temple. He said that the Lord is not pleased with them because they were performing these ordinances without doing the things that they were meant to symbolize. It is helpful to understand the Israelite rituals that Isaiah is referring to. First the priest would offer a sacrifice and then raise his hands over his head in order to call the attention of God to the sacrifice that he had made.¹¹ Isaiah picks up the rituals at this point when he says: "And when ye spread forth your hands, I will hide mine eyes from you: yea, when ye make many prayers, I will not hear: your hands are full of blood" (Isa. 1:15). To this, an Israelite that was familiar with the temple rites might respond, "Of course they are full of blood, I just killed a lamb!" The Dead Sea Scrolls version of this text adds an important phrase that fills out the parallelism, "your fingers with iniquity."¹² The type of blood on Israel's hands was not the cleansing blood of the sacrifice but was, rather, the condemning blood of iniquity.

Isaiah then proposes a solution to this dilemma: "Wash you, make you clean; put away the evil of your doings from before mine eyes" (Isa. 1:16). The next part of the temple rites was for the priest to wash the blood from the sacrifice and from his hands at the laver. To Isaiah, this action represented more than just a ritual washing. Isaiah proposes that such a washing implies a cessation of evil, and a beginning of good works: "[C]ease to do evil; Learn to do well" (Isa. 1:16-17).

Isaiah promises that, if Israel does this, their sins will be forgiven: "Come now, and let us reason together, saith the LORD: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool. If ye

¹¹ Hugh W. Nibley, "The Early Christian Prayer Circle" in *Mormonism and Early Christianity* (Provo, Utah: FARMS, 1987), 59.

¹² Donald W. Parry, *Harmonizing Isaiah* (Provo, Utah: FARMS, 2001), 40.

be willing and obedient, ye shall eat the good of the land: But if ye refuse and rebel, ye shall be devoured with the sword: for the mouth of the LORD hath spoken *it*" (Isa. 1:18–20).

Resisting Further Temptation and Receiving Heavenly Instruction

In most of the post-Edenic traditions Adam and Eve are approached by Satan on numerous occasions. Their reconciliation to God depended upon their ability and willingness to reject Satan's further temptations.

According to *The Life of Adam and Eve*, while Eve was washing herself in the Tigris River, Satan appeared and tempted her to end her washing early: "Then Satan was angry and transformed himself into the brightness of angels and went away to the Tigris River to Eve and found her weeping." Satan then told Eve that God had forgiven her and that she should come out of the river. Another version of this story is told from the perspective of Eve and records, "But the devil, not having found an opportunity with Adam, came to the Tigris River to Eve. Taking the form of an angel, he stood before her weeping, and his tears fell on the ground and on his robe. And he said to me, 'Come up out of the water and be done with weeping, for the LORD has heard your request and the angels and all his creatures have beseeched God about your prayer.' Thus he deceived me, and I stepped out of the water."¹³ In these traditions, Adam and Eve eventually learn to resist such temptations, usually through prayer: "Adam cried out with great weeping and said 'O LORD, my God, my life is in your hands. Remove far from me this my opponent, who seeks to destroy my soul.' . . . And immediately the devil disappeared from him."¹⁴

¹³ "The Life of Adam and Eve," 260–261.

¹⁴ *Ibid.*, 264.

Another common post-Edenic tradition balances Satan's repeated temptations of Adam and Eve with the appearance of heavenly messengers from God who attempt to teach Adam and Eve to withstand Satan's temptations. According to *The Apocalypse of Adam*, three heavenly beings came to teach Adam and Eve.¹⁵ In *The Life of Adam and Eve*, Adam tells his son Seth that "after your mother and I had been driven out of Paradise, while we were praying, Michael the archangel and messenger of God came to me. And I saw a chariot like the wind and its wheels were fiery. I was carried off into the Paradise of righteousness."¹⁶

Of our four common elements in Adam and Eve's reconciliation with God, the resisting of future temptation through the appearance of heavenly messengers is the element that is the most difficult to connect to the temples of ancient Israel. However, as we have shown above, Isaiah equated washing, the symbolic act of cleansing, with a return to obedience. "Wash you, make you clean; put away the evil of your doings from before mine eyes, cease to do evil; Learn to do well" (Isa. 1:16-17). Thus, according to Isaiah, the washings of the Temple represented more than just becoming clean from past transgressions. They also represented a turning of future actions from evil to good. Further, Adam and Eve's revelatory experiences after their expulsion from the Garden of Eden can be seen as relating to Israelite temples because the temple was seen as the place of revelation par-excellence. It was in the temple that one went to converse with divine messengers.¹⁷

Thus in the post-Edenic traditions Adam and Eve offered sacrifice, were symbolically washed, and then resisted further temptations from Satan by means of prayer and obedience to heavenly beings who appeared to them.

¹⁵ "The Apocalypse of Adam" in vol. 1 of OTP, 712.

¹⁶ "The Life of Adam and Eve," 266.

¹⁷ See Samuel 3, Luke 1:8-22. Even the giving of the Law on Mt. Sinai can be thought of as a temple experience as mountains can often be used as temples.

The Temples of Ancient Israel

The fact that the Israelite temples are associated with the creation, Edenic Garden, and Adam and Eve's post-Edenic attempts at reconciliation has interesting implications for our interpretation of the very layout of Israelite sanctuaries. Israelite temples were primarily tripartite in form. Many of the texts associated with temple worship also evidence these tripartite divisions. Noah's ark had three stories, Joseph Smith taught that there were three principle divisions to Jacob's ladder,¹⁸ and tripartite divisions were set up at Mt. Sinai during the giving of the law. As Ernest L. Martin has written, "If we wish to know what God's heavenly abode is really like, then we must understand the significance of the three general compartments in the earthly sanctuary."¹⁹

¹⁸ This teaching is especially significant because Joseph Smith not only says that there were three principle divisions to Jacob's ladder, but he identifies them as the three kingdoms: telestial, terrestrial and celestial. He calls them "rounds" of Jacob's ladder, indicating that he thought of the ladder as a type of spiral staircase ascending upwards into heaven (See *Teachings of the Prophet Joseph Smith*, ed. Joseph Fielding Smith [Salt Lake City, Utah: Deseret Book Company, 1972] 305). This will be increasingly significant in the arguments that will follow because Jacob's ladder is clearly a temple text. Jacob even names the place Bethel, meaning "House of God." The word celestial means "heavenly" and we know that the Garden of Eden was a terrestrial sphere (See Bruce R. McConkie, *Mormon Doctrine* [Salt Lake City, Utah: Bookcraft, 1966] 494). Terrestrial means "earthly" and therefore most likely refers to the earth as it was originally created, and as it existed before the fall. We also know that the world in which we now live is a telestial sphere, or a fallen world. If these ideas are overlaid upon Jacob's ladder it then becomes an image of an ascension from a fallen earth, back to the paradisiacal Garden of Eden, and finally back into God's very presence in heaven. This is the very progression that I propose for the Israelite temples.

¹⁹ Ernest L. Martin, "The Temple Symbolism in Genesis" *Foundation for Biblical Research Exposition* 142 (1977). Martin's interpretation of the tripartite forms of the temple of Solomon is the same as mine, except that Martin has the holy of holies as the center or "midst" of the garden, rather than as a representation of heaven. This forces him to place the tree of life in the holy of holies, which he does through an association with Aaron's rod, while avoiding discussion of the candlestick, a more obvious representation of the tree of life.

The innermost of the tripartite divisions was the throne room known as the “holy of holies” or “most holy place.” Before the most holy place was the “holy place” consisting of a candlestick that represented the tree of life, the table of showbread which contained food offerings that were eaten by the priests, and was decorated (in the Temple of Solomon version) with palm trees and guarded by cherubim depicted all along the walls. These areas were surrounded by an outer courtyard. This courtyard was dominated by two main features, the laver (or brazen sea in the later temples) and the altar of sacrifice.

We know that the temple is associated with the creation (Gen. 1–2) and Dr. Parry has shown that the temple is associated with the Garden (Gen. 2–3).²⁰ We have here shown that the temple is also associated with the reconciliation of Adam and Eve after their expulsion from the Garden. One possible interpretation of the three rooms of the Israelite sanctuaries is therefore to take the most holy place as a depiction of God’s throne, and the creation of the world, with the holy place representing the Garden of Eden, and the courtyard representing the reconciliation of Adam and Eve.

Courtyard

Of those elements of reconciliation that can be seen in architectural form in the Israelite temple, all the parallels are contained in one of the tripartite divisions, namely the courtyard. It was in the courtyard that sacrifice was offered, and it was in the courtyard that the high priest confessed the sins of Israel over the head of the scapegoat (Lev. 16:21–22), and it was in the courtyard that ritual washings were performed. It thus seems that the courtyard repre-

²⁰ See Ricks, 118–125, and Lundquist, 83–117.

sented the fallen world in which Adam and Eve found themselves after their expulsion from paradise, and their attempted reconciliation that took place just eastwards of the Garden of Eden, as the altar and laver were eastward of the holy place.

The courtyard was primarily a place of reconciliation between God and Israel, and a place of ritual purification before entrance into the temple proper, which represented the Edenic state that was found in the Garden of Eden. Ritual purification before entrance into the presence of any honored personage, especially of a king or of a god, is quite common in the ancient Near East. For example, in the Egyptian tale of *The Shipwrecked Sailor*, the sailor warns his captain to purify himself before his audience with the pharaoh. "Wash yourself, place water upon your fingers so that you can answer what is asked of you so that you can speak to the king with your heart in your hand, so that you can answer without stammering."²¹ The temple liturgy at Karnak is unique in that we have a papyrus text describing the rituals to be performed by the priest in his daily service. The ritual at Abydos, on the other hand, is reconstructed from the texts carved on the walls of the temple itself. The first few rites in the Karnak version are not found on the walls of the temple at Abydos. One possible explanation for this is that these rites were all performed before one enters the temple, and since what is on the walls parallels what was done in that room of the temple, it would make sense that the Abydos version would have no mention of the rites that were performed before entering into the temple itself. These first rituals include liturgies for lighting a lamp that would be used to light the

²¹ *The Shipwrecked Sailor*. This and all subsequent Egyptian translations are results of NE LG 511R from fall and winter semesters of the 2002-2003 school year. For an interesting translation of this text, see John L. Foster in *Ancient Egyptian Literature: An Anthology* (Texas: University of Texas Press, 2001), 9.

priest's way into the temple, and for purification by burning incense, and for sacred washings that were performed before the priest's entrance into the temple proper.²² Further evidence for ritual washings before entrance into the temple is supplied by the two wells for water that are located in the first court of the temple at Abydos.

Like the two wells that were located in the first courtyard of the temple at Abydos, the Israelite laver represented sacred waters and was used for sacred washings. The Garden of Eden was also associated with sacred rivers of water (Gen. 2:10–14). Upon first inspection this similarity tends to associate the courtyard with the Garden of Eden rather than with the fallen world. However, although these rivers flowed from the Garden itself, they also flowed forth from the Garden to water the whole earth. It was Adam and Eve's ritual use of these rivers for washing after their expulsion from the Garden that interests us in our evaluation of the symbolism of the tripartite divisions. It is in the courtyard that sacred waters are used for washing, and it was after Adam and Eve's expulsion from the Garden that ritual washings in rivers took place.

The offering of sacrifice is one of the most common practices

²² That the incense was meant to purify the priest is obvious from the text: "I am pure by means of the Eye of Horus [the offering of incense] so that I can perform ordinances (with you) which are pure for Amun Ra, Lord of the Thrones of the Two Lands and his Ennead. . . . I, even I, am pure" (There is no published translation of this papyrus in English). See *Hieratische Papyrus Aus Den Königlichen Museen Zu Berlin*, ed. Wolfgang Müller, (Leipzig: J. C. Hinrichs'sche Buchhandlung, 1901). However, the reference to washing is more subtle. The priest talks about receiving life, stability and dominion from two jars as protection before entering the temple: "[T]he Two Jars of Atum for protection for my flesh. Give (to) me, Sehmet the Great, Beloved of Ptah, Life, Stability, and Dominion about my whole body As Thoth Lives" (my translation). Many washing scenes depict an individual having water pored over his head from two jars. In these washing scenes the water is often drawn as signs for life and dominion. It is therefore extremely likely that this text is describing a ritual washing.

²³ Lundquist, 108–109.

of ancient temple worship.²³ According to the post-Edenic traditions, Adam and Eve offered sacrifice upon an altar after their expulsion from the Garden of Eden. The laver and the altar are placed to the east of the temple proper, just as Adam and Eve were cast out from the Garden toward the east. That they were cast out to the east of the Garden's location can be seen by the fact that the entrance to the Garden was on its eastward side (Gen. 3:24). According to Joseph Smith, the Garden of Eden was located in Independence, Jackson County Missouri, while the location where Adam and Eve offered their sacrifice and called upon the Lord is in Adam-ondi-Ahman, approximately fifty miles northeast of Independence. In the Temple of Solomon version of the Israelite temple, the altar of sacrifice was placed to the north of the laver, and thus to the northeast of the Holy Place.

The Holy Place and the Holy of Holies

If the courtyard represented ritual purifications and reconciliation with the Lord in order to return to the Edenic state, then it follows that the Holy Place represented that Edenic state. This presumption seems justified, as nearly all of Parry's elements of similarity between the Garden of Eden and the temple can be applied to the holy place directly rather than to the temple in general. The holy place was decorated as a garden, with its palm tree decorations and open flowers (1 Kings 6:29), which represented the abundance of a garden. The candlestick represented the tree of life that was in the Garden.²⁴ The entrances to both the holy place and the Garden of Eden were on the east side. Cherubim guarded the holy place, and surrounded it, protecting the Tree of Life. Another similarity between the holy place, and the Garden of Eden is that the showbread was eaten within the holy place. This

²⁴ See Parry, *Garden*, 128–129 and Wilfred C. Griggs, "The Tree of Life in Ancient Cultures," *Ensign* (June 1988): 28.

may have been seen as a representation of the fruit of the tree of life, and may have taken place within the holy place in order to parallel the eating of the fruit of the tree of knowledge of good and evil that took place within the Garden of Eden.

It is true that several elements from Parry's comparison are not evident in the holy place. These include the sacred waters, sacrifice, sacred vestments, revelation, the cosmic mountain, and the creation. As we have shown, both the sacred waters and sacrifice were more strongly associated with the post-Edenic events than they were with the Garden of Eden proper. The sacred vestments of Adam and Eve were given to Adam and Eve after their fall and are associated more with post-Edenic sacrifice than with the Garden itself. The element of revelation took place in both pre, and post-Edenic accounts as well as within the Garden of Eden itself.

There are still two elements from Parry's typology that have not been discussed, namely the cosmic mountain and the creation. These elements seem to be tied to the pre-Edenic account rather than to the Garden of Eden. They seem to have their parallels in the Israelite holy of holies rather than in the holy place. The holy of holies represented God's throne room, with the Ark of the Covenant representing his throne. In Egyptian temples, "each temple was the continuation and reflection of the earliest mythical temple which came into existence at the beginning of the world, as the god's seat on the First Occasion."²⁵ God's seat was his throne, and it was around God's throne that the angels sang and shouted at the creation of the world (Job 38:6-7). The holy of holies of Egyptian temples was "always higher than those rooms and halls in front of it, and the floor level drops again behind it. . . . But perhaps the basic reason for both the pedestal-type construction, and the changing floor level was a deliberate attempt to

²⁵ Rosalie David, *A Guide to Religious Ritual at Abydos* (Warminster: Aris & Phillis LTD, 1981) 2.

²⁶ *Ibid.*

reproduce architecturally the original 'Island of Creation.'"²⁶ The Island of Creation was the cosmic mound that first rose from the primordial waters of creation. The temple liturgy at Karnak repeatedly refers to the holy of holies as the heavens, or as the sky, the dwelling place of the God, where the statue of the deity sat upon its throne. In the chapter for breaking the seal that closed the door to the holy of holies we read, "[R]ecite: break the seal, open the sky. . . . I have not come to drive out the god from upon his throne, rather I have come to place the god upon his throne." In the chapter for opening the doors to the holy of holies we read, "[R]ecite: open the doors of heaven." Thus the cosmic mountain seems tied to the creation and to God's throne in heaven, which is represented by the Israelite holy of holies.

Conclusion

The traditions surrounding Adam and Eve's post-Edenic experiences revolve around their repentance and attempted reconciliation with God. Their reconciliation included confession, sacrifice, washing, and the avoidance of further temptation. These elements were woven into the architectural symbols of the Israelite Sanctuaries, where the Israelites sought reconciliation with their God. Sacrifice, confession, and ritual washing took place in the courtyard, while the holy place represented a return to the Edenic state before the fall. There the fruit of the tree of life could be had, and the effects of sin (death and separation from God) could be reversed. In the ultimate reversal of these effects, the High Priest, once a year, entered the Holy of Holies, reaching back to the very moment of creation, and communed with the Lord directly before his throne.

CLASSICAL STUDIES

A Rhetorical Use of Women in Tacitus' *Annales*

Jenifer M. Swindle

This paper explores Tacitus' use of women in his Annales. Though he speaks negatively of them, he cannot be considered misogynistic. He uses women rhetorically as reflections and extensions of men. Thus, his negative treatment of women can be seen more as a negative treatment of men. Swindle compares six women, and the men to whom they correspond. She discusses Tacitus' intentions in the various ways he portrays these characters. She further points out that if readers of Tacitus focus their attentions on his female characters, they will be able to understand much of how he feels about their male counterparts.

From his first mention of a woman—a parenthetical insinuation that Livia had a hand in the murder of her grandsons—it is clear that Tacitus' treatment of women in his *Annales* will not be favorable. If we consider his place in history though, when the ideal Roman woman was “noted for her beauty, fertility, and faithfulness to her husband as well as her ability to run the household,” and for nothing else, Tacitus' treatment of women is not surprising.¹

It is surprising that Tacitus gives women more space in his work than most ancient historians. In Sallust, for example, the “Sempronia passage” is one of only a few sections that speaks of a

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¹ Susan Fischler, “Social Stereotypes and Historical Analysis: The Case of Imperial Women at Rome,” in *Women in Ancient Societies* (New York: Routledge, 1994), 117.

woman individually. Scholars have wrangled about why Sallust introduces Sempronia—she does not play any other part in the narrative. One common conjecture, that is pertinent to a discussion of Tacitus, asserts that Sempronia is a type of Catiline. This is probable, even likely. And this rhetorical use of a woman as a type of a man is not found only in Sallust. Tacitus also uses this technique. But along with mere personality sketches, which he uses with minor characters such as Poppaea, Tacitus also develops several of his female characters and makes them more three-dimensional. He never fleshes them out to exist on their own, though. He always ties them closely to a male counterpart, be it a son, a lover, or a husband.

In the *Annales*, there are six major female characters, who can be split into three categories—mothers, mistresses, and wives. Tacitus' six major women each play different roles. Livia Drusilla and Julia Agrippina for the most part control, and therefore shape, the characters of their emperor sons, Tiberius and Nero. Livilla and Messalina, on the other hand, hold sway as mistresses—Livilla to Sejanus and Messalina to Silius. Often their actions and demands govern what their lovers do. The last two women influence their men through marriage. Whatever their role, each woman gives the reader some valuable information about the man she influences most.

The Mothers

There is much in common between the two mothers, Livia Drusilla and Julia Agrippina. Both women are dominating; both seek to control their sons; both are inwardly feared but outwardly honored; ultimately, both find redemption in death. From the first moment of their sons' reigns, Tacitus accentuates the parallels between these two women. The effect is that he also draws attention to the parallels in the regimes of their sons.

Like many Roman elite women before them, [Livia Drusilla and Julia Agrippina] conducted family business and sought to influence any decisions taken by the head of the household in relation to the family and its concerns. However, the head of their household was the emperor and their family was Rome's ruling dynasty: thus the business of their family now included the running of the state.²

For instance, at the death of Augustus, Tiberius is not arrived at Rome, having been recalled from Rhodes. In the interim, Livia bars anyone from entering the house and publishes false reports that the emperor is recovering. Once everything is worked out according to her design, she announces Augustus' death and Tiberius' ascension simultaneously.³ Julia Agrippina does this very same thing. She secures the palace and waits for Nero, so that the two pieces of news, Claudius' death and Nero's rise can be announced together.⁴ The next similarity comes in the first order of business carried out by the new rulers. The primary action of each emperor—a murder, orchestrated by his mother—sets the precedence for who will be in power during his reign.⁵ In both cases, the mother will be the driving force of the empire. As a final similarity, Livia Drusilla and Julia Agrippina both receive the title of Augusta, Livia at the ascension of Augustus, Julia Agrippina at the adoption of Nero, which foreshadows his eventual succession.⁶

Tacitus speaks negatively about not only Livia Drusilla and Julia Agrippina throughout his narrative, he speaks negatively

² Fischler, 122.

³ Tac. *Annales* 1.5.17–21. All quotes come from “The Annals of Imperial Rome,” trans. by Michael Grant (London: Penguin, 1996).

⁴ *Ibid.*, 12.68.12–69.3. For further discussion on this topic, see R. Syme, *Tacitus*, (Oxford: Oxford University, 1952), 307ff.

⁵ In the case of Livia, it is not explicitly stated that she had anything to do with Agrippa's death. It is implied, however, by her negative feelings toward him just twelve lines before (1.5.9). Cf. 13.1.2.

⁶ Cf. Tac. *Annales* 1.8.4–5 and 12.26.4.

about their sons as well. He presents each action of Livia and Tiberius as masks of their real characters. For instance, he reports that Livia and Tiberius do not attend the funeral of Germanicus and that they can barely contain their glee over his death. Not only that, but he asks, “What happened to the traditional customs? . . . the formal poems of eulogy, the panegyrics?”⁷ We know from the *Tabula Siarensis* that Tiberius did compose a poem for Germanicus and that the senate, with the approval of Tiberius, voted him all the honors that they could.⁸ After recognizing this lie, it becomes difficult to believe many of the slanderous things that Tacitus says about Livia and Tiberius.

Likewise, when Julia Agrippina and Nero are slandered in the *Annales*, it is difficult to know how much of it is true. With Julia Agrippina, and consequently with Nero, Tacitus’ method is different than it was with Livia and Tiberius. Livia and Tiberius are more complex and developed characters than Julia Agrippina and Tiberius, whose sins are almost all sexual—Julia Agrippina’s seduction of Nero; Nero’s intimate association with a slave, Acte; and later, his assumption of Poppaea, who is described as having “every asset but goodness,” as a mistress.⁹ These weaknesses are typical of a young, playboy emperor but not of an older woman. And yet, he attributes them to both characters.

Tacitus redeems the natures of his characters in their deaths. Livia Drusilla finds redemption through a mild and somewhat complimentary obituary in which Tacitus states that she was of the “highest nobility,” that Augustus was “fascinated by her beauty,” and that she was a “compliant wife.” He adds that she had a moderating effect on Tiberius.¹⁰ Like Livia, Tiberius is praised at his

⁷ *Ibid.*, 3.2.16–18 and 3.5.15–17.

⁸ Julian Gonzalez, “Tacitus, Germanicus, Piso and the *Tabula Siarensis*,” *AJP* 120 (1999): 125–27.

⁹ Tac. *Annales* 13.45.7–8.

¹⁰ *Ibid.*, 5.1.3–1.14 and 5.3.2–4.

death, though Tacitus seems to praise him begrudgingly. He says that at times, Tiberius' life and reputation were blameless. He states that, although it was mingled with evil, there was good in him.¹¹ It is not glowing tribute, but considering the insults and accusations Tacitus has levied at Tiberius through the entire first hexad, it is more than the reader expects.

Julia Agrippina finds redemption in a different way. Towards the end of her life, her character steeply declines in power, prestige, and, especially, morality. With her violent but noble death, she is able to gain something of her dignity back; "She revealed the nobility of her birth in the manner of her death."¹² We cannot be sure of how Nero's suicide was presented in the missing books. However, it must have had something of a redeeming quality to it. As with Julia Agrippina, the quality of Nero's life declines at the end. After his mother's death, he is no longer restrained and begins to revel in effeminate and degrading practices. Not only does he fraternize with actors, he aspires to become one himself. He also plays on the Lyre and sings.¹³ But in the end, he does suffer death at his own hand, and Tacitus might have seen this—that he is man enough to commit suicide—as an improvement over the life he has led.

In their lives, their crimes, and their deaths, we can see that these two women correspond interestingly with the men they dominate. Often their lives reflect the characters and actions of their sons. Tacitus paints the pictures twice—once with mother, once with son—and makes his opinions evident to the reader. He makes his feelings toward these emperors clear through his depictions of their mothers.

¹¹ Tac. *Annales* 6.52.14–15.

¹² Ronald Mellor, *Tacitus* (New York: Routledge, 1993), 61.

¹³ See Tac. *Annales* 14.15ff.

The Mistresses

Julia Agrippina, after she loses control of Nero says, “Mothers change their sons less easily than loose women change their lovers.”¹⁴ The two women who prove this supposition most conclusively are Livilla and Messalina. Although these two women both play the role of adulteress and would-be accomplice to murder, Tacitus portrays them differently. Livilla is a simpleton whose will is swallowed up in the will of her lover. Throughout book IV, “Tacitus depicts her as a virtual dupe of Sejanus.”¹⁵ Messalina, on the other hand, is the dominating figure in her relationship with Silius. Livilla and Messalina have different jobs to fulfill in the narrative of Tacitus’ *Annales*. Livilla’s character establishes a precedent for all succeeding revolutions. Forever after this, the only way that the *princeps* will be in danger is if someone from inside the palace participates in a conspiracy against him. Messalina’s duty is display how weak the men of the empire have become.

Livilla is an important figure in the *Domus Augusta*, who “degraded herself and her ancestors and descendants with a small-town adulterer; she sacrificed her honorable, assured position for infamy and hazard.”¹⁶ Sejanus is also an important figure in the *Domus Augustus* (the *Domus Augustus* is no longer limited to family members). His importance is evidenced by the prominent position—the opening of book IV—of his introduction. Sejanus has a leading position in the government as Tiberius’ right hand man. Tacitus’ purpose with Sejanus, and therefore with his counterpart, Livilla, is not to present him as a formidable threat to the *princeps*. He tells us at the outset that Tiberius will outclass Sejanus in cunning and that his downfall will be disastrous to Rome.¹⁷ Rather, he

¹⁴ Ibid., 13.21.8–11.

¹⁵ Patrick Sinclair, “Tacitus’ Presentation of Livia Julia, Wife of Tiberius’ Son Drusus,” *AJP* 111 (1990): 249.

¹⁶ Tac. *Annales* 4.3.16.

¹⁷ Ibid., 4.1.21–22.

uses Sejanus to show that an ordinary person from a small Etrurian town can wreak havoc on a weak empire. There is not real danger, yet, of a small-time leader taking over, but he, like Livilla, sets a precedent. And he could not have become powerful without the help and complicity of his mistress. Livilla's role in the affair is crucial. And the most important aspect of that role is to establish a standard.

Messalina's role is crucial to her situation in a much different way. She is the model of the domineering woman. Tiberius was portrayed as a weakling, but he did stand up to his mother occasionally; conversely, Silius is a puppet on Messalina's hand. He is never in control in their relationship. Tacitus introduces Silius by saying, "She (Messalina) was infatuated with the best-looking young man in Rome, Gaius Silius. Forced by Messalina to divorce his aristocratic wife, Junia Silana."¹⁸ Notice that Messalina is the eminent figure in the sentence. Not only is Silius an afterthought in his own introduction, he ends up being an afterthought in his relationship with Messalina as well. Messalina wields almost unlimited influence with him. The only instance of personal thinking Silius exhibits throughout the whole of this insidious relationship is when he induces Messalina, a married woman, to marry him. Even then, he is not what induces Messalina to comply. It is rather the outrageousness of the situation that attracts her. Just before this, Tacitus says that Messalina has been "drifting into boredom" from the ease of the affair.¹⁹ Silius is clearly not the inducement. Nor is their marriage a binding connection once it takes place. At the first hint of trouble, when Claudius returns to Rome, the two separate and are thence on their own.

As with many characters in the *Annales*, though, Tacitus redeems these two with the opportunity of respectable deaths. Silius is gallant and does not shirk his duty. Tacitus praises his

¹⁸ *Ibid.*, II.12.6–9.

¹⁹ *Ibid.*, II.26.1.

bravery by saying, “Certain distinguished knights showed equal courage.”²⁰ Messalina, however, does not take her chance for redemption. She does not show any bravery in her death. She tries to resort to her old ways of pleading with Claudius, but the freedmen, Claudius’ advisors, prevent it. In the end, she is offered the dagger but does not have the nerve to take it. Instead, she shamefully loses her head. With Messalina and Silius, Tacitus demonstrates that the empire has reached the point where its men are women, and its woman, *virago*. And the effects of this are unmistakable: chaos and, eventually, death.

The Wives

Plancina and Vipsania Agrippina are more reflective of their men than the other four women are. True the mothers and mistresses generate interesting insights into their sons and lovers, but the wives create the most vivid and effective comparison in the book, both between themselves as complete characters, and in what they show about their husbands, Germanicus and Piso. The women, Vipsania Agrippina and Plancina are strikingly different women. Vipsania Agrippina is a moderately respectable Roman matron. Plancina is a contemptible person. The husbands are also very different, and it is through their wives that Tacitus illustrates his opinions of them.

Germanicus and Vipsania Agrippina are the only two major characters that Tacitus paints in a relatively positive light. However, as Mellor points out, they are certainly not the models of traditional Roman ideals, and therein lie some interesting points of comparison.²¹ Germanicus is “impractical, romantic,

²⁰ *Ibid.*, 11.35.14.

²¹ Mellor, 76.

emotional, and filled with self-pity.²² This is clearly demonstrated by his repeated sobbing and lamenting.²³ Though he displays a feminine propensity toward weeping, it does not follow that he is effeminate. Perhaps it is because he is such a good soldier otherwise. At one point, Germanicus tells his soldiers, “My wife and son are not more dear to me than my father and my country. I would willingly see my wife and children die for your greater glory.”²⁴ Whatever else may be said about Germanicus, even taking his outbursts into account, he could not be called weak with resolution like that.

Nor can Vipsania Agrippina be referred to as weak. She is a strong, independent woman, and unlike Livilla, she exerts her own will numerous times throughout the narrative. One particular instance stands out: after taking a German rampart, the Roman soldiers hear that German reinforcements are on their way. The men panic and consider tearing down a bridge to stop the Germans from reaching them. Vipsania Agrippina remains calm and placates the terror of the soldiers, when others—men—are unable to calm them. It is true that “military camps were traditionally off-limits to respectable women, regardless of the amount of power they enjoyed.”²⁵ Yet the reader does not get the sense that Tacitus is condemning Germanicus or Vipsania Agrippina for such an action. Rather, he seems to be suggesting that Germanicus is strong and stoic like his wife. True they are unconventional, but they are precisely what their particular situations call for. They get the job done.

Tacitus does make it clear, however, that while unorthodox behavior may be effective, it can be taken too far. A clear example

²² Ibid.

²³ For examples, consider his conduct in Tac. *Annales* 1.39.11 and 1.49.12.

²⁴ Tac. *Annales* 1.42.1–5.

²⁵ Christina Gardino Calhoun, “Livia the Poisoner: Genesis of an Historical Myth” (Ph.D. diss., University of California, Irvine, 1994), 295.

is found in the death of Germanicus and the subsequent events. Germanicus admonishes Vipsania Agrippina, with his dying words, to abandon her pride and obey Tiberius. She disregards this counsel and it leads to her downfall. However, it also leads to the avenging of Germanicus' death.²⁶ Tacitus alleges that her atypical conduct saved her husband from obscurity but led to her own demise.

After Germanicus' death and funeral, Vipsania begins to come under condemnation. She is even eventually denounced and exiled by the emperor to be later recalled and killed. It is as if Germanicus plays the same role to Vipsania Agrippina that Livia played to Tiberius—he keeps her moderated merely by his presence. Once he is gone, she is left to wildness and dissipation. Her husband is no longer around to make her great, so her true personality can shine through. It seems as if Tacitus is claiming that her greatness comes entirely from Germanicus. Without him, she is wild and uncontrollable.

The relationship between Plancina and Piso is a complete reversal. The controlling figure not the husband, but rather the wife, and instead of moderating her spouse, Plancina accentuates the failings in Piso. With Plancina, Piso is detestable, treacherous and capable of murder; Without her, he is simply a disreputable character. Plancina amplifies his moral flexibility. She, like Vipsania Agrippina, is a strong, independent woman. Unlike Vipsania Agrippina, she lords over her husband. On his deathbed, Germanicus says, that he “has fallen to a woman's treachery.”²⁷ It is true that poison is generally a woman's tool, but Germanicus' words imply that Plancina is solely responsible for his death, that she alone made the decision to kill him. Tacitus is making it clear that Plancina is the principal player in affair. When compared to his wife, Piso appears weak. Plancina's dominance is also evident

²⁶ Tac. *Annales* 3.18.12–13.

²⁷ *Ibid.*, 2.71.13–14.

in the Piso's trial. Plancina claims she will be faithful to Piso, but when his fate stands in question, she make a wise (in terms of saving her own life), though immoral, decision—she abandons him. Though he has borne the trial to this point, he is unable to carry on after her betrayal and takes his own life. He is unable even to live his own life without her. Of course, in the ancient world, suicide is courageous, and once again, we see a character finding some redemption in death.

The juxtaposition of Germanicus and Vipsania Agrippina to Plancina and Piso is telling. The contrast is made all the more clear by the disparity of their situations. And in the end, Germanicus and Vipsania Agrippina emerge moderately triumphant and respectable, while Plancina and Piso come out shameful and weak.

Six women, six men. Each relationship is different. But invariably, the woman is tied to the man. Clearly, Tacitus feels that a woman is nothing without a man. However, Tacitus recognizes that with a man, a woman can wield great power and influence.

The activities of the imperial women became a standard category which authors used to evaluate the quality of emperors. Thus their consideration in historical literature was most often as one of a number of factors which depicted the quality and nature of a 'bad' ruler. By definition, 'good' emperors had wives and mothers they could control, who never overstepped the boundaries set by convention.²⁸

A man may rule the empire, but he will do it well only if there is a good woman behind him.

²⁸ Fischler, 127.

EARLY CHRISTIANITY

Parousia: Parallel Aspects of Delay in Early Christianity and Mormonism

James C. Olsen

The question concerning the delay in the Parousia, Christ's Second Coming, has been an issue in Christianity since the fateful day of Christ's Ascension. It is no less an issue in Mormonism today than it has been throughout the Christian world for the past two thousand years. Looking closely at this issue and its development in early Christianity sheds light on the direct parallels between how the delay is felt and affects the lives of members of Christ's early Church and His contemporary restored Church. There exists today within the restored Church a unique and fundamental ability to combine heaven and earth in a continual process of parousia as we await the future event of Christ's Coming.

When they therefore were come together, they asked of him, saying, Lord, wilt thou at this time restore again the kingdom to Israel? And he said unto them, It is not for you to know the times or the seasons, which the Father hath put in his own power. But ye shall receive power, after that the Holy Ghost is come upon you: and ye shall be witnesses unto me both in Jerusalem, and in all Judaea, and in Samaria, and unto the uttermost part of the earth. And when he had spoken these things, while they beheld, he was taken up; and a cloud received him out of their sight. And while they looked stedfastly toward heaven as he went up, behold, he was taken up; and a cloud received him out of their sight. And while they looked up, behold, two men stood by them in white apparel; Which also said, Ye men of Galilee, why stand ye gazing up into heaven? this same Jesus, which is taken up from you into heaven, shall so come in like manner as ye have seen him go into heaven. (Acts 1:6–11)

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These verses record one of the most dramatic events in scripture and paraphrase some of the central aspects of Christian eschatology. Here, at the conclusion of Jesus' triumph, the apostles are left to wonder. The first Advent has literally taken place, the Atonement has been performed, the victory over death secured, the way of salvation revealed and made possible, Christ's authority distributed, his church established, his disciples charged. What is left but the long prophesied End, the final reckoning of justice and the ushering in of the Messiah's long awaited reign over a kingdom of priests and an holy nation?¹ These verses answer this question with what is perhaps the pith of Christian eschatology. Jesus Christ *will* "restore again" God's kingdom here on the earth and *will* reign in glory. As for the time and season of this event, we are not told. However, the event is to be preceded by the spread of the gospel to the "uttermost part[s] of the earth"; the believers are not to be idle as they await this event. Furthermore, Christ will descend in the same dramatic and glorious manner in which he ascended. For a great deal of Christianity, eschatology is a matter of active watching and waiting, an "abid[ing] in him,"² holding out faithfully and witnessing of Christ as the Messiah. The event will come. Israel will be restored. We must be ready.

Nearly two thousand years have passed, and yet for Christian eschatology it has been a static moment. Much has been written in the last few decades concerning the parallels of the first, second, and twentieth centuries of Christian expectation of the parousia.³

¹ See Ex. 19:6

² 1 Jn. 2:28. See also St. John 15:4

³ For example, I. Howard Marshall, "The Parousia in the New Testament – and Today," in *Worship, Theology, and Ministry in the Early Church*, ed. (Sheffield, England: JSOT, 1992), 194–211; Alan E. Lewis, "Apocalypse and Parousia. The Anguish of Theology from Now Till Kingdom Come," *Austin Seminary Bulletin*, Faculty Edition 103 (1988): 31–45; Richard J. Bauckham, "The Delay of the Parousia," *Tyndale Bulliten* 31 (1980): 3–36; and John T. Carroll et al., *The Return of Jesus in Early Christianity* (Peabody, M.A.: Hendrickson, 2000), especially chapters 5 and 7.

Although distinct theological views on the parousia have existed, running the spectrum from realized to future eschatology (and occasionally adding a new twist), all of these several views can be observed in each century since the inception of Christianity.⁴ The wait has neither destroyed nor dampened the anticipation of each successive age. Rather, for most Christians who believe in an imminent or future eschaton, it is usually held that the flow of history logically denotes a nearing of the eschaton. Stemming from the inter-testamental apocalyptic literature (and perhaps earlier), the *delay* of the parousia has become an integral part of the ongoing eschatology.

Hence, when Joseph Smith, prophet of God, arrives in the thoroughly Christianized West of the nineteenth century, not only is his intensely eschatological message a common one, it picks up right where the two angels on the Mount of Olives in Acts 1 left off. Nevertheless, Mormonism's treatment of the future parousia contains unique parallels with the various treatments found in early Christianity. Entering the third century, theological viewpoints among the various branches of Christianity ran the spectrum between past and future realization of the parousia (realized versus future eschatology), with the majority of Christians situated moderately in the middle: the parousia was in a sense realized, Christ *had* triumphed, yet his physical coming would unquestionably occur sometime in the future.⁵ Mormons entering the twenty-first century have much the same outlook. Regardless of the physical and future event of the second advent of our Lord Jesus Christ, members of The Church of Jesus Christ of Latter-day

⁴ 'Realized' and 'future' are conventionally used to describe the different ends of the eschatological spectrum; they denote a belief in an already fulfilled eschaton versus an eschaton that is believed to yet be future.

⁵ As Walter H. Wagner states, "Most Christians seemed to mingle both understandings of the parousia [i.e., realized and future] so that they felt that Jesus was present and coming, that eternal life started now and in the future" *After the Apostles* (Minneapolis: Fortress, 1994), 9.

Saints confront the exact same questions, dealing with the exact same eschatological issue as the early Christians.

This paper will explore the nature of the doctrines concerning the parousia in early Christianity, focusing on the first two centuries. Specifically we will examine the roots of Christian parousia, the function and meaning of the delay of the parousia, and the impact of this delay on the lives of Christians. Next, we will look at the advent of the Prophet Joseph Smith and the historical parallels between early Christianity and restored Christianity of the nineteenth and twentieth centuries.⁶ Finally, we will look at the meaning of parousia in the post-delay lives of contemporary members of Christ's church, exploring some of the unique features of waiting and expectation among the Latter-day Saints. Doing so reveals fruitful insights concerning the problem of delay that necessarily persists in the lives of all faithful Christians.⁷

Early Christian Parousia

Ties to Judaism. Just as Christianity has its roots in Judaism, so too does Christian eschatology have its roots in Jewish eschatology. However, just as Christianity is unquestionably distinct from

⁶ As mentioned above, many Christian authors have discussed the parallels between early and contemporary Christianity. This paper focuses specifically on early Christianity and Mormonism, assuming them to be the same Christianity, both established personally by Jesus Christ. Thus, when speaking of the modern-day Church of Jesus Christ, it is often the Church of Jesus Christ of Latter-day Saints that is being referred to. Other branches of Christianity will also be peripherally discussed, and will be explicitly named as such.

⁷ By "post-delay" I do not mean that there has been a shift in Mormonism from a future to a realized eschaton, but merely that, similar to early Christianity, Mormonism has now experienced the delay in the parousia for long enough that the delay itself has become an issue.

Judaism, not a mere Jewish sect,⁸ so too are their eschatologies separate and distinct. The relation between the two seems obvious: Jewish messianism and Christian expectation of the parousia are both essentially a waiting: for deliverance, for justice, for temporal and spiritual salvation. John Carroll points out that “[f] all the signs of God’s activity in Jesus’ own life and words, in the end, one was still left waiting and hoping. . . . [L]ife on earth continues much as before. So he will [and *must*] come again to complete his mission.”⁹ The day-to-day aspects of Christian expectation appeared no different than Judaism. On this subject, Claudia Setzer writes, “A variety of eschatological figures . . . emerge regularly in different communities. . . . Looking at the broad spectrum of Jewish messianic hopes, Jesus’ parousia is not out of place. It fits with the expectation that at the end of days, a figure will appear to make things right.”¹⁰ Thus, Christianity is left awaiting a future *coming*, nearly identical in character with Jewish messianism.

However, Jesus’ parousia *is* fundamentally distinct. Setzer goes on to say, “If we consider the concept of Jesus’ parousia more narrowly and specifically, as a human being, a preacher or teacher who returns from the dead to spark the end of days, obviously there are far fewer parallels in Jewish life and literature.”¹¹ Nicholas Taylor agrees, stating, “Where Christian expressions of eschatological expectation differed from those of other Jewish groups was essentially in their identification of Jesus of Nazareth with the

⁸ See Rodney Stark, *The Rise of Christianity* (San Francisco: HarperCollins, 1997), 33–4, 44–45. He gives an excellent distinction between sects and new religious movements or cults, applying this distinction to Christianity and Judaism.

⁹ Carroll, 6.

¹⁰ Claudia J. Setzer, “The Parousia of Jesus and Jewish Messianic Hopes,” in *The Return of Jesus in Early Christianity*, ed. John T. Carroll (Peabody, MA: Hendrickson, 2000), 172.

¹¹ *Ibid.*, 173.

Messiah.”¹² The fact that Christ is actually present, a *human* fulfillment of eschatological expectation, coupled with his resurrection, makes for a fundamentally distinct eschatology. Christian expectation is for the return of an actual historical figure who has already come once. Furthermore, Christianity claims this historical figure to be or to have become [a] God. The historical figure on whom they now wait is the same figure that they have known and now worship.

The ties between Christian and Jewish expectation are not limited to similarities in waiting for redemption. Graydon F. Snyder says, “[I]t is clear that the [New Testament] elements which describe the coming of the Lord consist of ‘formal’ elements used to announce the coming Day of the Lord in the Old Testament. . . . [T]he parousia is constructed from Day of the Lord formulae.”¹³ Snyder points out the parallel images of the sounding of a trumpet, a voice, and clouds (see Zeph. 1:10–16 and 1 Thes. 4:16–18). Other parallel elements are also readily apparent: the “Son of Man”¹⁴ will come, it will be a day of both wrath and vindication, a perfect social order and justice will be established, the Lord’s people will be gathered, there will be a resurrection, and it will be a day in the near future.¹⁵ There is definite continuity between the Old Testament “Day of the Lord” and the New

¹² Nicholas H. Taylor, “Early Christian Expectations Concerning the Return of Jesus,” *Journal of Theology for Southern Africa* 104 (1999): 33

¹³ Graydon F. Snyder, “Sayings on the Delay of the End,” *Biblical Research* 20 (1975): 19.

¹⁴ Taylor, 33, claims that “While the derivation and significance of the expression ‘son of man’ are a matter of scholarly controversy, it is clear that the usage in the synoptic eschatological discourse [Matt. 24:37–44; Mark 13:24–27; Luke 21:25–28] reflects the apocalyptic tradition deriving from Ezekiel and Daniel,” thus affirming the claim that Christian eschatology is derived from Judaism.

¹⁵ For examples, see Isa. 13:6, Ezek. 30:3, Joel 1:15; 2:11, Mal. 3:2; 4:1, Matt. 24, Acts 2:20, 1 Cor. 1:8, and Rev. 6:17.

Testament “[second] Day of the Lord,” to the degree that writers of the New Testament were often quoting or paraphrasing Old Testament passages in their discussion of Jesus’ parousia.¹⁶

Finally concerning the ties between Christian and Jewish expectation, one can observe a continuity between Old Testament, New Testament, and prophesied future theophanies. Both the Old Testament Day of the Lord and the New Testament parousia are given in terms of a divine coming. Parousia denotes “with-ness” or “being there.”¹⁷ Thus, the future coming will be the coming and appearance of God.¹⁸ T. Francis Glasson points out that “[a]gain and again the prophets and psalmists spoke not merely of the Day of the Lord but they spelled this out in terms of a divine coming.”¹⁹ Old Testament passages concerning the Day of the Lord are replete with images of the physical presence of the divine Lord. Glasson sights such passages as Psalm 50, Zechariah 14, and Isaiah 26–27, 66. He notes that Old Testament theophanic predictions depict such things as the Lord descending from heaven with a host of angels, resurrection, and judgment. “Is it not possible, or indeed obvious, that this is the real origin of the whole idea of Christ’s Parousia?”²⁰ Also concerning this connection, we have numerous Old Testament and New Testament theophanic passages that actually portray the presence of divinity: the Garden of Eden, Jacob at Peniel, Moses at Sinai and in the Tabernacle, Isaiah’s call to be Israel’s prophet, Christ’s baptism, the Mount of Transfiguration, Christ’s ascension, Christ’s appearance to Paul, and so forth.

¹⁶ For a good discussion of this, see T. Francis Glasson, “Theopany and Parousia,” *New Testament Studies* 34, no. 2 (1988): 259–270.

¹⁷ Wagner, 8.

¹⁸ See Glasson, 259.

¹⁹ *Ibid.*, 259.

²⁰ *Ibid.*, 260.

Meredith G. Kline performs an exegesis of Genesis 3:8 in order to show that the event of judgment in the Garden of Eden is a “primal parousia,” a template from which all other Old and New Testament theophanies are patterned, and the foundations of both the Day of the Lord and Jesus’ parousia: “[T]he kind of epiphany that the historical situation calls for is what the original text actually does depict—an advent of the Lord in his awesomely fearful judicial Glory. . . . Genesis 3:8 turns out to be an account of a primal *parousia*, a record of the beginnings of what is known later in the Scriptures as the day of the Lord.”²¹

As Glasson and Kline have shown, we cannot understand the Christian concept of parousia if we ignore its Old Testament foundations. Nor can we ignore the connection of Jewish messianism, despite the unique features of Christian expectation. “As is the case of many other issues, an adequate account of the understanding of . . . the *parousia* in early Christianity must reflect both the continuity and discontinuity with Judaism.”²²

Literal Parousia in the New Testament. As we saw above, despite the fact that for Christianity the Messiah *had* come, the messianic victory was not fully realized in daily life; injustice and innocent suffering continued. Hence the topic of Christ’s second coming was and has remained an intensely important and talked about subject. Every author of the New Testament deals with it. Paul and the “three pillars” (Peter, James, and John) all discuss it at length. An in-depth treatment of the parousia by any of the authors of the New Testament is the subject of at least a book-length discussion and is a task far beyond the scope of this paper. Nevertheless, it will be helpful to examine this issue briefly; we cannot neglect at least a basic overview of how the parousia is seen and discussed among the various authors of the New Testament.

²¹ Meredith G. Kline, “Primal Parousia,” *Westminster Theological Journal* 40 (1978): 245.

²² Bauckham, 3.

First, as mentioned above, the parousia is an actual physical event that will historically take place sometime in the future. The authors of the New Testament use imagery that specifically connotes a physical event. We began with the two angels in Acts 1 claiming that Christ shall “come in like manner as ye have seen him go”; that “go”-ing involved a physical, bodily ascension that took place at a specific location and was witnessed by numerous disciples. According to the angels, his “come”-ing will not differ. Each of the four gospels speaks of the parousia as a specific event, often highlighting other events that will precede it.²³ Paul often speaks of the physical presence of Jesus at his Second Advent. His statement that “the Lord himself shall descend from heaven”²⁴ closely parallels the statement of the angels in Acts 1. James counsels us to be patient until “the coming of the Lord.”²⁵ Peter claims that the “Lord will come as a thief in the night.”²⁶ Jude makes it known that the “Lord cometh with ten thousands of his saints.”²⁷

Furthermore, the specific words used by the authors of the New Testament denote a physical event. *Parousia* roughly means “presence.” Paul often uses the word parousia and uses it not only when speaking of Christ’s coming, but also of his own literal presence or absence (for example, 2 Cor. 10:10, Philip. 2:12).²⁸

²³ For examples, see Matt. 24, Mark 13, Luke 12:35–48 and 21, and John 21:22–23. John is much more equivocal, fluctuating between a future and a present parousia. For a good treatment of this topic, see Carroll, 77–112.

²⁴ 1 Thes. 4:16.

²⁵ James 5:7

²⁶ 2 Pet. 3:10. Although it is likely Peter was using this metaphor more to connote the unknown and unexpected nature of Christ’s coming than a physical event, it is an extremely odd metaphor to use if he is not also referring to a physical event.

²⁷ Jude 1:14. Again, although this phrase might also refer to other things, the metaphor is very strained if we do not view it as an event.

²⁸ See W. Harold Mare, “A Study of the New Testament Concept of the Parousia,” in *Current Issues in Biblical and Patristic Interpretation*, ed. Gerald F. Hawthorne (Grand Rapids: Eerdmans): 337–338, especially fn 7 on 337.

Matthew, James, Peter, and John also use the word *parousia* in context of Christ's Second Coming.²⁹ Synonyms of *parousia* are also used to denote Christ's coming as a physical event. *Epiphaneia* (appearing, appearance), *phanero* (reveal or appear), and *erchomai* (a bodily coming), are all used.³⁰ Clearly, the New Testament authors intended a future physical event when describing the Second Advent.

Other Early Christian Concepts. Despite the fact that the imagery and wording of the New Testament clearly denotes a physical event, Christ's coming can be and was also understood differently by the early Christians. Although a literal coming was widely believed during the first two centuries of Christianity (and such an interpretation has never disappeared), from very early on there have been other interpretations as well. In fact, there is plenty of evidence that the New Testament authors themselves intended more than just a future coming in their discussions of the *parousia*.³¹

In the past, many authors have seen Christian expectation in terms of an evolution from imminent *parousia* in the first century to a de-eschatologized concept of the *parousia* by the fourth

²⁹ For example, Matthew 24:3, James 5:7, and 1 Peter 1:7.

³⁰ For a more detailed look at these words and their use in the New Testament, see Mare, 339–340.

³¹ For example, in 1 Cor. 4:20, Paul tells us that the kingdom of God is both “word” and “power,” without any reference to a literal kingdom to come. Alexandra Brown says of Paul's writing that “the ‘already-not yet’ tension [is] everywhere present in Paul—the kingdom of God is both already present . . . and yet to be fully manifested.” For her discussion on this, see “Paul and the Parousia,” in *The Return of Jesus in Early Christianity*, ed. John T. Carroll (Peabody, MA: Hendrickson, 2000) 48. For more on the dual nature of the *parousia* as evidenced in the New Testament, see Carroll, 77–112, and Graydon, 19–35.

century.³² It has also been speculated that this gradual shift in theology took place as a reaction to the delay of parousia. Although some scholars continue to hold these positions, many scholars have recently changed their views. It is now commonly held that most of the major beliefs concerning the parousia have always existed in Christianity. This is not to say that the delay in parousia had no effect; rather, the delay has always been felt, impacting Christian expectation from the beginning. Representing this new trend in research, Jeffrey Siker writes:

In my judgment, it is a mistake to insist that early Christian expectations were consistently one way or another, or that Christianity started out eschatologically charged only to diminish in hope and expectation over time. Instead, both strands [i.e., imminent parousia and a downplay of parousia as a future event] have always been present, and both can be seen in second- and third-century Christian writings as well.³³

Siker uses Paul as an example to illustrate this point, noting the contrast between imminent and realized parousia in 1 Corinthians 4 and 7.³⁴ He points to the same dichotomy in second- and third-century writings. Furthermore, he claims that a middle ground was also established with some advocating

³² Jeffrey S. Siker argues cogently against this view; see “The Parousia of Jesus in Second- and Third-Century Christianity” in *The Return of Jesus in Early Christianity*, ed. John T. Carroll (Peabody, MA: Hendrickson): 147–168.

³³ *Ibid.*, 151. Others who regard the New Testament itself as containing various interpretations of parousia include David E. Aune, John Carroll, Harold Mare, and Nicholas Taylor, “The Significance of the Delay of the Parousia for Early Christianity,” in *Current Issues in Biblical and Patristic Interpretation*, ed. Gerald F. Hawthorne (Grand Rapids: Eerdmans, 1975), 87–109.

³⁴ That is, Siker notes the contrasting elements of Paul’s recognition of Christ’s past advent and triumph with his prophecies of a future advent.

“an eventual but not imminent parousia.”³⁵ This appears to have been the majority view for much of the first few centuries. Wagner writes, “Most Christians seemed to mingle both understandings of parousia so that they felt Jesus was present and coming, that eternal life started now and in the future.”³⁶

These three parties are evident not only scripture, but also in other Christian writings of the first few centuries. Siker lists the *Didache*, *Epistle of Barnabas*, *Apocalypse of Peter*, *Epistula Apostolorum*, and Tertullian as examples of those expecting the parousia to be imminent; *1 Clement*, *Shepherd of Hermas*, Justin Martyr, Irenaeus, Hippolytus, and Cyprian as the moderates (believing in an eventual but not imminent parousia); and Clement of Alexandria, Origen, and various Gnostic writings as representative of the more spiritual and anti-literal interpreters of the parousia.³⁷ It is significant that the second- and third- century authors always used scripture to support their claims. This further supports the idea that the various parties always existed in Christianity, genuine traces of each evidenced in the scriptures. Rather than a steady progression from one end of the spectrum to another, it is more likely that the various camps and members of these camps became more defined as time went on.

It is still possible, and likely, however, that various positions were held in more popular regard at various times. For example, there appears to have been a definite decline in missionary fervor at the beginning of the second century. The intensity of Christian proselytizing is often believed to be linked to the intensity of Christian expectation of an imminent parousia; the delay in parousia has often been explained in terms of a grace period in which God is allowing the sinners to repent. Thus, the first century can be viewed as a period in which the imminent parousia

³⁵ Siker, 151.

³⁶ Wagner, 9.

³⁷ Siker, 167.

camp was more widespread, and the beginning of the second as a time of a more prominent belief in spiritual or past parousia. W. H. C. Frend writes, "With the passing of John . . . and the last survivors of the Pauline era, the missionary momentum seemed to flag. The period 100–135 may have witnessed a crisis within the Christian communities" concerning whether to remain intensely eschatological and thus actively proselyte or to settle down as a "mildly reforming movement on the fringes of Judaism content with its existing membership."³⁸ Wagner agrees: "Christians coupled their expectations for the kingdom's coming and Jesus' parousia with fervent missionary activity."³⁹

Also supporting the claim of the imminent parousia position as the popular view in the first century (as well as at various other times, such as the end of the second century through the beginning of the third) is the confidence and defiance of authority among Christians. Again Wagner writes, "Anticipating the kingdom also made Christians confident and defiant. In the confidence that they were the earthly colony of God's heavenly kingdom, they defied scoffers and persecutors."⁴⁰ A great deal has been written concerning the reasons of early Christian defiance and willingness to suffer, but as Frend and Wagner both agree, the expectation of an imminent parousia is one of them.

Beyond the rather simplistic and general spectrum that we have discussed so far, there are a number of specific and varying views concerning the parousia that can be seen in early Christianity. Not only did there exist various positions between imminent and allegorized parousia, but there was often more than one simple form that developed at each point of the spectrum. Beyond the generalities already discussed, many of these different

³⁸ W. H. C. Frend, *The Rise of Christianity* (Philadelphia: Fortress, 1984), 127–128.

³⁹ Wagner, 12.

⁴⁰ *Ibid.*, 6–7.

beliefs in the parousia are inextricably connected with concern over the delay in the parousia. Hence, we turn now to the question concerning the delay wherein more will be said about the different forms of parousia.

The Essential Element of Delay

In one sense, expectation of an event cannot exist without delay. We do not anticipate that which has already occurred. As we have already noted, eschatological hope was around long before Christianity, and consequently the question of delay was inherited along with the eschatology. We will first look at the necessity of delay in eschatology, the way in which the two are related, and then discuss the various ways in which the delay affected and was interpreted by early Christianity. Finally, we will begin to address the necessary questions that have arisen in each generation of Christianity as a result of this delay.

The Marriage of Delay and Eschatology. Again, one cannot anticipate what has already occurred, so in any state of waiting there must be delay. Christianity will cease to be eschatological when Christ descends in his “judicial Glory” and brings about the End (and, in at least one sense, Christianity will cease altogether). As soon as Christ’s “coming” “comes” the “coming” is destroyed. Thus, the Christian belief in parousia (and consequently, Christianity itself) requires delay. Furthermore, since the interim period is always one of preparation, the delay is needed in order to prepare.

The problem of delay has existed for as long as the concept of divine justice has existed. God’s perfection demands justice, and, since justice has never been more than partially realized on earth, there must be a future day of reckoning. Hence Bauckham states, “The *imminent* expectation expresses the extremity of the situation, the intensity of the apocalyptists’ perception of the problem of evil, in its sheer contradiction of the righteousness of God.

Surely God can no longer tolerate it. Yet he does: there is the problem of *delay*.⁴¹ The same thing can be said about the decrees of God—prophecy. What God speaks *must* be fulfilled. Prophecies are the words of God. Thus, prophecy must be fulfilled, and in one sense their delay contradicts divine order.

A Jewish Wedding. Jewish eschatology had confronted this problem for centuries. Hence, Christian eschatology, conceived in the midst of Judaism, inherited a great deal of Jewish thought. Taylor notes, “Eschatology does not begin with Christianity, but is rooted in the Jewish prophetic-apocalyptic tradition.”⁴² Again, Bauckham says, “It goes only a little beyond the evidence to say that in every generation between the mid-second century BC and the mid-second century AD Jewish apocalyptists encouraged their readers to hope for the eschatological redemption in the very near future.”⁴³ The irony is that despite the delay through those centuries neither the apocalypse nor the zealous expectation of its fulfillment seems to have been discredited or diminished. There is no question that there exists a contradiction between apocalypse and delay, but this paradox often serves to fuel the expectation. Since the End *will* come, and it has not *yet* come, and since many of the prophetic signs leading up to the End *have* been fulfilled (or at least can be interpreted as fulfilled), it follows that the End must be even *closer*, more imminent than before.

Consequently, we see a very similar pattern in Christianity. Even though the Christian eschatological hope is centered in Christ and stems from his first advent, a historical fact, the type of eschatology that it is—as well as how it responds to delay—comes from Judaism. Delay and imminence pull on one another in a constant battle. Time serves to fuel both the severity of the delay and the degree of expectation. From this ever renewed tension come several interesting consequences.

⁴¹ Bauckham, 9.

⁴² Taylor, 33.

⁴³ Bauckham, 4.

Results of the Delay. As we look at the results of the delay, it is important to ask when the delay took place, or when was it first felt that there had been a significant delay? Many scholars have placed the crisis of delay in the late first or early second century. Others point to the destruction of the temple and Jerusalem (mentioned in all of the synoptic gospels and viewed by the early Christians as direct fulfillment of Christ's prophecies and signs) and place the beginning of eschatological crisis in the 70s. Taylor, however, wisely points out that the crisis brought about by the disconfirmation of a belief in imminent parousia could not have begun at this time. Aside from the fact that there remains no literary evidence for a crisis following the destruction of the temple (in fact, Matthew and Luke, likely written *after* the destruction, seem to reflect the opposite, commenting on the destruction as part of the historical process that would eventually culminate in the parousia), an expectation of the parousia tied to the destruction of the temple would have been aroused in 40 or 41 with Gaius Caligula's order to install his statue for worship at the temple. The restraint of the Roman army at Syria coupled with Caligula's assassination stayed what had promised to be a spectacular clash between Rome and Jerusalem. Even though tragedy was here averted, the *expectation* of tragedy, of a grand eschatological confrontation, would surely have been felt by the early Christians at this time. Their feelings of imminent parousia would certainly have been stimulated.⁴⁴

Furthermore, many of the first generation of Christians died long before 70, some violently by the hands of their enemies. Thus, they were forced to confront the fact that it was likely they would not live to see their Savior's coming; "this generation" might indeed pass without the coming of the Savior. Also, from the writings of Paul it appears that, from early on, some groups of

⁴⁴ See Taylor, 38–42.

Christians outside of Judaea had concluded that the parousia was past, that there would be *no* future event of a coming.⁴⁵ Matthew had quoted Christ as saying, “[A]nd, lo, I am with you always, even unto the end of the world”⁴⁶ which many Christians took as the spiritual fulfillment of the parousia. Thus, from early on, Christianity faced a failure in their expectations concerning the parousia and began to rethink their beliefs. Taylor concludes:

Far from the fall of Jerusalem precipitating a major crisis of faith, the early Christian records testify to continuous grappling with the issue of the delayed parousia from very early in the days of the Judaeen church. Any crisis in 70 CE would have been less acute than that in 41 CE, not least because the destruction of the Temple was no longer seen as simultaneous with the parousia and Christians had by that date acquired some experience in reconceptualising their eschatological hopes in the light of the experience of disconfirmation.⁴⁷

It is clear, then, that Christianity began to deal with delay in parousia almost from the beginning. From what has already been stated, we can see that writings in the New Testament, written toward the end of the first century, evidence this fact. Snyder posits that there are six major motifs that arise in these writings in response to the delay: wait, watch, be prepared, repent, be ashamed or proud, and go (e.g., go on a mission, be involved in witnessing).⁴⁸ Writers of the New Testament, as well as those out-

⁴⁵ For examples, see 2 Thes. 2:2–12 and 1 Cor. 15.

⁴⁶ Matt. 28:20.

⁴⁷ Taylor, 42. Wagner seems to hold the same opinion and claims that the destruction brought about by the over-eschatological Jews was further evidence to the Christians that they ought not speculate too intensely as to if or exactly when Christ would come see Wagner, 8.

⁴⁸ Snyder, 29–35.

side of the canon, focused on the *how* of waiting.⁴⁹ Anticipation of the arrival of Christ in early Christianity quickly became a state of pious activity, accompanied by certain necessary tasks.

This naturally leads to the idea of the delay as either a necessary or a merciful period of time ordained by God. Although justice demands divine judgment to punish the sinner and reward the faithful, mercy demands that time be allotted in which the sinner might repent. Bauckham writes, "Against the apocalyptists' longing for eschatological righteousness . . . must be set the patience of God who characteristically holds back from condemning the sinner while he may still repent."⁵⁰ Concerning this explanation, Wagner writes that "God delayed the parousia out of love and patience for humanity, for God wanted as many persons as possible to hear and respond to the good news in Jesus."⁵¹ Alongside this is the positive nature of suffering, a time to prove our patience and humility to God, a willingness to follow the example of Jesus. These two themes seem to be what Peter had in mind when he said, "[I]f, when ye do well, and suffer for it, ye take it patiently, this is acceptable with God. . . . Christ also suffered for us, leaving us an example."⁵² Wagner claims that this idea is ubiquitous in the New Testament, that "the delay depicted God as testing the faithfulness of Christians. As Job had been tested, so believers were being probed by the devil. Through persecutions, heresies, temptations to sin, and doubts about God's work in Jesus, they were being sifted and purified."⁵³

⁴⁹ Carroll cites numerous examples of this in James, Hebrews, John, and other New Testament books, specifically see 113–146. Nevertheless, it is important to remember that the literal imminence of the parousia is critical throughout the New Testament.

⁵⁰ Bauckham, 27–28.

⁵¹ Wagner, 8. He cites 2 Peter 3:14–15 and Epistle to Diognetus 7:1–10:4 as evidence.

⁵² 1 Peter 2:20–21.

⁵³ See WAGNER, 8 and fn 12.

Revelation, written around the end of the first century, also holds the same message of positive reconciliation between the demand of imminent justice and the delay of the parousia. In Pauline fashion, John combines the ideas of an already victorious advent with a yet-to-come victory in the Second Advent. Chapter 1 tells us that “he cometh with clouds; and every eye shall see him,” and also makes known that the triumph of the Christ has occurred, he is resurrected and glorified, the salvation of mankind is already obtained.⁵⁴ Bauckham claims that this theme in Revelation “gives a fresh meaning to the delay.” Namely, the delay is “the time of the church’s universal mission, characterized by the suffering witness in discipleship to the crucified Christ.” Such a message brought a new perspective to Christians concerning the problem of theodicy contained in the delay: “Innocent suffering still cries out for eschatological righteousness. . . . But on the other hand, God delays the *parousia* not simply in spite of his people’s sufferings, but actually so that his people may suffer that positive, creative suffering which comes to the followers of the cross of Christ.”⁵⁵

These themes are also shown in later writings. Jeffrey Siker notes them in the *Shepherd of Hermas* (9.5.1–2, 7), a parable in which a building is being built (likely representing the Church). Even after the building is completed, the work is not finished. The lord of the building must first come and inspect the stones, replacing the rotten stones with good ones. Siker says, “This is a builder who wants to get it right and is patiently waiting until the tower is finished as designed.”⁵⁶ These same themes seem to find

⁵⁴ See verses 7, 10–18. This duality is maintained throughout the text, for instance 3:20–21 and elsewhere tells us that Christ has already overcome all things, and yet the book ends with Christ’s declaration that “Surely I come quickly” coupled with the prayer “Even so, come, Lord Jesus” (22:20).

⁵⁵ Bauckham, 36.

⁵⁶ Siker, 155–156.

their extreme in the writings of Clement of Alexandria and Origen. Clement's focus is in on education. Each of us is capable of a divine education that leads gradually to our perfection. Thus, the parousia is not imminent, but rather is delayed while we are educated to perfection. Our individual perfection and union with God is where the parousia takes place. Similarly, Origen believed the parousia to be the gradual perfecting of the universe, restoring it to the creation state. The parousia is a constantly occurring event.⁵⁷ Also in like fashion, is the idea that the imminent and "sudden" coming of Christ refers to each individual's death. "The parousia of Jesus as cosmic judge and liberator is thus transformed into a personal coming of Jesus to the individual at the moment of death."⁵⁸

A final result of the delay that appears to have affected Christianity was a steady shift from an emphasis on Jesus as Messiah to an emphasis on Christian doctrine and theology. As the Christians shifted their focus to theology, their theology began to shift as well. Christianity at the end of the first and beginning of the second century was diverse with numerous doctrinal suppositions believed in the various Christian communities. The warnings of the apostles that false teachers would arise and that there would be a wresting of the truth began to hit home.⁵⁹ In time this diversity was seen as a fulfillment of these prophecies and yet another sign that the parousia was imminent. Thus, in part due to the delay and the imminence of the parousia, the second half of

⁵⁷ As we have already noted, the idea of past or present parousia is also evidenced in scripture. Concerning this, Wagner writes "Jesus left the believers when he died, but after the resurrection he returned to be with them forever. His physical 'with-ness' was transformed by the resurrection into a constant spiritual parousia" see Wagner, 9 and cites John 3 and 11 as evidence.

⁵⁸ Carroll, 198.

⁵⁹ For a thorough discussion of this see Wagner, 63–65, and the subsequent chapters that deal with the second-century focus on theology.

the second century saw the emergence of intense theological focus, creativity, and distinct Christian sects.

The Perennial Questions of Delay. We have already alluded to the fact that each successive generation born within an eschatological community renews and redresses the paradox created by apocalyptic prophecy and delay. As delay and expectation are perpetuated so are the questions, fears, and doubts that are associated, and each new generation asks these same questions and is forced to confront them anew. The answers and treatment of these questions given by the previous generation do not eliminate the need of the successive generation to ask them again. This is true even if the successive generation appears to merely adopt the same positions. Before such an adoption can take place there is a necessary crisis and struggle required in which the faith of each generation is always tried.

Wagner articulates a host of these perennial questions worth repeating here:

Were Jesus' critics and opponents right when they said that Jesus and his followers were wrong? Was Christianity a mistake or, worse, a fraud? Were the arguments within congregations signs of disunity, a telltale mark of error? . . . What should Christians do when those who spoke in tongues of angels claimed that the congregation's leaders were not valid authorities, or that Jesus was not raised from the dead? How should believers regard sinners in their own ranks—didn't baptism drown sinful desires among Christians? Where was Jesus now that they needed him? Indeed, who was Jesus, and how did he relate to God and humanity? What is evil, and what is God or Jesus doing about it? Who are we—as humans and as believers? What are we doing in and through the church? How do we live now? Is the kingdom still coming, is it here already, or is another kind of future than we expected in store for us?⁶⁰

⁶⁰ Wagner, 7–8.

Just as the majority opinion often cycled concerning the proper set of beliefs on the spectrum of parousia interpretation, various positions being emphasized at different times, so too certain periods in Christian history have felt the weight of these questions more keenly than others. The time of the Reformation and the writings of Martin Luther are illustrative. It does not appear that Luther's faith in God or the eventual parousia was ever shaken by these questions, but it is obvious that these questions weighed heavily on him, resulting in an intense longing for the Day of the Lord. The older he grew, the more convinced he was that the world, and specifically Christianity, had reached a point of absolute inability to solve its problems, and he yearned only for the parousia. "It [the world] is the devil's child. . . . [I]t cannot be helped nor advised." "Therefore I know of no other advice and help than the coming of the Last Day." "Help, dear Lord God, that the blessed day of your holy future will soon come."⁶¹

Due to the perennial nature of these questions, an incredible amount of literature has been published in the twentieth century concerning the various sects of contemporary Christianity and their response. Unique among all of this, however, are the writings of Mormonism's nineteenth- and twentieth- century prophets, beginning with Joseph Smith. It is to the parallels between initial and restored Christianity and Mormonism's treatment of the questions of delay that we now turn our attention.

Initial and Restored Christianity

It is tremendously ironic that philosophy's "death of God" and the onset of nihilism occurs almost synonymously with Joseph Smith's audacious declaration, "I saw two Personages, whose brightness and glory defy all description, standing above me in the

⁶¹ Quoted in Johann Heinz, "The 'summer that will never end.' Luther's Longing for the 'dear last day' in His Sermon on Luke 21 (1531)," *Andrews University Seminary Studies* 23 (1985): 182.

air. One of them spake unto me, calling me by name and said, pointing to the other—*This is My Beloved Son. Hear Him!*⁶² Joseph declared unabashedly that on numerous occasions he had seen and spoken with the Father and the Son, angels, prophets and peoples of past dispensations, and that revelations from the Holy Ghost flowed before him almost constantly.⁶³ On one occasion the prophet said, “It is my meditation all the day, and more than my meat and drink, to know how I shall make the Saints of God comprehend the visions that roll like an overflowing surge before my mind.”⁶⁴ He was a prophet of God, called to gather a people of the Lord and prepare the earth for the Second Coming of Jesus Christ. From what he wrote of his experiences, beginning with his second vision (this one of an angel that appeared to him five times in less than twenty-four hours), the heavenly message that Joseph received was that the prophecies were shortly to be fulfilled—now was the time immediately preceding the parousia. The heavens were opened. God had again called a prophet and established his people. The parousia was near at hand.

Despite the triumph of this message (or rather because of it), the event of the Restoration directly parallels the scene in Acts that we began with. Christ had come, had triumphed, his kingdom was here upon the earth, and all that was left was to prepare and wait for the Second Coming. So also with Joseph’s message: Christ had appeared again and God spoke with man, after a long night of darkness his kingdom was again established, now all that was left was to prepare and wait for the Second Coming. Both the establishment of early Christianity and its Restoration some eighteen-hundred years later proclaimed: victory has already been secured! now wait . . .

⁶² JS-H 1:17.

⁶³ See D&C 121:33, 45 and 128:19–21.

⁶⁴ Larry H. Dahl, *Encyclopedia of Joseph Smith’s Teachings* (Salt Lake City: Deseret Book., 2000), 576.

Latter-day Saint Scripture. Along with the Old and New Testament, Latter-day Saint scripture⁶⁵ is replete with eschatology and prophecy of the End. The Book of Mormon claims specifically to be written for the last days. Much of it is addressed personally to those who are reading it in the last days: “Behold, I speak unto you as if ye were present, and yet ye are not. But behold, Jesus Christ hath shown you unto me, and I know your doing.”⁶⁶ Among the apocalyptic prophecies that list the signs of the last days are prophecies specifically about the founding of America and The Church of Jesus Christ of Latter-day Saints being established. Furthermore, the Book of Mormon claims that its coming forth to the world is itself a sign that Jesus Christ is about to make his second appearance.⁶⁷

It is difficult to imagine a more eschatological book, one that places more emphasis on the imminent return of the Savior, than the Doctrine and Covenants. Over and over the message is repeated that Christ comes quickly, a common way of ending the revelations contained therein.⁶⁸ The preface to the Doctrine and Covenants (Section 1), explicitly declares that the Restoration has taken place in order that faith be increased, God’s everlasting covenant be established, and the gospel proclaimed to all the world so that Lord may come down and “and reign in their midst.”⁶⁹

⁶⁵ Essentially three books: the Book of Mormon, Doctrine and Covenants, and the Pearl of Great Price.

⁶⁶ Mormon 8:35

⁶⁷ See 3 Nephi 21.

⁶⁸ For example, see the end of sections 2, 33, 34, 35, 36, and 39. This phrase or idea (“I come quickly”) exists in numerous other revelations both as an ending and a central message.

⁶⁹ See D&C 1:17–36.

The Pearl of Great Price prophecies—from both an ancient and a modern perspective—of the Second Coming of Christ.⁷⁰ Joseph took special care to “re-translate”⁷¹ Matthew 24, one of the most eschatological chapters in the New Testament. This translation, like its biblical equivalent, emphasizes the signs preceding the parousia and was later canonized by the Church as a part of the Pearl of Great Price.⁷²

Ties to Judaism. All of the parallels that exist between ancient Judaism and Christianity also exist between Judaism and restored Christianity. The restored church is, in many respects, considered an Old Testament church: emphasizing prophets, priesthood, temples, and a direct covenant relationship between God and his people. Also, like its early counterpart, the restored church has always been conscious of its significant ties to Judaism. Many of the Book of Mormon prophecies and the revelations in the Doctrine and Covenants concern the “gathering in” of the Jews into the new and everlasting covenant established in the last days.⁷³ The Church has taken these prophecies literally and has made many attempts to actively proselytize the Jews. Joseph Smith even sent Orson Hyde, one of the Church’s early apostles, to Jerusalem to dedicate the Holy Land for the return of the Jews.⁷⁴

Furthermore, Church members see themselves as kin to the Jews, as members of the other tribes of Israel. Since the Church’s founding, members have received Patriarchal Blessings in which

⁷⁰ See Moses 7 and JS-H 1:27–54

⁷¹ Joseph’s translation of the Bible was a spiritual, not a scholarly, process.

⁷² It is interesting to note that this eschatological chapter is the only one of Joseph’s retranslated sections of the Bible to be canonized.

⁷³ For example, see the title page of the Book of Mormon, 2 Nephi 29, and D&C 45.

⁷⁴ See *History of the Church*, 4:106, 114, 454–459.

their lineage in the House of Israel is declared.⁷⁵ The latter-day prophecies concerning the gathering that will take place preceding the Second Coming speak of the gathering of all of the House of Israel, though special emphasis is often given to the Jews and their “rejoining” of sorts with the House of Israel.⁷⁶ Consequently, many members of the Church see themselves as family members who need to take the gospel to their lost (or apostate) first cousins. This service is seen as both a duty and a direct fulfillment of scriptural prophecy concerning the end of times.

Finally, the restored church sees itself in the same position as ancient Judaism, awaiting the redemption of Israel. This redemption is to take place as both Jews and the lost tribes of Israel are “gathered in.” This theme is also commonly portrayed in Mormon hymns.⁷⁷ These grand events—eschatologically tied to the coming of the Messiah as prophesied in both ancient and modern scripture—will mark the setting up of a redeemed Israel as a kingdom of priests and an holy nation, with the Messiah reigning personally in their midst.⁷⁸

Literal, Imminent Parousia. It has already been noted that much of Mormon scripture is filled with prophecies concerning Christ’s literal coming. As witnessed in the Doctrine and Covenants, the literal establishment of the city New Jerusalem with its temple—a city wherein Jesus Christ himself would dwell and reign over the earth—was crucial in the early days of the Church. The location for this city and its temple were given in

⁷⁵ Patriarchal Blessings are personalized blessings given to members of restored Church who seek them. These blessings are pronounced by special priesthood holders, and many members of the Church consider these blessings as personal scripture.

⁷⁶ See 1 Nephi 15:19–20, D&C 14:10, 19:27, 90:9, 98:17, 107:33–34, and 133:8.

⁷⁷ For example, see *Hymns of The Church of Jesus Christ of Latter-day Saints* (Salt Lake City: The Church of Jesus Christ of Latter-day Saints, 1985), 1, 6, 7, 13, 40, 54, 50, 319, and 327.

⁷⁸ See Exodus 19:6 and D&C 133:25–36.

D&C 57. In Section 84, the Lord says, “Verily this is the word of the Lord, that the city New Jerusalem shall be built by the gathering of the saints, beginning at this place, even the place of the temple, which temple shall be reared in this generation. For verily this generation shall not all pass away until an house shall be built unto the Lord, and a cloud shall rest upon it, which cloud shall be even the glory of the Lord, which shall fill the house.” This aspect of *where* in the parousia seems to be unique to Mormonism in modern times, paralleling the ancient Christian expectation that Christ would return to the exact spot of the Mount of Olives. Clearly the wording suggests an imminent occurrence of these events. Consequently, the Church took this wording literally.

Joseph Smith himself appears to have believed that the event would occur in his lifetime—from at least age seventeen he received frequent visits from heavenly messengers proclaiming the imminent nature of Christ’s coming. He often sought revelation concerning the matter. Joseph’s only answer was a vague reference to the possibility of the parousia’s occurring later in his life, if he lived so long.⁷⁹ Nevertheless, it was the subject of many of Joseph’s sermons and he often preached concerning the parousia’s imminent reality.⁸⁰

Both early and restored Christianity’s belief in an imminent parousia has made them active proselytizing churches. Ever since Samuel H. Smith, Joseph’s brother, started out on a mission immediately following the publication of the Book of Mormon, there have been missionaries of the Church going out across the world seeking converts. In John Taylor’s epithet of Joseph and his brother Hyrum, recorded as D&C 135, he writes that while alive Joseph “sent the fullness of the everlasting gospel . . . to the four quarters of the earth.” Indeed, missionaries had been sent all over the world during Joseph’s life and have since covered far more

⁷⁹ This revelation is mentioned in D&C 130:14–17.

⁸⁰ For numerous examples, see Dahl 619–625.

ground. There are close to sixty thousand missionaries today. There is a fervor and enthusiasm that exists in the Church concerning missionary work. This enthusiasm is reflected in both Mormon pop-culture⁸¹ and the sermons of contemporary church authorities.⁸²

Concerning missionary work, however, there exists one unique difference between early and restored Christianity. Many scholars have noted that early Christianity expected the end of the world, not its conversion. Mormonism, on the other hand, expects the conversion of the world preceding and as part of the end of the world. The prophet Joseph writes, "I calculate to be one of the instruments in setting up the kingdom of Daniel by the word of the Lord, and I intend to lay a foundation that will revolutionize the whole world."⁸³ Daniel 7:13-14 contains a vision of the Messiah's coming at which point he was given a kingdom of people, nations, and languages. Joseph's intention was to literally build such a kingdom here and now that could be turned over to the Lord at his coming. This Church was to be the stone cut out of the mountain without hands that would role to fill the whole earth.

Historical Effects and Delay. Despite the fervent expectation of imminent parousia, there has also existed a note of caution from the beginning: we do not know exactly when Christ will come again and we must not let expectation distract us from our work. After the revelation given as D&C 130 (in which Joseph is told that if he lives to be eighty-five he would see the face of the Son of Man) Joseph began to assume that Christ would indeed be coming back toward the end of the nineteenth century. In the

⁸¹ LDS bookstores are now filled with various books, posters, t-shirts, bumper stickers, etc., all containing various missionary messages and logos.

⁸² As recent as the October 2002 General Conference, the Church has made major reforms in the missionary program in order to emphasize the sacred nature of proselytizing in preparation for Christ's Second Coming.

⁸³ *History of the Church* 6:364.

early 1840s William Miller began to preach that he had calculated from biblical prophecies that the parousia would take place in 1843 or 1844. Joseph refuted his claim saying, “I also prophesy, in the name of the Lord, that Christ will not come in forty years; and if God ever spoke by my mouth, He will not come in that length of time.”⁸⁴ In 1835, he said “fifty-six years should wind up the scene.”⁸⁵ Thus, although there remained an imminent expectation, that expectation began to be softened, and members of the Church began to look toward the end of the century as the long awaited end. Latter-day prophets since have all spoken of the parousia ambiguously, encouraging the Saints to prepare while warning them against overzealous expectation.⁸⁶

Latter-day Saint scriptures themselves, though prophesying of an imminent end, also allude to the fact that there will be a delay. Concerning the parousia, D&C 63:35 states, “And behold, this is not yet, but by and by.” After being driven out of Missouri (the *place* of Christ’s return) the Lord says in D&C 100:13 that “Zion shall be redeemed, although she is chastened for a little season.” Section 58 is perhaps the most explicit. Verses 3–4 speak of a time of tribulation and testing that the Church will undergo before Christ’s coming, for “the hour is not yet.” Speaking of the inheritance of the land of Zion in Missouri (this time *before* the Saints are driven out) in 58:44 the Lord says, “the time has not yet come, *for many years*, for them to receive their inheritance in this land.”

⁸⁴ *Ibid.*, 6:254. It should be noted that Miller is a rather insignificant figure in Church history, and it should not be assumed that he helped to shape Mormon expectation of the parousia. He is mentioned here only in the context of pointing out Joseph’s belief that Christ would not be coming until at least the latter end of the nineteenth century.

⁸⁵ *Ibid.*, 2:182.

⁸⁶ A perfect example of this can be seen in several of President Hinckley’s recent General Conference addresses. While specifically stating that he is not prophesying an immediate end, he has nevertheless repeatedly warned the saints to get their houses in order, making several references to Pharaoh’s dream of the seven years of plenty vs. the seven years of famine.

The saints themselves have undergone periods of intense historical expectation wherein they felt the events of the Second Coming were upon them. Then, in similar fashion to the Saints of early Christianity, they had to adjust their outlook to accommodate their error in judgment. 1830-1832 was a period of intense expectation. Numerous articles were published in the Church periodical *The Evening and Morning Star* on the subject of the Second Coming. In each edition there was a listing of various "signs of the times" that had been or were currently being fulfilled.⁸⁷ Joseph Smith himself was anxious concerning such signs in the early 1830s. He records the experience of being awoken at 4 A.M. by a Brother Davis to witness a meteor shower. Watching the "stars fall from heaven" he noted that it was "a sure sign that the coming of Christ is close at hand."⁸⁸ As we've already noted, this period of intense expectation seems to have tapered off toward the latter end of the 1830s as Joseph began to emphasize his knowledge that Christ wouldn't come at least until Joseph was eighty-five years old.

Keith E. Norman attempts to catalogue various periods of intense expectation in Mormon history in his article "How Long O Lord: The Delay of Parousia in Mormonism." He cites Zion's Camp, the Civil War, and the clashes between Church leaders and the U.S. government over polygamy around the turn of the century (which coincided exactly with Joseph's eighty-fifth birthday) all as examples of intense expectation.⁸⁹ Despite the fact that in each of these periods of time there were yet signs that had not been fulfilled, the political turmoil and the threat of the destruction of the Mormon people were enough to convince many that these were the most blatant of signs and that the only solution to

⁸⁷ For a discussion of this, see Glen M. Leonard, "Early Saints and the Millennium," *Ensign* (Aug. 1979), 44.

⁸⁸ *History of the Church*, 1:439-40.

⁸⁹ Keith E. Norman, "How Long O Lord: The Delay of Parousia in Mormonism," *Sunstone* 8 no. 1 (1983): 51-55

these problems was the return of the Savior. Following each of these and other periods of tragedy (such as the Missouri expulsion and Joseph's and Hyrum's martyrdom) the membership of the Church underwent the same examining of the perennial questions that we listed above. Were the enemies of the Church right? Was Joseph really a fraud? Had God abandon them? Were they a fallen people? Was Christ real and really coming back? Did they perhaps fundamentally misunderstand what the parousia was?

The perennial questions, however, have not brought on a decrease in imminent expectation. Each new generation grows up convinced that they are the chosen generation to usher in the Second Advent.⁹⁰ This message is even preached from the pulpit. Coupled with the Mormon doctrine of the pre-mortal existence, this message is often delivered in the context of the rising generation being special spirits reserved to come down to earth at this exact time so as to heroically bring about the events necessary for Christ's second coming. At times this message is greatly exaggerated and various falsified prophetic quotes are widely circulated among members of the Church. Other manifestations of expectation are prevalent in Mormon pop-culture as well. Sensationalistic books are read and raved about. Folklore and faith-promoting rumors concerning Christ's coming are widely popular topics of conversation. Everyone knows someone who knows someone whose Patriarchal Blessing states that some major event will happen in a few short years and the Second Coming will be ushered in. Current affairs are always interpreted as fulfillment of scriptural prophecy, often from cryptic passages in Revelation or Isaiah. Multiple and creative ways for the temples to be built in Jerusalem

⁹⁰ My mother has often noted to me that the young always think Christ will be coming within a handful of years while the old think that his coming will yet be a while. Although her observation is not true in every instance, it is a fairly astute generalization.

and Missouri are invented (at times, the stories claim that the temple is actually being built). It is common to find Latter-day Saints, old and young, discussing such things in genuine excitement and expectation.

The Essential Element of Delay. Early Christianity was established and then charged by Jesus Christ (his last message and counsel) to take the gospel to all the world. The New Testament declares our above-discussed irony of the past triumph of Jesus and his future coming. It both declares the divinity of Jesus Christ, a document of testimony to all the world, and gives instruction on how to live faithfully while awaiting the parousia. We have noted the necessary nature of this wait, of the delay in Christ's parousia: Christianity is the kingdom set up in order to faithfully await, to be a light set up on a hill, an organization of faith and expectation. When the waiting is concluded, in a very real sense, so is the purpose of Christianity as an earthly religion.

This element of necessary delay is even more conspicuous within the Church today. Restored Christianity is The Church of Jesus Christ of *Latter-day* Saints. The Church is set up explicitly for the purpose of preparing the earth for the parousia. It was established in the "latter days," the days immediately prior to Christ's Second Coming. In the Lord's preface to the Doctrine and Covenants, Section 1, he declares that this Church has been set up specifically to be a refuge for the righteous from the "calamity" of the end of times. Missionary work is emphasized in revelations given to the Church even before its official founding.⁹¹ As we have already seen, Church leaders continue to emphasize this important point of missionary work. This Church is the stone that Daniel saw, cut out without hands, which will role forth to encompass the earth.⁹²

⁹¹ D&C 4, 12–17.

⁹² See Doctrine and Covenants Student Manual, (Salt Lake City: Intellectual Reserve, 1981), 367 for numerous quotes by Church leaders concerning this point.

Thus, not only is the Church itself specifically a pre-parousia entity, it is one that has been given a detailed commission of preparation. The concept of this pre-parousia mission is a very literal one: Zion is to be built below in order to receive the Zion (the heavenly city of Enoch) that will descend from above. Christ is to have his kingdom here waiting for him when he returns. These marvelous events prophesied in scripture concerning the days immediately prior to the second coming are not to be brought about solely by heavenly powers:

And now, I ask, how righteousness and truth are going to sweep the earth as with a flood? I will answer. Men and angels are to be co-workers in bringing to pass this great work, and Zion is to be prepared, even a new Jerusalem, for the elect that are to be gathered from the four quarters of the earth, and to be established an holy city, for the tabernacle of the Lord shall be with them.⁹³

Furthermore the Prophet Joseph declared, “We ought to have the building up of Zion as our greatest object.”⁹⁴ And again:

It is left for us to see, participate in and help to roll forward the Latter-day glory . . . when the Saints of God will be gathered in one from every nation, and kindred, and people, and tongue . . . the Spirit of God will also dwell with His people . . . and all things whether in heaven or on earth will be in one, even in Christ. The heavenly Priesthood will unite with the earthly, to bring about those great purposes; and whilst we are thus united in one common cause, to roll forth the kingdom of God, the heavenly Priesthood are not idle spectators, the Spirit of God will be showered down from above and it will dwell in our midst.⁹⁵

⁹³ *History of the Church* 2:254, 260.

⁹⁴ *Ibid.*, 3:233.

⁹⁵ *Ibid.*, 4:609–10.

Thus, the Latter-day waiting is to be a waiting of work, of building up Zion in preparation for Christ's descent. Furthermore, a direct spiritual link is to continue between the work taking place on earth and the work taking place in heaven. This period of delay, of waiting-working, is the mission and content of the restored church, a vital part of its essence.

Meaning of Delay. The last quote from the Prophet Joseph Smith hints at the meaning of delay in the restored church. Responses to the delay of parousia within the Church run the same spectrum that we have already observed in early Christianity. But the message of parousia from the early days of the Church has always been one of work and of a uniting of the heavenly and the earthly. Hence, the first building that the Church built was a temple, a House of the Lord wherein the Savior could visit his people. In D&C 97:16, concerning the building of this first temple, the Lord said, "Yea, and my presence shall be there, for I will come into it, and all the pure in heart that shall come into it shall see God." This is the great promise of temple work, a promise that has been and continues to be literally fulfilled.

Early Christianity adopted the interpretation of parousia in death, an event that will come suddenly to each Christian and for which he or she must be prepared. Death was a literal advent wherein the deceased would be confronted by their Savior. This continues to be a valid and important interpretation today. However, the message of the restored gospel is to prepare for a union with the Savior in *life* and not just in *death*. "Then I would exhort you to go on and continue to call upon God until you make your calling and election sure for yourselves, by obtaining this more sure word of prophecy, and wait patiently for the promise until you obtain it."⁹⁶ Again, the Prophet Joseph has said, "Oh! I beseech you to go forward, go forward and make your calling

⁹⁶ *Ibid.*, 5:389

and your election sure.”⁹⁷ One’s calling and election made sure means to “hear the voice [of God] declare to you, You have a part and lot in [his] kingdom,”⁹⁸ to see the face of God and live, to be ushered into the heavenly presence of the Lord and have your salvation secured.⁹⁹ We believe in the literal and immediate parousia of the faithful, in their union with Christ now—not just in a spiritual sense, but in a very literal and physical sense. Just as the prophets of the Old Testament, members of restored Christianity go to the “Mountain of the Lord’s House”—the temples—in order to commune with God. The event of parousia is performed ritualistically in temples all across the earth as members prepare for and strive towards its reality. Thus, regardless of when the future, physical descent of Christ to the earth will be, each of us is striving toward an immediate, physical ascent to meet with Christ in heaven.

⁹⁷ *Ibid.*, 6:365

⁹⁸ *Ibid.*, 5:403

⁹⁹ See D&C 84:19–24.

BOOK REVIEW

This section is intended to inform the reader concerning works recently published by leading scholars within the various fields of ancient studies. Readers are invited to submit proposals for reviews of exceptional works they have read to studia_antiqua@yahoo.com.

Bart D. Ehrman. *Jesus: Apocalyptic Prophet of the New Millennium*
Oxford: Oxford University Press, 1999.

Reviewed by David M. Staheli

Bart D. Ehrman's *Jesus: Apocalyptic Prophet of the New Millennium* is a work intended to explain to a broad, non-scholar audience one interpretation of Jesus in light of his eschatological teachings. It is a solid work of scholarship designed for non-specialists that is a very enjoyable read but also a profound and thought provoking work that inspires reflection on an oft-neglected facet of Jesus' teachings.

First, a word to this review's predominantly believing audience. Dr. Ehrman is an historian, and as such abstains from assessing any supernatural or metaphysical aspects of Jesus' life, ministry, miracles, or atonement. He studiously refrains from any faith-based judgments. He approaches Jesus as a historical figure known to us through texts written decades after Christ's life by disciples who have a vested interest in portraying Jesus as the Son of God. To those of us who accept the divinity of Jesus Christ there is some dissonance between common scholarly discourse, which makes no evaluation of faith judgments, and the language of faith, for which such judgments are central. Those who wish to have their faith lend power to their scholarship must be bilingual in the languages of faith and scholarship but speak scholarship only as a second language and with a thick faith-founded accent.

All that being said, this book is a fine work, and I highly recommend it to any who have an interest in the field of New Testament studies. Dr. Ehrman's wry sense of humor throughout is a breath of fresh air in the often stodgy atmosphere of such works. His premise in the book is that Jesus, the man, is best understood to be one

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in a long line of Jewish prophets who understood that God was soon going to intervene in this world, overthrow the forces of evil that ran it, and bring in a new kingdom in which there would be no more war, disease, catastrophe, despair, hatred, sin, or death. And Jesus maintained that this new kingdom was coming soon, that in fact his own generation would see it. To that extent, at least, he was not so different from the predictors of the end who have numbered themselves among his followers ever since.¹

In laying out his argument, he briefly explains some very important ideas in NT scholarship. He explains the problem of historicity in works that have history serving a theological purpose than theology slavishly following history. He briefly explains the documentary hypothesis of the composition of the gospels and some tools of textual criticism, and uses M, L, and Q throughout. And he also speaks of the question of authorship of the gospels affecting the way individuals should read and understand them.

He uses a number of criteria to show that the historical Jesus best fits the mold of a Jewish apocalypticist, including: the adoption of many themes of apocalypticism (e.g. cosmic dualism, historical pessimism, and ultimate vindication), Jesus' belief in the imminence of the coming of the Son of Man, and his teachings about the kingdom of heaven.

Ultimately, Dr. Ehrman's conclusions cannot be entirely accepted by those who believe that Jesus is himself the Son of Man, and that Jesus was anticipating his own second coming and not the coming of an apocalyptic figure that would change the course of history in such a dramatic fashion, but the issues he raises, the foundation he sets, and the reflection he inspires makes this book a valuable and worthwhile read.

¹ Bart D. Ehrman, *Jesus: Apocalyptic Prophet of the New Millennium* (Oxford: Oxford University Press, 1999), 21.

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