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## JEWISH BURIAL TRADITIONS AND THE RESURRECTION OF JESUS

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### ABSTRACT

The burial of Jesus, according to Jewish tradition, is almost certain for at least two reasons: (1) strong Jewish concerns that the dead—righteous or unrighteous—be properly buried; and (2) desire to avoid defilement of the land. Jewish writers from late antiquity, such as Philo and Josephus, indicate that Roman officials permitted executed Jews to be buried before nightfall. Only in times of rebellion—when Roman authorities did not honour Jewish sensitivities—were bodies not taken down from crosses or gibbets and given proper burial. It is highly improbable, therefore, that the bodies of Jesus and the other two men crucified with him would have been left unburied overnight, on the eve of a major Jewish holiday, just outside the walls of Jerusalem. Scholarly discussion of the resurrection of Jesus should reckon with the likelihood that Jesus was buried in an identifiable tomb, a tomb that may well have been known to have been found empty.

Key words: crucifixion, burial, tomb, Deut. 21.22-23, corpse impurity, crucified man of Giv'at ha-Mivtar, ossilegium

Critical discussion of the Gospel resurrection narratives in my estimation suffers from a lack of adequate acquaintance with Jewish traditions of death and burial, especially with respect to the burial of executed persons, or persons who in some way died dishonourable deaths. It sometimes suffers too from wrong inferences from archaeological evidence and historical records. In a controversial book published a decade ago, a scholar suggested that Jesus' body—in keeping with Roman practice—probably was not taken down from the cross and given customary Jewish burial. It was suggested that Jesus' corpse was either left hanging on the cross, or, at best, was cast into a ditch and covered

1 with lime. In either case, his corpse was left exposed to birds and animals.<sup>1</sup>  
2 Jesus was not properly buried; the story of the empty tomb is no more than  
3 theology and apologetic legend.

4 The question of the empty tomb is important for critical assessment of the  
5 resurrection stories. If Jesus' earliest followers actually knew that Jesus had  
6 been buried and that his tomb was later found empty, it makes their  
7 proclamation that Jesus was *resurrected* (and not just a spirit) more intelligible.  
8 After all, there must have been compelling reason to speak of resurrection,  
9 instead of simply (and more easily believed, given the culture) speaking of  
10 apparitions. Jews who believed in resurrection thought in terms of a general,  
11 eschatological resurrection, not the resurrection of an individual. The claim that  
12 Jesus was resurrected would have been viewed as problematic, even for his own  
13 followers.

14 I believe the evidence for the burial of Jesus is compelling. This brief study  
15 reviews this evidence.

#### 16 17 18 *The Necessity of Burial in Jewish Thinking* 19

20 In the Mediterranean world of late antiquity proper burial of the dead was  
21 regarded as sacred duty, especially so in the culture and religion of the Jewish  
22 people. The *first reason* for providing proper burial was for the sake of the dead  
23 themselves. The importance of care for the dead and their proper burial is well  
24 attested in Scripture, from the amount of attention given to the story of  
25 Abraham's purchase of a cave for the burial of Sarah (Gen. 23.4-19), to the  
26 burial accounts of the patriarchs and monarchs of Israel. Of special interest is  
27 the story of Jacob's body taken to the land of Canaan, to be buried in a tomb  
28 that he had hewn (Gen. 50.4-14). So also Joseph; though buried in Egypt, his  
29 bones are exhumed, taken with the Israelites at the time of the exodus and are  
30 eventually buried in Canaan (Gen. 50.22-26; Josh. 24.32). The bones of the slain  
31 Saul and sons are buried in Jabesh (1 Sam. 31.12-13). David later commends the  
32 men who did this (2 Sam. 2.4-5: 'May you be blessed by the Lord, because you  
33 showed this loyalty to Saul your lord, and buried him!'). Saul's bones are later  
34 taken to the land of Benjamin (2 Sam. 21.12-14). Even the wicked and divinely  
35 judged are buried, too, such as those in the wilderness who were greedy for  
36 meat (Num. 11.33-34), or individual criminals who are executed (Deut. 21.22-

1. J.D. Crossan, *Who Killed Jesus? Exposing the Roots of Anti-Semitism in the Gospel Story of the Death of Jesus* (San Francisco: HarperCollins, 1995), pp. 160-88. The position that Crossan takes is restated, with a little more archaeological and historical nuance, in J.D. Crossan and J.L. Reed, *Excavating Jesus: Beneath the Stones, Behind the Texts* (San Francisco: HarperCollins, 2001), pp. 230-70.

1 23). Israel's enemies, slain in battle, are buried (1 Kgs 11.15), including the  
2 eschatological enemy hosts of Gog (Ezek. 39.11-16).

3 The great importance of proper burial provides the backdrop for the passages  
4 that speak of those who will *not be buried*, usually because of sin and divine  
5 judgment. Moses warns the Israelites that if they disobey the covenant, their  
6 enemies will slay them and their unburied bodies will be food for birds and  
7 animals (Deut. 28.25-26). Generations later this judgment befell the families of  
8 the wicked kings Jeroboam (1 Kgs 14.11) and Ahab (1 Kgs 21.24). According  
9 to the prophetic warning, one from these families 'who dies in the city the dogs  
10 shall eat; and any one who dies in the open country the birds of the air shall eat'.  
11 Jezebel herself is eaten by dogs and becomes 'dung upon the fields' (1 Kgs  
12 21.23; 2 Kgs 9.33-37); that is, she has been eaten and then defecated. There will  
13 be no marker that says, 'This is Jezebel'.<sup>2</sup> Jeremiah warns his own generation  
14 with the same disturbing imagery: 'And the dead bodies of this people will be  
15 food for the birds of the air, and for the beasts of the earth; and none will  
16 frighten them away...and they shall not be gathered or buried; they shall be as  
17 dung on the surface of the ground' (Jer. 7.33; 8.2; cf. 14.16; 16.4; 20.6; 22.19;  
18 25.33; cf. Ps. 79.2-3; Ezek. 29.5; Josephus, *War* 1.30.5.594 **<check cf. style**  
19 **later on using §>**: 'he would have her body torn to pieces by torments, and  
20 leave no part of it to be buried').

21 The ghastly image of Jews in exile, murdered and then left unburied beside  
22 the road or flung outside the city walls is reflected in the book of Tobit. The  
23 book's namesake is a righteous man, who keeps *kashruth*, shares food and  
24 clothing with the poor, and buries the dead, even at great personal risk. The  
25 theme of Tobit burying the dead may well reflect Jeremiah's earlier warning.

26 Of all Tobit's virtues, it is his burying the dead that is his greatest (1.18-20;  
27 2.3-8; 4.3-4; 6.15; 14.10-13).<sup>3</sup> Some of the persons whose bodies Tobit buries  
28 evidently had been executed by state authority, and not simply murdered: 'And  
29 if Sennacherib the king put to death any who came fleeing from Judea, I buried  
30 [ἐθθαψα] them secretly... When the bodies were sought by the king, they were  
31 not found' (1.18).<sup>4</sup> The dead man mentioned in 2.3, whom Tobit also buries,  
32 was also executed, either strangled (so the RSV) or 'exposed', in the sense of

2. J.S. Kennard Jr. ('The Burial of Jesus', *JBL* 74 [1955], pp. 227-38 [237]) is wrong to say 'none would bury her'. In fact, Jehu ordered his men to bury her, only to find that she had been devoured by dogs (2 Kgs 9.34-35).

3. C.A. Moore, *Tobit* (AB, 40a; New York: Doubleday, 1996), p. 120. 'To bury someone is *the* most important "charitable act" in Tobit.'

4. F. Zimmermann, *The Book of Tobit: An English Translation with Introduction and Commentary* (Dropsie College Edition: Jewish Apocryphal Literature; New York: Harper & Brothers, 1958), p. 51. 'In other words, the bodies were known to be of marked men executed, not nameless war casualties.' The king sought the bodies, in order to hang them up (see the following note).

1 being publicly hanged (as Moore argues).<sup>5</sup> This Jewish sense of obligation that  
 2 Jews executed by Gentile authorities must be buried, even at personal risk, is  
 3 very significant for the present study.

4 Josephus's perspective is consistent with that expressed in Tobit. Explaining  
 5 Jewish ethical obligations, Josephus states: 'We must furnish fire, water, food to  
 6 all who ask for them, point out the road, not leave a corpse unburied [ἄταφον],  
 7 show consideration even to declared enemies' (*Apion* 2.29 §211; cf. 2.26 §205).

8 Perhaps Philo gives the most eloquent expression to Jewish sensitivities on  
 9 this question, in his imaginative recounting of Jacob's grief over the report that  
 10 his son Joseph had been killed and devoured by wild animals. The patriarch  
 11 laments:

12 Child, it is not your death that grieves me, but the manner of it. If you had been buried  
 13 [ἐτάφης] in your own land, I should have been comforted and watched and nursed  
 14 your sick-bed, exchanged the last farewells as you died, closed your eyes, wept over  
 15 your body as it lay there, given it a costly funeral and left none of the customary rites  
 16 undone (*De Iosepho* 5 §§22-23).

17 The imaginative dirge goes on to speak of the importance of proper burial:

18 And, indeed, if you had to die by violence or through premeditation, it would have  
 19 been a lighter ill to me, slain as you would have been by human beings, who would  
 20 have pitied their dead victim, gathered some dust and covered the corpse. And then if  
 21 they had been the cruelest of men, what more could they have done but cast it out  
 22 unburied and go their way, and then perhaps some passer-by would have stayed his  
 23 steps, and, as he looked, felt pity for our common nature and deemed the custom of  
 24 burial to be its due (§25).

25 Jacob concludes his lament by saying that he has experienced no greater  
 26 tragedy, in that nothing of Joseph remains and that there is no possibility of  
 27 burial (§§26-27).

28 Concern with proper burial continues beyond the first century. For the  
 29 Rabbis burial of the dead, according to George Foot Moore, 'was regarded as a  
 30 duty of the highest obligation'.<sup>6</sup> He cites *b. Meg.* 3b, where this duty (מת מצוה)   
 31 takes precedence in the study of the law, the circumcision of one's son, or in the  
 32 offering of the Passover lamb, and *Sipre Num.* §26 (on Num. 6.6-8), where even  
 33 a high priest or a Nazirite has the obligation to bury a 'neglected corpse', since

5. Moore, *Tobit*, p. 128. The Greek is ἐστραγγαλωμένος. Moore appeals to Est. 9.13 (הַלְלֵה / κρεμόννυμι), 'where the ten sons of Haman, killed *the day before* (9.6-7), are then "hanged", i.e., exposed to public view'. Moore may be correct here. The verb used in 4QTob<sup>a</sup> ar<??> (4Q196 frag. 3, line 1) is קַנַּח, which means 'strangle' and which appears also in the peshar on Nahum 2.12-13, in what is probably reference to Alexander Jannaeus's crucifixion of political opponents (cf. 4QpNah 3-4.i.4-7). In this case, however, the victims were hanged while still living.

6. G.F. Moore, *Judaism in the First Centuries of the Christian Era: The Age of the Tannaim* (3 vols.; Cambridge, MA: Harvard University Press, 1927-30), I, p. 71.

1 there is no one else to do it.

2 A *second reason* for burying the dead is to avoid defilement of the land of  
3 Israel. This requirement is grounded in the Mosaic law: ‘And if a man has  
4 committed a crime punishable by death and he is put to death, and you hang him  
5 on a tree, his body shall not remain all night upon the tree, but you shall bury  
6 him the same day, for a hanged man is accursed by God; you shall not defile  
7 your land which the Lord your God gives you for an inheritance’ (Deut. 21.22-  
8 23). It is also expressed in Ezekiel: ‘They will set apart men to pass through the  
9 land continually and bury those remaining upon the face of the land, so as to  
10 cleanse it...Thus shall they cleanse the land’ (Ezek. 39.14, 16).

11 This tradition remained current at the turn of the era, as seen in its  
12 elaboration in the *Temple Scroll*, where we read:

13 If a man is a traitor against his people and gives them up to a foreign nation, so doing  
14 evil to his people, *you are to hang him on a tree until dead*. On the testimony of two  
15 or three witnesses he will be put to death, and they themselves shall hang him on the  
16 tree. If a man is convicted of a capital crime and flees to the nations, cursing his  
17 people and the children of Israel, *you are to hang him, also, upon a tree until dead*.  
18 But you must not let their bodies remain on the tree overnight; you shall most  
19 certainly bury them that very day. Indeed, anyone hung on a tree is accursed of God  
20 and men, but you are not to defile the land that I am about to give you as an  
21 inheritance [Deut. 21.22-23] (11QT 64.7-13a = 4Q524 frag. 14, lines 2-4; with  
22 emphasis added).

23 Whereas Deut. 21.22-23 speaks of one put to death and then hanged,  
24 11QTemple speaks of one hanged ‘until dead’. Most think crucifixion is in view  
25 (as also in 4QpNah 3-4.i.6-8). It is also important to note that this form of  
26 execution is linked to treason.<sup>7</sup>

27 We should observe too that the requirement to bury the executed person  
28 <on?>*the day of his death* is emphasized. In Deuteronomy it simply says, ‘you  
29 shall bury him the same day’; but the *Temple Scroll* adds ‘you must not let their  
30 bodies remain on the tree overnight’. The reason given for taking the bodies  
31 down and burying them the day (or evening) of death is to avoid defiling the  
32 land, for the executed person is ‘cursed of God’. This is probably the rationale

7. Y. Yadin, *The Temple Scroll* (3 vols.; Jerusalem: Israel Exploration Society, 1977, 1983), I, pp. 373-79; J. Maier, *The Temple Scroll: An Introduction, Translation and Commentary* (JSOTSup, 34; Sheffield: JSOT Press, 1985), pp. 132-34; G.J. Brooke, ‘The Temple Scroll and the New Testament’, in *idem* (ed.), *Temple Scroll Studies: Papers Presented at the International Symposium on the Temple Scroll, Manchester, December 1987* (JSPSup, 7; Sheffield: JSOT Press, 1989), pp. 181-99, esp. 181-83. See also the dated but still helpful studies by J. M. Baumgarten, ‘Does *tlh* in the Temple Scroll Refer to Crucifixion?’ *JBL* 91 (1972), pp. 472-81; and J.A. Fitzmyer, ‘Crucifixion in Ancient Palestine, Qumran Literature, and the New Testament’, *CBQ* 40 (1978), pp. 493-513; D.J. Halperin, ‘Crucifixion, the Nahum Peshet, and the Rabbinic Penalty of Strangulation’, *JJS* 32 (1981), pp. 32-46.

1 that lies behind the concern regarding slain enemy soldiers.

2 In the fragmentary conclusion of the *War Scroll* we have reference to the  
 3 fallen Kittim (i.e., Romans) and their allies. Their corpses lie on the field of  
 4 battle, unburied. Priests, including the high priest, stand over the corpses and  
 5 praise God. What is said is not preserved (1QM 19.9-14 = 4Q492 frag. 1, lines  
 6 8-13), but it is probable that the priests oversee the burial of the corpses and  
 7 cleansing of the land. The related 4Q285, which is also fragmentary, supports  
 8 this interpretation. It seems to say that while Israel celebrates victory over the  
 9 Kittim (with women beating timbrels and dancing, as in the great victories  
 10 recounted in Scripture; cf. Exod. 15.20; Judg. 11.34; perhaps also 4QpIsa<sup>c</sup>  
 11 25.iii.1-3), the high priest shall give orders for the disposal of the corpses,  
 12 evidently to avoid corpse impurity (4Q285 frag. 7, lines 1-6, esp. lines 5-6; cf.  
 13 frag. 10, lines 4-6: ‘and you shall eat [the spoil of your enemy...and they shall  
 14 dig] graves for them [...and you shall cleanse yourselves from al]l their  
 15 corpses’). This then explains the meaning in 1QM 7.2-3, which refers to the  
 16 men who ‘strip the slain, plunder the spoil, cleanse the land’. Cleansing the land  
 17 would include burying the corpses of the enemy.

18 In a section concerned with holiness, the *Temple Scroll* enjoins Israel: “‘for  
 19 you are a people holy to the Lord your God” [Deut. 14.2]. “Thus you shall not  
 20 defile your land” [Num. 35.34]. You are not to do as the nations do: they bury  
 21 their dead everywhere, even inside their homes. Rather, you must set apart  
 22 places in your land where you will bury your dead. For every four cities you  
 23 must designate one burial ground’ (11QT 48.10-14).<sup>8</sup> **<check quote marks OK:  
 24 double quotes within single>**

25 Related material is found in 4Q251 frag. 18 (or frag. 13), which apparently  
 26 expands legislation concerned with the discovery of the corpse of one slain out  
 27 in the field (Deut. 21.1-9). In Deuteronomy nothing is said of burial, but  
 28 evidently that is a detail added by 4Q251: ‘[if] a corpse [is found] lying in [a  
 29 field...and they shall break the heifer’s neck there in the wad]i in return for the  
 30 life [of the slain...] it is a substitution which is put to death for [the slain...]  
 31 everyone who has no soul within him is dead, [he must be buried] in a g[rave]’  
 32 (lines 3-6). The last part is not found in Deuteronomy (or elsewhere in Hebrew  
 33 Scripture).

34 The tradition is attested in the Mishnah, where in the discussion of the rules  
 35 pertaining to execution, the sages teach that one hanged must not be left  
 36 overnight, lest the command in Deut. 21.22-23 be violated (*m. Sanh.* 6.4). The  
 37 discussion continues, noting that the executed person was not buried in the  
 38 ‘burying-place of his fathers’, but in one of the places reserved for the burial of  
 39 criminals (*m. Sanh.* 6.5). And finally, the discussion concludes by recalling that  
 40 after the flesh of the executed criminal had decomposed, his bones could then be

8. See the discussion in Yadin, *Temple Scroll*, I, pp. 322-24.

1 gathered and taken to the family burial place, but no public lamentation was  
2 permitted (*m. Sanh.* 6.6).

3 What is important here is that even in the case of the executed criminal,  
4 proper burial was anticipated. Various restrictions may have applied, such as  
5 being forbidden burial in one's family tomb—at least until the flesh had  
6 decomposed—or not being allowed to mourn publicly, but burial was to take  
7 place, in keeping with the scriptural command of Deut. 21.22-23 and the Jewish  
8 customs that had grown up alongside it.

9 The commands of Scripture, taken with traditions regarding piety (as  
10 especially exemplified in Tobit), corpse impurity, and the avoidance of the  
11 defilement of the land, strongly suggest that under normal circumstances (i.e.,  
12 peacetime) no corpse would remain unburied—neither Jew nor Gentile, neither  
13 innocent nor guilty. All were to be buried. What is especially interesting is that  
14 some of the tradition reviewed may have been specifically linked to, even  
15 produced by, priests (as in the materials from Qumran). If this is the case, then  
16 the relevance of these laws and traditions for the execution of Jesus of Nazareth  
17 and its aftermath becomes more evident.

#### 18 19 20 *Burial and Non-Burial of Executed Criminals*

21  
22 The objection raised against the Gospels' story of the burial of Jesus rests  
23 primarily in the observation that the victim of Roman crucifixion was normally  
24 not buried, but his corpse was left hanging on the cross, to be picked apart by  
25 birds and animals. That this is the normal Roman practice is not in dispute here.  
26 Martin Hengel has assembled most of the pertinent material.<sup>9</sup> What is  
27 questioned is the assumption on the part of a few scholars that the hundreds,  
28 even thousands, of Jews crucified and left hanging on crosses, outside the walls  
29 of Jerusalem, during the siege of 69–70 CE, are indicative of normal practice in  
30 Roman Palestine. Review of Josephus suggests, however, that leaving the  
31 bodies of the executed unburied was *exceptional, not typical*. It was, in fact, a  
32 departure from normal Roman practice in Jewish Palestine.

33 Jews who resisted Antiochus IV (167–164 BCE) suffered crucifixion (*Ant.*  
34 12.5.4 §§255-56). We are not told that burial was denied, permitted or delayed.

9. M. Hengel, *Crucifixion* (London: SCM Press; Philadelphia: Fortress Press, 1977), pp. 22-32. A few examples may be cited: 'The vulture hurries from dead cattle and dogs and crosses to bring some of the carrion to her offspring' (*Satires* 14.77-78); 'the carrion-birds will soon take care of' one's 'burial' (Suetonius, *Augustus* 13.1-2); 'hanging on a cross to feed crows' (Horace, *Epistles* 1.16.48). On a second-century epitaph the deceased declares that his murderer, a slave, was 'crucified alive [ζωὸν ἀνεκρέμασεν] for the wild beasts and birds'; cf. S.R. Llewelyn (ed.), *New Documents Illustrating Early Christianity*, VIII (Grand Rapids: Eerdmans, 1998), p. 1.

1 We should probably assume that normal Jewish burial practice was not  
 2 permitted. Two generations later the Hasmonaean high priest Alexander Janneus  
 3 crucified some 800 of his political opponents, who had allied themselves with  
 4 Demetrius (*Ant.* 13.14.2 §380),<sup>10</sup> which is probably what the Nahum peshet  
 5 mentions (4QpNah 3-4.i.6-8).<sup>11</sup> In putting down the revolt following the death  
 6 of Herod (4 BCE), the Roman general Varus crucified 2000 rebels (*War* 2.5.2  
 7 §75; *Ant.* 17.10.10 §295). Procurator Tiberius Alexander (46–48 CE) crucified  
 8 the sons of the rebel Judas of Galilee (*Ant.* 20.5.2 §102). Sometime in 52 CE  
 9 Quadratus crucified Samaritans and Jews involved in a disturbance during the  
 10 administration of Cumanus (*War* 2.12.6 §241; *Ant.* 20.6.2 §129). The procurator  
 11 Felix (52–60 CE) crucified a large number of rebels (*War* 2.13.2 §253). Because  
 12 of an insult, procurator Florus (64–66 CE) flogged and crucified many in  
 13 Jerusalem (*War* 2.14.9 §306). During the siege of Jerusalem (69–70 CE) General  
 14 Titus crucified Jewish captives and fugitives opposite the walls of the city, to  
 15 demoralize the rebels (*War* 5.6.5 §289; 5.11.1 §449).

16 Josephus does not make a point concerning the non-burial of these victims,  
 17 perhaps because his readers would have assumed that they would receive no  
 18 burial. The cases of non-burial that Josephus does mention all involve murder or  
 19 execution at the hands of the Jewish rebels. Outraged over the indignity that the  
 20 rebels practised on the murdered priests, whose bodies were left unburied,  
 21 Josephus remarks, ‘Jews are so careful about funeral rites that even malefactors  
 22 who have been sentenced to crucifixion are taken down and buried before  
 23 sunset’ (*War* 4.5.2 §317). Many times Josephus vilifies the rebels, who executed  
 24 many of the Jewish nobility, by charging that burial of the dead was not  
 25 permitted, not even mourning (*War* 4.5.3 §331; 4.6.1 §360; 4.6.3 §383; 5.12.3  
 26 §518; 5.13.1 §531).

27 Most of these cases involve open rebellion and armed conflict, on the one  
 28 hand, or mob actions and anarchy, on the other. None of these cases can be said  
 29 to be ‘normal’ or ‘typical’ of peacetime Roman administration. These cases are  
 30 exceptional and involve desperate attempts to gain or retake control and/or  
 31 terrorize civilian populations.

32 Peacetime administration in Palestine appears to have respected Jewish  
 33 burial sensitivities. Indeed, both Philo and Josephus claim that Roman  
 34 administration in fact did acquiesce to Jewish customs. In his appeal to Caesar,  
 35 Philo draws attention to the Jews who ‘appealed to Pilate to redress the

10. P.-E. Guillet, ‘Les 800 “Crucifiés” d’Alexandre Jannée’, *Cahiers du Cercle Ernest Renan* 100 (1977), pp. 11-16.

11. For a thorough discussion of the meaning of 4QpNah 3-4.i.6-8, see G.L. Doudna, *4Q Peshet Nahum: A Critical Edition* (JSPSup, 35; CIS<in full?>, 8; London and New York: Sheffield Academic Press<check pub. details OK?>, 2001), pp. 389-433. Doudna (p. 409) has also identified 4Q282i as another fragment that refers to the hanging up (probably crucifixion) of those who lead the people astray.

1 infringement of their traditions caused by the shields and not to disturb the  
2 customs which throughout all the preceding ages had been safeguarded without  
3 disturbance by kings and by emperors' (*De Legatione ad Gaium* 38 §300). A  
4 generation later Josephus asserts the same thing. The Romans, he says, do not  
5 require 'their subjects to violate their national laws' (*Contra Apionem* 2.6 §73).  
6 Josephus adds that the Roman procurators who succeeded Agrippa I 'by  
7 abstaining from all interference with the customs of the country kept the nation  
8 at peace' (*War* 2.11.6 §220).

9 The actions of Herod Antipas, with respect to John the Baptist, are consistent  
10 with this policy. Although the Baptist is executed by the tetrarch, his disciples  
11 are nonetheless allowed to bury his body (Mk 6.14-29; Josephus, *Ant.* 18.5.2  
12 §119).

13 Even Roman justice outside the Jewish setting sometimes permitted the  
14 crucified to be taken down and buried. We find in the summary of Roman law  
15 (a.k.a. *Digesta*) the following concessions:

16 The bodies of those who are condemned to death should not be refused their relatives;  
17 and the Divine Augustus, in the Tenth Book of his *Life*, said that this rule had been  
18 observed. At present, the bodies of those who have been punished are only buried  
19 when this has been requested and permission granted; and sometimes it is not  
20 permitted, especially where persons have been convicted of high treason (48.24.1).

21 The bodies of persons who have been punished should be given to whoever requests  
22 them for the purpose of burial (48.24.3).

23 The *Digesta* refers to requests to take down bodies of the crucified. Josephus  
24 himself makes this request of Titus (*Life* 75 §§420-21). Of course, Roman  
25 crucifixion often did not permit burial, request or no request. Non-burial was  
26 part of the horror—and the deterrent—of crucifixion. But crucifixion—during  
27 peacetime—just outside the walls of Jerusalem was another matter. Burial  
28 would have been expected, even demanded.

29 The evidence thus far reviewed strongly encourages us to think that in all  
30 probability Jesus was indeed buried and that his corpse and those of the two  
31 men crucified with him would not have been left hanging overnight and perhaps  
32 indefinitely, or at most cast into a ditch or shallow grave, exposed to animals.  
33 Quite apart from any concerns with the deceased men or their families, the  
34 major concern would have had to do with the defilement of the land and the holy  
35 city. Politically, too, it seems unlikely that, on the eve of Passover, a holiday  
36 that celebrates Israel's liberation from foreign domination, Pilate would have  
37 wanted to provoke the Jewish population. Moreover, it is equally improbable  
38 that the ruling priests, who had called for Jesus' death, would have wanted to  
39 appear completely indifferent to Jewish sensitivities, either with respect to the  
40 dead or with respect to corpse impurity and defilement of the land. It seems  
41 most probable that the priests would have raised no objections to the burial of  
42 the three men. Indeed, they probably would have arranged to have them buried,

1 before nightfall, in tombs reserved for executed criminals.

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#### *The Gospel Narrative*

5

6 The Gospels' portrait of the execution of Jesus is consistent with what we know  
7 of crucifixion. In fact, the entire juridical procedure, from Jesus' confrontation  
8 with ruling priests and other religious authorities in the Temple precincts (Mk  
9 11.15–12.44) to his seizure (14.43–50), interrogation (14.53–65) and eventual  
10 delivery to the Roman governor (15.1–5), with calls for his death (15.13–14),  
11 corresponds closely to the juridical procedure that overtook Jesus ben Ananias  
12 30 years later, when four years before the outbreak of war he began prophesying  
13 the doom of Jerusalem and the Temple (cf. Josephus, *War* 6.5.3 §§300–309).<sup>12</sup>  
14 There is also strong circumstantial evidence in support of Pilate's Passover  
15 Pardon, though this feature need not be pursued here.

16 Pilate condemns Jesus and hands him over to the Roman troops, who will  
17 carry out the crucifixion. The process begins with Jesus being 'scourged'  
18 (φραγγελλώσας), which apparently was standard pre-crucifixion procedure (cf.  
19 *Digesta* 48.19.8.3; Josephus, *War* 2.14.9 §306). Scourging (also μαστιγοῦν and  
20 cognates) was done with a whip made up of several leather straps, to which  
21 were attached sharp, abrasive items, such as nails, glass or rocks. Scourging  
22 resulted in the severe laceration of the skin and damage to the flesh beneath (e.g.  
23 Josephus, *War* 6.5.3 §304: 'flayed to the bone with scourges [μάστιξι μέχρι  
24 ὀστέων ξαινόμενος]', in reference to Jesus ben Ananias, who in the end was  
25 not crucified, but released). As the Jewish revolt drew to an end, the Romans  
26 crucified many who ventured beyond the walls of Jerusalem in search of food:  
27 'They were accordingly scourged [μαστιγοῦμενοι] and subjected to torture of  
28 every description, before being killed, and then crucified [ἀνεσταυροῦντο]  
29 opposite the walls' (Josephus, *War* 5.11.1 §449).

30 According to Plautus, the condemned man carried his cross (the *patibulum*)  
31 through the city to the place of crucifixion (*Carbonaria* 2; *Miles gloriosus* 2.4.6–  
32 7 §§359–60); so also Plutarch: 'Every wrongdoer who goes to execution carries  
33 out his own cross [ἐκφέρει τὸν αὐτοῦ σταυρόν]' (*Moralia* 554A–B:  
34 'Concerning Things Avenged Slowly by the Deity', §9). Likewise, Jesus of  
35 Nazareth carried the *patibulum*, or at least tried to. Unable to carry the cross the  
36 distance, a bystander was compelled to assist him (Mk 15.21).

12. I treat the parallels in C.A. Evans, 'Jesus and the "Cave of Robbers": Toward a Jewish Context for the Temple Action', *BBR* <in full?> 3 (1993), pp. 93–110. I should add that I see no evidence of Markan dependence on Josephus or on the story itself that Josephus has recounted. The stories in Mark and in Josephus reflect standard Roman juridical process, in cases in which indigenous authorities recommend to the Roman authority capital charges.

1 The discovery in 1968 of an ossuary (ossuary no. 4. in Tomb I, at Giv'at ha-  
 2 Mivtar)<sup>13</sup> of one Yehohanan, who had been crucified, provides archaeological  
 3 evidence and illumination on how Jesus himself may have been crucified. The  
 4 ossuary and its contents date to the late 20s CE, that is, during the administration  
 5 of Pilate.<sup>14</sup> The remains of an iron spike (11.5 cm in length) are plainly seen,  
 6 piercing the right heel bone (or calcaneum). Those who took down the body of  
 7 Yehohanan apparently were unable to remove the spike, with the result that a  
 8 piece of wood (from an olive tree) remained affixed to the spike. Later, the  
 9 skeletal remains of the body—spike, fragment of wood, and all—were placed in  
 10 the ossuary. Forensic examination of the rest of the skeletal remains supports the  
 11 view that Yehohanan was crucified with arms apart, hung from a horizontal  
 12 beam or tree branch. However, there is no evidence that his arms, or wrists,  
 13 were nailed to this cross beam. The lack of nails or spikes in the hands or wrists  
 14 is consistent with a reference in Pliny Sr., who refers to rope used in crucifixion  
 15 (cf. *Nat. Hist.* 28.4).<sup>15</sup> However, doubtless many victims of crucifixion did have  
 16 their hands or wrists nailed to the beam. A third century CE author describes it  
 17 this way: 'Punished with limbs outstretched... they are fastened [and] nailed to  
 18 the stake in the most bitter torment, evil food for birds of prey and grim picking  
 19 for dogs' (*Apotelesmatica* 4.198-200).<sup>16</sup> Yehohanan's leg bones were broken,  
 20 but there is disagreement over how and when they were broken (i.e., while still  
 21 on the cross, or after being taken down).<sup>17</sup> If Yehohanan's legs were broken

13. For photo and summary, see L.Y. Rahmani, *A Catalogue of Jewish Ossuaries in the Collections of the State of Israel* (Jerusalem: The Israel Antiquities Authority, 1994), p. 130 (no. 218) + plate 31.

14. For literature, see N. Haas, 'Anthropological Observations on the Skeletal Remains from Giv'at ha-Mivtar', *IEJ* 20 (1970), pp. 38-59; J. Naveh, 'The Ossuary Inscriptions from Giv'at ha-Mivtar', *IEJ* 20 (1970), pp. 33-37; Vasilios Tzaferis, 'Jewish Tombs at and near Giv'at ha-Mivtar', *IEJ* 20 (1970), pp. 18-32 + plates 10-17; Y. Yadin, 'Epigraphy and Crucifixion', *IEJ* 23 (1973), pp. 18-22; V. Møller-Christensen, 'Skeletal Remains from Giv'at ha-Mivtar', *IEJ* 26 (1976), pp. 35-38; H.-W. Kuhn, 'Zum gekreuzigten con Giv'at ha-Mivtar: Korrektur eines Versehens in der Erstveröffentlichung', *ZNW* 69 (1978), pp. 118-22; J. Zias and E. Sekeles, 'The Crucified Man from Giv'at ha-Mivtar: A Reappraisal', *IEJ* 35 (1985), pp. 22-27; J. Zias and J.H. Charlesworth, 'Crucifixion: Archaeology, Jesus, and the Dead Sea Scrolls', in Charlesworth (ed.), *Jesus and the Dead Sea Scrolls* (ABRL; Garden City: Doubleday, 1992), pp. 273-89.

15. See the old study by J.W. Hewitt, 'The Use of Nails in the Crucifixion', *HTR* 25 (1932), pp. 29-45. Hewitt guessed correctly that crucifixion victims were sometimes tied to the cross with ropes (p. 32), but he erred in expressing doubt that the feet were nailed (pp. 43-45). Hewitt's study is valuable for its survey of the depiction of crucifixion in art, particularly with reference to the nails.

16. Cited by Hengel, *Crucifixion*, 9.

17. Møller-Christensen ('Skeletal Remains from Giv'at ha-Mivtar', p. 38) concludes that the breaks in the lower leg bones of Yehohanan, including the cut to the talus bone of the foot, 'are due to *crurifragium*, intended to hasten the death of the victim'. Zias and Sekeles ('The

1 before death, we then know not only that he was taken down and buried (as  
 2 indicated by the discovery of his remains in an ossuary), but also that his death  
 3 was intentionally hastened. This can only mean that his death was hastened so  
 4 that his corpse could be taken down from the cross before nightfall.

5 Also found in the tombs discovered at Giv‘at ha-Mivtar were the remains of  
 6 a woman who had been decapitated. Whether she was murdered, or executed,  
 7 we do not know. However, we may have the skeletal remains of another person  
 8 who, like Yehohanan, was executed and whose remains eventually were placed  
 9 in the family tomb. These remains were found in a cluster of tombs on Mount  
 10 Scopus, north of Jerusalem.<sup>18</sup> In Tomb C the skeletal remains of a woman (aged  
 11 50-60) give clear evidence of having been attacked. Her right elbow suffered a  
 12 deep cut that severed the end of the humerus. Because there is no sign of  
 13 regrowth or infection, it is surmised that she died from the attack. In Tomb D,  
 14 which contains the remains of persons related to those interred in Tomb C, were  
 15 the remains of a man (aged 50), who had been decapitated.<sup>19</sup> It is plausible to  
 16 speculate that this man had been executed, quite possibly for having murdered  
 17 the female relative in Tomb C. Joe Zias doubts that the man had been executed,  
 18 because his neck had been struck twice. Being struck twice, he reasons, suggests  
 19 ‘an act of violence rather than a judicial execution’.<sup>20</sup> Zias could be correct, but  
 20 we should not assume that judicial beheadings were always neatly done. One  
 21 only needs to be reminded of the several badly aimed strokes that finally took  
 22 off the head of James, Duke of Monmouth, in 1685.<sup>21</sup> Accordingly, the man in  
 23 Tomb D may well be another individual who suffered the death penalty—even  
 24 if it took two strokes to finish the job—and whose skeletal remains, in due  
 25 course, were placed in the family tomb.

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Crucified Man’, pp. 24-25) do not think the talus suffered such an injury. Indeed, the talus under question may actually belong to one of the other two individuals, whose skeletal remains had been placed in the ossuary. Zias and Sekeles also question the conclusion that Yehohanan’s leg bones were broken before death and decarnation. Because of the age and degraded condition of the skeletal materials, a measure of uncertainty remains.

18. The tomb was excavated in 1979 by Gershon Edelstein of Israel’s Department of Antiquities. The skeletal remains are discussed in J. Zias, ‘Anthropological Evidence of Interpersonal Violence in First-Century-A.D. Jerusalem’, *Current Anthropology* 24 (1983), pp. 233-34. **<supply full page extent>**

19. For photo and summary, see Rahmani, *A Catalogue of Jewish Ossuaries*, p. 222 (no. 697) + plate 100.

20. Zias, ‘Anthropological Evidence’, p. 234. For discussion of skeletal remains that provide evidence of death from sword (probably Roman), see Y. Rak, B. Arensburg and H. Nathan, ‘Evidence of Violence on Human Bones in Israel, First and Third Centuries CE’, *PEQ* 108 (1976), pp. 55-58 (in the region of the Dead Sea); and P. Smith, ‘The Human Skeletal Remains from the Abba Cave’, *IEJ* 27 (1977), pp. 121-24 (at Giv‘at ha-Mivtar).

21. Apparently the executioner was intoxicated. His first stroke buried the axe in the Duke’s shoulder!

1 There are other details in the Gospels' accounts of Jesus' execution that  
 2 agree with Roman practices, such as mocking the victim (Mk 15.16-20; cf.  
 3 Philo, *Flaccus* 6 §36-39; Plutarch, *Pomp.* 24.7-8), dividing up the victim's  
 4 property and clothing (Mk 15.24; cf. *Digest* 48.20.1; Tacitus, *Annals* 6.29:  
 5 'people sentenced to death forfeited their property'), and placing a *titulus* on or  
 6 near the cross (Mk 15.26; cf. Suetonius, *Caligula* 32.2; *Domitian* 10.1; Dio  
 7 Cassius 54.3.6-7; 73.16.5; Eusebius, *Hist. Eccl.* 5.1.44).

8 But the place where the story differs from Roman tradition is in the burial of  
 9 the executed Jesus and the two men, at the end of the very day of their death.  
 10 The reason for this exception, as argued above, was due to their execution in  
 11 close proximity of Jewish population, in this case, the city of Jerusalem. It  
 12 seems to me highly improbable that the bodies of Jesus and the other men would  
 13 be left hanging on the cross overnight—in contradiction of Deut. 21.22-23—  
 14 during peacetime and on the eve of the Passover holiday.

15 One thinks of Philo, who bitterly complains of Flaccus, Roman governor of  
 16 Egypt. Philo regards the governor's conduct as exceptional in not allowing the  
 17 bodies of crucifixion victims to be taken down and be buried on the eve of a  
 18 holiday: 'I have known cases when on the eve of a holiday of this kind, people  
 19 who have been crucified have been taken down and their bodies delivered to  
 20 their kinsfolk, because it was thought well to give them burial and allow them  
 21 the ordinary rites... But Flaccus gave no orders to take down those who had  
 22 died on the cross' (*Flaccus* 10 §83).

23 It is far more probable that arrangements would have been made to have  
 24 Jesus and the other men interred. The story of Joseph of Arimathea, who  
 25 otherwise is not known, is probably historical. There are apologetic touches, to  
 26 be sure. In the telling of the story, Joseph grows in sympathy and allegiance to  
 27 Jesus.<sup>22</sup> But at its core is a story, in which Joseph either volunteers or was  
 28 assigned the task of seeing to the prompt and unceremonious burial of Jesus  
 29 and, probably, the other two men.<sup>23</sup>

30 Pilate is accused of accepting bribes,<sup>24</sup> so it has been suggested that Joseph  
 31 may have bribed the governor.<sup>25</sup> Perhaps. It is more likely that Pilate only

22. Other embellishments are seen, such as the introduction of Nicodemus, a huge amount of spices (fit for a king, evidently), the claim that the tomb was new, rather a criminal's tomb with previous use, etc.

23. For compelling argument in favour of the historicity of the story of Joseph of Arimathea, see D.C. Allison Jr., *Resurrecting Jesus: The Earliest Christian Tradition and Its Interpreters* (London and New York: T&T Clark International, 2005), pp. 352-63.

24. As in Philo, *De Legatione ad Gaium* 38 §302, who speaks of 'the briberies, the insults, the robberies' of Pilate.

25. As in Kennard, Jr., 'The Burial of Jesus', p. 238. Kennard imaginatively suggests that the body of Jesus was indeed 'stolen', in the sense that having been bribed by Joseph, Pilate permitted the body to be removed from the criminal's grave pit and be taken to a more

1 required confirmation that the crucified men were indeed dead. Having their  
2 bodies taken down and out of public view for the Passover holiday would have  
3 been desirable.

4 The story of the women who witness Jesus' burial and then return early on  
5 Sunday to anoint his body smacks of historicity.<sup>26</sup> It is hard to see why  
6 relatively unknown women would feature so prominently in such an important  
7 story, if what we have here is fiction. But if the women's intention is to mourn  
8 privately, as Jewish law and custom allowed, and, even more importantly, to  
9 note the precise location of Jesus' tomb, so that the later gathering of his  
10 remains for burial in his family tomb is possible, then we have a story that fits  
11 Jewish customs,<sup>27</sup> on the one hand, and stands in tension with resurrection  
12 expectations and supporting apologetics, on the other.

13 Carefully observing where Jesus is buried and then returning on Sunday  
14 morning to confirm and even mark, for identification, his corpse, is in keeping  
15 with Jewish burial customs. After all, *m. Sanh.* 6.5-6 implies that bodies are still  
16 identifiable, long after decomposition of the flesh.<sup>28</sup> How was this done? We  
17 don't know, but evidently the Jewish people knew how to mark or in some way  
18 identify a corpse, so that it could be retrieved some time later. We should not  
19 allow our own ignorance of such customs, or our condescension, to lead us to  
20 discount such tradition as implausible.

21 Outside of the Gospel tradition is Paul's statement that Jesus 'was buried  
22 [ἐτάφη]' (1 Cor. 15.4). This is pre-Pauline tradition, which clearly implies an  
23 early belief that Jesus was indeed buried, in keeping with Jewish customs, and  
24 that though he was crucified, his burial was permitted out of respect for Jewish  
25 sensitivities. Elsewhere Paul presupposes the burial of Jesus, when he speaks of  
26 being 'buried with [συνετάφημεν] him' (Rom. 6.4; cf. Col. 2.12). Usage of  
27 forms of θάπτω ('to bury') can only refer to being properly buried, not left  
28 hanging on a cross or thrown into a ditch. To be left on the cross is to be

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honourable place of burial. The suggestion is clever, but rests too heavily on the Matthaean embellishments of the burial narrative.

26. See S. Byrskog, *Story as History, History as Story: The Gospel Tradition in the Context of Ancient Oral History* (WUNT, 123; Tübingen: Mohr Siebeck, 2000), pp. 73-82; R. Bauckham, *Gospel Women: Studies of the Named Women in the Gospels* (Grand Rapids: Eerdmans, 2002), pp. 257-310.

27. As is ably argued by B.R. McCane, *Roll Back the Stone: Death and Burial in the World of Jesus* (Harrisburg, PA: Trinity Press International, 2003), pp. 89-108. McCane skilfully distinguishes Jewish burial customs, especially as they pertain to executed persons, from the accretion of apologetic and redaction.

28. This point is made in Allison Jr., *Resurrecting Jesus*, p. 318.

1 unburied (ἄταφος).<sup>29</sup>

2 I return to the question of the significance of the archaeological evidence of  
3 Yehohanan, the one man whose properly buried remains have been discovered,  
4 known to have been crucified. It has been argued that in light of the thousands  
5 of Jews crucified in the first century, in the vicinity of Jerusalem, the discovery  
6 of only one properly buried crucifixion victim is evidence that the normal  
7 Roman practice of not permitting burial must have obtained, even in Jewish  
8 Palestine.<sup>30</sup>

9 There are at least four objections that must be raised against this inference.  
10 First, almost all of the bones recovered from the time of Jesus are poorly  
11 preserved, especially the smaller bones of the feet and hands, which will  
12 normally provide evidence, if any, of crucifixion. It was the presence of the nail  
13 in the right heel of Yehohanan that made it clear that he had been crucified (and  
14 certainly not the undecipherable sobriquet inscribed on the side of the ossuary  
15 that contained his bones). The presence of the nail was a fluke. It was due to the  
16 sharp end being bent back (like a fishhook), perhaps because the nail struck a  
17 knot in the beam. When Yehohanan was taken down from the cross, the nail  
18 could not be extracted. Accordingly, no statistics should be inferred from this  
19 unusual find.

20 Second, many crucifixion victims were scourged, beaten, and then tied to the  
21 cross, not nailed. Thus, skeletal remains would leave no trace of the trauma of  
22 crucifixion.<sup>31</sup> Accordingly, we do not know that Yehohanan is the only  
23 crucifixion victim discovered in a tomb.

24 Third, the best-preserved skeletons are found in the better-constructed  
25 tombs, within bone pits or in ossuaries. These tombs were mostly those of the  
26 rich, not the poor. The poor were usually buried in the ground, or in smaller  
27 natural caves. Not many of their skeletons have been found. The significance of  
28 this point is that it is the poor who are most likely to be crucified, not the  
29 wealthy and powerful. Accordingly, those skeletons most likely to provide  
30 evidence of crucifixion are the skeletons least likely to survive.

31 Fourth, the vast majority of the thousands of Jews crucified and left unburied  
32 in the first century, in the vicinity of Jerusalem, died during the rebellion of 66–  
33 70 CE. They were not buried because Rome was at war with the Jewish people  
34 and had no wish to accommodate Jewish sensitivities, as Rome did during

29. For an assessment of the Pauline contribution, see N.T. Wright, *The Resurrection of the Son of God* (Christian Origins and the Question of God, 3; Minneapolis: Fortress Press, 2003), pp. 209-398.

30. As stated in Crossan, *Who Killed Jesus?*, p. 188: 'I keep thinking of all those other thousands of Jews crucified around Jerusalem in that terrible first century from among whom we have found only one skeleton and one nail. I think I know what happened to their bodies, and I have no reason to think Jesus' body did not join them.'

31. Zias and Charlesworth, 'Crucifixion', p. 283.

1 peacetime. It was during peacetime—indeed, during the administration of  
2 Pontius Pilate—that Yehohanan and Jesus of Nazareth were crucified. That both  
3 were buried, according to Jewish customs, should hardly occasion surprise.  
4 Jewish priestly authorities were expected to defend the purity of Jerusalem (or at  
5 least give the appearance of doing so), while Roman authorities acquiesced to  
6 Jewish customs and sensitivities.

7  
8 It is concluded that it is very probable that Jesus was buried, in keeping with  
9 Jewish customs, and was not left hanging on his cross, nor was cast into a ditch,  
10 exposed to animals. It is further concluded that it is very probable that some of  
11 Jesus' followers (such as the women mentioned in the Gospel accounts) knew  
12 where Jesus' body had been placed and intended to mark the location, perfume  
13 his body, and mourn, in keeping with Jewish customs. The intention was to take  
14 possession of Jesus' remains, at some point in the future, and transfer them to  
15 his family burial place.

16 In my estimation, discussion of the resurrection of Jesus should take into  
17 account a known place of burial. Interpretation of the resurrection should take  
18 into account, not only Jewish beliefs about resurrection, but Jewish beliefs about  
19 death and burial.

20