

JESUS AND THE LAW

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A detailed discussion of the question of the historical Jesus and the Law might properly begin with a consideration of such important matters as sources, criteria of authenticity, and review of previous research. It should also include some discussion of the quest for the historical Law, which has become equally problematic. Within the brief compass of this paper it is possible to do little more than flag these issues and assume an appreciation of their significance before proceeding to the discussion of the material.

Whether to rebut Jewish criticism or to confront Christian laxity, or, more likely, both, Matthew has Jesus assert: “Do not think that I have come to abolish the Law and the Prophets; I have not come to abolish but to fulfil” (5:17). With this form of words Matthew introduces a saying in 5:18 which occurs in variant form also in Luke 16:17. 5:19 shows that Matthew intends by 5:18 total observance of the Law and that to think otherwise makes one least in the kingdom of God or perhaps even ineligible to belong. The focus on complete adherence finds confirmation also in 5:20 and in the antitheses which give a radical interpretation of the demands of Torah.

While there have been attempts to interpret 5:18 as limiting such strictness to a past era from the perspective of Matthew, the most natural reading is to see in the saying an affirmation that every bit of Torah retains its validity. This is most likely to be the point of the saying also in Luke 16:17. Some take it as an observation that setting aside Torah, which must now happen since Christ has come, is extremely difficult—but necessary. This usually depends on a reading of Luke 16:16 along the lines that the Law and Prophets were valid up until John, but are no longer valid.¹ It is much more likely that 16:16–17 are meant to convey the message that as the Law and the Prophets faced resistance, all the more so does the message of the kingdom.² 16:17 reaffirms that

¹ So most recently Ingo Broer, “Jesus und die Tora,” in *Jesus von Nazareth—Spuren und Konturen*, ed. L. Schenke et al. (Stuttgart: Kohlhammer, 2004), 216–254 at 228, but denying it to the historical Jesus.

² See William Loader, *Jesus’ Attitude towards the Law: A Study of the Gospels* WUNT 2.97 (Tübingen: Mohr Siebeck, 1997; Grand Rapids: Eerdmans, 2002), 337–338.

the Law remains part of God's order. 16:18 then illustrates the strictness by drawing attention to the prohibition of divorce and remarriage. Luke 16:16–18 function similarly to Matthew 5:17–48. Both affirm the Law in the context of the message of Jesus and both illustrate the point by citing an example of radical strictness.

The saying in Matt 5:18 and Luke 16:17 belongs within material attributed to Q. The Q material shows a coherence with its stance.³ This is strikingly illustrated in Matt 23:23//Luke 11:52 which affirms a hierarchy of values among the requirements of the Law, but insists nevertheless on observance of its detail, even to the extent of listing items which go beyond the written Law. This furnishes evidence that at least among communities using Q, the view prevailed that observance of Torah was to be continued. They also saw some requirements as more important than others and these, by and large, related to ethical behaviour. Matthew and Luke inherit this approach. Whether it represented a stance of Jesus himself, can be addressed only after considering the rest of the evidence, including other traditions preserved in Matthew and Luke and not least Mark.

In 1:22 Mark contrasts Jesus' authority with that of the scribes, which finds its echo in the crowd's acclamation in 1:27 that here is "new teaching with authority." 1:40–45 depicts Jesus as forcefully insisting that a leper observe the requirements of the Law. This then creates a foil for the conflicts which follow, where by implication allegations that Jesus abandons Torah are unjust and ultimately malicious.⁴ In none does Jesus set out to address an issue of Torah. The incidental nature of Jesus' engagement with Torah is integral to the anecdotes and is doubtless pre-Markan.

In Mark 2:1–12 the issue is Jesus' authority to declare forgiveness of sins. The allegation of blasphemy has a superficial link with the Jewish trial, which may be a Markan addition. The passive indicates that Jesus declares God's forgiveness, not his own. The issue is more likely to have been similar to the irritation which John's activity caused. Mark begins his good news with the report that John baptised for the forgiveness of sins. Reflecting the kind of integration between rite of purification and inner attitude characteristic of Qumran, but also of the prophets, John's

³ Loader, *Attitude*, 390–431.

⁴ Cf. Thomas Kazen, *Jesus and Purity Halakhah: Was Jesus Indifferent to Impurity?* ConB 38 (Stockholm: Almqvist & Wiksell, 2002), who denies it a role in Mark's strategy (101).

baptism offered forgiveness of sins, apparently without exception⁵ and there and then.⁶ He might have been even more objectionable because he used a rite, but in neither case is Law contravened, nor cult rejected, any more than this is case when other Jews made similar declarations of God's forgiveness.⁷ John's is programmatic and universal and raises important issues to which we shall return in discussing Jesus' action in the temple, which according to Mark elicited from Jesus a response which deliberately connected his and John's authority (11:27–33). In the present context, Jesus acts in relation to an individual.

According to Mark 2:10 the issue of Jesus' declaration is one of authorisation. According to the riddle of 2:9, the issue is ultimately about caring for people as the criterion for behaviour, including observance of the Law. Mark may be responsible for asserting the Son of Man's authority. It fits the contrast about authority in 1:22 and the emphasis on the Son of Man's lordship in 2:28, which in cross reference to 2:10 declares the Son of Man as lord *also* of the Sabbath.

2:13–17 reports a dispute about Jesus' eating with toll collectors and sinners. The issue surfaces elsewhere. Both Matthew and Luke (and thus Q) report that Jesus made reference to such activity and defended it (Matt 11:17–19; Luke 7:31–35). Luke suggests that Jesus' parables about the lost respond to such accusations (15:2) and adds an instance of such conflict in the story of Zacchaeus (19:1–10). Here in Mark Jesus responds with a short twofold quip: "Those who are well do

⁵ A similar universal forgiveness lies behind the saying attributed to Jesus about blasphemy (Mark 3:28–29). Steven M. Bryan, *Jesus and Israel's Traditions of Judgement and Restoration* (Cambridge: Cambridge University Press, 2002), notes this would surprise (159).

⁶ So R. L. Webb, *John the Baptizer and Prophet: A Socio-Historical Study*. JSNTS 62 (Sheffield: Sheffield Academic, 1991), 193; cf. Cf. John P. Meier, *A Marginal Jew: Rethinking the Historical Jesus, 2: Mentor, Message, and Miracles* (New York: Doubleday, 1994), 54–55: a rite promising future forgiveness.

⁷ Against the notion that forgiveness was seen as exclusively the right of the temple, see Friedrich Avemarie, "Ist die Johannestaufe ein Ausdruck von Tempelkritik? Skizze eines methodischen Problems," in *Gemeinde ohne Tempel: Zur Substituierung und Transformation des Jerusalemer Tempels und seines Kults im Alten Testament, antiken Judentum und frühen Christentum*, ed. B. Ego, I. Lange, and P. Pilhofer; (ET: *Community without Temple*), WUNT 118 (Tübingen: Mohr Siebeck, 1999), 395–410, who points to Num 30:6; Prayer of Azariah/Dan 3:38–40 LXX/q; Sirach 31:21–22; 28:2; 32:6–13; 38:9–11 and a wide range of other examples (399–401). John's innovation may reflect criticism of cult practices. So James D. G. Dunn, *Jesus Remembered*, Christianity in the Making, vol. 1 (Grand Rapids, MI: Eerdmans, 2003), 357–361, Gerd Theissen and Annette Merz, *Der historische Jesus* (Göttingen: Vandenhoeck und Ruprecht, 1997), 195–196, but hardly an attempt to replace it. Cf. Webb, *John the Baptizer*, 197; N. Thomas Wright, *Jesus and the Victory of God*, Christian Origins and the Question of God 2 (Minneapolis: Fortress, 1996), 161.

not need a doctor, but those who are sick" (2:17). It again suggests, as *Did.* 2.9, that people's needs assume the highest priority in determining appropriate behaviour. The verse continues with something close to the Christological focus of 2:10. Jesus declares why he has come.

The critics probably saw Jesus as flouting the wisdom of keeping away from bad company (Ps 1). The "sinners" may not have been downright wicked, but they were at least abused as transgressors of the Law by others. But Jesus' action flouts no law of Torah, even if, as Mark assumes, he too probably views them as sinners, though not in the sectarian sense.⁸ Nor was Jesus flouting purity or food laws. Nothing suggests the eating of unclean food (such as we might fear in a Gentile context). Perhaps the concern was eating food not properly tithed,⁹ but this is not said. The sectarian perspective probably implied that those people were in some sense unclean or lax in observing rites of purification. Nothing suggests that Jesus condoned sins of either kind, but people seeking high standards of purity would normally be expected to avoid any context which might compromise them by exposure. Jesus' presence appears motivated by other concerns, also defensible on the basis of Torah, which overrode concerns about such dangers, legitimate or otherwise. A similar overriding of concern about potential contamination lies behind Jesus' instruction in Luke 10:8 that itinerants on mission eat what their hosts offer them without scruple. In *Gos. Thom.* 14 this is transferred to Gentile contexts and made thus to apply to unclean foods, a blatant conflict with Torah.

The central story, 2:18–19, is not about an issue of Law, but about consistency between Jesus and John. Whether Jesus fasted or not was an issue for those for whom fasting was highly regarded. People who objected to bad company might also be engaged in the practice of fasting. Mark may be responsible for introducing the Pharisees into what might have once been a dispute between the followers of Jesus and John. A similar contrast between John and Jesus underlies the Q saying (Matt 11:16–19; Luke 7:31–35).

⁸ Tom Holmén, *Jesus and Jewish Covenant Thinking*, BIS 55 (Leiden: Brill, 2001), notes that Jesus' positive stance to people seen as covenant breakers subverts values espoused by those who see covenant faithfulness as protecting boundaries (204–205, 220); Bryan, *Jesus*, similarly noting the possible implication that their sins are no longer seen as defiling the sanctuary and land (159–160). Dunn, *Jesus Remembered*, 529; "Jesus and purity: an ongoing debate," *NTS* 48 (2002): 449–467, at 465, draws attention to the abusive use of "sinners", but it would be wrong to conclude that Jesus' offence is that he associates only with the marginalised innocent.

⁹ On such concerns see Holmén, *Jesus*, 110.

Mark's fivefold construction centres on sayings in 2:20–21 about new and old wine, new and old garments. They may also at one stage have addressed the contrast between Jesus and John, but might have circulated independently. Then they would have been capable of a variety of interpretations contrasting Jesus and someone or something else, including the Law, but without an original context we are left to speculation. They most likely referred to a contrast between Jesus and other teachers (as they now do in Mark), rather than to one between Jesus and the Law, whether directly or in the form of a contrast between the old and new covenants.

Mark's cluster of stories concludes with two controversies about the Sabbath. The first concludes with the assertion that the Son of Man is lord also of the Sabbath (2:28), an allusion to his authority to forgive sins in 2:10. Rather than showing that he can do what he likes on the Sabbath, even disregard it altogether, the anecdote assumes the need to argue the case for suspending Sabbath law, by citing David's overriding the law about the shewbread (2:25–26). One law overrules another.¹⁰ 2:27 might then be a fitting conclusion to this argument. It declares that Sabbath is made for people, not the reverse, and so reflects similar emphases in the quips made in 2:9 and 2:17a. Sabbath is not disparaged. It is God's gift.¹¹ The lordship of the Son of Man is therefore not to reject the Sabbath, but to interpret it.

The alleged breach is not about making a path (an idiomatic expression), but about plucking and eating heads of grain. Hearers of Mark and earlier forms of the story would have recognised this as trivial. It was not trivial to those who saw such activity as a breach of Torah. Jesus rejects their stance. Nothing the disciples were doing need be seen as contravening Torah and nothing Jesus said in response should be seen as setting Torah aside. The earliest form of the anecdote probably focused not on response to human need (which Matthew asserts on the basis of the David episode to strengthen the argument along with the halakhic argument about priests),¹² but simply reflected Jesus' rejection of the expansionist tendency of some to apply such law to minor and trivial

¹⁰ Markus N. A. Bockmuehl, *Jewish Law in Gentile Churches: Halakhah and the Beginning of Christian Public Ethics* (Grand Rapids, MI: Baker, 2000), 6.

¹¹ Holmén, *Jesus*, 101; Dunn, *Jesus Remembered*, 568; Herbert Basser, "The Gospels and Rabbinic Halakah," in *The Missing Jesus: Rabbinic Judaism and the New Testament*, ed. Bruce Chilton, Craig A. Evans, and Jacob Neusner (Leiden: Brill, 2002), 77–99, at 90.

¹² *Kazen, Jesus*, 57–58 using halakhah not just haggadah. Like Luke he omits 2:27.

casual actions such as plucking and nibbling a few heads of grain,¹³ and has a notable parallel in early Jewish tradition (*m. Yoma* 8:6).

The conclusions are similar for 3:1–6. We recognise Mark's careful composition in 3:6 which plays ironically on the contrast of the preceding saying about killing and making alive and points forward to the plots which bring Jesus to his death. Again we may well have a twofold response of Jesus ("Is it lawful on the Sabbath to do good or to do harm") perhaps expanded by Mark to achieve his irony ("to save life or to kill"), perhaps alluding to the controversial precedent in 1 Macc 2:27–42 (cf. *Jub.* 2.17–33).¹⁴ Whether one should heal on the Sabbath is at least open to debate and should not be taken as evidence that Jesus set aside Sabbath law.¹⁵ One might observe a certain carelessness in Jesus' not waiting till the next day,¹⁶ but Jesus is shown as not deeming that level of observance to be necessary.¹⁷

Elsewhere in Mark, observance appears to be assumed. Thus crowds bring their sick to Jesus after sunset after the Sabbath in 1:32–34. Nothing in Jesus' activities on the preceding day, the Sabbath, appears to have evoked controversy according to Mark. The passion narrative also assumes regard for the Sabbath.¹⁸

Both Matthew and Luke repeat Mark's Sabbath controversy stories, Matthew in a context which portrays Jesus as expositor of Torah without imposing heavy burdens (12:1–14, cf. 11:28–30) and Luke with little change (6:1–11). In addition, both know a Q saying which argues that healing on the Sabbath should be justified on the same basis as rescuing

¹³ Dunn, *Jesus Remembered*: "To thus focus too much attention on 'the fence round the Torah' was itself to endanger what the fence was intended to protect" (569). Cf. Holmén, *Jesus*, who notes "Jesus' *indifferent attitude* towards the accusation" as alarming (102). Better: low level of priority. Indifference suggests no concern. The Sabbath remains God's.

¹⁴ So Bockmuehl, *Jewish Law*, 6; Broer, "Jesus und die Tora," 224; Craig A. Evans, "The Misplaced Jesus: Interpreting Jesus in a Judaic Context," in *The Missing Jesus: Rabbinic Judaism and the New Testament*, ed. Bruce Chilton, Craig A. Evans, and Jacob Neusner (Leiden: Brill, 2002), 11–39, 32–33; Theissen and Merz, *Jesus*, 329.

¹⁵ Theissen and Merz, *Jesus*, 329; Basser, "The Gospels and Rabbinic Halakah," 88.

¹⁶ Cf. the suggested ameliorations by Theissen and Merz, *Jesus*—as an itinerant, Jesus may be moving on the next day (330)—and E. P. Sanders, *Jewish Law from Jesus to the Mishnah* (London: SCM, 1990) that the healing is only by word (21). Cf. also Luke 6:6 which makes it the right hand, important for earning a living—so Bockmuehl, *Jewish Law*, 7.

¹⁷ Holmén, *Jesus*, argues: "The story either attests to something approximating Jesus' opposition to the Sabbath commandment, or then it is inauthentic" (103). This is a false antithesis. It is rather a matter of one element of Torah overriding another.

¹⁸ Paula Fredrikson, *Jesus of Nazareth, King of the Jews: A Jewish Life and the Emergence of Christianity* (London: Macmillan, 1999), 106.

an animal from a ditch. Matthew has added it to his version of Jesus' healing the man with the withered hand (12:11–12). Luke has it within the second of two further accounts of healing on the Sabbath (13:10–16 and 14:1–6). It also concerns someone who might easily have been asked to wait until the following day, thus somewhat undermining the saying. The first story has the chief of the synagogue raise this very point. The counter argument, that one would water animals on the Sabbath, fits the context better. These are all, however, not attempts to set aside Sabbath law, but to interpret it.¹⁹

The situation is different in John where Mark's assertion that the Son of Man is lord of the Sabbath (2:28) would be read as justifying his setting Sabbath law aside (so 5:16–20). This reflects John's distinctive theology according to which the God-given Law is now no longer in force, because the true Light and Life and Truth which it merely reflected at the level of the flesh, and to which it pointed forward, has come.²⁰ *Gos. Thom.* 27 uses Sabbath (and fasting) metaphorically, but may reflect older tradition affirming both literally.²¹

Controversy stories occur elsewhere in Mark and reflect a similar structure to those in 2:1–3:6, including a bi-partite punch line response by Jesus, which embodies an argument expressed in an image or riddle, usually appearing in association with a Christological claim to authority and sometimes with argument from scripture. One deserving special attention is 7:1–23. Its punch line is 7:15, but this is now set in a fairly elaborate structure. It begins by reporting objections to the disciples' failure to wash their hands before food (7:1–5). Two sets of responses follow, one alleging the hypocrisy of the questioners (6–8) and another illustrating it in relation to abuse of the law of corban (9–13; addressed also in *m. Ned.* 9.1), before Jesus responds to the substantial allegation (15). 17–23 then depict a change of scene in which Jesus explains his response privately to his disciples. It includes Mark's explanation about Jesus' authoritative declaration that all foods are clean (7:19). For Mark, what Jesus declares in 7:15 is not a new order to replace what until then

¹⁹ So Bockmuehl, *Jewish Law*, 7.

²⁰ Loader, *Attitude*, 432–491.

²¹ So Richard J. Bauckham, "Sabbath and Sunday in the Post-Apostolic Church," in *From Sabbath to Lord's Day: A Biblical, Historical and Theological Investigation*, ed. D. Carson (Grand Rapids, MI: Zondervan, 1982) 251–298, 265. See also Loader, *Attitude*, 495. Reinhard Nordsieck, *Das Thomas-Evangelium: Einleitung—Zur Frage des historischen Jesus—Kommentierung aller 114 Logien* (Neukirchen-Vluyn: Neukirchener Verlag, 2004), argues coherence with Jesus' transformed values of the kingdom (123–126).

was valid, but the invalidity of such assumptions in an absolute sense. It represents a serious contradiction of Torah.

Confronted with this emphasis, Matthew and Luke, who share the Q tradition of the Law's infallibility, but who affirm Mark's Christology, make changes.²² Luke omits the controversy with its supporting context in Mark altogether, but shows he is not unaware of the issue. Matthew alters the wider context, omits Mark's gloss and retains the saying (in a slightly different form)²³ and its explanation, but appears to have understood it in a relative sense.²⁴ Arguably, Mark (and perhaps Mark's tradition) gave the saying an absolute meaning which it did not originally have. If the saying derives from Jesus, it would then belong within a rhetorical structure similar to what we find in Hosea 6:6, "I desire mercy and not sacrifice," which was commonly understood not as a rejection of sacrifice, but as a strong assertion that prefers mercy to sacrifice.²⁵

The Markan setting is plausible. Jesus responds to the issue of ritual hand washing, which may well have been more widely practiced than previously thought given the proliferation of *miqwa'oth* and stone vessels which has emerged in recent years.²⁶ The response addresses not only hand washing and halakah²⁷ and not primarily foods, but purity laws pertaining to what renders a person unclean.²⁸ Mark then relates it to food. Luke's reference to Jesus' not immersing before eating (11:38) reflects a similar context.²⁹

As many have observed,³⁰ it is difficult to understand how there could have arisen disputes over clean and unclean food in earliest Christianity if Jesus had clearly negated that distinction, as Mark sug-

²² See Loader, *Attitude*, 210–220, 316–324.

²³ So Dunn, *Jesus Remembered*, 574–576; Kazen, *Jesus*, considers it reflects an earlier form (86).

²⁴ Dunn, *Jesus Remembered*, 576.

²⁵ So most recently Holmén, *Jesus*, 237–246; Dunn, *Jesus Remembered*, 576. Kazen, *Jesus*, 86; "seemingly careless attitude" (88). Bryan, *Jesus*, 167; William Loader, "Mark 7:1–23 and the historical Jesus," *Colloquium* 30 (1998): 123–151. Cf. Jürgen Becker, *Jesus von Nazaret* (Berlin: de Gruyter, 1995), 381–387; Theissen and Merz, *Jesus*, 327, treating it as an absolute but without implying change of practice.

²⁶ So Kazen, *Jesus*, 60–85; Bryan, *Jesus*, 140. See also the reviews of the earlier Neuser/Sanders debates in Kazen, *Jesus*, 68–72 and Bryan, *Jesus*, 130–140.

²⁷ Cf. Kazen, *Jesus*, 65.

²⁸ Dunn, "Jesus and Purity," 463; Bryan, *Jesus*: "for Jesus the significance of bodily impurity was drastically attenuated" (168), though not abandoned, as Jesus' directive to the leper shows (167).

²⁹ Kazen, *Jesus*, 229–230.

³⁰ Most recently again Dunn, "Jesus and Purity," 263.

gests.³¹ It is also difficult to understand why in such disputes people did not appeal to this saying or its substance. Luke's tradition in Acts 10:9–16 of Peter's vision also attacks the distinction among foods on substantial grounds—all these animals have been created by God and cannot, therefore, be unclean, though Luke applies it symbolically to people not food.³² The existence of this tradition and its attribution to a post-Easter context helps confirm that, at least in the mind of the bearers of that tradition, Peter had made no connection between such a saying and food and knew no such teaching from Jesus.

If the saying was not meant originally in an absolute sense, it is not a large step from declaring laws of purity in relation to food and other matters to be relatively less important in relation to ethical goodness, to declaring them dispensable.³³ One might then transfer the same approach to forbidden foods, an intermediate step being to declare them unimportant and a further step to declare them all clean, which appears also to have been Paul's stance reflected in Romans 14:14, and finally to declare that such laws make no sense at all, as Mark's context now assumes.³⁴ It is clear that this trajectory stood beside others which were much more conservative.

Mark's denial of the relevance of distinctions between clean and unclean challenges fundamental principles of the Law, especially in relation to holiness and cult. When Mark contrasts the temple made with hands with the temple not made with hands (14:58) and when he has the scribe contrast love of God and neighbour with offering sacrifices (12:28–34), it is likely that Mark saw the temple's sacrificial activity as having no validity.³⁵ Yet Mark does not appear to have rejected the temple itself. Its role was to be a place of prayer for all peoples. Mark 11–13 links the action of Jesus in the temple with the destruction of the temple, seen ultimately as an action of God. The truth about the false accusation at the Jewish trial and among the mockers at the cross, alleging that Jesus said that he would destroy the temple, lies in the fact

³¹ The same applies to the parallels to Luke 10:9 and Mark 7:15 in *Gos. Thom.* 14, where Nordsieck, *Thomas-Evangelium*, even argues that a reference to Gentile mission might be seen to fit the historical Jesus and that they illustrate that the values of the kingdom must override the cultic requirements where there is conflict (74–80).

³² Loader, *Attitude*, 368–379; Peter J. Tomson, "Jewish purity laws as viewed by the Church fathers and by the early followers of Jesus," in *Purity and holiness: The Heritage of Leviticus*, ed. M. J. H. M. Poorthuis and J. Schwartz (Leiden: Brill, 2000), 73–91, at 89.

³³ Bryan, *Jesus*, 168.

³⁴ On Mark reflecting the Romans tradition see Holmén, *Jesus*, 248.

³⁵ See Loader, *Attitude*, 95–122.

that he said that God would do so. It finds its symbolic confirmation in the tearing of the curtain (15:29, 38). The grounds for the destruction of the temple lie with the alleged depravity of its leadership. Its systems built on sacrifice and the distinctions between clean and unclean made no sense to Mark. It had relevance only as a place of prayer. His new temple, founded on Christ the cornerstone (12:9–11), consists of the praying community (11:24–25), the new leadership of the vineyard, the Christian community (12:9).

As with Mark 7, neither Matthew nor Luke follows Mark's radical approach to the temple. Matthew sees the temple's destruction as God's judgement on its leadership, but nowhere suggests its structure and activity was invalid. 5:23–24 assumes offering as normal and acceptable.³⁶ Luke decries the tragedy to befall the temple and the people, again with no disparagement. Jesus teaches in the temple to the end and the early church continues to participate in the temple. John similarly has no words of disparagement for the "Father's house" (2:16), but deems it obsolete now that the hour has come for worship in the Spirit and Christ has been raised as the new temple (2:19–21; 4:21–24). In some ways Mark and John reach a similar conclusion, but for Mark it implies disparagement and irrelevance of the old, for John it implies intentional fulfilment and replacement of what had divine validity until Christ came.

Any rejection of the temple or of its biblically sanctioned practices was a rejection of large parts of Torah. Attempts to reconstruct Jesus' concerns about the temple range from suggesting he was offended by lax approaches to temple purity to seeing his action as a veiled statement that he was, himself, to be the sacrifice to end all sacrifices. We cannot review these in detail here. There is sufficient ground for claiming that Jesus was critical of the behaviour and attitude of temple authorities.³⁷ We see this reflected in the parable of the Good Samaritan, in Mark's traditions about exploitation of widows (12:38–44), in sayings about the rejection of God's emissaries in the past and the present (Matt 23:34–36; Luke 11:49–51) and in the warning that God would abandon the house (Matt 23:37–39; Luke 13:34–35). He was not alone in such criticism. Nor was he without precedent in predicting that God's judgement would fall on the temple.³⁸ While predictions of destruction imply something more

³⁶ The *didrachma* legend of 17:24–27 assumes respect for the temple and debate about the legitimacy of the tax (see Loader, *Attitude*, 223).

³⁷ Holmén, *Jesus*, 288, 291.

³⁸ *Ibid.*, 321–323.

than reform or failed reform, the grounds for destruction may well be reflected symbolically also in the activities which Jesus disrupted.³⁹ He appears also to have assumed the eschatological hope that God would replace the old temple with a new one. But none of this amounts to an attack on the temple as an institution mandated in the Law,⁴⁰ and certainly not to a literal take-over bid.⁴¹

This is also true of John's baptism. Whether or not Jesus also baptised or baptised for a period,⁴² there is no indication that he saw John's (or his) rite as an exclusive alternative to temple rites. Jesus does not appear to deem the temple to be so polluted as to be avoided at all costs, as did some (cf. Matt 5:23–24 and pilgrimages). Yet he declares it sufficiently corrupted as to warrant a prediction of divine judgement.

Gaps in our knowledge at this point tempt speculation. Did Jesus propound that individuals offer their own sacrifices, but in face of resistance institute his own sacrificial meal which prompted Judas' betrayal?⁴³ Did Jesus hope for repentance from the authorities, but

³⁹ See Loader, *Attitude*, 105–116; also Hans Dieter Betz, "Jesus and the Purity of the Temple (Mark 11:15–18): A Comparative Approach," *JBL* 116 (1997) 455–472; Craig A. Evans, "The new quest for Jesus and the new research on the Dead Sea scrolls," in *Jesus, Mark and Q: The Teaching of Jesus and its Earliest Records*, ed. Michael Labahn and Andreas Schmidt, JSNTS 214 (Sheffield: Sheffield Academic, 2001) 163–183, at 175.

⁴⁰ Holmén, *Jesus*, sees Jesus as concerned with the way the sacrificial cult functioned to give a false sense of security on the basis of which people went out to sin (296–329). Though he notes Jesus' probable observance of temple purity laws, he observes that Jesus falls outside his category of Jews who saw the temple and its cult as covenant path markers in the quest for right observance (329). Cf. E. P. Sanders, who sees the act as disrupting the system and symbolising impending judgement, but goes too far when he writes: "He challenged the adequacy of the Mosaic dispensation to provide the complete frame of reference for relations between God and human. God, in his view, would extend his mercy to include outsiders." E. P. Sanders, "Jesus from the Jewish Point of View," in *Cambridge History of Judaism*, vol. 3 (Cambridge: Cambridge University Press, 1999) 618–677, at 651–652, 658. This is true in the sense that Jesus looked to a renewed covenant, but not if it implies rejection of Torah.

⁴¹ Jostein Ådna, *Jesu Stellung zum Tempel: die Tempelaktion und das Tempelwort als Ausdruck seiner messianischen Sendung*, WUNT 2.119 (Tübingen: Mohr Siebeck, 2000), shows that the idea that Jesus tried to clear the entire 450 x 300 meter court, despite its defenders, is unrealistic (301–306). Holmén, *Jesus*, notes that Mark's conative imperfect already suggests a symbolic act (313) and his expelling the buyers, something more than cleansing (317).

⁴² Dunn, *Jesus Remembered*, suggests: "Jesus may well have abandoned a practice that would have most associated him with the Baptist" (460); cf. Meier, *A Marginal Jew*, 2:120–129, who suggests Jesus did baptize.

⁴³ Bruce Chilton, *Pure Kingdom: Jesus' Vision of God* (Grand Rapids, MI: Eerdmans, 1996), 115–123; also "Jesus within Judaism," in *Judaism in Late Antiquity*. Part 2: *Historical Syntheses*, ed. Jacob Neusner (Leiden: Brill, 1995), 262–284, at 280–281, similarly Evans, "Jesus Misplaced," 35.

failing that, did he reject the sacrificial system, replacing it by himself?⁴⁴ These are variants of the claim that Jesus effectively declared himself to be the replacement for the sacrificial system,⁴⁵ usually framed in a typically Christian way with the focus on atonement for sins and with disregard for most of the other functions which the temple and its sacrificial system fulfilled, and informed largely by Paul's letters read in the light of Hebrews.

In all three synoptic gospels, the key passage is the account of the last meal, where such views take Jesus' words to indicate that he sees his death as an act of vicarious atonement. Matthew and Luke are here at one with Mark. Paul, who preserves the same tradition, leaves us in no doubt that for him the event of Jesus' death and resurrection was pivotal and implied that all other sacrifices and rituals for dealing with sin were thereby rendered obsolete. In a different way John also assumes a new basis for atonement which supersedes the old.

Could it be that at the end of his life Jesus, his hopes for change dashed, resolved to present himself as an alternative, indeed, as the new covenant replacement of the old, including the temple?⁴⁶ Does the prominence of royal messianic motifs in the passion narrative, but their relative absence elsewhere in the Jesus tradition reflected in the synoptic gospels, indicate a similar change of tack by Jesus late in his ministry?⁴⁷ It would make good sense of the major role that this interpretation of Christ's death plays in Paul and in many of the traditions upon which he draws. Against this, the absence of this element in the accounts of early preaching in Acts, in the early forms of the passion narrative (beyond the last meal), and in the Q material may suggest that the interpretation arose in post-Easter reflection on the death of Jesus and only in some circles.⁴⁸ Evidence suggests that the first Christians

⁴⁴ Ådna, *Jesu Stellung zum Tempel*, 439, 444–445. See also idem, "Jesus' symbolic act in the temple (Mark 11:15–17): the replacement of the sacrificial cult by his atoning death," in *Gemeinde ohne Tempel: Zur Substituierung und Transformation des Jerusalemer Tempels und seines Kults im Alten Testament, antiken Judentum und frühen Christentum*, ed. B. Ego, I. Lange, and P. Pilhofer (ET: *Community without Temple*); WUNT 118 (Tübingen: Mohr Siebeck, 1999), 461–475, where he speaks of Jesus' view of his own death as atoning as a "second option" (472).

⁴⁵ Theissen and Merz, *Jesus*, 380–383, claim Jesus offered his meal as an interim measure, which then became permanent.

⁴⁶ So Ådna, *Jesu Stellung zum Tempel*, who interprets 10:45 as ransom and notes the same word is used of the temple tax (419–421 and 424–426), thus representing the sacrificial system and implying Jesus' decision to replace it. Jesus understood his suffering as part of his messiahship linked with Isaiah 53 (416–419).

⁴⁷ See the discussion in Dunn, *Jesus Remembered*, 652–653.

⁴⁸ See the most recent discussion in Dunn, *Jesus Remembered*, 795–796.

did not abandon the temple and its cult. Even the alleged allusion to vicarious atonement in the Last Meal is contested; imagery may suggest covenant sacrifice.⁴⁹ Speculation about Jesus' changing his mind in this way is fraught with difficulty, especially given that the evidence is at best circumstantial and capable of alternative explanation.

One should also consider that the idea of beneficial death was not without precedent. Maccabean heroes (2 Macc 7) and the figure of the suffering servant in Isaiah 53, vicariously, were also seen as achieving benefit for others. Furthermore in neither case do we find the implication that temple rites or Law are thereby rendered obsolete or replaced. Might the same have been the case in the development of reflection on Jesus' death, including possibly his own reflections in advance shared with his disciples? This should be considered before concluding that at least at the end of his life Jesus turned to reject the temple and thus Torah in this way. It also makes better sense of the scattered indications that some Christians continued to participate in temple rites, including the Lukan Paul. Had the movement begun on the assumption that it espoused the replacement of the temple, we might expect that to surface as a major issue. In Luke's account, the rejection of the temple attributed to Stephen and the Hellenists is shown to be false, notwithstanding the assertion (shared with biblical tradition) that God does not dwell in temples made with hands (Acts 7:47–50; Isa 66:1–2; 1 Kings 8:27).⁵⁰

In Mark we have passed over the controversy about divorce, partly because of the coherence of the cultic themes, and partly because it needs to be considered in the light of sayings on the theme found in independent sources.⁵¹ Matthew preserves both Mark's account and an independent saying which he has incorporated within the six so-called antitheses of the Sermon on the Mount. These six sayings introduced by "You have heard that it was said to those of old, but I say to you," or some shorter form of the same, are the classical site for identifying where Jesus is alleged to take a stand against Torah. The assumption that each of the six is antithetical in a literal sense in this way stands in

⁴⁹ Dunn, *Jesus Remembered*, writes: "There is a clear danger that both sets of suggested allusions (Isaiah 53; Daniel 7) are more in the eye of the beholder than contrived or intended by the initial tradents" (815). See his discussion of Mark 10:45 (812–815) and the Last Meal (815–818).

⁵⁰ Loader, *Attitude*, 361–368. Cf. Becker, *Jesus*, who asserts it is not only true but reflects continuity with Jesus (282–283).

⁵¹ For what follows I refer to my discussion in *Sexuality and the Jesus Tradition* (Grand Rapids: Eerdmans, 2005).

tension with what precedes in 5:17–20, where Matthew portrays Jesus as declaring that the Law remains valid and is in no way to be diminished in its demand. Most scholars now recognise that in 5:21–48, Matthew, far from contradicting his image of Jesus by showing him as setting Torah aside, is in fact enhancing its demands.⁵² At the same time, he is indicating where he sees that the priority lies in Jesus' interpretation of the Law. Matthew assumes a hierarchy of values within Torah, which is reflected in the immediate context in 5:19 (and with surprising affirmation of detail in 23:23). While the focus is primarily ethical, it is not exclusively so, as the extrapolations in 6:1–18 about alms, prayer and fasting show.⁵³

To each of the so-called antithetical comments parallels exist in biblical and post-biblical Jewish writings of the time. Anger was a common theme; adultery, similarly. Already the prohibition of coveting lent itself to application in this way. Divorce was a matter of debate. Reaction to proliferation of oaths by abstention from oaths was not unknown.⁵⁴ Issues of retaliation and love of enemy were not foreign to exposition of Torah.⁵⁵ This renders earlier suggestions that Jesus sovereignly set aside Torah on oaths, retaliation, and love of enemy unconvincing.⁵⁶

The anecdote in Mark about divorce may well have had a single pithy response by Jesus: "What God has yoked, let no one separate" (10:9). It rebuffs the discussion of what legitimises divorce. The biblical texts

⁵² Cf. Paul Foster, *Community, Law and Mission in Matthew's Gospel*, WUNT 2.177 (Tübingen: Mohr Siebeck, 2004), who argues that, read in the light of 5:21–48, 5:17–20 cannot intend the upholding of the Law.

⁵³ *Gos. Thom.* 6 alludes to fasting, prayer and giving alms. While one can argue that here and in *Gos. Thom.* 14 on fasting and alms Jesus places no value on them (Loader, *Attitude*, 492–493), the case can be made that they reflect a typical approach of Jesus which gives them a subordinate place beside ethical demands—so Nordsieck, *Thomas-Evangelium*, 47–50, 75.

⁵⁴ Holmén, *Jesus*, noting the tendency to reduce them (Sirach, Essenes, Philo), writes: "In the saying Jesus totally forbids taking oaths while the Jewish reflections remain critical only" (180). "Living according to Jesus' teaching would not lead to transgression, but the Law is implicitly pictured as allowing something that should not be done at all" (186). See also Dunn, *Jesus Remembered*, 580–581. Becker, *Jesus*, reminds us that refusing to do what law permits is not against the Law (296).

⁵⁵ Holmén, *Jesus*, assuming his model of covenant seeking, writes: "To love one's neighbor but to keep distance from one's enemies functions as an important general covenant path marker" (258; similarly 273–274). Jesus assumes a different approach to covenant. See also John Riches, "Jesus the Jew: His Interaction with the Judaism of his Day," in *Who do you say that I am?* (London: SCM Press, 1997), 52–60.

⁵⁶ See, for instance, the devastating review of new quest research in Karlheinz Müller, "Forschungsgeschichtliche Anmerkungen zum Thema 'Jesus von Nazareth und das Gesetz': Versuch einer Zwischenbilanz," in *Kirche und Volk Gottes: Festschrift für Jürgen Roloff*, ed. Martin Karrer (Neukirchen-Vluyn: Neukirchener Verlag, 2000), 58–77.

from Gen 1:27 and 2:24 now ground marriage in the divinely created order. The saying which Mark appends and locates in private instruction to the disciples (12:10–12) has a similar structure to those found in Matthew, Luke and Paul in that it declares divorce and remarriage to constitute adultery—on the assumption that the original marriage cannot be dissolved. Matthew identifies grounds which make divorce legitimate (indeed, required), namely, adultery. In this he reflects the widespread assumption embodied in Jewish law, that a wife who has slept with another is from that point unclean for the original husband.⁵⁷ Very probably this is also taken for granted in the prohibition sayings in Mark, Luke and Paul.

The variant forms of the saying, including Matthew's explicit additions, Mark's (and possibly Luke's) application to women who contemplate divorcing their husbands, and Paul's exposition in relation to mixed marriages, bear witness to a common assumption that Jesus spoke against divorce (and therefore remarriage of divorced people). In the context of our discussion the issue is whether this would have been seen as a departure from Torah or a radical application of Torah. The matter of grounds for divorce was certainly subject of debate according to rabbinic reports. The material in CD IV, 20–V, 6 which also cites Gen 1:27, taken by many to be rejecting divorce, now appears more likely to concern polygamy, also reflected in the Temple Scroll (11QT LVII, 15–19). Other writings at Qumran assume the legitimacy of divorce (CD XIII, 15–17; 11QT LIV, 4–5; LXVI, 8–11). This leaves Jesus' approach standing without direct parallel. Does it derive from a departure from Torah or a will to radicalise its demands? The latter seems more probable.⁵⁸

There is some further indication that Jesus took a very strict approach to matters broadly pertaining to sexuality.⁵⁹ While not imposing on others what was probably his own calling, namely celibacy, he extolled its worth as an option for the kingdom of God (Matt 19:11–12), and elsewhere shows that he assumes that in the age to come sexual activity

⁵⁷ John P. Meier, "The historical Jesus and the historical law: some problems within the problem," *CBQ* 65 (2003): 52–79 dismisses this view too quickly (78 n. 59). See the discussion in Klaus Berger, *Die Gesetzesauslegung Jesu: Ihr historischer Hintergrund im Judentum und im Alten Testament*, 1: *Markus und Parallelen*, WMANT 40 (Neukirchen-Vluyn: Neukirchener Verlag, 1972), 566–570.

⁵⁸ Holmén, *Jesus*: "Jesus probably did not intend his words to contradict, oppose or be directed against the law" (168). Ulrich Wilckens, *Theologie des Neuen Testaments: Band 1: Geschichte der urchristlichen Theologie*; Teilband 1: *Geschichte des Wirkens Jesu in Galiläa* (Neukirchen-Vluyn: Neukirchener Verlag, 2002), 287.

⁵⁹ For what follows see Loader, *Sexuality*.

would cease (Mark 12:25). He doubtless also shared John the Baptist's very strict interpretation of incest laws in attacking Antipas for marrying his step brother's wife (Mark 6:18; cf. Lev 18:16). At the same time, his exposition of the prohibition of adultery, as Matthew presents it, does not demonise women and women's sexuality, but calls men to responsibility for their actions (5:27–28). Sexual union between a man and a woman belongs to becoming one in marriage and is affirmed (Mark 10:2–9). But responsibility for the way men handle their sexuality needs to be taken very seriously, as the sayings about excision indicate (Matt 5:29–30). Mark's tradition, which also preserves such sayings, perhaps already associated with warnings against abuse of little ones, shows sensitivity to sexual abuse (9:36–37, 42–48).

None of these values runs contrary to Torah. They expound its values. Noteworthy, however, is the image of the world to come as being without sexual activity. This may well reflect a strand of Judaism (as in Jubilees) which deemed some incompatibility between the sacred and the sexual, a logical extension of the notion that the age to come is seen as a sacred space, as a temple, where nakedness and sexual activity had no place. Such values reappear in Paul, in both his personal choices and his expositions (1 Cor 7:1, 5, 7, 34) and, in Corinth, in some one-sided extrapolations.

The discussion of sexuality, far from taking us into areas where Jesus might possibly have set Torah aside, may highlight where his stance was deeply reflective of values of Torah, even including assumptions about purity and impurity. While apologists try hard to explain Jesus' prohibition of divorce on the grounds that it would thrust women into poverty, the primary concern appears to be upholding divinely created order.⁶⁰ That surely must also rest on perceptions of what God intends as good for people, but the divorce sayings also assume, at least in the Matthean form, notions of clean and unclean. Notions that adultery need not destroy a marriage or that remarriage may well be a compassionate option for many people, not least in the ancient world of Jesus' time, are absent. Mark's version of the saying speaks of wronging a woman (10:11), but many see that as an addition and the other sayings assume male action and the infringement of male rights.

⁶⁰ See also Amy Jill Levine, "Jesus, divorce, and sexuality: a Jewish critique" in *The Historical Jesus through Catholic and Jewish eyes*, ed. Bryan F. LeBeau, Leonard Greenspoon, and Dennis Hamm (Harrisburg: Trinity, 2000), 113–129, in which she challenges the assumption that divorce was widespread and Jesus was trying to save Jewish women from their plight (115–120).

There is a conservative stance here, in which the material suggests that Jesus was far from jettisoning some assumptions about what was clean and unclean.

It is worth exploring other signs that in some ways Jesus embodied a conservative approach to biblical Law, at least as his starting point. These include the traditional names of members of Jesus' family, the wearing of tassels (Mark 6:56 Matt 9:20), and indications that Galilee was strongly Jewish and that the temple played an important symbolic role for the people.⁶¹ There are signs of a conservative approach in anecdotes about Jesus and Gentiles. In Q's report of the healing of the centurion's servant (Luke 7:1–10; Matt 8:5–13), the centurion's response assumes unworthiness as a Gentile that Jesus should enter his house. Jesus appears to agree, and heals his servant from a distance, perhaps having elicited that response with a question: "Am I to come and heal him?"⁶² Luke's Peter shares similar assumptions in Acts 10:28.⁶³ Mark also records a healing from a distance—again of the child of a Gentile (7:24–30). Also striking is Jesus' first response to the woman, which speaks of Jews as children and Gentiles as dogs.⁶⁴ The point is not that dogs are cute, but that dogs are unworthy. Mark employed the story to herald its outcome, not to support Jesus' response. It is difficult to imagine that Christians would have invented such a response and attributed it to Jesus, but perhaps the will to invent a contrast failed to see the possible negative implications.

John suggests that contact with Gentiles came through a special initiative of Philip, as though to this point in the Johannine story no such encounter had taken place (12:20–22). Contact between Jesus and Gentiles are few, apart from the encounters which Mark locates in Gentile territory.⁶⁵ Matthew has Jesus declare outright that his mission is

⁶¹ So Jonathan L. Reed, *Archaeology and the Galilean Jesus: A re-examination of the Evidence* (Harrisburg: Trinity, 2002), who draws attention to the presence of stone vessels; *miqwaoth*; burial practices; no pork bones (43–52). See also Sean Freyne, "Archaeology and the historical Jesus," in *Archaeology and Biblical Interpretation*, ed. John R. Bartlett (London: Routledge, 1997), 117–144, at 132–138; Dunn, *Jesus Remembered*, 293–302; Kazen, *Jesus*, 285–292.

⁶² So U. Wegner, *Der Hauptmann von Kafarnaum (Mt 7,28a; 8,5–10.13 par Lk 7,1–10): Ein Beitrag zur Q-Forschung*, WUNT 2.14 (Tübingen: J. C. B. Mohr [Paul Siebeck], 1985) 375–380.

⁶³ Tomson, "Purity Laws," 83–84, draws attention to the differing rabbinic views on Gentiles, including their homes. See *m. 'Ohal.* 18:7–10; and *t. Ahil.* 18:6–12.

⁶⁴ See William Loader, "Challenged at the Boundaries: A Conservative Jesus in Mark's Tradition," *JSNT* 63 (1996): 45–61, at 45–51.

⁶⁵ So Kazen, *Jesus*, 23; cf. Holmén, *Jesus*, 233–236, 250–251.

not to Gentiles, nor is that of his disciples before Easter (15:24; 10:5–6) and Luke assumes the same, probably for this reason withdrawing from the centurion at the cross what in Mark is a confession of Gentile faith (23:47; cf. Mark 15:39). The parable of the mustard seed may allude to the traditional expectation that ultimately the Gentiles would gather in the shade of the kingdom or nest in its branches (Mark 4:30–32; Luke 13:18–19).

Jesus probably did see his mission as directed primarily to Israel. The mission to Gentiles appears in Matthew and Luke-Acts as a post-Easter phenomenon. In Matthew it comes as an instruction by the risen Jesus (28:16–20). It also explains why the issue of circumcision appears on the scene as something new about which no instruction from Jesus existed.⁶⁶

Some hesitation, based on understandings of the boundaries between clean and unclean, may also be evident in Mark's story of Jesus' encounter with a leper (1:40–45). The sternness with which he instructs the man to follow the prescriptions of the Mosaic Law, may reflect that he sees him as having flouted the Law by his approach (according to D, evoking anger).⁶⁷ Perhaps a similar reaction lies behind Jesus' reaction to the woman who deliberately touched him in a state of uncleanness (5:25–34).⁶⁸

For Mark, the distinctions between clean and unclean have no validity. This is also true in the preceding story of the exorcism of the Gerasene demoniac (5:1–20). Nevertheless behind both sets of stories in Mark 5 are traditions in which such distinctions did once play a role. In the latter the motifs of the cemetery, the pigs, the legion, the sea, the Gentile territory and the demon-possessed man would have made the story a celebration of Jesus' victory over the unclean world of the Gentiles. Similarly the stories of the twelve-year-old girl, whose corpse Jesus touches, and the woman for twelve years suffering bleeding which rendered her unclean, would have been told as celebrations of restoration and resurrection. They still are that, although for Mark (as for Luke in the raising of the widow's son, 7:11–16) those aspects related

⁶⁶ Cf. *Gos. Thom.* 53 where Jesus addresses circumcision. *Gos. Thom.* 14 also appears to reflect Gentile mission. So Nordsieck, *Thomas-Evangelium*, 47–50, 75, 213–216.

⁶⁷ As original: Kazen, *Jesus*, 103, but comments, "The question of purity is not even implicit in the present form of the story" (120). But see Loader, "Boundaries," 51–58.

⁶⁸ See Loader, "Boundaries," 58–60, but cf. Kazen, *Jesus*, who notes that Mark's notion of power transmitted by such touching has no parallel in Hellenistic miracle stories (134).

to uncleanness no longer have valency, and he now used the stories as part of his panel depicting salvation for Gentiles and for Israel.

The question is often raised whether Jesus himself flouted the Law in the context of his healing ministry. He touched a leper,⁶⁹ touched corpses,⁷⁰ and was touched by a woman who would have been unclean.⁷¹ He spent some time in Gentile territory according to Mark. In daily life becoming unclean happened naturally from time to time. Men had nocturnal emissions. Women menstruated and gave birth. People died and those around them were rendered unclean for a time. People travelled to Gentile lands and returned. This has nothing to do with sin, let alone flouting the Law. There was debate about whether one should avoid contracting impurity. Generally, one should, especially if contracting uncleanness prevented one from fulfilling other duties, such as in the case of priests. In healing, Jesus touched people who were unclean. If anything, the debate might be whether becoming unclean in order to effect healing was a higher priority than avoiding uncleanness. The Good Samaritan makes the point.⁷²

None of the extant material suggests that Jesus' healing acts raised such an issue, as for instance, his healing on the Sabbath apparently did. This is probably because it was not seen as an issue by the writers. It was certainly not disregard for the Law. The further question is whether Jesus would have observed the usual rites of purification when he was thus rendered unclean. Some suggest his power reversed the flow of contamination, so that neither he nor others would have seen his actions as making him susceptible to uncleanness.⁷³ This is possible,

⁶⁹ "Objectionable, even if the impurity incurred was a 'light' one, and could be dealt with my immersion": Kazen, *Jesus*, 118.

⁷⁰ Kazen, *Jesus*, notes that, assuming Palestinian tradition behind the raising of both the widow's son and the girl and of the response to John the Baptist, we can expect people to have sensed the corpse impurity issue (164–177).

⁷¹ Kazen, *Jesus*, warns against the assumption that being touched indicated anything like a will to abrogate Torah (139).

⁷² So Kazen, *Jesus*, comments that while it does address purity concerns, it cannot serve as proof that Jesus disregarded purity laws, nor is its stance unique in the Judaism of the time, but its values are controversial (189–196). See also Bryan, *Jesus*, who links attitudes to Samaritans with land purity (172–177). Love for neighbour overrides the purity issues (177), reflecting prophetic precedents (186).

⁷³ Klaus Berger, "Jesus als Pharisäer und frühe Christen als Pharisäer," *NovT* 30 (1988): 231–262 (246–247); Bruce Chilton, "An Exorcism of History: Mark 1:21–28," in *Authenticating the Activities of Jesus*, ed. idem and Craig A. Evans, NTS 28.2, (Leiden: Brill, 1999), 215–245, at 234; Theissen and Merz, *Jesus*, 211; Dunn, *Jesus Remembered*, 603; "Jesus and Purity," 461; with caution: Kazen, *Jesus*, 300–339. Bockmuehl, *Jewish Law*, refers to transfer of purity reflected in Exod 29:37 and 1QapGen XX, 28–29 (exorcism).

particularly if clean and unclean is set within the context of demonology so that Jesus would have understood himself as acting with the Holy Spirit against unclean spirits.⁷⁴ On the other hand, had he contracted uncleanness—and he surely must have done in some ways apart from such encounters—would he have observed the usual purification rites? Here we must interpret the silence.⁷⁵ Either he did not and few objected, perhaps because most people gave little attention to such things in his context,⁷⁶ or he did and so gave no grounds for offence, assuming people in his context would have cared.⁷⁷ We know some cared, especially those who otherwise criticised him; so not to have observed the usual requirements would surely become known to them and become grounds for criticism,⁷⁸ even more so if the majority cared.⁷⁹

Where we do find controversy about purification rites, it relates in each case not to observance of Torah, but to additional requirements which some espoused and with whom Jesus disagreed. This is the case with the washing of hands in Mark 7:1–5 and with the immersion before a meal in Luke 11:37. On the other hand, it seems likely that Jesus and his disciples will have immersed themselves before the Passover.⁸⁰

⁷⁴ So Kazen, *Jesus*, 300–339; “...not the inherent holiness of his own person, but the power of the coming reign of God, which Jesus believed overpowered demons and impurities” (346). Bryan, *Jesus*, “This suggests that for Jesus the lines that divide pure from impure are indistinguishable from the lines that separate good and evil, the kingdom of God and the kingdom of Satan. And these lines cut through Israel” (16).

⁷⁵ On the ambiguity of the silence see Holmén, *Jesus*, who suggests it stems from Jesus’ indifference (236).

⁷⁶ Cf. John Dominic Crossan and Jonathan L Reed, *Excavating Jesus: Beneath the Stones, Behind the Texts: Key Discoveries for Understanding Jesus in his World* (San Francisco: HarperSanFrancisco, 2002): Jesus “observed exactly the same rules about food purity as did other Galilean peasants of his time and place” (132). Kazen, *Jesus*, rejects the assumption that most did not care (272–273), pointing to indications from archaeology noted above and conservatism reflected in matters like different weights, marriage laws, attitudes to work on holy days, loyalty to Jerusalem (281–284) and suggesting rural Galilee had characteristics of the little tradition and was open to Jesus because of his pragmatism and sense of loyalty to ancestral traditions (290–292). For Jesus, contagion was not menacing enough to warrant attention (338). Holmén, *Jesus*, suggests disinterest, although otherwise “Jesus would normally have observed the purity laws” (236).

⁷⁷ So Fredriksen, *Jesus of Nazareth*, 199–207. She cites 1:40–44 as evidence because it was an elaborate ritual (203–204) and points to Matt 5:23–24 and Jesus’ participation in pilgrimage festivals. See also Dunn, “Jesus and Purity,” who argues that as a devout Jew in Jewish Galilee Jesus would have observed purity laws (450–456). Cf. Kazen, *Jesus*, 181.

⁷⁸ Kazen, *Jesus*, assumes he did not purify himself and that this was “understood as seemingly indifferent” (198).

⁷⁹ As Kazen, *Jesus*, 272–273, supposes.

⁸⁰ The practice of immersion and thereafter only foot-washing is reflected in John 13:10 (see also 11:55). Kazen, *Jesus*, 255. On P. Oxy 840 which Theissen and Merz, *Jesus*,

Generally, Jesus does not appear to have espoused the elaborations of washing rites. In Matt 23:25–26 and Luke 11:39–40 he confronts the neglect of inner purity and compassion among those who focus on external rites of purification, which he does not, however, disparage.⁸¹ Some of his sayings reflect assumptions about purity, for instance grave impurity (Luke 11:44),⁸² just as does the burial of Jesus outside the city walls. His apparent avoidance of Tiberias and Sepphoris may indicate impurity issues, particularly in relation to the former built on a cemetery, but more likely reflects pragmatic concerns.⁸³ In the same context Jesus attacks interpreters of the Law who impose heavy burdens on people by their interpretations (Matt 23:4; Luke 11:45–46) and associates them with previous generations who rejected prophets and teachers (Matt 23:29–36, 37–39; Luke 11:47–52; 13:34–35). Mark also portrays Jesus as attacking hypocrisy and grandstanding (12:38–40). None of this suggests lack of respect for Torah; on the contrary.

If we must interpret the silence in dealing with Jesus' possible contraction of impurity during healing, we face something similar with regard to some other aspects of Jesus' mission. These include his summoning disciples to leave their families and possessions to follow him (Mark 1:16–20; 10:29–30; Luke 14:25–26). This surely stands in tension with the importance of the family in biblical law and with the promise of the land, where possessions meant land. Nowhere, however, do we find the radical call to discipleship cited against Jesus as a breach of Torah. This is probably because people were aware of comparable movements in their own time and of similar prophetic movements in the biblical tradition.

Some of Jesus' most shocking sayings belong in this context, such as the challenge to hate parents, but most notably, the challenge to one would-be follower to abandon the burial of his father: "Let the dead bury the dead!" (Matt 8:22; Luke 9:60). In a cluster of three sayings which show Jesus going one degree stricter than Elijah with Elisha, the demand is radical and immediate (Luke 9:57–62). Burial of the dead

take as evidence Jesus did not immerse (380–383), see Kazen, *Jesus*, who concludes that it is "not . . . an historical report" (260), but a memory of conscious negligence of certain required purification rituals, yet claims "it is likely that Jesus purified himself, like most other people, at large festivals" (250).

⁸¹ Tomson, "Purity Laws," 86–87; Kazen, *Jesus*, 229. See also *Gos. Thom.* 89. Sayings such as 39 about abusing the keys of knowledge, 52 about appeals to the prophets, 43 and 45 about trees and fruit may reflect Jesus' attacks on abuses.

⁸² Kazen, *Jesus*, 177–181.

⁸³ Kazen, *Jesus*, 180; they represented alien values 289, 292; similarly Holmén, *Jesus*, 237.

was a fundamental obligation. Yet nothing in the context suggests that with this demand Jesus set himself against Torah. We should probably see his demand as tolerable within Jewish tradition of the time as a charismatic exception, such as might be expected when God called people to special tasks. It should not therefore be taken as evidence of disregard of Torah.⁸⁴

When asked about inheriting eternal life, Jesus' response, according to Mark 10:17–22, is not to point away from the Law, but to point to it. Unlike Paul, with whom Mark shares much in common, Mark sees observing the Law as the way to eternal life. But, as in Paul, Mark is happy to affirm the commandments of the Decalogue, particularly those concerned with ethical behaviour, but regard others as invalid. While Paul argues that he upholds the Law (minus all but mostly the ethical commandments) and sees it as more than fulfilled, but indirectly, when Christians bear the fruit of the Spirit in their lives (Rom 8:1–4; Gal 5:13–25), Mark has Jesus require obedience to these commandments in a radical manner which should not pose a problem if that entailed for someone selling his goods and giving to the poor (10:17–21). That dimension was lacking in the rich man. Following Jesus is not an alternative to keeping these commandments, but a matter of joining oneself to the one who radically interprets them.

Similarly, Mark portrays Jesus as affirming that God's greatest demand is the twofold commandment to love God and neighbour (12:28–34). In the Markan context, both stories will assume that in this some commandments are affirmed, while others do not apply. The scribe who answers Jesus by identifying the priority of the twofold command of love over sacrifices stands in an established biblical tradition and more likely reflects the way in which both stories will have been understood at an earlier stage of the tradition and, if historical, in the context of the ministry of Jesus. This assumes a hierarchy of values which coheres with sayings and stories of Jesus elsewhere, which assume compassion for the poor is a divine priority, so that to love God means to engage in such compassion. Matt 23:23 and Luke 11:42 similarly emphasise

⁸⁴ So Bockmuehl, *Jewish Law*, 47: "The notion of a special religious duty transcending even basic family obligations is one that would have been culturally familiar to Jesus' audience." Cf. Sanders, *Jesus within Judaism*, 653–655; Holmén, *Jesus*, 330. See also Dunn, *Jesus Remembered*, 504, 581 citing Kenneth Bailey, *Poet and Peasant: A Literary-Cultural Approach to the Parables of Luke* (Grand Rapids, MI: Eerdmans, 1976), 26–27, to the effect that the saying is a known idiom about remaining at home to care for parents. But known and used in the first century?

justice and mercy and faith (Matt) or “the love of God” (Luke), while espousing tithing beyond what biblical law demands.⁸⁵

In themselves, the two greatest commandments need not lead to this conclusion. One might argue that love for God demands meticulous attention equally to all commandments, a stance espoused, for instance, in the sectarian documents found among the Dead Sea Scrolls, and love for neighbour includes similar conscientiousness in relation to all relevant provisions, both in purity and in ethics. Such a saying as, “The Sabbath was made for people, not people for the Sabbath” would make little sense to people adopting this approach, and still does not. Surely God’s command is God’s command. This does not appear to have been the approach of the historical Jesus, but the difference is not whether or not to set Torah aside, but how to understand and interpret it.

Our survey suggests that there appears to have been nothing in Jesus’ reported approach to the Law which would warrant the conclusion that Jesus set aside Torah or even set aside parts of Torah. Controversies concern different ways of interpreting Torah, different priorities. If Jesus had abandoned Torah or set parts of it aside or in other ways breached it a major way, we might expect to have some indication of this in the accounts of his trial and execution. This is not the case,⁸⁶ but with two exceptions: the charges of speaking against the temple and of blasphemy.

Mark presents false witnesses as claiming that Jesus would destroy the temple and build another in three days (14:56–58). The falsity for Mark lies in the allegation that Jesus would be the destroyer. Matthew rewrites the scene so that two (and now therefore reliable) witnesses attest to Jesus’ claim that he *could* destroy the temple. (26:60–61). Luke transfers Mark’s false allegation to the conflicts with Stephen (Acts 6:13–14). John has a version of the saying which attributes the destruction to the Jews themselves (2:18–22). In none of these variants need we conclude that Jesus rejected the biblical foundation of the temple. His action in the temple and his threat and prediction of God’s judgement, while not anti-temple and certainly not anti-Torah, would certainly have riled temple authorities and touched Rome’s interests.

⁸⁵ Kazen, *Jesus*, 231; but most see 23:23c as not original. See the discussion in Holmén, *Jesus*, 114–115. On Luke 18:9–14, he observes that the point is not the Pharisee’s pride or hypocrisy, but his lack of something the toll collector has found (122–126). He suggests Jesus was indifferent to tithing (126).

⁸⁶ Dunn, *Jesus Remembered*, 784–786; cf. Becker, *Jesus*, 335; Ferdinand Hahn, *Theologie des Neuen Testament*, 2 vols (Tübingen: Mohr Siebeck, 2002), 1:119.

The charge of blasphemy is more complex. In Mark's trial scene, the Council gives it credence. Such charges were being levelled at Christians in Mark's time and before because of what Christians were claiming about Jesus. The same is true of John's Gospel, where we see some of the arguments to undermine allegations of ditheism (5:17–20; 10:30–38). Nevertheless the presence of royal messianic motifs in the early form of the passion narrative and the centrality of the messianic status of Jesus from early on in the Christian movement times make it probable that at least Jesus' relationship to messianic claims was an issue in his trial and execution.⁸⁷

More difficult to determine, however, is whether Jesus committed blasphemy and how. To claim to be the Messiah or to have this claimed about oneself is not blasphemous. Suggestions of what was blasphemous in Mark range from agreeing to the claim of divine sonship in a literal sense to speaking of oneself as the Ancient of Days.⁸⁸ For our study, the charge of blasphemy would have to be deemed valid and Jesus, therefore, to have contravened Torah or ignored it, for it to have relevance. The gospels imply the charge is without ground.

In John's Gospel the grounds for the charge of blasphemy are clearer, namely, the implied claim that God is Jesus' father and that he is equal or one with God in a literal sense (5:18; 10:33; 19:7). There, too, the charges are to be rejected according to the author as based on misunderstanding, even though in John Jesus is pictured as one with God after a model of Christology rooted in wisdom speculation. In John Jesus assumes the divine epithets predicated of Torah as God's Wisdom and so is Word, bread, light and life and much else. He alone, not Torah, is the true bread and the true vine. With such developments, John takes us beyond what might be claimed as assertions of the historical Jesus.

Mark also reports charges that Jesus performed exorcisms with the aid of Beelzebul. (3:22–27). Similar accusations are preserved in so-called Q material, both in connection with Beelzebul (Matt 9:32–34; 12:27; Luke 11:14–15, 18–19) and in general where Jesus reflects on responses to John the Baptist and to himself as a recalcitrant son (Matt 11:16–19; Luke 7:31–35). The gospels depicts these as false accusations. The charge that Jesus was a charlatan and false prophet appears in later rabbinic tradition. Such accusations may derive ultimately from actual

⁸⁷ "Had no messianism been present in the pre-Easter ministry, then the resurrection would not have generated it"; Evans, "New Quest," 183 n. 41.

⁸⁸ See the most recent discussion in Dunn, *Jesus Remembered*, who thinks it possibly reflects a cynical misuse of speculation about two powers in heaven (751–752).

controversy surrounding the historical Jesus, but at most we can say that these were interpretations of Jesus' words and deeds. Nothing suggests he would have acknowledged such claims as true and so set himself deliberately against the Law.

Conclusion

The evidence surveyed does not present a picture of Jesus setting out to dismiss Torah.⁸⁹ But nor does it present a picture of Jesus as primarily an interpreter of the laws of Torah. Most conflicts on points of Torah observance occur either incidentally, indeed, as interruptions and distractions or when others raise questions of interpretation with him. Jesus' focus appears to have lain elsewhere, namely in the proclamation of the kingdom and in living out its vision in the present.⁹⁰ If we confine attitudes to Torah in terms of seeking prescriptions for behaviour or marking out covenant identity, we may conclude that Jesus shows little interest.⁹¹

If, however, we understand attitudes towards Torah with its broader sense of telling the story and ways of the covenant, then the question is whether Jesus' mission belongs within this perspective or is something outside it. Seen in this perspective, Jesus' words and deeds appear to cohere well with a stance deeply rooted in Torah, even at times quite conservatively, and focused on future hope and with an emphasis which justified response to human need as something which might override other requirements of Torah and was bound to bring him into conflict

⁸⁹ This is notably the conclusion of most Jewish scholars in recent times. See Geza Vermes, *The Religion of Jesus the Jew* (London: SCM, 1993), 21–26, though lax towards purity; idem, *Jesus the Jew: A Historian's Reading of the Gospels* (London: Collins, 1973) 81; David Flusser, *Jewish Sources in Early Christianity* (New York: Adama, 1987), though differing over minutiae (22); Fredriksen, *Jesus of Nazareth*, 197–207; see also Beatrice Bruteau, ed., *Jesus through Jewish Eyes: Rabbis and Scholars Engage an Ancient Brother in a New Conversation* (Maryknoll, NY: Orbis, 2003).

⁹⁰ Broer, "Jesus und die Tora," 252.

⁹¹ This is amply demonstrated by Holmén, *Jesus*. He concludes that Jesus had an attitude based on a new covenant (336) and that therefore observance of laws was irrelevant. "Jesus was apparently, as it seemed, not even proposing to live according to the covenant, he was not even trying to be loyal to it" (340). One could counter that he did interpret the covenant, but in a different way in the light of prophetic hope and that it gave him a set of priorities which sometimes meant he would override one part of the Law with another. Such covenant concerns are reflected in Jesus' restoration eschatology and its imagery. His last sentence, "It is likely that he—in resemblance of many contemporary figures—even saw his Judaism as the true Judaism" (343) somewhat undermines his claim about everyone else being path searchers and markers.

with those who construed the priorities differently. These include the expansionist movements of his time.⁹² Such an emphasis, which at times sat lightly to laws which others revered, is not to be confused with blatant disregard or indifference.⁹³ Nor should it be seen as an eschatological replacement of Torah,⁹⁴ let alone a new Torah. It seems also unlikely to be the fruit of a pessimism one might attribute to John the Baptist according to which pollution is so total that only total repentance now matters and nothing else,⁹⁵ because too much of the rest (namely respect for Torah) survives.⁹⁶ If anything, it comes close to being the reverse: only total acceptance of the new invitation to belong matters, but this is not so radical that it ignores detailed requirements of Torah. Some, it makes more stringent. The invitation is not to a new Torah, let alone a new religion, nor to an interim ethic,⁹⁷ but to respond to what God requires in the present and promises in the immediate future. That sense of continuity between present and future is rooted in faith in the God of Israel and generated by Torah understood as a story of hope, which is about to be realised.

It is informed, however, by a particular understanding of God and of prophetic theology⁹⁸ which placed a vision of well being charac-

⁹² Kazen, *Jesus*, 197.

⁹³ Kazen, *Jesus*, "Jesus' attitude was apparently understood as *seemingly* indifferent in his contemporary context" (198), but this is not same as saying it was, although he argues that Jesus "carried relativization to the point of neglect" (261).

⁹⁴ Wright, *Jesus*, 434–435; Hahn, *Theologie*, 1:97, claiming that Jer 31 implies a time when people no longer need Torah and some parts become superfluous (101). "Insgesamt wird damit die Tora nicht aufgehoben, aber sie wird durch die anbrechende eschatologische Wirklichkeit tiefgreifend modifiziert" (102).

⁹⁵ Cf. Becker, *Jesus*, who speaks of the "Nullpunktsituation" (50, 51). Interpreting John's rhetoric exclusively (and thus not doing justice to its prophetic heritage) he asserts covenant blessings are now invalid (91–92). The kingdom overrules Torah, which ceased to be the final authority (279; 353–354). The attractiveness of the thesis is that it would enable one to explain why minor purity laws become irrelevant given the total purity failure. Similarly Bryan, *Jesus*, 164, 186–168.

⁹⁶ Bryan, *Jesus*, draws attention to strands of prophetic thought which saw an end-time purity in which gradations would be irrelevant, reflected in Zech 14:20–21 and Isa 66:20–21; similarly *Jub.* 4.26; *1 Enoch* 10.22 (153–156). "In this tradition, the anticipation is that 'the Lord will become king over all the earth' (Zech 14.9)." Similarly Scot McKnight, "A parting within the way: Jesus and James on Israel and purity," in Bruce Chilton and Craig A. Evans, eds., *James the Just and Christian origins*, SuppNovT 98 (Leiden: Brill, 1999), 83–129, at 87–88, speculating that people became pure by joining the movement set in motion by John and joining in commensality (90–92), following Bruce Chilton, *The Temple of Jesus. His Sacrificial Program within a Cultural History of Sacrifice*, (University Park The Pennsylvania State University Press 1993). The problem is lack of evidence in the tradition reflecting such a central concern with purity of this kind.

⁹⁷ Dunn, *Jesus Remembered*, 583.

⁹⁸ Wilckens, *Theologie*, 1.1:297–302.

terised by peace and justice at its centre and offers this as a hope for all, which later would find resonance beyond his own culture in the Hellenistic Roman world from which then parallels are easily drawn. This understanding appears to have provided the hermeneutical key for interpreting Torah in daily life. The radical inclusivity of this vision, at least within Israel, finds its closest parallel in John's negative inclusion of all under condemnation and one might speculate about the shift to Jesus' positive inclusivity. Both, however, offer hope to all and threaten judgement, the difference appearing to have more to do with the claim of beginning realisation in positive ways in the present. Claims issuing from such convictions that the impending kingdom warranted overriding some requirements of Torah would have been seen by insiders as coherent with Torah's promise but by outsiders as arrogant disregard. But we know almost nothing of the latter.

Controversies preserved in the tradition focus less on overriding aspects of Torah in the interests of particular eschatological demands, such as calls to discipleship (we are still guessing about Matt 8:22), and more on unwillingness to engage in more careful observance (independent of issues of human need) or on responses to human need which reflect a distinctive weighting of human well being (and sometimes strange perceptions of human well being, such as indissoluble marriage, refusal of remarriage, including concern with impurities) over against other requirements which may be overridden. In the case of the former (probably originally behind both Mark 2:23–28 and 7:1–23) this indicated a refusal to engage in strategies of extra caution. In the case of the latter (probably commensality and Mark 3:1–6 and 2:23–28 in its present form) these values are defended as God's values, as Torah values. Like any hermeneutic they are values in the eye of the beholder, but they reflect a choice within the Law and Prophets about what matters most and are therefore inevitably controversial.

Because that vision was the realisation of what was seen as God's will expressed in the Law and the Prophets, it was not seen as a new order; nor, therefore, were expositions of Torah always expressed in terms of future eschatology. But they reflected the value system which informed the vision.⁹⁹ The focus was not a new covenant to replace the old, but if anything, a renewed covenant, understood in the light of what Jesus

⁹⁹ Dunn, *Jesus Remembered*, speaks of "a quality of kingdom life, the character of living appropriate for those who look for the kingdom's coming and who seek to live already in its light" (583). Similarly Kazen, *Jesus*, 347.

apparently envisaged as the outcome when what God has always wanted would become real by divine intervention. Thus it comes to expression in familiar images, many of which reflect distinctive traits of Israel, including notions of the twelve tribes and of the gathering of Israel. It cannot be reduced either to a social political programme, Cynic-like or otherwise, or to an apolitical individualism concerned primarily with individual atonement, or to the teachings of a charismatic sage, without ignoring much of the early tradition.

The radical generosity which extended this invitation to all without precondition set directions which would enable some to argue that in new contexts some laws of Torah itself should be permanently overridden and set aside, a stance not yet evident in what appears to derive from the historical Jesus nor required by it. This goes a long way to explaining how subsequently the followers of Jesus applied his Torah hermeneutic differently, some insisting on retaining observance of Torah in its entirety¹⁰⁰ and others insisting that some parts should be permanently overridden, and still others that the core values embodied now in central claims about Jesus effectively made those aspects of Torah which remained valid little more than confirmation of the outcomes expected of those living by these claims and the Spirit of Christ to which they bore witness.

¹⁰⁰ So McKnight, "A parting within the way," who claims James is hardly likely to have differed in major ways from Jesus at least at the beginning (98–125).