

# *Korban* and the Pharisaic *Paradosis*

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One of the characteristics of Elias Bickerman's contributions to understanding the New Testament was his consistent interest in Patristic exegesis. Bickerman used the insights of the Fathers again and again as a means of approaching passages in the New Testament.<sup>1</sup> Matters which the Fathers found straightforward but which seem difficult to us were occasions for him to ask whether our difficulty was the product of misinformation or misguided learning.<sup>2</sup> Conversely, verses which the Fathers found problematic were excellent places for a historian to invest the effort of attempting to resolve a genuine difficulty.<sup>3</sup>

It is in this spirit that I offer the analysis of the gospel passages concerning *korban* (Matt. 15:5; Mark 7:11) presented below. The case of *korban* occupies a crucial place in the debates between Jesus<sup>4</sup> and the Pharisees: it serves as unanswered proof that the Pharisees are deserting the true law of God to follow their own manmade tradition.<sup>5</sup> In spite of this central position, the details of the Pharisaic interpretation of *korban* were already unclear in antiquity. The great exegete Origen noted that the matter of *korban* was rather obscurely put (*asaphesteron*) in the gospels; he conceded that the interpretation he offered was one of which he would never have thought, had he not learned it from a Jewish informant.<sup>6</sup>

Our ability to understand these difficult passages has been considerably enhanced in recent years. First and foremost is the benefit we can derive from the major discussion

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1 E. J. Bickerman, "Das Messiasgeheimnis und die Komposition des Markusevangeliums," *Studies in Jewish and Christian History* (Leiden, 1976-86), 3:34.

2 E. J. Bickerman, "Utilitas Crucis," *Studies*, 3:86-90, 126-27; "The Name of the Christians," *Studies*, 3:142-143; see also "Sur la Version Vieux-Russe de Flavius Josephe," *Studies*, 3:184.

3 E. J. Bickerman, "Jean Baptiste au Desert," *Studies*, 3:7-21; "Latens Deus," *Studies*, 3:53-69.

4 Throughout this paper, Jesus refers to the figure presented to us by the stories in the gospels. I thereby intend no claim concerning the complicated questions of the historical Jesus. Compare the remarks of G. Vermes, *Jesus the Jew* (London, 1973), 19-20. For a discussion of the passages treated in this article from the vantage point of research into the historical Jesus see J. Lambrecht, "Jesus and the Law: An Investigation of Mk. 7,1-23," *Ephemerides Theologicae Lovanensis* 53 (1977), 24-82. Appropriately enough, Lambrecht is unconcerned with the question of understanding *korban* as I have posed it. See his remark, "Jesus and the Law," 49, n. 80: "In the context of this study we need not consider the problems concerning this Jewish vow."

5 See further A. I. Baumgarten, "The Pharisaic *Paradosis*," *HTR* 79 (1986).

6 Origen, *Comm. on Matt.* 15:1 (*GCS* 40.48); Jerome, in his comments on the same verse (*CCL* 77.128) follows Origen. On Origen's Jewish informants see further N. de Lange, *Origen and the Jews* (Cambridge, 1976), 21-28. For interpretations of Origen's comments on Matt. 15:1 see further below; de Lange, *Origen*, 41;

of Rabbinic law concerning vows and oaths by Saul Lieberman.<sup>7</sup> Secondly, the Dead Sea Scrolls and archaeological finds give us further information concerning Jewish practice during the period of the Second Temple. All the resources available have not yet been brought to bear in elucidating the gospel passages on *korban*.<sup>8</sup> Our efforts must therefore begin with an attempt to gather all the information, so that the legal background behind the gospel verses is as fully understood as possible.

## I

The main thrust of Rabbinic legislation concerning oaths is characterized by Lieberman as follows:

The learned Rabbis were confronted with a double task. On the one hand, they had to emphasize the sacredness of the oath, the necessity of avoiding it and the evil consequences of transgressing it. On the other hand, they had to keep the unbridled zeal of the populace in check, to teach them to distinguish between valid oaths and meaningless outbursts of supposedly holy words.<sup>9</sup>

In this spirit, I should like to consider three aspects of the Rabbinic discussion of *korban*. First, *korban* could be a formula of actual dedication to the Temple. Second, *korban* could be a vow formula, by which some object was forbidden to oneself or to another person in the same way in which a dedicated animal is forbidden (כקרבן); in this second sense, it was not necessary to state that the object was *like a korban*, because קרבן כאומר כקרבן (p. Ned. 1.4.37a). *Korban* in oath formulas, the third sense,<sup>10</sup> posed more complicated problems. The Rabbis would not admit the validity of oaths sworn explicitly by the *korban*. Nevertheless, vaguer formulas such as "*Korban* be that which I might eat of you," bind the person. They do so, however, not as oaths but as vows; that is, since a valid vow can be made by means of the mere statement that an object is *korban* (the second sense above), the Rabbis treated the vague oath formula as if it were a valid vow, and the person is obliged to do as he has spoken. In dealing with *korban* in

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and A. von Harnack, *Der Kirchengeschichtliche Ertrag der exegetischen Arbeiten des Origenes: Teil III, Texte und Untersuchungen* 42, 4 (Leipzig, 1919), 21-22. Chrysostom explains the passages by supplying a fact not mentioned in the texts: the son has vowed to God an animal he should have used to support his parents, and then does not fulfill his vow; the son has thus sinned against God (by not fulfilling the vow), and against his parents (by depriving them of the support due). Chrysostom does not claim that the Pharisees encouraged or even condoned such behavior on the part of sons, and thus fails to explain the polemical use of *korban* by Jesus to defend his disciples against the Pharisees. Chrysostom, *Hom. LI, 2 in Matt.* (PG 58.511-12).

7 S. Lieberman, *Greek in Jewish Palestine* (New York, 1965), 115-43.

8 Lieberman's contribution, in particular, has been neglected. See J. Greenfield's review of J. A. Fitzmyer, *Essays on the Semitic Background of the New Testament* (London, 1971), in *JNES* 35 (1976), 60. Another discussion of our topic which would have benefited from Lieberman is H. Hübner, *Gesetz in der synoptischen Tradition* (Witten, 1973), 147-52.

9 Lieberman, *Greek*, 115. On the overinclination to indulge in Nazirite vows see D. Halivni, "On the Supposed Anti-Asceticism or Anti-Nazirism of Simon the Just," *JQR* 58 (1967/68), 247-50.

10 The distinction between vows and oaths was not maintained by all Jews of antiquity. Even the Rabbis themselves use vow type language in oath formulas, probably following popular use. See Lieberman, *Greek*, 117-119.

oaths we see clearly the concern of the Rabbis to teach the distinction between “valid oaths and meaningless outbursts of supposedly holy words.”<sup>11</sup>

The Rabbinic legislation summarized above reflects the practice of Jews in the Second Temple period.<sup>12</sup> Josephus tells us that people would “describe themselves as *korban* to God—meaning what the Greeks would call a gift.” If someone who had made such a dedication desired to be relieved of it he had to pay a fixed sum to the priests (*AJ* 4.73, based on Lev. 27:1–9).<sup>13</sup> Excavations in Jerusalem close to the Temple precinct have revealed a fragment of a stone vessel inscribed *korban*. This vessel, on which the outline of two birds was engraved, must have been used to present bird sacrifices to the Temple.<sup>14</sup> Josephus and the vessel thus attest to the first sense of *korban* discussed above.

The second sense, in which something is forbidden from use as if it were a *korban*, is found most clearly in the Jebel Hallet et Turi ossuary: “Everything which a man will find to his profit in this ossuary is an offering to God from the one within it (קרבן אלה) (מן דבגורה).”<sup>15</sup> Actual dedication to the Temple cannot have been intended: what would the Temple do with an ossuary containing the remains of the deceased? Moreover, sepulchral inscriptions usually warn against disturbing the grave;<sup>16</sup> the person buried did not want his remains disturbed and the ossuary reused. The intention in our inscription cannot have been to actually dedicate the ossuary and its contents to the Temple. I therefore propose that we understand קרבן in the inscription as כקרבן. That is, we should understand the inscription according to the principle enunciated by the Rabbis (discussed above): קרבן כאומר כקרבן, and translate the second line “is (*like*) an offering to God from the one within it”;<sup>17</sup> the inscription thus provides explicit Second Temple attestation to the existence of the principle we learn from later Rabbinic texts (see also n. 12 above). The deceased, or those who prepared him for reburial,<sup>18</sup> attempted to insure eternal undisturbed peace by forbidding the reuse of the ossuary as if it were a *korban*.<sup>19</sup>

11 This entire paragraph is based on the discussion in Lieberman, *Greek*, 128–32.

12 Fundamental to Lieberman’s discussion is the conviction that the Rabbinic evidence is not academic, but reflects reality. See, e.g., his remark, *Greek*, 120, “It is certain that Talmudic literature preserved only part of the popular swearing vocabulary.”

13 This sense of *korban* led to its being used as a synonym for the Temple treasury: Josephus, *BJ* 2.175 and *Matt.* 27:6; Lieberman, *Greek*, 134.

14 B. Mazar, “The Excavations South and West of the Temple Mount Jerusalem: The Herodian Period,” *BA* 33 (1970), 55.

15 J. A. Fitzmyer and D. J. Harrington, *A Manual of Palestinian Aramaic Texts* (Rome, 1978), #69. See also the discussion and bibliography, 222–23.

16 See, e.g., inscriptions #67, 70 and 71 in Fitzmyer-Harrington, *Manual*.

17 Cf. J. D. Derrett, “*Korban*,” *NTS* 16 (1969/70), 367. It is not a matter of *inserting* “like,” but of following the Rabbis in understanding קרבן כקרבן. See also Z. W. Falk, “Notes and Observations on Talmudic Vows,” *HTR* 59 (1966), 311–312.

18 It is a bit difficult to imagine that someone, before he died, had the foresight to vow forbidding the reuse of the ossuary in which his remains would be reburied. It seems simpler to suppose that those who made the vow were the people who prepared the bones for reburial. In that case, מן דבגורה cannot be understood as “from the one within it,” but should be taken together with the beginning of the first line of the inscription as referring back to “this ossuary (בהלתה דה).” I owe these observations to a suggestion of Prof. J. Greenfield.

19 Derrett, “*Korban*,” 367 suggests that such a vow would not deter grave robbers. The ineffectiveness of such a formula is, in his opinion, an argument against interpretations such as I have proposed. I would

Philo's discussion of vows in *Hyp.* 7.4–5<sup>20</sup> is more difficult to place within the categories we have been employing.<sup>21</sup> Philo writes that a “chance word of dedication spoken unawares” deprives a person of the use of his possessions. Moreover, “if a man has devoted his wife's sustenance to a sacred purpose he must refrain from giving her that sustenance; so with a father's gifts to his son, or a ruler's to his subjects.” What is unclear from our point of view is whether Philo envisages actual dedication to the Temple (our first sense of *korban* above), or the forbidding of objects from use as if they were *korban* (the second sense above), or both.

The use of *korban* in oaths, with or without the limiting distinctions imposed by the Rabbis, is well illustrated by a passage from Theophrastus cited by Josephus: “the laws of the Tyrians prohibit the use of foreign oaths . . . which . . . includes among others the oaths called Corban.”<sup>22</sup> This oath, as Josephus notes, is uniquely Jewish.<sup>23</sup>

## II

According to the Bible, vows and oaths were to be scrupulously fulfilled (Num. 30). Jews of the Second Temple period, nevertheless, knew of several ways by which one might be absolved of the obligation to fulfill a vow.

The Damascus Covenant specifies that Jews are not to dedicate property illegally acquired to the altar. The continuation of the text is a bit defective, but it would seem that the priests are also commanded not to accept such dedications.<sup>24</sup>

Philo knows of two ways<sup>25</sup> of release (*eklysis*)<sup>26</sup> from a vow: “the chief and most perfect way of releasing dedicated property is by the priest refusing it, for he is empowered by God to accept it or not (*Hyp.* 7.5).” Philo does not specify whether the priest may only refuse a dedication in certain circumstances (cf. the Damascus Covenant above), or whether the priest need not justify his refusal. Philo's silence seems to suggest the latter. If so, priestly refusal would be a readily accessible means of release from a vow.<sup>27</sup>

respond that it is hard to know which superstitious sanctions will be effective and which not. In addition, according to the Mishnah (Ned. 3.4) murderers, robbers, and tax collectors respected the sanctity of vows.

20 The sanctity of vows seems irrelevant to Philo's summary of Jewish law in *Hyp.* I would suggest that vows may have entered the discussion there because of Philo's concern to parry charges of anti-semites that Jews pillage temples, mutilate images of the gods and abuse their worshippers (Manetho in M. Stern, *Greek and Latin Authors on Jews and Judaism* [Jerusalem, 1976–80], #21,249, 1:83), or that the sacrilegious propensities of the Jews were responsible for Jerusalem's original name of “Hierosyla” (Lysimachus, in Stern, *Authors*, #158,311, 1:385).

21 Philo does not seem to have known the distinction between vows and oaths. See S. Belkin, *Philo and the Oral Law* (Cambridge, 1940), 157. See however below, n. 27.

22 Stern, *Authors*, #5, 1:12.

23 On this passage compare Belkin, *Philo*, 158–159 and Lieberman, *Greek*, 130.

24 CD XVI, 13–14. I follow the reconstruction in G. Vermes, *The Dead Sea Scrolls in English* (New York, 1968), 109. Compare C. Rabin, *The Zadokite Documents* (Oxford, 1954), 77, n. 14.1.

25 Compare Derrett, “*Korban*,” 366, who misunderstands the passage and combines these two ways.

26 The word was used in this meaning by classical authors; see the entry in LSJ s.v. It was not, however, used in this sense by the Septuagint or Josephus. Philo used the word once in a similar sense; see *Conf.* 7.

27 Philo here clearly means what we have been calling a vow, as opposed to an oath. Cf. n. 21 above. I wonder whether this means of release, which grants great authority to the priests, goes back to priestly or perhaps Sadducean circles.

One further point about Philo's first option must be noted: it has no scriptural foundation.<sup>28</sup> The practice Philo reports violates Biblical law of Num. 30, without appealing to any other Biblical text. We have no idea how Jews would have justified such a release from the obligations of a vow.

Philo knows of a second way of releasing dedicated property. That way is inferior to the first: "those who at the time have the higher authority may lawfully declare that God is propitiated, so that there is no necessity to accept the dedication (*Hyp.* 7.5)." This passage is not altogether clear, and the construction of the Greek is difficult.<sup>29</sup> Nevertheless, the import of the passage is that there is an authorized (non-priestly?) group empowered to declare that God is satisfied, and that the vower therefore need not fulfill his original commitment.<sup>30</sup> The absolute authority of this group is clear; they do not need to justify their decision, and as in the case of priestly refusal above, this means of release lacks a Biblical basis.

We find a fairly broad spectrum of opinion concerning fulfilling oaths. The Damascus Covenant, for example, insists that all oaths to keep a commandment are to be fulfilled, even at the price of death; but oaths to depart from the law are never to be fulfilled.<sup>31</sup> The Essenes, according to Josephus, swear tremendous oaths upon entry into full membership in the group (*BJ* 2.139), but (thereafter?) refrain from oaths (*BJ* 2.135); this desire to avoid oaths may explain why Herod granted the Essenes an exemption when all Jews were required to swear allegiance to him (*AJ* 15.371).

According to Philo, oaths to commit crimes and wrongdoings of other sorts are not to be honored. One who would keep his words transgresses not only by the crime itself, but also for breaking the oath of faithfulness to the law. The right course, according to Philo, is to ignore the oath sworn, while supplicating God for pardon for the unadvisable oath taken (*Spec. Leg.* 2.12–15).<sup>32</sup> Philo also suggests that oaths sworn in passion, "when distraught by savage tempers or frenzied yearnings or uncontrollable desires (*Spec. Leg.* 2.9)," may not be valid.

Josephus in his retelling of the wars against the tribe of Benjamin (*Jud.* 20–21) allows us an insight into views concerning oaths current in his day. The Israelites had sworn not to allow any of their daughters to marry a Benjaminite (*Jud.* 21:1), but quickly regretted that oath (*Jud.* 21:2–3, 6–7). Josephus reports that some proposed that the oath could be disregarded, "as having been sworn under the sway of passion, without reflection or judgment (*AJ* 5.169)."<sup>33</sup> In so doing, they would not be opposing

28 See the notes in the LCL edition *ad loc.*, 426 n. a. Belkin, *Philo*, 166, remarks that Philo's view has "no origin in Mishnaic literature." Belkin, however, believes that the position preserved by Philo may be pre-Mishnaic and he proposes understanding Rabbinic accounts of the conflict between Alexander Jannaeus and Simon b. Shetah in the light of Philo's tradition on the release of vows (*Philo*, 166–68). In the story of Jephthah's vow commented on in Gen. R 642–43 (Theodor-Albeck), might Phinehas have released Jephthah's vow in his capacity as sage or in his capacity as priest?

29 See the comment in the LCL edition *ad loc.*, 426, n. b.

30 According to p. Hag. 1.8.76c the heads of the tribes have the right to release vows.

31 CD XVI, 7–9. The text does not specify what constitutes such an oath to violate the Torah.

32 See further Belkin, *Philo*, 160. Compare the behavior of Herod Antipas according to the gospels: one of the reasons he put John the Baptist to death was because of his oaths to Herodias, Matt. 14:9 and Mark 6:26. The Mishnah, Ned. 2.2, also asserts that oaths to violate the Torah are invalid.

33 Cf. Philo, above. Compare also T. Sanh. 13.10–11, where God, according to R. Eliezer, will not fulfill his oath to punish the generation of the wilderness. God may disregard his oath because it was taken in anger.

God's will, since disregarding the oath would save a tribe of Israel from extinction. Furthermore, they argued, "perjuries were not grave or hazardous when they were prompted by necessity but only when rashly committed with malicious intent (*Ibid.*)."

Some of the members of the *gerousia*, however, opposed this proposal (compare the position of the Damascus Covenant above), and one of them suggested a way to provide wives for the Benjaminites while keeping the oaths. Josephus then attributes to this elder the solution related in Jud. 21:19ff., and thus the problem was solved.

Josephus has added much to the Biblical account, and these additions are part of his attempt to make the story more interesting and plausible to his readers. Josephus can therefore teach us about views concerning fulfilling oaths current in the Second Temple period. There apparently were those who maintained that oaths sworn in passion need not be fulfilled, but that view was controversial, as there were others who insisted that such oaths be fulfilled.

### III

Where would the Pharisees have fit into the spectrum of views outlined above? We have no explicit information; scholars now realize that the Mishnah and other Rabbinic works are not Pharisaic documents.<sup>34</sup> Nevertheless, I do not believe that this fact must bring our inquiry to a dead stop.<sup>35</sup> Rabbinic Judaism did have a Pharisaic foundation,<sup>36</sup> and if we can reconstruct the earliest strata preserved in Rabbinic texts concerning release from oaths and vows, we should get reasonably close to determining the position of the pre-70 Pharisees.<sup>37</sup>

Two major reconstructions of these earliest strata have been offered, by J. N. Epstein and J. Neusner.<sup>38</sup> According to Epstein, the statement that "the release of vows hovers in the air and has no scriptural basis" (M. Hag. 1.8), is very ancient, going back to the Herodian period. M. Hag. 1.8 thus attests to the existence of means of release from vows at that early time. Perhaps even older, according to Epstein, are the grounds for releasing vows in M. Ned. 3.1-4 (incitement, exaggeration, error and duress) and the grounds for regarding vows as invalid *ab initio* in M. Ned. 2.1-2.<sup>39</sup> Neusner, by contrast, sees M. Hag. 1.8 as originating in the Ushan period (second century C.E.); he would date

34 J. Neusner, *Judaism: The Evidence of the Mishnah* (Chicago, 1981), 70-71.

35 *Ibid.* In general, I believe that one can go further than Neusner in reconstructing the historical Pharisees. See Baumgarten, "Paradosis."

36 I would put the point this way: the family which was to provide the ruling dynasty of Palestinian Rabbinic Judaism (the Patriarchs) was to be a leading Pharisaic family (R. Gamaliel). In my opinion, S. J. D. Cohen, "The Significance of Yavneh: Pharisees, Rabbis and the end of Jewish Sectarianism," *HUCA* 55 (1984), 37, understates the importance of this fact.

37 Cf. Neusner, *Judaism*, 70-71 and Cohen's comment, "Yavneh," 36, n. 18.

38 J. N. Epstein, *Introductions to Tannaitic Literature* (Jerusalem/Tel Aviv, 1957), 377-78 [in Hebrew]. J. Neusner, *A History of the Mishnaic Law of Women* (Leiden, 1979-80), 5:107-24. In general, Neusner tends to assign a late date to anonymous materials (see his comments in *Judaism*, 19), while Epstein usually dates such passages early. See also Cohen, "Yavneh," 47, n. 53 and S. J. D. Cohen, "Jacob Neusner, Mishnah and Counter-Rabbis: A Review Essay," *Conservative Judaism* 37 (1983), 52-54.

39 Epstein, *Introductions*, 377.

M. Ned. 2.1–2 even later.<sup>40</sup> Of the complex of laws in M. Ned. 3.1–4 he would assign a date prior to 70 only to those points on which Hillelites and Shammaites disagreed: the extent to which if part of a vow is in error the entire vow may be released (M. Ned. 3.2), and whether one is bound by parts of a vow made under duress not explicitly required by the person extracting the vow made under duress (M. Ned. 3.4).<sup>41</sup>

The disagreement between Neusner and Epstein over dating laws on vows is part of a larger disagreement between the two scholars on dating Rabbinic materials. As such, resolution of our dispute on vows is impossible without consideration of the larger issue, and is thus a problem beyond the limits of this paper. I would note, however, that even according to Epstein (who assigns an early date to M. Ned. 2.1–2 and to more of M. Ned. 3.1–4) the grounds for declaring vows inherently invalid or for releasing vows were rather limited prior to the destruction of the Temple. Moreover, those existing grounds for release were controversial, with the Shammaites attempting to restrict their application as much as possible (M. Ned. 3.2,4).<sup>42</sup>

Epstein, in particular, sees a clear reflection of this situation in the story of the father and son from Bet Horon in M. Ned. 5.6, a story to which he assigns an early date.<sup>43</sup> The fully developed Rabbinic means of release were not available to the son, who tried to allow his father to participate in the wedding by means of a gift to a third party. The Sages did not agree with this particular way of avoiding the consequences of a vow.<sup>44</sup> Furthermore, according to both Epstein and Neusner, a decisive step towards broadening the bases for release from vows was taken by R. Eliezer b. Hyrcanus (first generation after the destruction of 70), through his rulings preserved in M. Ned. 9.1–2.<sup>45</sup>

40 J. Neusner, *A History of the Mishnaic Law of Appointed Times* (Leiden, 1981–82), 5:188; *Women*, 5:111–12.

41 Neusner, *Women*, 5:108.

42 For further discussion of Hillelite-Shammaite controversies on oaths compare G. Rengstorf, *TDNT* 3:863 and A. Finkel, *The Pharisees and the Teacher of Nazareth* (Leiden, 1974<sup>2</sup>), 137–38. These disputes would be analogous to the controversy over oaths reported by Josephus discussed above.

43 For a similar analysis of this passage compare Rengstorf, *TDNT* 3:863, n. 19. Neusner, however, assigns a late date to the Bet Horon story, *Women*, 5:117.

44 According to a story told in p. Ned. 5.7.39b, when Shammai was faced with a similar problem he found a different and more acceptable solution. If this text were reliable, it might teach us something concerning Shammai's views on release from vows. Cf. above n. 42.

45 Note R. Eliezer's attempt to find a Biblical basis for the release of vows in general in p. Hag. 1.8.76c and b. Hag. 10a. See also his arguments for the Biblical basis for allowing release of vows based on future events (M. Ned. 9.2) in p. Ned. 9.2.41c and b. Ned. 64b. R. Eliezer's comments on divine oaths were discussed in n. 33 above.

A generally lenient position on vows was attributed to R. Eliezer by J. Neusner, both in his earlier work, *Eliezer ben Hyrcanus* (Leiden, 1973), 2:319 and 328, and in his later *Women*, 5:118–19. Reconciliation of these views on vows with what we know of R. Eliezer's other opinions is particularly easy for Neusner who does not see R. Eliezer as a Shammaite, and who believes that R. Eliezer often held lenient views. See Neusner, *Eliezer*, 2:326–29. Y. D. Gilat, *R. Eliezer ben Hyrcanus, A Scholar Outcast* (Ramat Gan, 1984), discusses a number of areas of R. Eliezer's halachic activity, but does not treat oaths and vows. In general, Gilat classifies R. Eliezer as a Shammaite who occasionally diverged from the teachings of Bet Shammai, *Eliezer ben Hyrcanus*, 473; some of R. Eliezer's departures from the Shammaite line, according to Gilat, are in the direction of leniency, *Eliezer ben Hyrcanus*, 490–91.

Christian scholars, such as H. Laible, *ap. Str-B*, 1:715, n. 1., have proposed that R. Eliezer came to hold these views on vows because of the influence of the teachings of Jesus. Epstein, *Introductions*, 377, suggests

These rulings, which might have helped the son from Bet Horon, allow for release from vows when they cause shame or especially actual harm to one's parents.

The conclusions to be drawn concerning the earliest strata of law preserved in Rabbinic sources seem reasonably clear: the principle that a Sage may release vows was known, but the grounds for such release were relatively few (even fewer and more restricted according to Neusner than Epstein), and those few were subject to limitation and controversy. Later authorities, after the destruction of 70, were to widen the possibilities for release.

These views can, I believe, be reasonably attributed to the pre-70 Pharisees. In my opinion, this is not merely because the Pharisees were one of the foundations on which Rabbinic Judaism was based, a consideration which might not in itself seem sufficient. I believe that two aspects of the evidence we have surveyed lend support to this conclusion. First, Hillelites and Shammaites (even according to Neusner)<sup>46</sup> disputed the extent to which vows made in error could be released and to which one was bound by vows made under duress. The Pharisaic houses were thus involved in specific disputes concerning details of the release of vows, proving that the houses did accept this principle and discuss its application. Second, the Rabbis conceded that the entire notion of a Sage releasing vows lacked a Biblical basis (M. Hag. 1.8). The Pharisees, according to Josephus, followed laws not found in the Bible, laws which they called tradition (מסורה in Hebrew, *paradosis* in Greek), and which were accordingly rejected by the Sadducees (*AJ* 13. 298-299). The contents of this *paradosis* are not clearly known, but an aspect of Rabbinic Judaism which goes back to the earliest strata of that movement and which the Rabbis conceded to lack all Biblical foundation, is an excellent candidate for having been part of the Rabbinic heritage from the Pharisaic past, for having been part of the Pharisaic tradition.<sup>47</sup>

I therefore conclude that the earliest strata of law on vows which we have recovered from Rabbinic sources represents that Pharisaic contribution to Rabbinic legislation on the topic. The views of the earliest Rabbinic authorities on this matter were in fact the views of the pre-70 Pharisaic forerunners of Rabbinic Judaism. The Pharisaic *paradosis* would have included the notion of release from vows, albeit to a limited extent; while one of the houses would have tried to restrict the application of this principle, another house tried to extend it.

Where then would these Pharisaic views have fit into the spectrum of opinion we have seen in the Second Temple period? The Pharisees would have been among the proponents of strict observance of the law, allowing for release of vows, but strictly limiting the grounds for release (particularly in contrast to Philo). They would have

that there may have been a connection between R. Eliezer's views on vows and his contact with Christians (T. Hull, 2.24 and parallels).

46 Neusner claims that Hillelite-Shammaite disputes are often pseudepigraphic; that is, later opinions are being attributed to these early authorities. See his comments in *Judaism*, 20-21. See also Cohen, "Yavneh," 48, n. 56. In spite of Neusner's general suspicion of the authenticity of Hillelite-Shammaite disputes, he accepts the passages in M. Ned. 3.2 and 3.4 as genuine. For our purposes, if Hillelite-Shammaite disputes accepted as authentic even by Neusner are not Pharisaic, what is?

47 The possibility that other laws mentioned in M. Hag 1.8 as lacking a substantial Biblical basis (e.g., Sabbath law, including *erubin*; compare T. Hag 1.8 and T. Erubin 8.23) may also go back to the Pharisaic *paradosis* should be investigated.

been close to what we know of the view of the Qumran sectarians, but not so extreme, as the Pharisees would have allowed some release from vows.<sup>48</sup> In all, their position as we have reconstructed it is completely appropriate for a group that prided itself in claiming to know how to observe the law accurately, strictly, and in all its details.<sup>49</sup> Pharisaic stringency, however, would stand in sharp contrast to the more lenient attitude of their Rabbinic heirs, and would be one of the points of contrast between Pharisees and Rabbis.<sup>50</sup>

#### IV

We can now turn to the New Testament passages. The scribes and Pharisees attack Jesus's disciples for eating with their hands unwashed, and thus violating the tradition of the elders, the Pharisaic *paradosis*. Jesus defends his disciples, turning the tables against his enemies, through the example of *korban*:

Why do you transgress the commandment of God for the sake of your tradition? For God commanded, "Honor your father and your mother," and "He who speaks evil of father or mother let him surely die," But you say, "If any one tells his father or his mother: What you would have gained from me is given to God, he need not honor his father." So, for the sake of your tradition you have made void the word of God (Matt. 15:3-6).

You have a fine way of rejecting the commandment of God in order to keep your tradition! For Moses said, "Honor your father and your mother;" and, "He who speaks evil of father or mother let him surely die;" but you say "If a man tells his father or his mother, What you would have gained from me is *Corban*" (that is, given to God) then you no longer permit him to do anything for his father or mother, thus making void the word of God through your tradition which you hand on (Mark 7:9-13).

I propose that we try to understand these verses on the assumption that Jesus's defense of his disciples and counterattack are apt;<sup>51</sup> that is, we try to identify a specific Pharisaic *paradosis* which would have forbidden the son to support his parents in a case in which the son declared that the money he should have used to support his parents was *korban*. Implicit in this assumption is the following: for the defense of the disciples to be telling, the Pharisaic law forbidding the son to support his parents in a case such as ours must have been part of the Pharisaic *paradosis*, of the laws not written in the Bible accepted by the Pharisees.<sup>52</sup> Only if the relevant law is part of that *paradosis* does that *paradosis*

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48 The similarities between Pharisees and Qumran sectarians have been intensively discussed. See, e.g., C. Rabin, *Qumran Studies* (Oxford, 1957).

49 See A. I. Baumgarten, "The Name of the Pharisees," *JBL* 102 (1983), 411-28.

50 See especially Cohen, "Yavneh," 36-42.

51 I assume that the evangelists, like all other authors, wrote what they believed to be plausible and coherent stories. They may have succeeded or not, but their intention requires us to give the authors the benefit of the doubt and assume (unless proven otherwise) that the stories are plausible. This assumption is strengthened by the fact that other information on vows in the gospels seems accurate. See the discussion of Matt. 23:16 in Lieberman, *Greek*, 134, and Epstein, *Introductions*, 377.

52 Perhaps there are other Pharisaic laws more directly based on the Bible, which were not part of the supra-Biblical *paradosis*. The law of *korban* referred to in the gospels would, however, have been part of the *paradosis*.

"make void the word of God," and only thus is the counterattack against the Pharisees fully appropriate.

With these considerations in mind, we can survey interpretations of our passages offered by others. Origen, for example, believed that our verses describe a case of *korban* in the sense of actual dedication to the Temple (our first sense, as discussed in section I of this paper). He learned from his Jewish informant that there existed a method of spiteful revenge on debtors who possessed the means to repay their loans but refused to do so: the creditors would declare that the money owed was *korban*—a gift to the poor.<sup>53</sup> The money was now owed to God, and while the creditor would not be repaid, he had the satisfaction of knowing that the debtor had not escaped scot free. This system, Origen argued, was transferred by the Pharisees to the realm of support owed parents by their children. A child could shirk his obligation to support his parents by declaring that the money was now *korban*. As in the case of the creditor above, the child could not keep the money himself; no savings to him resulted, since the money had to go to the Temple. The child's only benefit was spite. Why would the Pharisees enact such a law? Origen explained that the Pharisees did so because they desired to increase revenues, which they hoped to control.<sup>54</sup> The Pharisees took these steps because of their love of money, as we learn from Luke 16:14.<sup>55</sup>

This explanation is rather improbable: spite is being carried to great lengths.<sup>56</sup> Moreover, in order to make sense of the verses, Origen must explain them on the basis of Luke 16:14: one polemical passage provides the *factual* background for another. This is, however, a dangerous process in which the connection with historical reality can become extremely tenuous.<sup>57</sup> Finally, we have no evidence that the Pharisees encouraged Jews to donate money intended to support parents: a tradition has been manufactured to provide background for the verse, but there is no evidence for the existence of such a tradition.

Most other interpreters of our passages have understood them as a case of *korban* in the second sense discussed in section I of this paper; that is, the parents are forbidden benefit from the son's possessions *as if* these were a *korban*.<sup>58</sup> If Jesus's attack is to ring

53 Origen may be guilty of a modernizing interpretation of the gospel passages when he considers *korban* as a gift to the poor, as that was the meaning of *korban* among the Fathers. See Rengstorf, *TDNT* 3:866.

54 A. Büchler, *Die Priester und der Cultus im letzten Jahrzehnt des jerusalemischen Tempels* (Vienna, 1895), 93, offered the more plausible suggestion that Jesus intended to criticize the priests (not the Pharisees) for encouraging vows which benefited the Temple at the expense of one's parents. This is much more reasonable than the motive attributed to the Pharisees by Origen. Unfortunately, however, the passages in the gospels attack the Pharisees, not the priests.

55 See also Matt. 23:25, and compare Baumgarten, "Name," 415.

56 Harnack, *Kirchengeschichtliche Ertrag*, 21-22, objected to Origen's interpretation on the grounds that in the case of the creditor and debtor it is the creditor who denies the debtor the use of the money by means of the *korban* while in the parent-child case, it is the child who denies the parent what is owed him by means of the *korban* vow. This objection does not strike me as telling: in both cases it is the person who has title to the assets (the creditor and the child) who denies someone else the use of these assets by making them (like a) *korban*.

57 For one polemical passage to illuminate another is plausible. For a polemical passage to provide the *factual* background for another is less likely to be accurate.

58 See the history of interpretation of our passage in Belkin, *Philo*, 161-64, and G. W. Buchanan, "Some Vow and Oath Formulas in the New Testament," *HTR* 58 (1965), 319-20.

true (in the terms discussed above) the Pharisees would have had to maintain that the son must fulfill such a vow. A fundamental difficulty thus arises: in order to make sense of the passages we must posit that the Pharisees would have required the child to do as he had vowed, yet Rabbinic literature (the product of the heirs of the Pharisees) abounds in possibilities for release from vows. What then was the dispute between Jesus and the Pharisees?<sup>59</sup>

Two principal answers have been offered to this question. Some scholars suggest that the issue between Jesus and the Pharisees was one of principle. The Pharisees, they maintain, would have known and applied many if not all of the means of release from vows known to their Rabbinic heirs. They would have tried and succeeded in finding a way to release the son from the consequences of his vow, allowing him to support his parents. Jesus, however, believed the vow to be invalid *ab initio*.<sup>60</sup> The practical difference between the positions would thus have been minimal, the theoretical difference much greater, and this theoretical difference would have been the basis for Jesus's counterattack against the Pharisaic *paradosis*.<sup>61</sup> I cannot accept this line of interpretation, as it conflicts with the discussion of the views of the pre-70 Pharisees in section III above. Even according to Epstein, the pre-70 Pharisees would have accepted very few grounds for the release of vows, and some of these few grounds would have remained controversial. If these conclusions are accepted, the pre-70 Pharisees would not have found it that easy to release the son from his obligations; the difference between their position and Jesus's would not remain primarily theoretical for long.<sup>62</sup>

Another group of scholars argues that the views of the historical Pharisees differed from those of their Rabbinic heirs, thus opening the door for a real disagreement between Jesus and the Pharisees.<sup>63</sup> As should be clear from the reconstruction of Pharisaic views of vows in section III, I have learned a good deal from these scholars, particularly from Epstein. My principal objection is that their interpretations do not go far enough, that is they do not locate the law on releasing vows attributed to the pre-70 Pharisees within the Pharisaic *paradosis*. Since the relevant laws are not located within the *paradosis*, these scholars cannot explain Jesus's charge that the *paradosis* concerning *korban* makes void the word of God.

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59 See the comment of C. G. Montefiore, *The Synoptic Gospels* (London, 1927), 1:149: "The annulling, not the maintenance of vows, was the work of tradition." At the risk of overindulging in speculation, perhaps Origen proposed the rather complicated interpretation of *korban* he suggested because he was troubled by a similar problem. That is, Origen identified the Rabbinic leaders of the Jews of his day with the Pharisees of the gospels. See his *Comm. on Matt.* 23:1-12 (GCS 35.16); see also Irenaeus, *Haer.* 4.12.1 (SC 100.510-11). Identifying Pharisees and Rabbis, I suggest, Origen could not understand how the gospel charge against the Pharisees was apt, since the Rabbis of his day knew of many ways to release vows; hence he proposed the rather convoluted explanation summarized above. On Origen's identification of the Pharisees with Rabbis of his day compare De Lange, *Origen*, 34-35 and Cohen, "Yavneh," 51-52, n. 66.

60 The Rabbis in the Mishnah, Ned. 2.1, also believed certain vows to be invalid *ab initio*, but these were vows sworn by some forbidden object, rather than vows to violate the laws of the Torah. On oaths to violate the Torah see above.

61 See Belkin, *Philo*, 168; Derrett, "*Korban*," 366; Falk, "Notes," 311.

62 If one does not accept the reconstruction I have proposed an objection still remains. This interpretation of the dispute between Jesus and the Pharisees does not explain how the *paradosis* is involved.

63 See Montefiore, *Synoptic Gospels*, 1:150-51; J. Klausner, *Jesus of Nazareth* (London, 1925), 206; Rengstorff, *TDNT*, 3:865-866; Str-B 1:715, n. 1; Epstein, *Introductions*, 377. See also Hübner, *Gesetz*, 147-52, and S. Westerholm, *Jesus and Scribal Authority* (Lund, 1978), 76-78.

## V

I would begin explaining these verses by agreeing with those scholars who have understood them as an example of *korban* in the second sense discussed in section I: forbidding an object *as if* it were dedicated to the Temple. Significant new support for this interpretation of our verses can now be derived from the Jebel Hallet et Turi ossuary as explained above: in both cases, one denies others benefit from one's possessions by declaring them (*like*) a *korban*.

The historical Pharisees, as discussed above, would have included in their unwritten supra-Biblical tradition the notion that a very limited number of vows could be released. Very few types of vows, according to their views, could benefit from the application of these principles, and the extent to which the principles applied was controversial. I therefore consider it unlikely that the Pharisaic *paradosis* would have helped a son in a case like that described in the gospel passages; when all was said and done, the Pharisees would have required the son to fulfill his commitments. The *paradosis* concerning *korban* thus makes void the word of God by not going far enough. On the theoretical level, the *paradosis* merely acknowledges that vows can be released, rather than taking the far reaching step proposed by Jesus, that a vow such as this is inherently invalid. On the practical level, the *paradosis* also falls short of the mark by opening the door for release of vows, but not opening that door far enough to help a son in a case in which his parents suffer from the vow.

The dispute between Jesus and the Pharisees, as I propose understanding it, thus emerges as one within the framework of covenantal nomism. Neither side is breaking that framework with assertions of authority, by contrasting the word of Moses with their own position.<sup>64</sup> Rather, we have here a dispute concerning the resolution of a problem caused when two legal principles collide: love and respect due parents, and the requirement to fulfill one's vows. Nevertheless, Jesus's opinion is clearly at one extreme of the spectrum of opinions on vows and oaths we have seen current among Jews of the Second Temple period. The Pharisees, as noted above, were close to the opposite end of the spectrum, hence there was a real difference of opinion between Jesus and the Pharisees.

## VI

The Pharisaic *paradosis*, as I understand it, was clearly a central and characteristic aspect of the life of the group and its members. When, according to Josephus, Hyrcanus deserted the Pharisees for the Sadducees, he repealed their *paradosis* and forbade its observance (*AJ* 13. 296). Conversely, when the Pharisees returned to power under Salome Alexandra they restored their tradition (*AJ* 13. 408). It is therefore no accident that the dispute between Jesus and the Pharisees is formulated in terms of a dispute concerning the *paradosis*.

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64 Compare passages such as the Sermon on the Mount. According to the rest of the account of the confrontation between Jesus and the Pharisees, particularly as told in Mark 7, Jesus is to make statements dramatically breaking with Jewish law, such as declaring all foods clean. The sections of Mark 7 we have been considering, however, contain no such anti-nomian statements. On this point, see also Lambrecht, "Jesus and the Law," 25.

The *paradosis* is nevertheless enigmatic; in spite of its central position, we know very little of its contents. That is, we do not know the details of the specific supra-Biblical laws observed by the Pharisees which made up their tradition. We have a few hints, particularly in Mark 7, suggesting that the washing of hands, of cups, pots and vessels of bronze, and the law of *korban* were all part of the *paradosis*. If we are to understand the Pharisaic tradition, we must attempt to learn its contents as fully as possible.

The analysis of the gospel passages on *korban* presented above is an attempt to deepen our understanding of one of the few points explicitly connected in our sources with the tradition of the Pharisees. In the process of our study, the gap between the position of the Pharisees and that of their Rabbinic heirs was revealed. At the same time, a real difference of opinion between the views of Jesus and those of the Pharisees emerged. The discussion of *korban* may also provide guidelines for further studies attempting to fill out more completely our knowledge of the Pharisaic *paradosis*.