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CUT OFF FROM (ONE'S) PEOPLE:
PUNITIVE EXPULSION IN THE TORAH

A Dissertation Presented to the Faculty of
Concordia Seminary, St. Louis,
Department of Exegetical Theology
in Partial Fulfillment of the
Requirements for the Degree of
Doctor of Philosophy

By
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May, 2010

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This dissertation is heavily indebted to the loving companionship of my wife of more than 30 years, Catherine, who has sustained me with her friendship throughout this Ph. D. program. Her emotional support in this endeavor has been what makes this dissertation her contribution to the world of scholarship as much as it is mine.

“A society’s values may be negatively attested in its punishments for the crimes it most detests. The more serious the punishment, the more the offense represents the negation of what the society holds most dear.”

– Edwin Good

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ABBREVIATIONS

| | |
|--------------|---|
| CH | Code of Hammurabi |
| CTH | E. Laroche, <i>Catalogue des Textes Hittites</i> |
| HL | Hittite Laws |
| JEN | Joint Expedition with the Iraq Museum at Nuzi |
| JPS | Jewish Publication Society |
| K | Tablets in collections of the British Museum |
| NARGD | John N. Postgate, <i>Neo-Assyrian Royal Grants and Decrees</i> |
| P BM | Papyri from the British Museum (texts cited by number) |
| P DM | Papyrus Deir el-Medineh (texts cited by number) |
| VAS | Vorderasiatische Schriftdenkmäler |
| VTE | Donald J. Wiseman, “The Vassal-Treaties of Esarhaddon” |

ABSTRACT

Hobson, G. Thomas. “‘Cut Off From (One’s) People’: Punitive Expulsion in the Torah.” Ph.D. diss., Concordia Seminary, 2010. 245 pp.

This dissertation argues that the Torah’s penalty “cut off from (one’s) people” (*kareth*) is normally a form of expulsion from the community of Israel, in contrast to the view that this penalty is a threatened divine extermination curse, a view reflected in the LXX and rabbinic traditions. The author traces a punitive expulsion interpretation from the fifth century B.C.E. Jewish community, to Maccabean-era practice as described by Josephus, to expulsion at Qumran. The use of the verb כרת is examined, including evidence from synonyms and from the Jewish and Samaritan Targumim. Evidence for punitive expulsion elsewhere in the ancient Near East is also assembled. The closest parallels to the biblical *kareth* penalty are found to be the expulsion of the unclean *uzug* in early Mesopotamia, and expulsion for the crime of *hurkel* practiced by the Hittites. Biblical *kareth* is found to be a merciful alternative to the death penalty, which also removes a source of contamination that endangers the community.

CHAPTER ONE

INTRODUCTION

In contemporary ethical debate, it is common to hear commands from the Torah being indiscriminately lumped together: “The Torah forbids homosexual behavior, but it also forbids wearing mixed fabric, and eating leavened bread during Passover.” Those who make such an argument wish to construe all three of these Torah commands as being of equal seriousness. The problem with this type of argument is that it confuses three types of prohibitions, all of which carry different penalties. The first prohibition carries a death penalty; the second carries no explicit penalty; and the third calls for the offender to be “cut off from his/her people” (known in Judaism as the *kareth* penalty). Such a wholesale mixture of different types of offenses and punishments is not a legitimate way to characterize the intent of the Torah’s teaching because it inappropriately ignores distinctions in Israelite law that are clearly signaled in the text itself.

Edwin Good writes,

A society’s values may be negatively attested in its punishments for the crimes it most detests. The more serious the punishment, the more the offense represents the negation of what the society holds most dear. On this logic, those crimes for which the offender is put to death represent the most blatant rejection of the common values.¹

No one, to the knowledge of this writer, has followed Good’s lead by seeking to discover a system of torts in biblical legislation. While this dissertation will not seek to tackle this project, it

¹ Edwin Good, “Capital Punishment and Its Alternatives in Ancient Near Eastern Law,” *Stanford Law Review* 19 (1966–67): 947.

will hopefully help to propel the discussion forward.

Clarifying the meaning of the *kareth* penalty is one element that can help resolve the question of whether the penalties in the Torah serve as clues to the relative severity of the involved offenses. Therefore, the major focus of this dissertation will be to establish the meaning of the *kareth* penalty vis-à-vis the death penalty and to determine the severity of these penalties relative to one another.

The Thesis

Applying Good's observation to the field of biblical studies leads one to the conclusion that the penalties attached to the prohibitions in the Torah serve as signals that we are dealing with distinct classes of offenses. As it seeks to determine the relative seriousness of the *kareth* penalty vis-à-vis other legal penalties in the Torah, this dissertation will argue that the most logically coherent explanation of the evidence is that the *kareth* penalty is a form of expulsion from the community. In the process, it will also demonstrate that punitive expulsion as practiced in Israel fits into the legal practice of the ancient Near Eastern cultural context.

This dissertation will demonstrate that, despite the history of its interpretation, the *kareth* penalty in the Torah is best explained as a punitive expulsion from the community of faith. The language used in the *kareth* statutes permits this interpretation, and the context often argues strongly in its favor. Evidence to the contrary, such as passages where the same offense seems to call for both *kareth* and the death penalty, have plausible alternative solutions. The best way to account for all the evidence is to see כרת as indicating removal, normally by expulsion, but in a few cases (clearly indicated by context) calling for the most extreme form of removal, namely, execution. Contemporary Near Eastern evidence that punitive expulsion was actually practiced in the biblical period strengthens the case for the position argued in this dissertation. By contrast,

the interpretation of *kareth* as a divine extermination curse has demonstrable weaknesses, which will be identified in the course of this study.

The following sections present a summary of the *kareth* penalty's use in the Torah and the history of its interpretation.

Relationship Between Crime and Punishment in the Torah

Like legal codes from the rest of the ancient Near East, the OT legal code reflects a distinction among torts, and specifies a variety of related legal remedies. The most serious classes of offenses in the Torah are cases where the offender is to be either executed, or “cut off from one's people” (which may or may not be the same penalty). By contrast, stealing is not a death penalty crime in the Torah, and may therefore be designated as a comparatively lesser offense. Unlike the case for other ancient Near Eastern law codes,² property crimes in the Torah (such as stealing) carry purely economic penalties: offenders are punished in the pocketbook.

A second group of lesser offenses in the Torah are those that call for physical punishment. Only one offense in the Torah calls for bodily mutilation (Deut 25:11–12).³ Only one offense (Deut 22:13–19: false accusation against a virgin of Israel) appears to call for lashing. Deuteronomy 25:1–3 provides for judges to sentence an offender to up to 40 lashes; however, the crimes that call for lashing are left unspecified. A third category of misdemeanors in the Torah may be remedied simply by the offering of sacrifice. False testimony in court is punished by the same penalty that the liar had intended to impose on his/her neighbor for the crime of which the

² The Code of Hammurabi (CH) prescribes death for theft in §6–10 and 22, although it also includes economic penalties within the same statutes, which may be a later attempt to make punishment for theft less severe.

³ By contrast, the CH employs the following forms of bodily mutilation: the cutting off of ears (§282), hands (§§195, 226), tongues (§192), and breasts (§194), and the plucking out of eyes (§193), as well as authorizing 60 stripes with an ox whip for slapping a social superior in the face (§202), and dragging a deadbeat land renter through a field behind cattle (§256). The Middle Assyrian Laws also authorize the cutting off of noses (§§4, 5, 15), and pouring hot pitch on a prostitute's head (§40), while one Alalakh tablet (#61) calls for molten lead to be poured into the mouth of the person who defaults on a major purchase.

neighbor was falsely accused (Deut 19:16–20), which may have been either a felony or a misdemeanor. Coveting is a pure thought crime, punishable only where it expresses itself in crimes that already have penalties assigned to them by the Torah.

A fourth category of misdemeanors in the Torah consists of legal provisions that appear to have been purely didactic and had no civil penalty for their disobedience, such as keeping both a wild mother bird and her young (Deut 22:6–7), or laws about allowing the poor to eat of one's harvest (Deut 23:24–25; 24:19–22), muzzling a harvesting ox (Deut 25:4), or charging interest (Deut 23:19). The kosher food laws (Lev 11:1–23, Deut 14:3–21) carry no explicit penalty; however, the forbidden animals are all classified as unclean, and therefore endanger the person who eats them or touches their corpses, under laws that do carry explicit penalties.

One might find a third class of felonies in the Torah: offenses where it is stated that the offender shall die, with no mention of execution by human agency, and with the apparent expectation that God will carry out the sentence immediately. For instance, Aaron is warned that he must wear his high-priestly robe when he appears before the altar, or else he will die (Exod 28:35). A total of nineteen such warnings are found in the Torah.⁴ However, these offenses will not be examined in detail in this study for two reasons. One reason is because these cases are warnings of automatic consequences (akin to warnings not to touch high voltage electricity or to look at the sun with the naked eye), unlike the case with other offenses. The other reason they will not be considered is because the pertinent offenses are entirely cultic and involve a cult that

⁴ Exod 28:35; 28:43 (entering the sanctuary out-of-uniform); 30:20 (failure to wash before entering the sanctuary; also 30:21); Lev 8:35 (must stay in tent seven days during ordination); 10:6, 7 (Aaron's family must not grieve or leave the sanctuary after the deaths of Nadab and Abihu); 10:9 (no alcohol when entering sanctuary); 15:31 (must prevent uncleanness in sanctuary); 16:2 (must not appear before the mercy seat without sacrifice); 16:13 (must cover the mercy seat with a cloud of incense); 22:9 (must not profane the sanctuary by entering it unclean); Num 4:15 (Kohathites must not touch holy things; also 4:19, 20); 17:10 (penalty for continued rebellion); 18:3 (Levites must not touch sanctuary utensils); 18:22 (Israelites must not approach the tent of meeting); 18:32 (must not profane holy gifts).

is no longer in existence. However, these apparent felonies are similar to some of the offenses for which the penalty is to be “cut off from his/her people,” and it will be necessary to raise the issue of whether the *kareth* penalty may also be a (less instantaneous) form of death at the direct hand of God.

The undoubted “felonies” in the Torah are the death penalty crimes. Almost all of these can be traced to one of the first six of the Decalogue (according to the Catholic-Lutheran numbering tradition). The Torah commands a death penalty for:

Idolatry: Exodus 22:20; Leviticus 20:1–3; Deuteronomy 17:2–7 (see also 13:1–18). Israel is the only nation in the Near East that makes this a capital crime.

Witchcraft: Exodus 22:17; Leviticus 20:27. A corollary of the first commandment. The CH and the Hittite Laws also consider this a capital crime.

Blasphemy: Leviticus 24:10–16. A corollary of the second commandment.

Breaking the Sabbath: Exodus 31:14–5; Numbers 15:32–36.

Cursing or striking one’s parent(s): Exodus 21:15, 17; Leviticus 20:9. A corollary of the fourth commandment. Instead of death, the CH calls for cutting off the hand of a child who strikes one’s parent.

Juvenile incorrigibility: Deuteronomy 21:18–21. Another corollary of the fourth commandment.

Murder: Genesis 9:5–6; Exodus 21:12–14; Leviticus 24:17, 21; Numbers 35:16–34; Deuteronomy 19:11–3.

Adultery: Leviticus 20:10; Deuteronomy 22:22–24. This offense is subsumed under the sixth commandment, together with all the offenses in the next four categories.

Fornication by a girl living in her father’s house: Deuteronomy 22:20–21 (see also Leviticus 21:9).

Intercourse with one’s father’s wife (Leviticus 20:11), **daughter-in-law** (Leviticus 20:12), or **a wife and her mother** simultaneously (Leviticus 20:14).

Homosexual intercourse: Leviticus 20:13.

Bestiality: Exodus 22:19; Leviticus 20:15–16.

Kidnapping (stealing a person): Exodus 21:16; Deuteronomy 24:7.

Causing the death of another person: Exodus 21:23 (“life for life”); 21:29.

False testimony in court on a death penalty charge: Deuteronomy 19:16–20.

Disobeying an official decision of a priest or judge: Deuteronomy 17:8–13.

False prophecy: Deuteronomy 18:20–22.

Trespass by a non-priest into the sanctuary: Numbers 1:51, 3:10, 18:7.

It will be noted that 16 of the 21 offenses listed above are directly related to one of the commandments in the Decalogue, and two more (kidnapping and liability in a fatal accident) are indirectly related. Furthermore, all but the last offense on the above list are matters that are reaffirmed as binding moral principles by the New Testament, although the New Testament does not command the death penalty for them. For instance, the New Testament does not explicitly mention juvenile incorrigibility, but it does reaffirm “Honor your father and mother” as a binding moral principle.

It may also be noted that, while Israel is the only nation in its time and place to command the death penalty for idolatry, it does not follow the lead of other nations who command the death penalty for property crimes. The CH, for example, prescribes death in numerous cases of stealing and white collar fraud, as well as for helping a slave escape (§15), failing to report criminal activity (§109), and for the cases of a *nadītum*⁵ entering a tavern (§110) and of a wayward wife who makes embarrassing unproved charges against her husband (§143).

A large number of other offenses in the Torah call for the offender to be “cut off from

⁵ While early translators (e.g. Meek in *ANET*) often translated *nadītum* as “nun,” it is more accurate to use John Huehnergard’s definition, “a woman dedicated to a god and not permitted to have children” (*A Grammar of Akkadian* [Harvard Semitic Museum Studies 45; Winona Lake, Ind.: Eisenbrauns, 2000], 508). Cuneiform texts make it clear that a *nadītum* could legally marry, although provisions for a surrogate mother were stipulated in the

his/her people.” They include:

Failure to be circumcised: Genesis 17:14.

Eating leavened bread during Passover: Exodus 12:15, 19.

Unauthorized production of sacred incense: Exodus 30:33.

Unauthorized production of sacred anointing oil: Exodus 30:38.

Profaning the Sabbath: Exodus 31:14.

Eating sacrificial meat in a state of uncleanness: Leviticus 7:20–21.

Eating blood: Leviticus 7:27; 17:10; 17:14.

Eating sacrificial fat: Leviticus 7:25.

Failing to slaughter meat as a sacrifice: Leviticus 17:4, 9.

Committing “any of these abominations” listed in Leviticus 18 (according to v. 29), including various forms of incest, sacrifice to Molech, sex during menstruation, homosexual intercourse, and bestiality.

Eating sacrificial meat that has been left over until the third day: Leviticus 19:8.

Offering children to Molech: Leviticus 20:3–5.

Patronizing mediums and wizards: Leviticus 20:6.

Brother-sister incest: Leviticus 20:17.

Sex during menstruation: Leviticus 20:18.

Approaching sacred gifts that have been dedicated to YHWH, while one is in a state of uncleanness: Leviticus 22:3.

Failure to afflict oneself during Yom Kippur: Leviticus 23:29.

Failure to keep the Passover without a sufficient excuse: Numbers 9:13.

Sinning “with a high hand”, that is, deliberately as opposed to unintentionally,

legal codes if children were desired.

“despising the word of YHWH”: Numbers 15:30–31.

Failure to cleanse oneself with holy water after defilement due to contact with a dead person: Numbers 19:13, 20

It is a matter of debate as to whether the words “shall be cut off” are a death penalty command; a call for banishment, “excommunication,” or deprivation of citizenship; or a promise of premature death or extermination at the hand of God. To complicate matters, several of the above offenses carry both the *kareth* penalty and the death penalty.

The Current Status of the Question

The meaning of the *kareth* penalty is a question to which today’s scholars often respond with either uncertainty or avoidance. Brevard Childs offers not one word of comment on the four appearances of the *kareth* penalty in Exodus.⁶ Martin Noth ambiguously states without further comment that *kareth* means to “be excluded from the cultic community and punished by death.”⁷ Erhard Gerstenberger writes, “The severity of this punishment remains a puzzle.”⁸ Elmer Smick is vague and uncertain about the meaning of this penalty,⁹ as are R. Dennis Cole¹⁰ and Eryl W. Davies.¹¹

Over time, the interpretation of the *kareth* has gone from an original lack of consensus, to a predominant consensus on a meaning of “extermination.” Only in the last 150 years has a meaning of punitive expulsion begun tentatively to reemerge, based almost entirely on

⁶ Brevard Childs, *The Book of Exodus: A Critical, Theological Commentary* (Philadelphia: Westminster, 1974). Cf. his comments on Exod 12:15, 19; 30:33, 38; and 31:14.

⁷ Martin Noth, *Leviticus: A Commentary* (trans. J. E. Anderson; London: SCM, 1977), 63.

⁸ Erhard Gerstenberger, *Leviticus: A Commentary* (trans. Douglas W. Scott; Louisville: Westminster/John Knox, 1996), 237–38.

⁹ Elmer Smick, “כרת,” *TWOT* 1:456–57.

¹⁰ R. Dennis Cole, *Leviticus* (NAC 3B; Nashville: Broadman, 2000), 157.

¹¹ Eryl W. Davies, *Numbers* (NCB; Grand Rapids: Eerdmans, 1995), 83–84.

conjecture. At the same time, however, the extermination theory has strengthened its influence over current scholarship. While a preference for an explanation of punitive expulsion is often expressed, there has been little attempt to press the case through scholarship.

The predominant position on the meaning of the *kareth* penalty at the moment is the one developed by rabbinic Judaism, that *kareth* is a divinely imposed penalty consisting of premature death of the offender and/or the extinction of the offender's descendants. The following historical review of the interpretation of *kareth* will show a predominance of the divine extinction theory up to the modern critical period, although numerous examples of an expulsion understanding will also be encountered at various times.

Early Jewish and Christian period

The interpretation that כרת means “destruction” in the *kareth* penalty goes back at least as far as the Septuagint, where the term כרת as a penalty is consistently translated by terms such as ἐξολεθρεύεσθαι (seventeen times) and ἀπολήναι (six times), indicating an unspecified but severe form of destruction inflicted on the offender.¹² Targum Onqelos, Targum Neofiti I, and Targum Pseudo-Jonathan always use the Iṣtafel of שיצי, “to cause to go out,” usually interpreted to mean “to finish, complete, end...make an end of, destroy.”¹³ However, the Samaritan Targum uses either קטע (“to cut off, break off”) or the Ithpaal of עקר (“to be uprooted, detached, removed”) in all of the *kareth* passages.¹⁴

¹² Origen's Hexapla offers the option ἀφανισθήσεται at Genesis 17:14. See Frederick Field, *Origenis Hexaplorum Quae Supersunt Sive Veterum Interpretum Graecorum in Totum Vetus Testamentum Fragmenta* (2 vols; Hildesheim: Georg Olms, 1964), 1:33.

¹³ Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (New York: Title Publishing, 1943; repr., Peabody: Hendrickson, 2005), 1567.

¹⁴ Jastrow, *Dictionary*, 1108 (עקר); 1351 (קטע). See also Michael Sokoloff, *A Dictionary of Jewish Palestinian Aramaic of the Byzantine Period* (Ramath-Gan, Israel: Bar-Ilan University Press, 1990), 487–88, where עקר in the itpaal is defined as “to be uprooted” (carob tree, b. *Mo'ed Qat.* 81d (1); eradication of idolatry, b. *Abod.*

Josephus' statement (*Ant.* 3.12.1) that both incest and sex during menstruation carry a death penalty in the Torah is further evidence of this understanding of the *kareth* penalty. Yet Josephus also recounts historical evidence that a different interpretation also existed in practice during the late intertestamental period: "And whenever anyone was accused by the people of Jerusalem of eating unclean food or violating the Sabbath or committing any other such sin, he would flee to the Shechemites, saying that he had been unjustly expelled" (*Ant.* 11.8.7).

Like Josephus, Philo (*QG* 3.52) appears to understand *kareth* as a death penalty when he asks, "If the child has not been circumcised on the eighth day, of what sin is it guilty that it should be punished with death?" He then responds that death may strike the parents or the child, either immediately or when he grows up, as punishment on the parents. However, his answers all presume a death that does not come by human hands.

The book of *Jubilees* mentions several *kareth* offenses (eating blood, failure to be circumcised, failure to keep the Passover); it states that the punishment in each case is to be "uprooted" from the earth (6:12; 7:28; 15:26; 49:9). The language (translated from Ethiopic) is reminiscent of the Aramaic expression for "banishment" in Ezra 7:26. According to Leahy, the Ethiopic root is SWR.¹⁵ If the similarity of this root to the Hebrew סור is more than coincidence, this may allow for a meaning of "removal" that stops short of destruction.

Qumran uses the term נכרת to describe the eschatological annihilation of the wicked (e.g. 1QS II 16–17). Yet Qumran gives more evidence for the use of punitive expulsion than any other Jewish source. Although it does not use the term נכרת for this penalty, it applies expulsion to numerous *kareth* offenses. For example, 1QS VIII 22–23 states that one "who transgresses a

Zar. 42c [36]).

¹⁵ Thomas Leahy, personal communication, cited in Donald John Wold, "The Meaning of the Biblical Penalty 'Kareth'" (Ph.D. diss., University of California at Berkeley, 1978), 86.

word of the Torah of Moses deliberately or through negligence, shall be banished (ישלחהו) from the Council of the Community and never come back again,” while persons guilty of inadvertent sin may return if they keep a clean record for two years (1QS VIII 24–27). Although this passage does not quote Numbers 15:30–31 (“whoever sins with a high hand”) and does not employ the verb נכרה, it clearly demonstrates Qumran’s understanding of, and implementation of, this particular *kareth* statute.

In tractate Kerithot of the Mishnah, 36 *kareth* offenses and their punishments are discussed by the rabbis of the first two centuries A.D. If these offenses were committed unintentionally, a sin offering is prescribed. But in m. Mak. 3:2, several of these *kareth* crimes are penalized by scourging.¹⁶ The tractate goes on in m. Mak. 3:15 to state that if an offender is scourged, the penalty of “Extirpation” no longer applies, since justice has been satisfied. Curiously, in m. Sanh. 9:6, one *kareth* offense is punished as follows: “If a priest served [at the Altar] in a state of uncleanness, his brethren the priests did not bring him to the court, but the young men among the priests took him outside the Temple Court and split open his brain with clubs.” Yet at the end of the same verse, it is stated that the punishment for a nonpriest who attempts to serve as priest is to be punished “at the hand of Heaven,” indicating that the above execution of the unclean priest does not fit the Mishnah’s overall understanding of *kareth*.

The Babylonian Talmud contains considerable debate about what happens if *kareth* is not removed as provided for in the Mishnah. b. Šab 25a says, “Kareth is the divine penalty of premature death and childlessness, which is severer than ‘Death at the hand of Heaven,’ which

¹⁶ References to the Mishnah are identified by a prefix m. plus the name of the tractate cited. The version cited throughout this dissertation is Herbert Danby, *The Mishnah: Translated From the Hebrew With Brief Introductory and Explanatory Notes* (Oxford: Oxford University Press, 1933).

does not include childlessness.”¹⁷ b. Mo’ed Qat. 28a suggests that premature death was understood to be death at or before the age of 50, while other *amoraim* speak of death anywhere between ages 50 and 60.

The Mekilta de Rabbi Ishmael contains the following in its exegesis of Exodus 12:15, which contemplates but ultimately rejects the possible meaning of expulsion for *kareth*:

Shall be cut off. To be cut off merely means to cease to exist... *From Israel.* I might understand it to mean, that the soul shall be cut off from Israel, but go on to live among other people. But it says: “From before me; I am the Lord” (Lev. 22:3). My dominion is everywhere.”¹⁸

Another rabbinic interpretation of the *kareth* penalty occurs in *Sifre Numbers*, 125, commenting on Numbers 19:13: “Why is the death penalty posited there (Lev. 15:31), but here the kareth penalty? In order to teach that the death penalty is kareth and that kareth is the death penalty.”¹⁹

The Vulgate presents an early Christian understanding of *kareth*. The verb in this penalty is translated variously as *delebitur* (remove or wipe out, Gen 17:14), *succidam* (cut down, Lev 20:3, 5), *exterminabitur* (exterminate, Ex 30:33), *interibit* (perish, Lev 17:9, 14), *occidentur* (slaughter, Lev 20:17), and *interficiuntur* (put an end to, Lev 20:18), although it uses *peribit* (perish) most often (twelve times). With regard to the words “from his people,” the Vulgate consistently translates עַם as *populus*, although unlike the Hebrew (which is normally plural), the Vulgate uses the singular all but twice. The Vulgate mirrors the LXX translation of כרת, and is quite possibly derived from the LXX.

¹⁷ References to the Babylonian Talmud are identified by a prefix b. plus the name of the tractate cited. The version cited throughout this dissertation is Isidore Epstein, ed., *The Babylonian Talmud* (18 vols.; London: Soncino, 1978).

¹⁸ *Mekilta de Rabbi Ishmael* (trans. Jacob Z. Lauterbach; Philadelphia: Jewish Publication Society, 1976), 79.

¹⁹ Quoted in Wold, “Kareth,” 43.

Medieval period through the Nineteenth Century

In the medieval period, Nachmanides describes three kinds of *kareth* in his discussion of this penalty.²⁰ In the case of an otherwise righteous person who eats fat or blood, “his days will be shortened...but his soul is not destined for destruction.” Another class of sinners, he says, does not suffer bodily excision, but are cut off in the world to come: they are punished in Gehenna for twelve months, then they are incinerated and cease to exist. The third type of *kareth* is excision of both body and soul, which Nachmanides says is reserved for idolatry and blasphemy.

Luther’s position on *kareth* is ambiguous. On the one hand, in his *Lectures on Genesis*, Luther asks the question whether being “cut off” for failure to circumcise is a case of civil or spiritual death.²¹ Opting for a civil cutting off, he then asks whether it means that the newborn boy is excluded from the state. Luther concludes no, “the words must be understood of a cutting-off from the church.” Luther’s Latin translation of the *kareth* passages differs several times from the Vulgate, although he uses the same pool of Latin terms. On the other hand, Luther’s use of *ausrottung* throughout his German translation makes clear his essential agreement with the rabbinic position.

Calvin equates *kareth* with the death penalty. In his comments on Exodus 30:38, he writes that Moses “denounces [sic! = pronounces] the penalty of death upon those who should use such perfume for their private gratification.”²² In his comments on Leviticus 7:20–21, he notes that Moses “denounces [sic] death against any who should intrude their pollutions into the

²⁰ Moses Nachmanides, *Commentary on the Torah אֲשֶׁר יִקְרָא לֵבִיטִיִּקֹּס Leviticus* (trans. Charles B. Chavel; 5 vols.; New York: Shiloh Publishing House, 1974), 3:275–80.

²¹ Martin Luther, *Lectures on Genesis* (vol. 3 of *Luther’s Works*; ed. Jaroslav Pelikan; trans. George V. Schick; St. Louis: Concordia, 1961), 143.

²² John Calvin, *Commentaries on the Four Last Books of Moses Arranged in the Form of a Harmony* (trans. Charles William Bingham; 4 vols.; Grand Rapids, Mich.: Eerdmans, 1950), 2:184.

sacrifices.”²³ On Leviticus 17:10, Calvin writes, “God here not only condemns to death whosoever shall have polluted themselves by eating of blood, but declares that He will Himself take vengeance on them, though they may escape from the hands of the judges.”²⁴ Calvin likewise interprets the penalty for brother-sister incest as death.²⁵

Protestant exegete Carl F. Keil takes a similar position to Calvin’s. He writes that *kareth*

denotes not rejection from the nation, or banishment, but death, whether by a direct judgment of God, an untimely death at the hand of God, or by the punishment of death inflicted by the congregation or the magistrates, and that whether *יָמוּת יָמוּת* is added, as in Ex. xxxi.14, etc., or not. This is very evident from Lev. xvii.9,10, where the extermination to be effected by the authorities is to be distinguished from that to be executed by God Himself.²⁶

Saalschütz devotes a chapter of his 1851 work *Das Mosaische Recht* to discussing the *kareth* penalty.²⁷ Saalschütz argues that *kareth* must be clearly distinguished from the death penalty per se, citing evidence that some *kareth* offenders are evidently allowed to live. The two cases where the phrase “they shall die childless” is added, for example, would be redundant if *kareth* were simply synonymous with the death penalty:

Die Androhung der Kinderlosigkeit zunächst wäre sehr überflüssig, wenn auf das begangene Verbrechen gleich die Todesstrafe folgen sollte. Namentlich scheint der Ausdruck: “sie sollen kinderlos seyn”, doch eine mögliche Erwartung von Kindern bei den Schuldigen, und also doch ihr Fortleben voraussetzen zu lassen. Besonders aber kann nur der “seine Sünde tragen”, der da fortlebt und nicht derjenige, der sofort hingerichtet wird. Wir finden diesen Ausdruck daher auch bei solchen Fällen, die bei nachfolgender Reue gut gemacht werden können, wie z. B. 3 Mos. 5, 17. 18. Gewiss endlich kann Ausrottung keine durch Menschen zu vollziehende Strafe bei 1 Mos. 17,14. bedeuten, wo sie auf das Bleiben im unbeschnittenen Zustande gesetzt wird, da die Möglichkeit, das Unterlassene nachzuholen doch fortwährend Statt finden, dies

²³ Calvin, *Commentaries*, 2:242.

²⁴ Calvin, *Commentaries*, 3:31.

²⁵ Calvin, *Commentaries*, 3:107.

²⁶ Carl F. Keil and Franz Delitzsch, *The Pentateuch* (vol. 2 of *Biblical Commentary on the Old Testament*; trans. James Martin; Edinburgh: T&T Clark, 1869; repr., Grand Rapids, Mich.: Eerdmans, 1975), 224.

²⁷ Joseph Lewin Saalschütz, *Das Mosaische Recht* (Berlin: Heymann, 1853), 472–82.

also für den weltlichen Richter niemals den Charakter eines vollendeten Vergehens gewinnen kann.²⁸

Saalschütz rejects the notion that *kareth* is a form of banishment, but he does so on grounds that a monotheistic legislator would never consign an Israelite to live in a land belonging to pagan deities.²⁹ He says that a comparison of *kareth* with Ezra 10:8's act of exclusion from the community "findet nirgend im Texte Unterstützung."³⁰ But even though he believes that *kareth* threatens dire eternal consequences, Saalschütz finds *kareth* to be ultimately less severe a penalty than execution, since it prevents offenders from being put to death by fallible human judges for offenses that are chiefly cultic in nature and that are difficult to verify in court.³¹

Modern critical period

The problem with the consensus developed by rabbinic Judaism is that the history of early Jewish interpretation does not guarantee reliable results, especially when dealing with social or cultural elements that may have been lost to later memory. The history of interpretation of the command "You shall not boil a kid in its mother's milk" is proof of the unreliability of using history of interpretation to determine original meaning.³² Consequently, the modern critical period witnesses a reopening of the question whether the rabbinic position was correct to interpret *kareth* as extermination rather than expulsion.

Von Rad is possibly the first scholar to argue that the *kareth* penalty refers to "the

²⁸ Saalschütz, *Recht*, 475–76.

²⁹ Saalschütz, *Recht*, 475n595.

³⁰ *Ibid.*

³¹ Saalschütz, *Recht*, 478–79.

³² On the basis of the Ugaritic text CTA 23:14 (= UT 52:14), "Cook a kid in milk, a lamb in butter", current scholarship holds that Exod 23:19b (= Exod 34:26b; Deut 14:21d) is a prohibition of a Canaanite fertility ritual, a datum evidently forgotten by later interpreters.

excommunication of the offender” rather than a threat of divine extermination.³³ He writes,

In H as well as P we still find ancient ban formulae which quite certainly were formerly practiced in cultic life in a very concrete form. “Cutting off (כרת) from the midst of the people of Israel” is particularly frequently mentioned (Lev. XVII.4, 9f., 14, XX.3, 5f.; Num. IX.13, XV.30, 31 and frequently). The Deuteronomic formula too, “you shall purge (בּוּר) the person or thing out of your midst” is to be judged in the same way (Deut. XIII.6 [5], XVII.7, 12, XXI.21). The *arur* formulae also belong here (W. Zimmerli in *Z.A.W.*, 1954, pp. 13ff.). The fate of a sacrally expelled person was terrible (Gen. IV.13f.), for as the bearer of a curse it was impossible for him to find shelter in another community; he was refused admission to all other groups, and, because at that time no one could dispense with relationships to supernatural powers, he was forced into the arms of the unlawful cults of magic.³⁴

Von Rad does not offer any evidence to substantiate his theory. However, he does argue that the phrase “he shall bear his iniquity” (ישא עונו) means simply that “the agent is abandoned to the evil which he has occasioned,” which in some cases involved “excommunication from the community by the pronouncement of a ban over the offender,” although Von Rad concedes that this too “virtually amounted to a sentence of death.”³⁵ Von Rad’s theory has been followed by Westermann, Pope, and Grelot, among others.³⁶

In 1954, Zimmerli analyzed the use of כרת in cases where it appears to mean “destroy” or “exterminate.”³⁷ Zimmerli argues that this use of כרת is confined almost entirely to the hip‘il conjugation. This would allow for a less severe meaning of the term in most instances of the *kareth* formula,³⁸ where כרת occurs in the nip‘al conjugation. Zimmerli refers to the *kareth*

³³ Gerhard von Rad, *Old Testament Theology* (trans. David M. G. Stalker; 2 vols.; New York: Harper, 1962), 1:264.

³⁴ Von Rad, *Theology* 1:264n182.

³⁵ Von Rad, *Theology*, 1:268.

³⁶ Claus Westermann, *Genesis 12–36: A Commentary* (trans. John J. Scullion; Minneapolis: Augsburg, 1985), 266–67; Marvin Pope, “Excommunication,” *IDB* 2:184; Pierre Grelot, “La Dernière Étape de la Rédaction Sacerdotale,” *VT* 6 (1956): 174–89. See also Karl Elliger, *Leviticus* (HAT 4; Tübingen: J. C. B. Mohr, 1966), 101. Elliger uses *ausgemerzt* (“amputated”) in his translation of the *kareth* penalty.

³⁷ Walther Zimmerli, “Die Eigenart der prophetischen Rede des Ezechiel,” *ZAW* 66 (1954): 1–26.

³⁸ For the standard default form of the *kareth* formula, see the beginning of Chapter Four.

formula in its hip'il form as "eine Bannformel," which can mean either the pronouncement of a spell or curse (as in the classic rabbinic view) or a declaration of banishment (which would favor von Rad's theory). Zimmerli's position is much clearer in his commentary on Ezekiel, where he writes that "already at an early period Israel clearly knew a type of sacred law which protected certain orders of cultic taboo and which concluded with a pregnant formula of banishment."³⁹ Ultimately, Zimmerli sees *kareth* as involving both exclusion from the *Bundesvolk*, and the eventual outworking of divine punishment in cases where the death penalty is called for but is never implemented.

Morgenstern presents a theory that *kareth* was originally understood as death at the hand of God, but then developed into excommunication in practice in the postexilic period.⁴⁰ Morgenstern sees excommunication as a secondary development, making its first appearance in the Priestly Code, which he believes to be postexilic, in contrast to H legislators, who use "cut off" in its primary sense. Yet Morgenstern theorizes that excommunication "was undoubtedly current among the pre-Canaanite Israelite clans and tribes, and, as Judges 11:2–11 shows, persisted at least into the earliest period of settlement in Palestine."⁴¹

Morgenstern cites the example of circumcision in Genesis 17:14 as key to his case:

Now this same characteristic, late Priestly implication of excommunication, of disqualification and disbarment from the community of Israel and from its peculiar, intimate relations with Yahwe, is manifestly inherent in the entire legislation for circumcision in Gen. 17:9-14...Those who refuse to submit to the rite of circumcision...have practically excommunicated themselves from fellowship in Israel and from participation in the cult of Yahwe. And certainly from the standpoint of Israel itself they must have been regarded as excommunicated and outside the fold. Only this and no more can be the implication of the punishment of "cutting off" in v.

³⁹ Walther Zimmerli, *Ezekiel 1* (trans. Ronald E. Clements; Hermeneia; Philadelphia: Fortress, 1979), 304.

⁴⁰ Julian Morgenstern, "Addenda to 'The Book of the Covenant, Part III—The *Huqqim*'" (*HUCA* 8f [1931–2]), 33–58.

⁴¹ Morgenstern, "Addenda", 57n57.

14. Certainly the consideration of ultimate, premature death at Yahwe's hands is very remote here.⁴²

Like Morgenstern, Phillips sees *kareth* as excommunication. He theorizes that it was employed during the post-exilic period as a means of commuting all death penalty offenses except murder.⁴³

The rabbinic position on *kareth* continues to have its advocates in the modern critical period, however. In the period before the work of Wold and Milgrom (see below), Tzevat is the most prominent advocate of this position.⁴⁴

Hasel's entry for כרת in *TDOT* attempts to accommodate both interpretations of *kareth*.⁴⁵

Hasel writes,

It is certain that the final goal of the sentence was the premature death of the offender...In the majority of offenses, "cutting off" means a "cutting out" which leads to "banishment" or "excommunication" from the cultic community and the covenant people...the cultic community or the clan can "cut off" the offender (to the extent that the offense is known) from life in God's presence through exclusion. The one so cut off is then left to God as the ultimate agent of final punishment.⁴⁶

Wold and Milgrom

The only extensive attempt to examine the *kareth* penalty discovered so far is the doctoral dissertation of Donald Wold, written under the supervision of Jacob Milgrom. Wold's conclusions are echoed in Milgrom's comments on *kareth* to such an extent that their views will be referred to as the Wold-Milgrom position.

⁴² Morgenstern, "Addenda", 48n52 (note begins on 43).

⁴³ Anthony Phillips, *Ancient Israel's Criminal Law* (Oxford: Basil Blackwell, 1970), 28–32.

⁴⁴ Matitiah Tzevat, "Studies in the Book of Samuel," *HUCA* 32 (1961): 191–216.

⁴⁵ Gerhard F. Hasel, "כרת," *TDOT* 7:339–52.

⁴⁶ Hasel, *TDOT*, 348.

Wold argues that the phrase “shall be cut off from his people” is a divine extermination curse,⁴⁷ parallel to standard Near Eastern curses that call on a deity to “erase his name and seed from the land.” Wold presents a *tour de force* of references to “destroying one’s seed” throughout the ancient Near East. The closest parallel he finds to the biblical *kareth* formula is *napištum nakāsu*, “to cut off a life.”⁴⁸ He also claims that the verbs *nasāhum* (“to expel”),⁴⁹ *šuhluqum* (“to make disappear”),⁵⁰ and the Phoenician קצה (“to cut off”),⁵¹ are parallels to *kareth*.

Wold interprets the term עמים to mean one’s family or kin.⁵² To be “cut off” from one’s kin not only means eternal isolation after death, but also the extermination of one’s family line (which Wold finds also in the warning “they shall die childless”). Wold sees the witness of ancient Judaism as being unanimous in support of this position.

Wold explains the phenomenon of laws that call for both *kareth* and the death penalty as being one penalty added on top of the other.⁵³ The offender will be both executed and eternally exterminated, and if the offender escapes execution, God will still exterminate that soul.

Wold breaks new ground in his full chapter of meticulous analysis of evidence from the LXX, which he demonstrates to be unanimous in its translation of כרת as destruction or extermination rather than expulsion.⁵⁴ Wold finds Qumran to be unanimous in treating *kareth* as

⁴⁷ Wold, “Kareth,” 254: “(K)areth is a conditional divine curse of extinction in its original form.”

⁴⁸ Wold, “Kareth,” 15–18.

⁴⁹ Wold, “Kareth,” 20: “Although נסה is not used with the *kareth* penalty in the Priestly source, there is no question about its semantic parallelism to the verb כרת outside of P.”

⁵⁰ Wold, “Kareth,” 22–23.

⁵¹ Wold, “Kareth,” 27–28.

⁵² Wold, “Kareth,” 8–12.

⁵³ Wold, “Kareth,” 58: “When the *kareth* penalty is juxtaposed [sic] to מות יומת it is imposed not in the absence of but in addition to death by man.”

⁵⁴ Wold, “Kareth,” 130–59.

destruction.⁵⁵ He also argues that Ezekiel “nationalizes” *kareth*, applying a punishment aimed at the individual to the nation as a whole by means of the Exile, although he sees this punishment as not expulsion from the land per se, but total annihilation of the wicked.⁵⁶ Finally, Wold devotes a chapter to discussing parallels to the Hebrew concept of afterlife: the Egyptian concept of “going to one’s Ka,” and the Mesopotamian expression “to be joined to the ghosts of one’s relatives.”⁵⁷ Both of these, in Wold’s view, reinforce the theory that *kareth* involves extinction of the sinner and his/her seed.

While one of Wold’s strongest arguments is his appeal to proposed Near Eastern parallels, he concedes, “To date, our search of the Akkadian sources has turned up no examples of karātu with either napištum or awilum as its object so as to provide an exact parallel to the biblical kareth formula with the verb karātu.”⁵⁸ But he also asserts, with regard to theory of *kareth* as expulsion, “our investigation of kareth has not produced a single ancient opinion which might be brought in support of this interpretation. Kareth as excommunication is a purely modern invention.”⁵⁹ While Wold’s statement regarding ancient opinion may be true, there is no lack of internal biblical evidence for the expulsion theory, nor is there lack of Near Eastern evidence for expulsion as punishment, all of which evidence this proposed dissertation intends to set forth.

Like Wold, Milgrom claims, “Jewish exegesis unanimously holds that *kārēt* is a divine penalty but is in disagreement concerning its exact nature.”⁶⁰ He notes that “[m]ost moderns” define *kareth* as excommunication or death by human hand, and even credits Qumran as holding

⁵⁵ Wold, “Kareth,” 160–85.

⁵⁶ Wold, “Kareth,” 122–23.

⁵⁷ Wold, “Kareth,” 186–249.

⁵⁸ Wold, “Kareth,” 15.

⁵⁹ Wold, “Kareth,” 50. Wold’s chief objection to *kareth* as a lesser penalty than death is that it “strips kareth of its force as a deterrent to misconduct.” (Ibid.)

to this position (contra Wold). But Milgrom rejects any notion that *kareth* is a humanly administered punishment of any kind because it is always applied to deliberate sins against God, not against humans.

As to the exact nature of *kareth*, Milgrom offers two options, without preference for either.⁶¹ One possibility is extirpation of the offender's line of descendants. Milgrom cites five biblical texts as proof: Ps 109:13; Ruth 4:10; Mal 2:12; Num 16:33; and Deut 29:19. None is a precise parallel to the *kareth* formula in the Torah. The first two use the כרת root, but there is no proof that **ההוא הנפש** may be equated with one's name or seed. His latter two examples have no linguistic connection to the *kareth* formula at all. Milgrom's best example is Malachi 2:12, but despite his claim that "the context clearly speaks of the extirpation of the line,"⁶² one could argue instead that the context is actually Ezra's excommunication of those who married foreign wives. Milgrom cites the Hittite "Instructions for Temple Officials" as an alleged parallel to Malachi 2:12, a case of collective punishment where the deity avenges sacrificial malpractice by extirpation of the offender's entire family and descendants, but his appeal is unconvincing.

Milgrom offers as an alternative the possibility that *kareth* is the prevention of the offender from rejoining one's ancestors in the afterlife.⁶³ He presents *kareth* as the exact reverse of being "gathered to (one's) people."⁶⁴ Such an interpretation would indicate that *kareth* was intended as an individual punishment rather than a collective one. Yet Milgrom goes on to argue that the two

⁶⁰ Jacob Milgrom, *Leviticus* (AB 3; New York: Doubleday, 1991), 457.

⁶¹ Milgrom, AB 3, 458–60.

⁶² Milgrom, AB 3, 459.

⁶³ Milgrom, AB 3, 459–60.

⁶⁴ See Num 20:24; 27:13; 31:2; Gen 25:8, 17; 35:29; and 49:33, where **עם** is actually used. Milgrom cites additional examples where **אבות** is used.

possibilities are not mutually exclusive, and that both threats may have been included in *kareth*: no descendants and no afterlife.⁶⁵

Finally, Milgrom explains the naming of both *kareth* and the death penalty in the cases of Molech and Sabbath violations: “Whereas the *kārēt* cases assume that the sin takes place in private so that only the deity is aware of the crime, the Molech and Sabbath violations are performed in public and, unless punished at once by judicial execution, they may demoralize the entire community.”⁶⁶

Scholarship since Wold and Milgrom

Scholars writing since the publication of the Wold-Milgrom position have not been unanimous in embracing it. Frymer-Kensky enthusiastically supports this position,⁶⁷ as does Kleinig, who writes that the *kareth* penalty in Leviticus 17 is “divine excommunication of the offender from the people of Israel and life with them in God’s presence. The offender and his family would cease to exist in Israel.”⁶⁸ But Levine seems inclined to maintain an element of expulsion in his explanation of *kareth*: “The policy that a person, family, or tribe would be ‘cut off’ and banished from the larger community because of an offense on the human level translated itself into the perception that God would similarly ‘cut off’ those who had offended Him, if

⁶⁵ Milgrom, AB 3, 460.

⁶⁶ Ibid.

⁶⁷ Tikva Frymer-Kensky, “Pollution, Purification, and Purgation in Biblical Israel,” in Carol L. Meyers and Michael O’Connor, eds, *The Word of the Lord Shall Go Forth: Essays in Honor of David Noel Freedman in Celebration of his Sixtieth Birthday* (Winona Lake: ASOR/Eisenbrauns, 1983), 399–414.

⁶⁸ John W. Kleinig, *Leviticus* (Concordia Commentary; St Louis: Concordia, 2003), 176.

human agencies had allowed such offenses to go unpunished.”⁶⁹ Durham translates כרת as “excluded” in Exodus 12:15, 19 and “ostracized” in Exodus 30:33, 38.⁷⁰

Eugene Carpenter comments on the *kareth* penalty as follows:

Usually the construction involves the ni. + subj. + prep. + group(s) from which the person is removed or expelled...The person is expelled from the community, but Exod 31:14 (ni.) and Lev 20:2 (hi) specify death as the punishment for Sabbath desecration or child sacrifice to Molech.⁷¹

Good rejects both Zimmerli’s position (punitive expulsion) and the Wold-Milgrom position on *kareth*.⁷² His objection to Wold is the fact that “offenders can be cut off in plain view of the community,” which “implies that the punishment was not entirely metaphysical.”⁷³ For him, the juxtaposition of *kareth* and the death penalty in Exodus 31:14–15 is definitive. He declares, “Punishment by death is P’s interpretation of the *kareth* penalty,” although he concedes that “it is an unusual way of saying ‘put to death.’”⁷⁴

In his 1983 dissertation on OT declaratory formulae, Hutton makes the observation that in one OT passage, *kareth* is placed in opposition to possession of property:

To be cut off, Ps. 37:22 suggests, means primarily to be dispossessed, to be stripped of one’s property and, in all likelihood, “free-man” status. This act is certainly one that is performed publicly, does not involve exile let alone death, and best fits the demands of the formulae in their varying contexts. It also explains why the כרת formula occurs so frequently with regard to the land (ארץ or ארמה) and kin group

⁶⁹ Baruch A. Levine, *Leviticus (ויקרא): The Traditional Hebrew Text with the New JPS Translation* (JPS Torah Commentary; Philadelphia: Jewish Publication Society, 1989), 242.

⁷⁰ John Durham, *Exodus* (WBC 3; Waco: Word, 1987), 156; 406.

⁷¹ Eugene Carpenter, “כרת,” *NIDOTTE* 2:729.

⁷² Robert M. Good, *The Sheep of His Pasture: A Study of the Hebrew Noun ‘Am(m) and Its Semitic Cognates* (Harvard Semitic Monographs 29, ed. Frank M. Cross; Chico, Calif.: Scholars Press, 1983), 85–90.

⁷³ Good, *Sheep*, 87.

⁷⁴ Good, *Sheep*, 88–89.

(עם). Such a person who is cut off is divested of his inheritance rights, his status, his rights to participate in the worshiping community and is placed under divine wrath.⁷⁵

Both כרת and ברל refer to dispossession, stripping of status, expulsion from the worshiping community, and placement under the threat of divine wrath. Both were means by which the worshiping community could protect itself not only by direct action against the offender but also by reliance on Yahweh's ultimate wrath in the event that their action proved insufficient.⁷⁶

Lafont is possibly the only scholar to connect the possibility of banishment in Israel with evidence for banishment in the ancient Near East.⁷⁷ She cites CH §154 (“If a gentleman has sex with his daughter, they shall make that gentleman leave the city”), along with YOS 10 31 (“l'exilé qui a été chassé reviendra dans sa ville”), and the Hittite provision of banishment for the sin of *hurkel*.⁷⁸ Lafont writes, “De fait, le sort du père incestueux à Babylone est peut-être à rapprocher de l'excommunication hébraïque, consistant à retrancher moralement, et sans doute aussi matériellement, le pécheur de la communauté religieuse et sociale.”⁷⁹

Perhaps the most unusual theory on *kareth* comes from Daube.⁸⁰ In its present form, Daube argues that *kareth* is punitive expulsion. However, he also argues that in its original form, *kareth* was a threat of castration, which would explain the choice of words for this penalty, and its overtones of childlessness. He suspects that such castration was never actually put into practice,

⁷⁵ Rodney R. Hutton, “Declaratory Formulae: Form of Authoritative Pronouncement in Ancient Israel” (Ph.D. diss., Claremont University, 1983), 142.

⁷⁶ Hutton, “Formulae,” 143.

⁷⁷ Sophie Lafont, *Femmes, Droit, et Justice dans l'Antiquité orientale* (OBO 165; Fribourg: Editions Universitaires, 1999), 184–85.

⁷⁸ See the discussion of the Hittite concept of *hurkel* in Harry A. Hoffner, “Incest, Sodomy, and Bestiality in the Ancient Near East,” in *Orient and Occident: Essays Presented to Cyrus Gordon on the Occasion of His Sixty-Fifth Birthday* (ed. Harry A. Hoffner; Neukirchener-Vluyen: Neukirchener Verlag, 1973), 81–90. Hoffner describes *hurkel* as a serious sin or taboo. According to Hoffner, every extant example of *hurkel* is sexual in nature.

⁷⁹ Lafont, *Femmes*, 185.

⁸⁰ David Daube, “Über die Umbildung biblischen Rechtsgutes,” in *Symbolae Friburgenses in Honorem Ottonis Lenel* (Freiburg: n.p., 1935), 245–58.

but served as a metaphorical threat. The chief value of Daube's study is its rejection of the death penalty in favor of banishment as the meaning of *kareth*.

The Methodological Procedure to Be Employed

The following methodological procedures will be employed in this dissertation. First, the syntagmic relationships of כרת with other words in context, and the verb's paradigmatic position in its lexical field, will be examined to see whether a meaning of "expel" in the *kareth* statutes is more plausible than a meaning of "exterminate." Second, Near Eastern evidence from the biblical period will be examined to verify that the practice of punitive expulsion was indeed employed by other Near Eastern cultures for offenses comparable to those for which it is prescribed in the Torah, and for purposes comparable to those for which the penalty was employed in the Torah. Third, the *kareth* penalties will be evaluated individually in light of the above evidence. A final step will be to integrate the findings of the above research into our understanding of Hebrew law.

The research methods that will be used to investigate the thesis of this dissertation will include the following:

1. After an examination of the uses of the verb כרת, contextual analysis of the verb כרת will be done in texts that employ the *kareth* penalty to determine whether this verb allows for a meaning of "expel" or "separate" that does not require killing or destruction of the person in question. Analysis of the use of the noun עם in relation to כרת will also be done to determine whether it means "nation" or "kindred" in the context of the *kareth* penalty, since "kindred" is used to support the theory of a divine curse to be applied in the afterlife. The phrase "to bear one's guilt" (ישא עונו), which sometimes accompanies the *kareth* penalty, will also be examined, to determine whether it may mean to suffer an immediate penalty, or whether it simply means that the offender will have to live with guilt for which sacrifice will not atone.

2. A comparison will be made between the *kareth* penalty and explicit death penalty decrees found in the Torah in order to document the difference between the two.

3. It has been previously noted that within extant law codes from the ancient Near East only one solitary statute that prescribes banishment has been found (CH §154, cited above). However, there exists a significant body of legal texts and historical material that describes how the law was actually practiced, material that has never been examined with this issue in mind. Therefore, Near Eastern legal materials and historical texts will be searched for references to expulsion or banishment, including use of the causative forms of the Akkadian verbs *waṣûm* (“to go out”) and *galûm* (“to go into exile”), as well as the use of the verbs *ṭarādum* (“to send away”) and *nasāhum* (“to expel”). Individual references will be examined in context to determine whether these are cases of punishment for an offense, nonjudicial expulsions, or whether the persons in question are fugitives.⁸¹

The Outcome(s) Anticipated

Based on the discoveries: (1) that the early history of the interpretation of *kareth* is far from unanimous; (2) that there is plenty of evidence that כרת is used to mean removal or spatial separation rather than destruction; and (3) that there is plenty of contemporary Near Eastern evidence that punitive expulsion was actually practiced in the biblical period, we anticipate that the meaning of the *kareth* penalty in the Torah will be best explained in most cases as a punitive expulsion from the community of faith. The language used in the *kareth* statutes not only lacks compelling reason to believe it is being used to mean “destruction,” but contextual and syntagmic clues often argue strongly in favor of a spatial removal that is non-fatal. Passages

⁸¹ Methodologically, it must be noted that the *krt* root is not used at all in legal contexts, for either extermination or banishment, in cognate languages outside of Hebrew. One is forced to look to other roots for these meanings.

where the same offense seems to call for both *kareth* and the death penalty will be seen to be best explained as clearly delineated cases where כרת's overarching sense of "removal" specifically calls for the most extreme form of removal; unless the penalty is so specified, removal by expulsion proves to be the norm. It is anticipated that the interpretation of *kareth* as a divine extermination curse will prove to be more problematic than the explanation advocated here. The Near Eastern evidence discovered in this study will strengthen the case for the position argued in this dissertation.

The following chapters present the case in favor of *kareth* as punitive expulsion.

CHAPTER TWO

THE MEANING OF כרת AND RELATED LEXICAL ISSUES

Introduction

Words have no meaning in themselves, apart from their usage in a given context. Words do not denote, they are used.¹ Meaning is “what a word, in and of itself, contributes to the understanding of an utterance.”² The meaning of a word is determined entirely by its use: by its syntagmic relationships with other words in a particular context, and by its paradigmatic position in a lexical field.

The value of a word is known only against the value of neighboring opposing words.³ Part of the total meaning of words is their relation to other words. James Barr observes that it is the choice of one word versus others that is a clue to a word’s meaning. He advocates an approach to meaning “not as direct relations between one word and the referent which it indicates, but as a function of choices within the lexical stock of a given language at a given time; it is the choice, rather than the word itself, which signifies.”⁴

What is true of words in general, is most certainly true for the Hebrew term כרת. In many cases of this word’s use in the Hebrew Bible, its meaning is far from obvious, and must be

¹ Moisés Silva, *Biblical Words and Their Meaning* (rev. ed.; Grand Rapids, Mich.: Zondervan, 1994), 106.

² Johannes Louw, “How Do Words Mean—If They Do?”, *Filologia Neotestamentaria* 4 (1991):139.

³ Silva, *Biblical Words*, 161.

⁴ James Barr, “The Image of God in the Book of Genesis—A Study of Terminology,” *Bulletin of the John Rylands Library* 51 (1968–69): 15.

determined by careful attention to its syntagmic relationship to other words in a given context, and by its paradigmatic relationship to other words in its lexical field.

The objective of this chapter will be to demonstrate that: a. within its range of possible meanings beyond the physical meaning “to cut,” the word כרת in the Hebrew Bible may be used to mean either destruction of people, or expulsion of people from the community; and b. that it is more plausible that the *kareth* penalty should be categorized with the latter use of this lexeme than with the former.

This chapter will attempt to achieve this twofold objective by taking the following steps. First, examples of both of the extended meanings of כרת (destruction and expulsion) will be examined to identify syntagmic and paradigmatic relationships that point to one or the other meaning of the word in a given context. Results will be checked briefly with evidence from the early translations found in the Targumim and the LXX. The remainder of the chapter will be devoted to addressing the remaining arguments in favor of destruction as the meaning of כרת in the *kareth* penalty. The use of כרת in this penalty will be contrasted with clear death penalty formulae. The meaning of the associated term “he shall bear his iniquity” will also be distinguished from the penalty of death. Finally, the uses of the terms עב and נפש, which are employed in the *kareth* penalty, will be examined for their ranges of meaning because of their importance in the argument that *kareth* refers to the extermination of oneself and one’s descendants.

The Meaning of כרת

Basic Uses of כרת

The basic thread of meaning that links all of the various uses of כרת is the idea of “separation.” In its use in the Hebrew Bible, כרת refers 78 out of 288 times to the cutting, cutting off, cutting down, or removal of inanimate objects or abstract concepts, including truth (Jer

7:28), hope (Prov 23:18; 24:14), pride (Zech 9:6), and memory (Ps 34:17; 109:15). כרת is also used 90 times as the verb in the idiomatic expression “to make a covenant.”

כרת is used 120 out of 288 times in conjunction with people or animals, including occurrences of the *kareth* penalty. Many of these uses appear to denote death or destruction but contain a degree of ambiguity. For instance, in 1 Samuel 2:33, the family of Eli is “cut off” from YHWH’s altar; the meaning of this declaration that unfolds in subsequent events contains elements of both extermination and expulsion.

Outside Hebrew, the *krt* root is only used to denote physical cutting, and is not used for either of the two chief secondary meanings it has developed in Hebrew: removal and destruction. Hasel points out that in Hebrew, these nonphysical meanings appear only outside of the *qal* stem.⁵ Outside Hebrew, the root is never used in a legal context.

Kutsch observes, “The translation of *krt* is governed by the obj(ect).”⁶ That is, the object of כרת determines whether it should be translated as “cut” (where the object is an inanimate object such as wood), or some sort of removal or destruction (where a person is the object). Kutsch observes that the sense of “annihilation” is found mostly in announcements of judgment against the nations and against evildoers, while another nuance is the “extermination” of name, memory, and hope.⁷

Daube raises the question of whether כרת is ever used to mean “kill” or “exterminate” in any case except where the object is plural. Daube compares divine decrees of destruction in the historical books, which he says are always directed against groups, to instances of *kareth*, where collective punishment is not possible. He writes,

⁵ Gerhard Hasel, *TDOT*, 7:345

⁶ E. Kutsch, “כרת *krt* to cut off,” *TLOT*, 635.

Wo das Verb in Geschichtschreibung un Prophetie die Vernichtung von Menschen bezeichnet, geht es auf eine Mehrzahl oder ein Kollektivum. Bei der Art von Delikten aber, auf denen Karet steht, kommt die Hinrichtung der ganzen Familie nicht in Betracht.⁸

The idea that כרת only means “kill” or “exterminate” when the object is plural, if it could be substantiated, would be helpful to the argument that the *kareth* penalty normally denotes expulsion. However, the data do not substantiate this possibility. While a substantial collection of examples can be found where the proposed rule proves true,⁹ one also finds passages such as Judges 4:24, where a singular object (King Jabin) may have been “destroyed” rather than “expelled.” Even this is a subjective judgment, the kind of judgment which the proposed rule does not solve or eliminate. One may also ask whether collective singular nouns such as “all flesh” (Gen 9:11), “every male” (1 Kgs 11:16), “all Judah” (Jer 44:11), and “horde” (Ezek 30:15) count as singular or plural.

Spatial separation from a specific place is the usage of כרת in Joshua 3:16, where the waters of the Jordan are “cut off” (nip‘al). One key example is 1 Kings 9:7, where YHWH promises that if the nation disobeys, “I will cut off (hip‘il) Israel from the land that I have given them,” the fulfillment of which becomes the ultimate example of banishment, the Babylonian exile. In the parallel to this passage, 2 Chronicles 7:20, the verb נחש, “uproot,” is used for כרת. In Zechariah 14:2, כרת clearly refers to a case of expulsion in the distant future: “Half will go into exile, but the rest of the people shall not be cut off *from the city*” (nip‘al). Jeremiah 11:19 likewise uses such language: “Let us cut him off *from the land of the living*” (qal!). In the last

⁷ Kutsch, *TLOT*, 636.

⁸ Daube, “Umbildung,” 250.

⁹ Deut 12:29; 19:1; Josh 11:21; 23:4; 2 Sam 7:9; 1 Kgs 18:5; 1 Chr 17:8; Psa 37:22, 28, 34, 38; Isa 10:7; 11:13; 29:20; Obad 14; Mic 5:8; Zeph 1:11; 3:6.

case (as well as the parallel case of Isa 53:8 with גִּזַּר; see below), the מִן-clause “from the land of the living” would be redundant if “cut off” automatically equals death.

A striking כרת idiom in the Hebrew Bible that highlights the “separation” sense of this verb is the so called “non-removal formula.” One example is Joshua 9:23 (nip‘al), where Joshua tells the Gibeonites, “There shall not be cut off from you (i. e., some of you shall always be) slaves, hewers of wood, and drawers of water.” In 2 Samuel 3:29, David pronounces a curse: “May there never be cut off (nip‘al) from the house of Joab one who has a discharge, or who is leprous, or who holds a spindle, or who falls by the sword, or who lacks bread!” 1 Kings 2:4 contains a promise to David that “there shall not be cut off (nip‘al) from you a successor on the throne of Israel.” (This wording is repeated in 1 Kgs 8:25 = 2 Chr 6:16, and 1 Kgs 9:5 = 2 Chr 7:18.) The same formula is also used in promises to the Levitical priests (Jer 33:17–18, nip‘al), and to Jonadab son of Rechab (Jer 35:19, nip‘al).¹⁰ Except for Joshua 9:23 and 2 Samuel 3:29, which employ only מִן, the remainder of the occurrences of the non-removal formula use both ל– and מִן (or ל– by itself) to indicate the locus of separation.

Nonphysical Uses of כרת

Aside from its idiomatic use in the expression “to make a covenant,” כרת is used to mean either “separate” or “destroy” approximately 149 times (see Appendix One). Eliminated from consideration are the uses of כרת in literal senses such as “cut down.” A few ambiguities remain, such as the case of incense altars: are they being cut down, or removed?

¹⁰ A most unusual construction is found in 1 Kings 18:5, where Ahab says, “so that *we* may not cut off (hip‘il – active voice and *transitive*) from the animals” (sic; the animals may die, but the subjects of the verb, “we,” suffer separation, not death). BHS suggests that the nip‘al form be read here, citing the LXX καὶ οὐκ ἐξολοθρευθήσονται ἀπὸ τῶν ἀκτηνῶν. Cogan (*1 Kings: A New Translation with Introduction and Commentary* [Anchor Bible 10; New York: Doubleday, 2001], 487) argues that the MT is intact and echoes v. 4, and so translates “so that *we* may not have to destroy any of the beasts.” Neither the LXX and the MT reads smoothly, so it is unclear whether this passage in its original form was employing a non-removal formula or an expression for destruction.

כרת is used 89 times with a מן-clause to specify the locus of separation, plus eight cases where ל is used for this purpose. In an additional 52 cases where כרת is used without any locus of separation, “removal” becomes less likely as a meaning, although it is possible that a locus of separation is assumed by the text.

Cases where כרת is used with a locus of separation, it is argued here, are the cases where כרת is most likely to mean “removal” as opposed to “destruction,” as illustrated by the following examples:

Exodus 8:5 – frogs cut off “from you and from your houses.” (hip‘il infinitive construct – used as synonym of הסר, “to remove” in 8:4.)

Joshua 11:21 – six (!) מן-clauses are employed to specify the locations from which Joshua wiped out the Anaqim (hip‘il waw + imperfect).

Psalms 34:17 – memory cut off “from the earth.” (hip‘il infinitive construct) See also 109:15. (hip‘il imperfect + waw)

Isaiah 9:13 – YHWH will cut off head and tail, palm branch and reed “from Israel.” (hip‘il imperfect + waw)

Jeremiah 9:20 – death has cut off youth “from the streets.” (hip‘il infinitive construct)

Ezekiel 25:7 – “I will cut you off from the peoples.” (hip‘il perfect + waw). Parallel: “And I will make you perish (והאברתיך) from the lands.”

Joel 1:5 – sweet wine is cut off “from your mouths.” (nip‘al perfect)

Joel 1:9 – grain and wine offerings are cut off “from the house of YHWH.” (hip‘al perfect) Also, Joel 1:16 – food is cut off “from the house of our God.” (nip‘al perfect)

Amos 2:3 – “I will cut off the ruler from (Moab’s) midst.” (hip‘il perfect + waw)

In all the above cases where a locus of separation is specified, the meaning “removal” for כרת is prominent, even if destruction is the means by which that removal takes place. To the above cases may be added the “non-removal” idiom discussed above, all cases of which specify a locus of separation, and all but one of which employ the nip‘al form of כרת.

“Destruction” is an extended meaning of the *krt* root that is unique to Hebrew. כרת is often used this way in the hip‘il, although sometimes also the nip‘al carries this meaning. (כרת has no pi‘el, so the hip‘il serves as the intensive conjugation.)¹¹ One example of this meaning is Judges 4:24, where Israel bears down on Jabin king of Canaan until they “destroy” (hip‘il) him (although expulsion is a possibility here). The hip‘il is also used to refer to the total extermination of dynasties, such as in 2 Kings 9:8, where the meaning of הכרית is made clear by its parallel with ויאבר. There is a strong implication of death with הכרית in Numbers 4:18.

It may be argued that most “destruction” cases are ambiguous, that is, they can be used to mean both destruction and/or separation. This is true for כרת in both the nip‘al and hip‘il. When God promises in Genesis 9:11 that “never again shall all flesh be cut off” (nip‘al) by the waters of a flood, when Daniel 9:26 says that a Messiah shall be “cut off” (nip‘al), or when YHWH says in Zephaniah 1:3, “I will cut off humanity from the face of the earth” (hip‘il), both destruction and simple removal are equally plausible, even if destruction seems to be the more likely meaning in context. This must be kept in mind when it is claimed that the *kareth* penalty is an extermination curse. In Ezekiel 21:4, “I will cut off from you both righteous and wicked,” כרת can hardly be viewed as a punishment on the righteous; in this particular case, separation, i. e. removal from the land seems more in view.

There are some clear exceptions to Zimmerli’s observation that the hip‘il of כרת is used to mean destruction. Sometimes even the hip‘il is used to mean removal rather than destruction. In 1 Samuel 28, Saul removes (הסיר) mediums and wizards from the land (v. 4), while the medium at En-Dor says he has cut them off (הכרית, v. 9). The hip‘il is also used in 1 Samuel 20:15, where

¹¹ The two uses of כרת in the pu‘al (Judg 6:28, Ezek 16:4) are probably to be reprinted as qal passives.

Jonathan begs David never to “cut off” his חסד from him (where destruction is unlikely as a meaning).

The clearest cases where כרת means destruction are contexts where the verb is used with no מן-phrase to indicate the place or sphere from which the subject is “cut off.” A particularly clear example is Genesis 41:36, “so that the land may not be cut off (ולא נכרת) through famine (ברעב).” The verb in this case is nip‘al imperfect, and there is no מן-phrase to indicate the locus of separation, only a ב-phrase to indicate agency. Unless one is required to assume a locus of separation such as “from sustenance” or the like, there is no possible way to translate כרת in a spatial sense in this passage. One is forced to כרת’s extended meaning of “destruction.” Another similar example of כרת without the מן-phrase is Leviticus 17:14, “All who eat it shall be cut off” (nip‘al imperfect), a *kareth* text, an atypical verse among the *kareth* declarations because it lacks a מן-phrase. It should also be noted that in Zechariah 9:10, כרת in the nip‘al without the מן-phrase is in poetic parallel with כרת in the hip‘il with a מן-phrase.

The use of the hip‘il form of כרת without a מן-phrase creates a strong connotation of “destruction.” There are a total of 25 cases in the Hebrew Bible. These include:

Leviticus 26:22 – Wild beasts shall “cut off” livestock. (hip‘il perfect + waw)

Deuteronomy 12:29 – “When the Lord your God has cut off before you the nations whom you are about to enter...” (hip‘il imperfect). See also Deuteronomy 19:1 (hip‘il imperfect); Isaiah 10:7 (hip‘il infinitive construct).

1 Kings 18:4 – “...while Jezebel was cutting off the prophets of YHWH” (hip‘il infinitive construct).

Jeremiah 51:62 – “O YHWH, you have threatened to cut off this place” (hip‘il infinitive construct).

Ezekiel 30:15 – “I will...cut off the hordes of Thebes” (hip‘il waw + perfect).

It would appear that כרת in the nip'al form without the מן-clause may best be taken as meaning “total removal,” i.e. to disappear. There are a total of 23 cases of כרת in the nip'al without the מן-clause, not including כרת + ל. Examples include:

Joshua 3:13, 16: 4:7 – waters of the Jordan are “cut off.”

Isaiah 55:13 – “an everlasting sign that shall not be cut off” (also, 56:5 – “name”).

Taken together, the pattern that emerges is that כרת seems to be used to mean “removal” rather than “destruction” most often in cases where the verb is in the nip'al form and where a מן-clause is employed. This combination is true for the majority of cases of the *kareth* penalty:

2X – nip'al + Ø (Lev 17:14; Num 15:31)

0X – hip'il + Ø

4X – hip'il + מן (Lev 17:10; 20:3, 5, 6)

22X – nip'al + מן (the remainder of the *kareth* verses)

As Kilian writes, the meaning of כרת in the nip'al is *farblos* (colorless, nondescript).¹² The verb כרת in Hebrew is ambiguous enough to allow for meanings that involve either destruction or mere removal.¹³ It is just as much of a mistake to force the meaning “destruction” onto all nonphysical uses of כרת, as Wold does in his dissertation, as it is to force the meaning “expulsion” in all cases. In a large majority of cases where the meaning “destruction” is claimed, an equally plausible case can be made that the sense is separation. For instance, when the Canaanites were “cut off,” many were destroyed, but many were driven out (גרש), which is

¹² Rudolph Kilian, *Literaturkritische und formgeschichtliche Untersucht des Heiligkeitsgesetzes* (Bonner Biblische Beiträge 19; Bonn: Peter Hanstein, 1963), 11.

¹³ Paul Raabe (*Obadiah: A New Translation with Introduction and Commentary* [AB 24D; New York: Doubleday, 1996], 167–68) points out that in Obadiah 9, the author must specify that the Edomites will be cut off “by slaughter.” If destruction were the automatic meaning for כרת, the author would not have had to specify a more exact meaning.

consistent with a meaning of “removal.” Both in Hebrew and in other Semitic languages, one must look to other verbs such as השמיד or שלח for clarity on what is intended. This may be why, over time, כרת ceases to be used to denote either expulsion or destruction. This may also explain why *kareth* as a biblical penalty requires explanation for later Jewish readers.

Evidence From Synonyms

The OT employs a semantic field of several different synonyms for כרת as spatial separation, including verbs that unambiguously express the concept of expulsion. Almost none of them is used in a legal context. Lepers are expelled (שלח) in Numbers 5:2–3, and in 2 Chronicles 26:21 (גזר). נדח is used for the self-imposed banishment of Absalom (2 Samuel 14:13–14). The cases of Jeremiah 36:5 (עצר) and Nehemiah 13:28–29 (הבריח) will be noted below in the section on Near Eastern evidence. In Zechariah 5:3, all thieves and perjurers shall be “cut off” (נקח with no predicate); no other OT passage uses this verb in this sense. The following verbs merit further discussion:

The verb גזר is used 16 times in the OT. It is the root that most closely resembles כרת in its use. Four times it is used to mean “slice,” twice it is used as the verb in the expression “to make a decree” (Est 2:12, Job 22:28), and the rest are very similar to the nonphysical sense of כרת. In 2 Chronicles 26:21, leprous Uzziah is “cut off from the house of YHWH,” the closest parallel to biblical *kareth* as separation. In Leviticus 16:22, the live scapegoat is taken to “a land cut off,” i.e. isolated from civilization. A similar use is found in Habakkuk 3:17, “though the flock be cut off from the fold.” In Isaiah 53:8 (“cut off from the land of the living”), the added specificity of the phrase “from the land of the living” makes it clear that death is in view here (specificity that the *kareth* penalty lacks). In both Lamentations 3:54 and Ezekiel 37:11, the speaker speaks of being presently “cut off” (no predicate); the use of the perfect tense strengthens the sense that the

meaning is separation/isolation rather than “destruction,” since the speaker is alive while speaking.

The root נסח is clearly cognate to the Akkadian *nasahum*, which even Wold correctly translates as “expel.”¹⁴ Hammurabi prays concerning any future successor, “May he remove (*lissuh*) the wicked person and the evildoer from his land.”¹⁵ In its four occurrences in the OT, נסח is normally translated “rooted or plucked up.” Proverbs 2:22 uses it as a poetic parallel of כרת: “But the wicked will be כרת from the land, and the treacherous will be נסח from it.” Proverbs 15:25 says that YHWH “will נסח the house of the proud, but will maintain the widow’s boundaries.” Deuteronomy 28:63 warns that Israel will be נסח from its land for disobedience. Psalm 52:7 warns the wicked that God will “נסח you from your tent.”

The root גרש is used to denote Solomon’s banishment of Abiathar (1 Kgs 2:27). Its basic meaning is “to drive out.” גרש is used for Adam and Eve’s banishment (Gen 3:24), as well as the banishment of Cain (Gen 4:14). It is used to refer to the expulsions of the Canaanites (Exod 34:11), Gaal of Shechem (Judg 9:41), Jephthah (Judg 11:2), and David (1 Sam 26:19).

The root ברל clearly refers to punitive expulsion in Ezra 10:8, as will be discussed in the section on Near Eastern evidence. The basic meaning of the root is “to make a separation,” as God does several times in the Genesis 1 creation account. The verb often means “to set apart” or “sanctify.” In Leviticus 20:24, YHWH is one who has “separated you from the peoples.” In Nehemiah 13:3, Nehemiah separates (ברל) from Israel all who are of foreign descent. In Numbers 16:21, YHWH warns Moses and Aaron, “Separate yourselves from this congregation,

¹⁴ Wold, “Kareth,” 20: “Although נסח is not used with the *kareth* penalty in the Priestly source, there is no question about its semantic parallelism to the verb כרת outside of P.”

¹⁵ CH xxv b: 91–92.

so that I may consume them.” In Isaiah 56:3, the foreigner fears, “YHWH will surely separate me from his people.” And in 2 Chronicles 25:10, Amaziah sends (בדל) a hired army home. All of these meanings provide the background for the eventual use of בדל for punitive expulsion at Qumran.

The use of כרת to mean “expulsion” in the *kareth* penalty is best demonstrated when it occurs in conjunction with synonyms that make clear its meaning. At times, the use of האבד in parallel with כרת in passages such as Micah 5:9 indicate a meaning in keeping with the Wold-Milgrom theory. The most striking instance is Ezekiel 25:7, where כרת occurs in parallel with both האבד and השדיר. However, when כרת is used in poetic parallelism with נסח in Proverbs 2:22, in this instance כרת is clearly shown to mean “expel.” Further examples include:

Zechariah 13:2: כרת is used in parallel with העבר, “to remove.”

Exodus 8:5, 1 Samuel 28:9: כרת is used synonymously with הסיר “to remove” in Exodus 8:4 and 1 Samuel 28:3.

Malachi 2:12: seems to be fulfilled when Ezra threatens to בדל offenders in Ezra 10:8.

1 Samuel 2:33: כרת prediction here is fulfilled when Solomon גרש Abiathar in 1 Kings 2:27.

1 Kings 9:7: כרת is rendered נהש “to uproot” in the parallel of this verse in 2 Chronicles 7:20.

One dimension of כרת’s lexical field can be described as chronological. כרת is used in a nonphysical sense 37 times in the Pentateuch, all but nine times of which occur in the *kareth* penalty. It is used this way 28 times in Joshua–Kings, seven of which are in the non-removal formula, while it is used only once in all of Chronicles (2 Chr 22:7) aside from three instances where Chronicles quotes from Kings. Its use is disproportionately high in Jeremiah (13 times), Ezekiel (14 times), Micah and Nahum (five times each), and Zephaniah (four times). In the late preexilic period, the meaning of “destruction” appears to predominate, while in Joel and

Zechariah, a “removal” sense is more noticeable. In the postexilic period, the nonphysical use of כרת appears to be replaced by more specific synonyms denoting either removal or destruction, and is retained only in allusion to older biblical formulas. The question under discussion is whether the Pentateuch’s use of כרת resembles the late preexilic usage, or is substantially different.

How the Early Versions Translate כרת

As noted in Chapter One, the Targumim do not retain the *krt* root for the *kareth* penalty, but employ their own language to translate the meaning of this verb. Targum Onqelos, Targum Neofiti I, and Targum Pseudo-Jonathan always use the *ištapa‘al* of שיצי, “to cause to go out,” which is usually interpreted to mean “to finish, complete, end...make an end of, destroy.”¹⁶ However, the Samaritan Targum uses either קטע (“to cut off, break off”) or the *itpa‘al* of עקר (“to be uprooted, detached, removed”) in all of the *kareth* passages.¹⁷ The breakdown of the usage of these two verbs in the Samaritan Targum is as follows:

| | | | |
|------------|-----|------------------|----------|
| Gen 17:14 | קטע | MS A | עקר MS J |
| Exod 12:15 | קטע | MS A | עקר MS J |
| Exod 12:19 | קטע | MS A | עקר MS J |
| Exod 30:33 | עקר | Both MSS A and J | |
| Exod 30:38 | קטע | MS A | עקר MS J |
| Exod 31:14 | עקר | Both MSS A and J | |
| Lev 7:20 | עקר | Both MSS A and J | |
| Lev 7:21 | עקר | Both MSS A and J | |
| Lev 7:25 | עקר | Both MSS A and J | |
| Lev 7:27 | קטע | Both MSS A and J | |
| Lev 17:4 | קטע | MS A | עקר MS J |
| Lev 17:9 | קטע | MS A | |
| Lev 17:10 | קטע | MS A | עקר MS J |

¹⁶ Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (New York: Title Publishing, 1943; repr., Peabody: Hendrickson, 2005), 1567.

¹⁷ Jastrow, “עקר,” *Dictionary*, 1108; Jastrow, “קטע,” 1351.

| | | | |
|-----------|-----|------------------|----------|
| Lev 17:14 | עקר | Both MSS A and J | |
| Lev 18:29 | עקר | Both MSS A and J | |
| Lev 19:8 | עקר | Both MSS A and J | |
| Lev 20:3 | קטע | Both MSS A and J | |
| Lev 20:5 | קטע | Both MSS A and J | |
| Lev 20:6 | עקר | MS A | קטע MS J |
| Lev 20:17 | עקר | Both MSS A and J | |
| Lev 20:18 | עקר | Both MSS A and J | |
| Lev 22:3 | עקר | Both MSS A and J | |
| Lev 23:29 | עקר | Both MSS A and J | |
| Num 9:13 | עקר | Both MSS A and J | |
| Num 15:30 | קטע | MS A | עקר MS J |
| Num 15:31 | קטע | MS A | עקר MS J |
| Num 19:13 | קטע | MS A | עקר MS J |
| Num 19:20 | עקר | Both Mss A and J | |

The predominant root used in the Samaritan Targum appears to be עקר. קטע is used most often by MS A, and seems to be concentrated in passages usually assigned to P, particularly those that specify separation from the “congregation” or from “Israel.” Aside from these two observations, there does not seem to be any noticeable pattern or any indication as to why one word is used and not the other in any given passage.

The question remains as to whether these two roots present any fresh clues to the meaning of כרת. Tal gives “removal, uprooting” as the basic meaning of עקר in Samaritan Aramaic,¹⁸ and “ceasing, cutting” as the meaning of קטע,¹⁹ both cases of which would appear to support the argument that *kareth* is a lesser penalty than divine extermination. Tal gives “extermination” as a meaning, however, when citing the usage of these two roots in *kareth* passages in the Targum. In so doing, however, he seems to be influenced by the historic rabbinic understanding of these passages, since he gives no contextual evidence for the meaning “extermination” from passages other than the *kareth* passages.

¹⁸ Abraham Tal, *A Dictionary of Samaritan Aramaic* (2 vols.; Leiden: E. J. Brill, 2000), 2:658–60.

Jastrow seems to be similarly influenced by the rabbinic position in his translation of שיצי in the Jewish Targumim. Yet Jastrow's entries on the roots used in the Samaritan Targum support a less severe meaning. So does the linguistic treatment by Sokoloff, who defines עקר in the Ithpaal as "to be uprooted."²⁰ Sokoloff provides evidence from the Talmud, where the root is used to describe the removal of a carob tree (b. Mo'ed Qat. 81d [1]) and of idolatry (b. 'Abod. Zar. 42c [36]).

It is uncertain whether there is any significant difference between the Aramaic used in the Samaritan Targum and the Aramaic used in the Jewish Targumim and Talmudim. The dates of the Targumim in particular, both Jewish and Samaritan, are uncertain. The possibility cannot be ruled out that dialectical nuances in Samaritan Aramaic may invalidate the evidence from Jewish Aramaic. However, a plausible argument can be made that the Samaritan Targum preserves a different tradition of the understanding of *kareth* than the understanding found in the rabbinic writings. Even the use of שיצי throughout the Jewish Targumim may actually reflect a different understanding of *kareth* than the one which came to dominate rabbinic Judaism.

The LXX uses the term ἐξολεθρεύεσθαι (utterly destroy) 17 times to translate כרת. It also uses ἀπολήναι (destroy) six times, while Origen offers ἀφανισθήσεται (made to disappear) as an option at Genesis 17:14. The verb ἐκτριβεῖν (rub out, destroy) is used only in Numbers 19:13, in Jeremiah 11:19, and to translate the infinitive absolute construction in Numbers 15:31. The LXX's language seems to spring from the uprooting language of the Targumim, but is more violent in its tone than the Targumim. It is from the LXX that the Latin and Ethiopic versions appear to have gotten their translations of כרת in this formula.

¹⁹ Tal, *Dictionary*, 2:772–73.

²⁰ Michael Sokoloff, *A Dictionary of Jewish Palestinian Aramaic of the Byzantine Period* (Ramath-Gan, Israel: Bar-Ilan University Press, 1990), 487–88.

However, traces of a “separation” meaning for כרת may also be found in the LXX. 1 Kings 9:7 uses ἐξαιρεῖν (pluck out, remove) to translate “I will cut off Israel from the land that I have given them.” The verb ἐξαιρεῖν is also used three times in 1 Samuel 20:15–16. It is used in Jonathan’s plea for David not to “cut off” his ἐλεός from him, his reference to the day “when the Lord cuts off (ἐν τῷ ἐξαιρεῖν) the enemies of David,” and his plea that the name of Jonathan not be “cut off (ἐξαρθῆναι) from the house of David.” The verb ἐκλείπειν (die out, fail) is used in passages such as Joshua 3:16 where the meaning “separation” predominates. The verb ἐξάγω (“to make to go out”) is used in Joel 1:5 to refer to the “removal” rather than “destruction” of wine from Judah. And in Proverbs 2:22, the verb ὀλλῆναι (destroy, put an end to) is used for כרת, but the verb ἐξωθεῖν (drive out, expel) is used for its parallel נסה.

The evidence from early translations is not nearly as unanimous as the work of Wold would lead one to believe. While the translation “utterly destroy” is proven to be the understanding of this penalty by the translators of the LXX, the LXX also shows traces of a less violent extended meaning of כרת, as documented above, an understanding that seems to have been suppressed (as it were) due to an apparent prior commitment to the meaning of this penalty. The Targumim employ glosses on כרת that are much more amenable to an understanding of “expulsion” than the language of the LXX. Translations such as the Latin and the Ethiopic simply follow the LXX. Beneath the LXX is a doubtlessly strong tradition, reflected also in the interpretation of the rabbinic tradition. But the Targumim give evidence that the LXX-rabbinic interpretation of כרת was not the only tradition available in Second Temple Judaism.

כרת in its Broader Context

In their approach to the meaning of כרת, Wold and Milgrom argue that *kareth* is an extinction curse, parallel to the standard Near Eastern formula, “May Deity X destroy his name

and seed from the land.” The Wold-Milgrom theory defines עַם as “extended family,” from whom the offender is “cut off.” It also involves equating וְנָשָׂא עֹנֵיו (“he shall bear his iniquity/punishment”), a result clause attached to *kareth*, with רָמִיוּ בּוֹ, “his blood is upon him,” which is a questionable move, because the latter is a result clause attached to the death penalty.

Each of these lexical claims will be examined in the remaining sections of this chapter. As stated previously, there is no linguistic link between the *krt* root and the curses cited by Wold, as Wold himself admits. This alone reduces Wold’s claim to the plausibility level at best. The remaining lexical claims of the extermination curse theory also prove to be less than conclusive.

כרת ≠ Death Penalty

As one seeks the meaning of *kareth*, one must compare the precise wording of the *kareth* penalty with clear death penalty formulas, particularly within the Holiness Code, where the same stratum contains both formulas in close proximity to one another. The formula מוֹת יוֹמָת (qal infinitive construct + hop‘al third person masculine singular) is found verbatim 19 times in the Pentateuch,²¹ plus an additional five cases in the plural (all in Leviticus 20),²² and five cases of simple יוֹמָת.²³ In parallels between the Holiness Code and the Covenant Code, מוֹת יוֹמָת replaces the hop‘al of חָרַם (Exod 22:19, MT), and the hip‘il (negative command) of חָיָה (Exod 22:17 MT). Six times (all in the Holiness Code) מוֹת יוֹמָת is accompanied by “their blood is upon them.” Other than one solitary occurrence of יוֹמָת (Deut 13:5), and one case of הָרַג (Deut 13:10 – qal infinitive absolute + hip‘il imperfect), Deuteronomy exclusively uses the qal waw + perfect of מוֹת for its death penalty. Outside the Pentateuch, significantly, מוֹת יוֹמָת is found in Ezekiel

²¹ Ex 21:12, 15, 16, 17; 31:14, 15; Lev 20:2, 9, 10, 15, 27; 24:16, 17; Num 15:35; 35:16, 17, 18, 21, 31.

²² Lev 20:11, 12, 13, 14, 16.

²³ Exod 21:29; Lev 24:21; Num 1:51; 3:10; 18:7.

18:13, accompanied by “his blood is upon him.” This combination is found nowhere else in the OT outside of Leviticus 20.

Milgrom has observed that the hop‘al form of מוֹת is used in the Priestly writings (including H) for execution by human agency, whereas the qal form is used where God is the agent.²⁴ The latter are mostly cases where a person is warned that they will “die” as an apparently automatic consequence of some given action, as discussed in Chapter One.

Sun claims that in his opinion, “the juxtaposition of מוֹת יוֹמָת and כָּרַת punishments has relativized the differences between them (if any).”²⁵ Similarly, von Rad theorizes that all the offenses in Leviticus 20:9–21, even those that now carry a penalty of *kareth* or childlessness, were originally death penalty offenses due to their identical form, אִישׁ אִשֶׁר + qal imperfect verb + predicate + מוֹת יוֹמָת.²⁶ However, von Rad’s argument is built entirely upon a speculative reconstruction that ignores the distinctive בּוֹ דְּמִיּוֹ that marks each of the death penalty statutes. It also fails to satisfactorily explain how or why the מוֹת יוֹמָת language has been removed and replaced. This is an even greater problem for Sun’s position, if *kareth* and execution are to be treated as virtually the same because they have been placed in such close proximity.

The differences in language between *kareth* and מוֹת יוֹמָת are best accounted for by a clear difference in meaning. Regardless of how parallel the form of the statutes may be, this list in

²⁴ Jacob Milgrom, *Studies in Levitical Terminology: The Encroacher and the Levite. The Term ‘Aboda* (Berkeley: University of California Press, 1970), 5–7.

²⁵ Henry T. C. Sun, “An Investigation into the Compositional Integrity of the So-Called Holiness Code” (Ph.D. diss., Claremont Graduate School, 1990), 234n49.

²⁶ Gerhard Von Rad, *Studies in Deuteronomy* (trans. David Stalker; London: SCM, 1953), 32–33. See also Baruch Schwartz, “The Bearing of Sin in the Priestly Literature,” in David P. Wright, David Noel Freedman, and Avi Hurvitz, eds., *Pomegranates and Golden Bells: Studies in Biblical, Jewish, and Near Eastern Ritual, Law, and Literature in Honor of Jacob Milgrom* (Winona Lake: Eisenbrauns, 1995), 12 n35, who says, “The presence of the death penalty in Lev 20:9–16 must mean that it is to be inferred in vv. 17–21.”

Leviticus 20 functions to make distinctions between offenses that appear to be lumped together in Leviticus 18.

The expression **דָּמִיּוּ בּוֹ** in either its singular or plural formulations is found only in Leviticus 20 (six times) and in Ezekiel 18:13 and 33:5. The related expression **דָּמוֹ בְּרֵאשׁוֹ** is found in Joshua 2:19 (twice), 1 Kings 2:33, 37, and Ezekiel 33:4. Still another synonymous expression is **לֹא דָּמִיּוּ לּוֹ**, found in Exodus 22:1–2 (twice) and in Numbers 35:27 (**לֹא דָּם**). Finally, the phrase **עַל דָּמִיּוֹ** is found in Deuteronomy 19:10 and 2 Samuel 1:16. All four of these expressions refer unambiguously to responsibility for someone's death. In Ezekiel 33:4–5, **דָּמוֹ בְּרֵאשׁוֹ** and **דָּמִיּוּ בּוֹ** are used interchangeably back-to-back.

The phrase **דָּמִיּוּ בּוֹ** signifies that in the specified case, the bloodguilt for the execution of the offender rests upon the offender himself or herself. This declaratory formula is attached to the death penalty formula to assure those who carry out this formula that they will not be held responsible for the death of the offender. To convey this meaning is the phrase's primary function here. Its secondary function is to distinguish these statutes from noncapital offenses. It is a phrase that only marks execution by human agency, not death by divine hand, since the Deity has no need to fear punishment for bloodguilt.

The probability that **נִכְרַת** is nonfatal is implied in the syntagmic statements that sometimes accompany it: "he shall bear his iniquity," and "they shall die childless." Cain is the first to "bear his iniquity" (Gen 4:13, verbatim): he suffers angst as if he had been promised *kareth* in the standard rabbinic sense of an extermination curse, but he is banished, not put to death. Likewise,

“They shall die childless” need not be any more severe than the fate of Michal in 2 Samuel 6:23.²⁷

Milgrom claims, “The expression *wēnāsā*’ *’āwōnō* always implies that the punishment will be meted out by God, not by man.”²⁸ But Brichto sees it differently: “The expression *wenāsā*’ *’āwōnō* / *het’ō* again and again refers to an indeterminate penalty / punishment implemented by man or God.”²⁹

Schwartz cites twenty distinct cases where offenders “bear (their) iniquity” in the priestly tradition.³⁰ Some of these appear to imply no punishment at all, such as failure of a witness to testify (Lev 5:1) and failing to rebuke one’s neighbor (Lev 19:17). The suspected adulteress (Num 5:31) is condemned to a life sentence of misery rather than to execution.³¹ While *kareth* is decreed against those who eat blood in Leviticus 17:14, in the next two verses, those who eat carrion are told they must simply bathe themselves and their clothes and be unclean until evening, otherwise they must “bear (their) guilt.” Significantly, a father “bears” his daughter’s “iniquity” for overruling a vow she has made (Num 30:15). None of these seems to call for death or a fate worse than death (as the Wold-Milgrom position describes the *kareth* penalty). Furthermore, in Ezekiel 44:10–14, the expression *ישא עונו* is used twice (in the plural) in an unambiguously non-fatal sense: the offending priests in these verses are demoted and forced to perform service of a lower rank.

²⁷ Saalschütz was possibly the first to recognize the implication of “they shall die childless” as being that the offenders in question are allowed to live (Saalschütz, *Recht*, 475–76).

²⁸ Milgrom, AB 3, 295.

²⁹ Herbert Brichto, “On Slaughter and Sacrifice, Blood and Atonement” (*HUCA* 47 [1976]): 24n11.

³⁰ Schwartz, “Bearing,” 11–12.

³¹ By contrast, Wold (“Kareth,” 126) claims that Numbers 5 “provides the most probable example of *kareth* in the Bible.” He sees the case as involving both a divine curse and destruction of one’s seed through childlessness, in an offense that would otherwise merit death, but cannot be proved for lack of witnesses.

Schwartz makes the following further points about **ישא עונו**:³²

1. Because the cases where the formula is used carry a variety of punishments or sometimes even no punishment at all, Schwartz find that the common thread between them is the status of guilt for a particular offense. **ישא עונו** serves as a metaphor for guilt status.

2. If “bearing sin” and punishment were “coextensive,” one would expect one or the other to be mentioned in any given context, but not both. The fact that often both occur together is an indication that sin-bearing and its penalty are two separate phenomena that must not be equated.

3. In several cases, “bearing sin” is a condition that can be rectified. If this is true, then “bearing sin” is only the state of deserving penalty, not the penalty itself.

4. All but one of Schwartz’s twenty cases are sins of commission, that is, they are deeds. Some may be formulated as sins of omission, but in each case, the flip side is a positive offense. “Only when a *deed* has been done is a sin ‘borne’ in the priestly system.”

5. “Bearing sin” is the “precise counterpart” of the state of impurity, which is further proof that **ישא עונו** is a metaphor for a condition. Both impurity and the bearing of sin are conditions that can be remedied. **ישא עונו** is also analogous to the condition of bloodguilt.

6. In two of Schwartz’s cases, the declaration that a person bears his/her sin is the counterpart to recognizing their guilt. One might describe this as unresolved guilt in one’s legal status.

7. The formula **ישא עונו** functions as both a pronouncement of status upon those who have committed a given offense, and also as a threat or warning not to commit the offense.

8. Schwartz observes that most sins can be “unloaded” by repentance, amends, and/or sacrifice, in which cases “bearing sin” is a condition that does not endure. Some sins, however,

³² Schwartz, “Bearing,” 12–15.

can never be remedied, even by suffering punishment by human agency. In such cases, “A deed has been done that cannot be undone; it will be ‘borne’ thereafter.”

Sklar responds by arguing that Schwartz has “overstated his case.”³³ He says, “At most, it may be said that some texts *mention* no punishment at all,” but they all assume some sort of punishment. Sklar argues that *ישא עונו* is “a *general* statement that the sinner will be punished, which is then explicated by a more *specific* penalty (e.g. *kareth*, death).” Likewise, Milgrom, in response to Schwartz, insists that *עון* may also be translated “punishment,” but his arguments do not refute Schwartz.³⁴ His appeals to Akkadian idiom (*našû* used with *hitam*, *arnam*, or *šertam* as its object) are just as ambiguous as the Hebrew formula in question.³⁵ Milgrom finds the punishment for failing to warn a person (Lev 19:17) in Ezekiel 3:18–19 and 33:8, but one cannot be sure that a case as serious as the one described by Ezekiel is what is intended in Leviticus 19:17.³⁶

Milgrom’s bottom line is that “*nāšā’ āwōn* is a nonexpiable, irremediable divine sentence.”³⁷ Schwartz’s arguments call Milgrom’s conclusion into question. But even if Milgrom’s statement were true, it would still not serve as clear evidence for the Wold-Milgrom divine extermination theory, because it does nothing to resolve the question of whether expulsion or extinction is intended by the language of the penalty itself.

The use of the phrase “they shall bear their iniquity” in Leviticus 20 serves primarily as a counterpart to *בוי בו*, in order to distinguish capital from noncapital offenses in this series. It

³³ Jay Sklar, *Sin, Impurity, Sacrifice, Atonement: The Priestly Conceptions* (Sheffield: Sheffield Phoenix, 2005), 22–23n42.

³⁴ Milgrom, AB 3A, 1488–90.

³⁵ Milgrom, AB 3A, 1490.

³⁶ Milgrom, AB 3A, 1489.

³⁷ Milgrom, AB 3A, 1490.

must be noted that, while there are examples where “(they) shall bear (their) iniquity” is pronounced upon someone who would die suddenly and automatically, nowhere are **בּוֹ וְדָמָיו** and “they shall bear their iniquity” declared together upon the same offense. They are not synonyms; they are alternatives.

Interpretational Cruxes

How should one explain cases where both *kareth* and the death penalty are applied? Is this not evidence that the two are synonymous? Here are some alternatives to this conclusion:

A. **Exodus 31:14**. Both *kareth* and death penalties are declared in the same verse. This could be:

1. Commutation of an original death penalty (Phillips). This is the form Daube would have predicted for addition of an amendment to a statute, by attaching the addition after the original statute, rather by than erasure.³⁸

2. Double jeopardy. The offender is to be both executed by humans, and eternally exterminated by God together with his/her descendants (Wold). An alternative to Wold’s theory would be for *kareth* to be applied in cases where a court did not have enough witnesses or evidence to convict. A third alternative would be that the offender was deprived of citizenship immediately before execution.

3. Could there be a difference between “profaning” (capital crime) versus “doing any work” (non-capital crime)? One question is whether **כִּי** can introduce an exception clause in such a case. Scholars agree on the limited existence of concessive and exceptive uses of **כִּי**, meaning “although,” “but,” “except,” “unless,” or “nevertheless.”³⁹ However, few examples are pure and

³⁸ David Daube, *Studies in Biblical Law* (Cambridge: Cambridge University Press, 1947), 74–102.

³⁹ See Ludwig Koehler and Walter Baumgartner, *The Hebrew and Aramaic Lexicon of the Old Testament*

indisputable. For instance, many examples of such uses of כִּי involve idioms such as כִּי אִם and

גַּם כִּי. Examples:

כִּי אִם – Numbers 24:23: “Nevertheless, Kain shall be laid waste.”

כִּי אִם – Psalm 1:2: “...but whose delight is in the law of YHWH.”

כִּי אִם – Amos 3:7: “Surely the Lord YHWH does nothing unless he reveals his secret...”

כִּי אִם – Micah 6:8: “What does YHWH require of you, except to do justice...”

כִּי גַם – Psalm 23:4: “Even though I walk through the valley of the shadow of death...”

כִּי גַם – Proverbs 22:6: Train up a child...(and) even though he grows old...”

כִּי גַם – Isaiah 1:15: “Even though you make many prayers, I will not listen.”

Another category of concessive/exceptive uses of כִּי is cases where כִּי follows a negative clause, which provides a strong contextual clue to its meaning:

Genesis 18:15: “No (לֹא), but you did laugh.”

Joshua 5:14: “No (לֹא), but as commander of YHWH’s army I have come.”

1 Samuel 18:25: “The king desires no marriage present, except 100 foreskins of the Philistines.” (The Qere and several Hebrew MSS read כִּי אִם.)

There are a larger number of examples where context alone leads translators to render כִּי concessively or exceptionally. The problem, as Aejmelaeus observes, is that the concessive interpretation in such cases is never indisputable; one could just as easily render these cases as “for” or “when” rather than “but” or “although”.⁴⁰ For instance, in Genesis 8:21 (“for/although

(trans. M. E. J. Richardson; 2 vols.; Study Ed.; Leiden: E. J. Brill, 2001), 1:470 §5; Bruce Waltke and Michael O’Connor, *An Introduction to Biblical Hebrew Syntax* (Winona Lake, Ind.: Eisenbrauns, 1990), 39.3.5d; Paul Joüon, *A Grammar of Biblical Hebrew* (trans. and rev. Takamitsu Muraoka; 2 vols.; Subsidia Biblica 14/1–2. Rome: Pontifical Biblical Institute, 2005), 172c.

⁴⁰ Anneli Aejmelaeus, “Function and Interpretation of כִּי in Biblical Hebrew,” *JBL* 105 (1986): 205–206.

the imagination of the human heart is evil from their youth”), “the concessive reading seems to suit the context, although it is in no way necessary.”⁴¹ Further examples:

Numbers 14:40: “We will go up, although (because?) we have sinned.”

Deuteronomy 29:18: “I shall be safe, although (when?) I walk in the stubbornness of my heart.”

1 Samuel 15:35: “Samuel did not see Saul again until the day of his death, but (because?) Samuel grieved for Saul.”

Proverbs 6:35: “He will not be appeased although (when?) you multiply gifts.”

The best examples are:

Exodus 13:17: “God did not lead them by the way of the land of the Philistines, although that way was near.”

Exodus 19:5: “You shall be my special possession, even though all the earth is mine.”

Joshua 17:18: “You shall drive out the Canaanites, although they have chariots of iron, and although they are strong.”

A potentially fatal flaw in the theory that “whoever does any work” is an exception to the capital crime of “profaning the Sabbath” in Exodus 31:14, is that the same “whoever does any work” language (verbatim) is used in the very next verse with a death penalty attached. This theory only works if one assumes that there have been one or more additions to the text. Because of the disjointed nature of the text as it stands, however, it is possible that both the *kareth* penalty here and the death penalty that immediately follows it are glosses on an original death penalty in verse 14.⁴²

⁴¹ Aejmelaeus, “Function of ׀,” 207.

⁴² However, Albrecht Alt (*Essays on Old Testament History and Religion*; trans. R. A. Wilson; Oxford: Basil Blackwell, 1966), 112n74) argues the reverse. He concludes that v. 15 is closer to the original form of the command.

4. Maimonides offers a still different solution: “What penalty does he deserve for doing work? If he did it voluntarily, willfully (ברצונו בזדון), he deserves kareth; if he acted in the presence of witnesses who forewarned him, he is stoned.”⁴³

5. Noth’s position is a combination of 1, 3, and 4: he attributes the discrepancy in these two verses both to emphasis and “secondary addition,” but says the case is one that has more to do with the kind of labor in view, its intention, and its result.⁴⁴ It is hard to avoid the impression that at least some element of this passage is a gloss. It is possible that an exception clause providing for *kareth* has been added to verse 14, and that verse 15 was then added to explicitly negate the addition. Such a possibility is highly speculative, but is not unwarranted, due to the disjointed nature of the text as it stands.

All of the above explanations are ultimately inadequate. What is certain is that desecrating the Sabbath was a death penalty crime. The presence of *kareth* appears to be an intrusion into the text as it reads. Even if it is not, which may well be the case, Exodus 31:14 stands alone as a *kareth* formula that is not in divine prophetic speech form (see discussion of Lev 20:1-6 below) that is pronounced on a death penalty crime. It is best to treat Exodus 31:14 as a case where the writer chooses to pronounce the most extreme form of removal, death, on an offender, thereby emphasizing the extreme threat to the community that this offense engenders.

Conclusion: Exodus 31:14 is the clearest case where כרת is not intended to mean punitive expulsion, but must be taken broadly, according to its use as a nonspecific word for removal that this particular context specifies to be a form of removal by death.

⁴³ Maimonides, *Mishneh Torah, Hilchoth Shabbath*, I, 1, quoted in Wold, “Kareth,” 74 n35.

⁴⁴ Martin Noth, *Exodus: A Commentary* (trans. John S. Bowden; Old Testament Library; Philadelphia: Westminster, 1962), 241.

B. **Leviticus 18:29**: “whoever commits any of these abominations.” Presumably, the *kareth* penalty applies to the entire chapter of offenses that precedes this verse. However, several of these offenses command the death penalty in Leviticus 20. Possible explanations:

1. An increasing penalty for select offenses (reverse of Phillips, above); that is, several *kareth* penalties were stiffened by addition of a death penalty, the amendments simply being added on (as per Daube’s theory) rather than the original penalties being erased.

2. Double jeopardy (Wold). See above (on Exod 31:14).

3. Leviticus 20 provides a subsequent clarification to a summary blanket statement made concerning the collection of offenses enumerated in Leviticus 18, namely, that all of these offenses call for removal of the offender. Expulsion, therefore, it to be applied to all offenses named in Leviticus 18 except those to which a more extreme form of removal is applied in Leviticus 20. Scholarly consensus regards both chapters as part of the Holiness corpus; the chapters may thus be regarded as products of the same school, if not the same editor.

4. Leviticus 18 may have been written for the head of the clan or **בית-אב**, who may not have needed to be told what penalties to impose, while Leviticus 20 may have been written for instruction of the community, who needed more specific detail.

5. Perhaps Leviticus 18 should not be read as a case of *kareth* at all in a strictly legal sense, but rather as an exhortatory chapter, with chapter 20 providing the legal specifications.

Conclusion: There is no substantial contradiction here. Leviticus 18:29 and its interpretation will be discussed in further detail in Chapter Four.

C. **Leviticus 20:1–6**. The key to explaining the juxtaposition of the death penalty and *kareth* here may be that death by stoning is decreed first, then God claims to be the one who will “cut off” the offender, along with everyone else that fails to punish Molech worship. Either this is double jeopardy, or else “cut off” is being used synonymously with execution. If expulsion

were the most common meaning of this penalty, then here would be the encroachment of another meaning that could be confused with the predominant meaning: a removal specifically by death.

The first person singular hip'il form of כרת that is found in Leviticus 20:1–6 occurs a total of 40 times in the Hebrew Bible.⁴⁵ All but once it is found in the mouth of YHWH (in Joshua 23:4, it is spoken by Joshua), and 34 of these instances are in the form of promises. In addition, there are five cases of כרת in the hip'il infinitive construct that are also part of first person statements by YHWH, three of which are promises.⁴⁶

The above evidence indicates that the כרת pronouncements in Leviticus 20:1–6 are a form of divine prophetic speech. They are divine promises, to be distinguished from penalties for statutes. As such, they are a different kind of speech act entirely. The divine prophetic speech may be classed as commissive, while the *kareth* statutes may be classed as directive.⁴⁷

Conclusion: Syntagmic clues (the hip'il conjugation plus the divine first person form of the verb), plus the legal context of this statute (i. e. the clear linking of a death penalty to this *kareth* declaration) strongly point to a clear but consistent use of כרת to mean removal by death in Leviticus 20:1–6. The facts in this particular case do not rule out the possibility or the likelihood that כרת in other *kareth* statutes may refer to expulsion rather than destruction.

⁴⁵ Lev 20:3, 5, 6; 26:22, 30; Josh 23:4; 1 Sam 2:33; 2 Sam 7:9; 1 Kgs 9:7; 14:10; 21:21; 2 Kgs 9:8; 1 Chr 17:8; Isa 14:22; Ezek 14:8, 13, 17; 21:8, 9; 25:7, 13, 16; 29:8; 30:15; 35:7; Amos 1:5, 8; 2:3; Mic 5:9, 10, 11, 12; Nah 1:14; 2:14; Zeph 1:3, 4; 3:6; Zech 9:6, 10; 13:2.

⁴⁶ Ps 101:8; Isa 48:9; Jer 44:11; Ezek 14:19, 21.

⁴⁷ See the discussion of classification of speech act categories in John Searle and Daniel Vanderveken, *Foundations of Illocutionary Logic* (Cambridge: Cambridge University Press, 1985), 12–20.

The Use of עַם

As stated previously by Kutsch, the meaning of כַּרֶּת in context is determined by its object. It is also determined in part by the sphere from which the object is cut off. Hence, attention must be given to the meaning of עַם in the context of the *kareth* penalty.

As stated in Chapter Five, עַם is used eight times in the singular and 13 times in the plural out of 28 *kareth* verses. In addition, five times the term is replaced by specific terms that may reflect the tradition's understanding of the referent to which עַם refers.

The Wold-Milgrom position on *kareth* requires that עַמִּים must be a reference to one's ancestors, with whom one is either united or separated from after death. They appeal to Alfrink, who argues that עַמִּים in the plural refers, not to the Israelite people as a whole, but to one's clan of blood relatives. He writes, "le Pentateuque en conserve la forme stéréotype ancienne.. עַמִּים, au pluriel, dans le sens de ,membre de la même tribu' se trouve dans le Pentateuque exclusivement."⁴⁸ Alfrink does not offer further evidence why this idiom should be considered ancient. He simply notes that עַמִּים in the sense of "ancestors" or "relatives" occurs only in the Pentateuch and in names embedded in historical texts narrating events earlier than the ninth century B.C. Alfrink's claim is confirmed in that Ezekiel 18:18 proves to be the only example outside the Pentateuch of עַמִּים being used in the sense of "relatives."

Zimmerli concurs that עַמִּים is used to mean "die Verwandten" in the *kareth* penalty, and that, "Eine Entwicklung vom pluralischen zum singularischen Gebrauch, des עַם ist leichter denkbar als die umgekehrte Entwicklung."⁴⁹ But Zimmerli also suggests from the plural form

⁴⁸ Bern. Alfrink, "L'Expression אֱלֹהֵי עַמִּי," *Oudtestamentische Studiën* 5 (1948), 121. See also *HALOT* 1:837, B.

⁴⁹ Zimmerli, "Eigenart," 17.

that “die Sippe” might have been the original “Kultgemeinschaft”: “The plural עַמִּים points back to an early stage in which the cultic community was represented by the clan.”⁵⁰

Good traces אָב back to an Arabic root that means “paternal uncle.”⁵¹ Speiser agrees that this Arabic term carries the root’s original connotation, from whence “the noun came to designate the nuclear family as a whole...The ethnic sense of the term is clearly secondary and based on kinship. In such occurrences the word stands primarily for a consanguineous group, or the extended family in the widest sense of the term.”⁵²

Appealing to usage, Albright challenges the etymology of אָב from Arabic:

...there are many names containing the elements ‘*amm* “kindred, family, folk”; *ab* “father”; *akh* “brother”. There has been much discussion of the first word, which has the meaning “paternal uncle” in Arabic, especially since this sense can be shown to exist in South Arabic at least as early as the seventh century B.C. However, since Heb. ‘*am* always means “kindred, folk, people,” and since the Babylonian scholars of the second millennium B.C. correctly translated this element (where it occurs in Amorite names like *Hammurabi*, *Ammišaduqa*) as “family,” we are certainly justified in adopting this meaning – the only one which suits many of the names containing it: e. g., *Reḥabh ‘am* (Rehoboam), “Let (my People be Widened.” [sic]⁵³

The usage of עַמִּים to mean “relatives” is clearest in passages where a singular suffix is attached, such as Leviticus 19:16; 21:4, 14–15. In such a case, “nations” is all but ruled out as the intended meaning. In addition, the name Ben-Ammi (Gen 19:38) makes even better sense as “Son of My Kinsman” than “Son of My People.”

⁵⁰ Zimmerli, “Eigenart,” 17; *Ezekiel*, 304.

⁵¹ Good, *Sheep*, 35.

⁵² Ephraim A. Speiser, *Oriental and Biblical Studies: Collected Writings of E. A. Speiser* (ed. Jacob J. Finkelstein and Moshe Greenberg; Philadelphia: University of Pennsylvania Press, 1976), 166.

⁵³ William Foxwell Albright, *From the Stone Age to Christianity: Monotheism and the Historical Process* (Garden City: Doubleday Anchor Books, 1957), 244.

As Good demonstrates, עַם is often placed in parallel with צֹאן (Ps 95:7, 100:3; Nah 3:18, Zech 9:16).⁵⁴ According to Proverbs 30:25–26, animals such as ants and coney can be an עַם. A single tribe can be an עַם (Jdg 5:18). Also, “Heavy attrition could so reduce a group that it ceased to be a people (Isa 7:8).”⁵⁵

Joosten argues that Leviticus 21 provides a context to our understanding of the meaning of עַמִּים, specifically verses 2, 4, 14, and 15, where the priests are told not to defile themselves for a dead person among their עַמִּים, except for their nearest relatives (which are enumerated), and where the high priest is commanded to marry only a virgin of his own עַמִּים.⁵⁶ While the context suggested by Joosten is plausible, it does not absolutely prove that עַמִּים means “kin” rather than “people.” In fact, the Samaritan version, the LXX, and two Targumim read the singular “people” on all four of these verses, which raises a question as to whether any of these verses are of value in this discussion, although in all four of these verses, the versions could merely reflect an early alteration designed to simplify an idiom that was no longer understood. The versions evidently understand one’s עַמִּים and one’s עַם to be essentially synonymous, in that one’s עַם is composed of interrelated עַמִּים.

Speiser stresses the kinship connotation of עַם in contrast with גֹּי. He observes, “Unlike ‘*ām*, *gōy* is never possessively construed with YHWH; there is no such construction as *gōy*-YHWH.”⁵⁷ He also points out that “‘*ām* is found hundreds of times with pronominal suffixes, as

⁵⁴ Good, *Sheep*, 53–54.

⁵⁵ Good, *Sheep*, 56.

⁵⁶ Jan Joosten, *People and Land in the Holiness Code: An Exegetical Study of the Ideational Framework of the Law in Leviticus 17–26* (Supplements to Vetus Testamentum 67; Leiden: E. J. Brill, 1996), 85.

⁵⁷ Speiser, *Studies*, 162.

against only seven with *gōy*, each in connection with land.”⁵⁸ עַם, he says, proves to be subjective and personal, while גַּי is objective and impersonal. Speiser concludes that “*ām* was essentially a term denoting close family connections, and hence secondarily the extended family, that is, people in the sense of a larger, but fundamentally consanguineous, body...In contrast, there is not the least hint of personal ties under the concept of *gōy*.”⁵⁹

It is true that עַמִּים is used in parallel with לְאָמִם (Prov 24:24), proving that the plural of עַם does not always mean “relatives.” Also, in Genesis 17:16 and 19:4, עַם is used to refer to ethnic groups rather than close relatives. In the first case, kings of עַמִּים are referred to. In the second case, the entire city of Sodom is referred to as an עַם, a case where it is unlikely that the entire city is populated by extended relatives belonging to one family. But the context of the *kareth* declarations, where people within a single nation are in view rather than an individual’s separation from more than one ethnic or political unit, clearly indicates that where the plural of עַם is used, the meaning “relatives” is intended rather than “nations.”

The fact that “Israel” or יִשְׂרָאֵל often replaces עַם or עַמִּים in the *kareth* penalties is evidence that these are either an indication of the original intended meaning of this penalty, or the earliest interpretation of what it meant. If עַם and עַמִּים are attributed to H, and their alternatives are attributed to P, one’s view of which tradition is prior to which will come into play. The LXX renders עַם consistently as *λαός* (singular, although see Origen, who sometimes reads the plural), with the one exception of *γένος* in Genesis 17:14. Both of these are hard to reconcile with the meaning “family/relatives.” This could, of course, be a case where an original meaning was forgotten. Sometimes, the texts themselves use עַם in the singular, or substitute “Israel” or יִשְׂרָאֵל.

⁵⁸ Ibid.

⁵⁹ Speiser, *Studies*, 163.

The real point at issue is whether to be cut off from one's עמים involves only earthly expulsion from the clan, or eternal extermination from the clan, i. e. prevention from joining the ghosts of one's ancestors, as argued by Wold.⁶⁰ To answer that question, one must examine the use of נפש as it is used in the *kareth* penalty.

The uses of נפש

The issue as to the meaning of נפש in the *kareth* penalty is the question whether it should be translated “soul” or “life,” or whether it should be translated “person” or “individual.” The former option would support the theory that *kareth* is a divine extermination curse. The latter option is more amenable to the theory that *kareth* is a form of punitive expulsion.

Commenting on נפש, Kiuchi writes, “The term is obviously and deliberately used in distinction to *iš...nepeš* stresses an invisible aspect of a human (‘soul’) that is characterized by ego-centricity.”⁶¹ As Hartley observes, Hebrew anthropology locates life in the breath or נפש, which is invisible, and in the blood, which is visible.⁶²

Wolff, following most lexicons, suggests that the primitive meaning of נפש was “throat” or “neck.”⁶³ One may see traces of this meaning in verses such as 1 Samuel 28:9, “Why are you laying a snare for my נפש?” Another example would be Proverbs 25:25, “Like cold water to a thirsty throat (נפש).” Almost none of these cases, however, is clear and unambiguous. Here Wolff appears to commit the etymological fallacy of relying too much on a proposed origin of a word

⁶⁰ Wold, “Kareth,” 222, 248, 252.

⁶¹ Nobuyashi Kiuchi, *Leviticus* (Apollo Old Testament Commentary 3; Nottingham: Apollo, 2007), 139–40.

⁶² John E. Hartley, *Leviticus* (WBC 4; Dallas: Word, 1992), 273.

⁶³ Hans Walter Wolff, *The Anthropology of the Old Testament* (trans. Margaret Kohl; Philadelphia: Fortress, 1974), 14–15.

for its subsequent meaning. His proposal elucidates some obscure uses of the word, but is otherwise irrelevant to the discussion of נפש in the *kareth* penalties.

Springing from this primitive meaning of נפש is the use of this word to mean “appetite,” which is arguably the meaning in the previous example. This is the meaning that prompted Wolff’s description of נפש as “needy man.”⁶⁴ One of the clearest examples is Psalm 107:9: “For he satisfies the thirsty נפש, and the hungry נפש he fills with good things.” Further examples:

Isaiah 5:14 – “Sheol has enlarged its נפש for you.”

Deuteronomy 23:24 – “You may eat your fill of grapes, according to your נפש.”

1 Samuel 2:16 – “Take (meat) according to the desire of your נפש.”

Proverbs 16:26 – “The נפש of a worker works for him; his mouth urges him on.”

Proverbs 23:2 – “Put a knife to your throat if you are a נפש בעל.”

A third meaning of נפש is the self as the center of thought and activity. In fact, the OT ends up using נפש as the term for self as part of a simple reflexive construction in passages such as Psalm 103:1, “Bless the Lord, O my נפש” (New Living Translation: “Praise the Lord, I tell myself”). Murtonen finds 69 such examples in the OT.⁶⁵ Examples of נפש as the center for thought and activity include:

Exodus 23:9 – “You know the נפש of a stranger...”

Proverbs 14:10 – “The heart knows the bitterness of its נפש.”

Proverbs 23:7 – “For he is like one who is reckoning in his נפש.”

1 Samuel 1:15 – “I have been pouring out my נפש to YHWH.”

2 Samuel 5:8 – “...the lame and the blind, who are hated by

⁶⁴ Wolff, *Anthropology*, 12.

⁶⁵ Aimo Murtonen, *The Living Soul: A Study of the Meaning of the Word *naf̄æš* in the Old Testament Hebrew Language* (*Studia Orientalia* 23:1; Helsinki: n.p., 1985), 19.

David's נפש.”

Song of Songs 3:1 – “I sought him whom my נפש loves.”

Isaiah 1:14 – “Your new moons and your appointed festivals my נפש hates.”

The fourth meaning of נפש is “life.” Examples:

1 Samuel 19:5 – “He took his נפש in his hand when he smote the Philistine...”

1 Samuel 22:23 – “Whoever seeks my נפש, seeks your נפש.”

2 Kings 1:14 – “Let my נפש be precious in your sight.”

Job 2:4 – “All that he has is in your power; only, spare his נפש.”

Psalms 30:3 – “You have brought up my נפש from Sheol.”

Proverbs 3:22 – “They will be life (חיים) for your נפש.”

The last example above illustrates a particularly complicated shade of the meaning of נפש.

Genesis 2:7 states that the human being became “a living soul” (נפש חיה). Murtonen comments, “It is not said that man was supplied with a *nephesh*...Such as he is, *man*, in his total existence, is a soul.”⁶⁶ Genesis 1:30 states that animals too have within them a “living soul” (נפש חיה).

It is the departure of one's נפש that characterizes death (Gen 35:18; 1 Kgs 17:21–22). 46 times the OT states that a נפש “dies.”⁶⁷ Murtonen claims, “The *death of a soul* and the *soul of a dead* are spoken of, but never a *dead soul*.”⁶⁸ Yet Wolff points out that on a number of occasions, נפש can refer to a “corpse,” even without the adjective מת attached.⁶⁹ Leviticus 22:4 speaks of uncleanness through contact with a נפש, meaning a corpse, an abbreviation for the “מת of a נפש.”

⁶⁶ Murtonen, *Soul*, 69.

⁶⁷ Murtonen, *Soul*, 29.

⁶⁸ Murtonen, *Soul*, 29.

⁶⁹ Wolff, *Anthropology*, 22.

Other examples may be found in Numbers 5:2 and 6:6–11, as well as 19:11–13, a *kareth* passage. Wolff observes, “It is this possibility of using *n*. [sic] that first shows us that the phrase *nepeš hayyā* contains no superfluous element.”⁷⁰

The final meaning of נפש to be considered is “individual” or “person.” This meaning is hinted at in Proverbs 28:17 and Jeremiah 2:34, both of which speak of the blood of a נפש. Wolff argues that it is the concept of נפש as an individual that “makes the extreme possibility of speaking of a *n. met* (Num. 6.6) comprehensible.”⁷¹ The use of נפש as individual is also found in Genesis 12:5 and 14:21, where the meaning is “persons” belonging to Abraham. Also, in Genesis 27:19, “bless my soul” means “bless me” as an individual.

Out of all the meanings of נפש, Murtonen writes, “All of the secondary meanings can be derived from this primary one: (1) living and acting being > being in itself.”⁷² Murtonen argues that the concept of collective soul came first and predominated:

The individual can be differentiated from the latter (אדם) at any time, but not from the former (נפש); it is possible to say *bæn-’ādām*, but never **bæn-næfæš*. Accordingly, the concept of *næfæš* is extremely collective, and it seems in deed [sic] that the collective soul as a concrete, functional unity is older than the individual soul.⁷³

According to the source-critical perspective of Murtonen, נפש first appears in the plural in Jeremiah and Ezekiel, which provides the first evidence of individualism.⁷⁴ By contrast, Wolff

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Murtonen, *Soul*, 69.

⁷³ Murtonen, *Soul*, 70. Murtonen presents the concept of “collective soul” as a concept that he derives solely from primitive Hebrew thought as he understands it. He sees the use of נפש to denote an individual person as being a later innovation.

⁷⁴ Murtonen, *Soul*, 74.

pays no attention to any concept of collective soul; he sees נפש = person as purely “the individual as distinct from the ethnic unit.”⁷⁵

Murtonen cites Ezekiel 18:4 (= 18:20) as paradigmatic of the relationship of the נפש with God as an individual:

When studying all the passages in which the soul is described as sinning, we see that all of them lead to the same end: the relationship between God and soul is broken. If intentional sins are in question, the final result is the death of the soul: “The soul that sins – it shall die.”⁷⁶

The question that must be answered with regard to the *kareth* penalty is whether נפש is being used as a mere synonym for איש (emphasis on the individual as a person), or as a reference to the spiritual being that can be punitively extinguished by God. To answer this question, an examination of the use of נפש in context is in order. Because the vast majority of the *kareth* declarations take place in the book of Leviticus, this book will be used as a sample from which data on the use of נפש will be analyzed to determine variety and frequency of use of נפש by percentage, as well as to calculate the probability that נפש is being used to mean “individual” as opposed to other meanings.

The word נפש is used in Leviticus 60 times. Context suggests that 13 of these (21.6%) should be translated “life,” including the lives of animals. Examples include:

11:10 – “...from every living creature (נפש החיה) that is in the waters...”

11:46 – “...every living creature (נפש החיה) that רמש in the waters, and every נפש that שרץ upon the land.”

17:11 – “For the נפש of the flesh is in the blood...I have given it as an atonement for your נפש, because the blood, it atones בנפש.”

17:14 – “For the נפש of all flesh – its blood is its life

⁷⁵ Wolff, *Anthropology*, 21.

⁷⁶ Murtonen, *Soul*, 50–51.

(בנפש)...because the נפש of all flesh is its blood.”

24:18 – “Whoever smites the נפש of a beast shall make restitution, נפש for נפש.”

26:16 – “(I will) cause נפש to pine away...”

Six cases (10%) appear to be the reflexive use of נפש:

11:43 – “You shall not make your נפש detestable...”

11:44 – “You shall not defile your נפש...”

16:29 – “You shall afflict/humble/deny נפשתיכם...” (pi‘el imperfect)

16:31 – “You shall afflict/humble/deny נפשתיכם...” (pi‘el waw-consecutive perfect)

20:25 – “You shall not make your נפשתיכם detestable...”

23:27 – “You shall afflict/humble/deny נפשתיכם ...” (pi‘el waw-consecutive perfect)

23:32 – “You shall afflict/humble/deny נפשתיכם ...” (pi‘el waw-consecutive perfect)

Five examples (8.3%) may be described as the use of נפש to denote the center of thought:

26:11 – “My נפש shall not abhor you.”

26:15 – “...if your נפש abhors my judgments...”

26:30 – “My נפש shall abhor you.”

26:43 – “Their נפש abhorred my statutes.”

There are four examples (6.6%) of the unusual use of נפש to refer to the dead:

19:28 – “You shall not put any marks on your flesh for הנפש...”

21:1 – “You shall not defile (yourself) for a נפש among your people.”

21:11 – “He shall not go where there are נפשות מת...”

22:4 – “Whoever touches anything defiled by a נפש...”

Having eliminated the cases where there is clearly a different meaning, it is plausible that the remaining 32 cases of נפש (53%) use the term to mean the individual, the person. This is certain in those cases where the context shows נפש to be a synonym of איש. Schwartz declares that “איש is the legal equivalent of נפש.”⁷⁷

In light of the above evidence, the probability is that נפש is being used to mean “individual” wherever it is used in the *kareth* penalty. In Leviticus 17:10, for example, the subject in the protasis is איש איש, but in the apodosis, the איש who has committed the offense is referred to as a נפש. The mixing of masculine and feminine pronouns and suffixes (the former modifying איש, the latter modifying נפש) also speaks in favor of the view that נפש = איש in the *kareth* penalty, although it is not certain whether this equation is being made by the original author, or by later editors or copyists.

The significance of the meaning of נפש as “individual” rather than “life” is that it renders as less likely (although it does not disprove) the theory that כרת refers to the extermination of a soul or life. Clarifying this issue makes one less likely to conclude that this penalty involves punishment in the afterlife, either personal extinction and/or extermination of one’s descendants from their clan. The individual in the here and now is what is in focus in this penalty, whether that individual is removed from the community by death or by merciful expulsion.

The above conclusion undercuts the argument by Wold that the Akkadian term *napištum nakāsu* is a parallel to *kareth* with a meaning of “destruction.”⁷⁸ Wold’s argument is based upon a single text from the Mari texts, “May he cut off his life and take away his seed” (*napištašu*

⁷⁷ Baruch Schwartz, “The Prohibitions Concerning the ‘Eating’ of Blood in Leviticus 17,” in *Priesthood and Cult in Ancient Israel* (ed. Gary A. Anderson and Saul M. Olyan; Journal for the Study of the Old Testament 125; Sheffield: JSOT Press, 1991), 41.

⁷⁸ Wold, “Kareth,” 15–18.

likkis zērašu lilqutma).⁷⁹ The context is a human writer calling upon the deity Bunini to curse anyone who alters the document in question, rather than a penalty prescribed in a divine law code.

While *napištum nakāsu* may refer to the destruction of a “life” in this particular text cited by Wold, and may be consistent with some uses of נפש in the OT, it is not determinative for use in the context of the *kareth* penalty. The term נפש in the biblical *kareth* penalty is used in the generic sense of “individual” rather than “life.” This renders the implication of death far less certain as the intent of this formula, and makes the possible meaning of expulsion plausible.

Summary

The basic meaning of the verb כרת from which all of its uses are derived is the concept of “separation,” primarily by “cutting.” Unique to Hebrew are this verb’s uses to communicate the ideas of “spatial separation” and “destruction.” The use of a בן- clause and a locus of separation increases the likelihood that the meaning of כרת in any given context is separation or removal, particularly when the verb is in the nip‘al conjugation. The hip‘il conjugation serves as the intensive form for כרת, which may yield a meaning of either “destruction” or “total removal,” including physical destruction as a form of removal.

Between these two meanings of כרת, the meaning “spatial separation” or “removal” fits well within the context of the *kareth* penalty. The uses of כרת in 1 Kings 9:7 and Zechariah 14:2 are the closest parallels to its use in the *kareth* formula, both cases of which clearly refer to geographic expulsion. Sometimes the meaning “removal” is confirmed by contextual synonyms, such as the use of the verb נתש in the parallel to 1 Kings 9:7 in 2 Chronicles 7:20, the use of כרת

⁷⁹ Georges Dossin, “L’Inscription de Fondation de Iahdun-Lim, Roi de Mari,” *Syria* 32 (1955), 17, line 31.

and *הסיר* interchangeably in Exodus 8:4–5 and in 1 Samuel 28:3–9, and *כרת* in parallel with *העבר* “to remove” in Zechariah 13:2. The “non-removal” formula in passages such as Joshua 9:23 also supports the “removal” meaning for the *kareth* formula, as does the Aramaic translation found in the Samaritan and Jewish Targumim. Although the LXX translation reflects the same interpretation of *כרת* as “extermination” that came to dominate rabbinic Judaism, the LXX also preserves traces of a “separation” meaning for *כרת*, especially in 1 Samuel 20:15–16, 1 Kings 9:7, and Proverbs 2:22.

Although a strong linguistic case can be made for “separation” (= expulsion) as a meaning for *כרת* in the *kareth* formula, the final verdict is by no means certain or absolute. *כרת* shows itself to be a higher-level morpheme, a word that encompasses both possible meanings for this penalty, a fact evidenced by the existence of the interpretational cruxes discussed above. To “totally remove” someone may involve death or destruction, as in the clearly prescribed cases of execution for Sabbath violation and for Molech worship, or it may involve expulsion, which was potentially fatal in a wilderness context such as Sarah’s expulsion of Hagar, but need not have been fatal in other contexts.

The language of the *kareth* penalty allows for the possible meaning of a divine extermination curse, the best parallel being the one isolated instance of *napištum nakāsu* in Akkadian. Certainly it is not difficult to demonstrate an extremely common use of *כרת* as “destruction” that would support the meaning of an extermination curse. However, it may be argued that in Near Eastern thought, anyone who is under a divine curse ought to be physically removed from their earthly community for the safety of the community as a whole. While it is possible that a curse was involved in *kareth*, this carries with it the likelihood, if not the certainty, that punitive expulsion was also involved.

Lexical examination of the language of *kareth* can only carry the investigation so far. An investigation of Near Eastern evidence is necessary to help determine the plausibility of punitive expulsion as the meaning of the *kareth* penalty in its ancient Near Eastern context. This will be the focus of the next chapter.

CHAPTER THREE

ANCIENT NEAR EASTERN EVIDENCE FOR EXPULSION AS A PENALTY FOR OFFENSES

The paucity of evidence for the criminal penalty of expulsion from the community would appear to be an argument against the theory advocated in this dissertation. CH §154 is the only extant statute in any Near Eastern law code that explicitly calls for this practice. However, Westbrook cautions that Near Eastern law codes are not comprehensive legislation, and that we must therefore beware of “arguments from silence.”¹ Furthermore, both Finkelstein² and Loewenstamm³ point out that there is very little textual evidence that penalties in any of the Near Eastern law codes were carried out as stipulated. For example, virtually no executions for adultery or murder are recorded, other than the employment of the river ordeal in *ARM* 26 249–58, although there are numerous instances of blood money paid. However, Milgrom cites examples where the Torah records cases such as the execution of the Sabbath breaker and concludes, “Thus even if the other laws of the Torah are not such test cases, there is every likelihood that they were actually carried out.”⁴

Numerous cases of both murder and adultery may have been dealt with outside the court system and consequently may not have been recorded. Furthermore, legal codes are practically

¹ Raymond Westbrook, *Studies in Biblical and Cuneiform Law* (Paris: Gabalda, 1988), 5–7.

² Jacob J. Finkelstein, *The Ox That Gored* (Transactions of the American Philosophical Society 71/2; Philadelphia: American Philosophical Society, 1981), 7–47.

³ Samuel Loewenstamm, *Comparative Studies in Biblical and Ancient Oriental Literatures* (AOAT 204; Kevalaer: Neukirchener Verlag, 1980), 146–53.

never cited in the decisions recorded in ancient Near Eastern court documents, although royal decrees are sometimes cited.⁵ To get a full picture of how the legal system actually worked in the ancient Near East, evidence for actual legal practice will be sought in texts outside the ancient law codes, such as royal decrees, court records, historical texts, and letters.⁶

A semantic field must be identified in which to look for the equivalent of *kareth* as expulsion in these texts, since *krt* does not carry this meaning outside Hebrew. In Akkadian documents, the causatives of *wašûm* (“to go out”) and *galûm* (“to go into exile”) form a part of this field, along with the verbs *tarādum* (“to send away”) and *nasāhūm* (“to expel”). In Hebrew (at Qumran), the verbs שָׁלַח and בָּדַל also form a part of this field.

Criteria for what qualifies as punitive expulsion must be delineated. The following methodology will be used. First, fugitives from justice or from capture will be eliminated from consideration. David was driven out of Israel, not for any crime or royal judicial decree, but because Saul wanted him dead. Second, exiled peoples (particularly as a result of conquest) will not be included; an identifiable crime must be the reason for the expulsion. Third, other expulsions that are non-judicial in nature will not be included; the language used in the tablet “The Poor Man of Nippur” fits the specified linguistic field (*šu-ši-šu ana babi*), but the poor man is simply being thrown out the gate of the mayor’s house for spite.⁷ Likewise, evictions from a field or a house do not fit the sort of punitive expulsion being sought in this study, such as *VAT*

⁴ Milgrom, AB 3A, 1348.

⁵ Raymond Westbrook (“Cuneiform Law Codes and the Origins of Legislation,” *ZA* 79 [1989]: 214–15) cites the edicts of Uru’inimgina of Lagaš, Ammi-šadaqa of Babylon, Telepinus of Hatti, and Horemheb of Egypt as examples of royal legislation by decree that supersedes written law codes.

⁶ One is forced to resort to these sources in Egypt, where no written law codes have been discovered to date.

⁷ Oliver R. Gurney, “The Sultantepe Tablets V: The Tale of the Poor Man of Nippur,” *Anatolian Studies* 6 (1956):152, line 60.

8488, lines 23–25: *a-na ba-bi-im u₂-še-eš-ši₂-an-ni-ma i-lam mu-te-er-ra-am u₂-ul a-ra-aš-ši*
 (“He will expel me, and I will not have a god that can bring me back”).⁸

Finally, because some of the *kareth* crimes in the OT appear to be punished by expulsion from the cultus, punitive expulsions will be defined to include not only expulsion from a city or nation, but also banishment from temple or palace.

This chapter will seek to accomplish two goals:

1. It will seek to remove any possible objection that there is not enough evidence for the practice of punitive expulsion in the ancient Near East.

2. It will seek to demonstrate that there is more evidence for the punitive expulsion theory on *kareth* than there is for the Wold-Milgrom divine extermination theory, for which there is no evidence of such a penalty within the body of stipulations of any Near Eastern legal text.

It will be noted that punitive expulsion was not found in any Hebrew, Aramaic, or Phoenician epigraphic texts.

Research yields the following results, which will be grouped in three categories. The first category will consist of texts where the connection with *kareth* appears to be the strongest. The second category will consist of texts whose resemblance to *kareth* is less strong, but which serve nevertheless as evidence for the practice of banishment in the ancient Near East. The final category will contain texts where it is unclear whether punitive expulsion is being practiced at all, making them of marginal value at best. Within each category, the texts will also be arranged chronologically.

⁸ R. Frankena, *Briefe aus dem Berliner Museum (Altbabylonische Briefe in Umschrift und Übersetzung, Heft*

Near Eastern punitive expulsion texts most closely resembling biblical *kareth*.

A. Second millennium B.C. texts and earlier.

1. CH §154 — Hammurabi of Babylon, ca. 1750 B.C.

Akkadian text:

šum-ma a-wi-lum dumu.munus-su₂ il-ta-ma-ad a-wi-lam šu-a-ti uru u₂-še-eš-š₂-u₂-š₂

“If a gentleman has had intercourse with his daughter, they shall make that gentleman leave the city.”⁹

Driver and Miles observe on this statute,

This penalty of banishment will include loss of family and property as well as citizenship and is perhaps more severe than that prescribed in §158, where the offender is driven from his ancestral home. Nothing is said of the fate of the daughter; but, as she is under the dominion of her father, she cannot be regarded as a free agent and presumably is not punished.¹⁰

Driver and Miles go on to observe that the Bible contains no explicit prohibition of father-daughter incest. The best explanation is offered by Rattray, who observes that Leviticus 18:6 begins the passage on forbidden sexual relationships with the declaration that no one shall approach anyone sexually who is “near of kin” (שאר בשרי).¹¹ Rattray points out that Leviticus 21:2 defines שאר בשרי as including mother, father, son, daughter, brother, and maiden sister; therefore, father-daughter incest is automatically forbidden by this text.

6, ed. F. R. Kraus [Leiden: Brill, 1974]), 6–9, no. 140. English translation in *CAD* 2:382.

⁹ E. Bergmann, *Codex Hammurabi: Textus Primigenius* (3d ed.; Rome: Pontifical Biblical Institute, 1953), cuneiform = 19, R 10, lines 67–72. Translation cited here is from “The Code of Hammurabi,” translated by Theophile J. Meek (*ANET*, 172). The present writer has substituted “gentleman” for Meek’s “seignior” (*awīlum*). Transcription in H.-Dieter Viel, *The Complete Code of Hammurabi* (2 vols.; Munich: Lincom Europa, 2005), 2:566.

¹⁰ G. R. Driver and John C. Miles, *The Babylonian Laws* (2 vols.; Oxford: Clarendon, 1952), 1:318.

¹¹ Susan Rattray, “Marriage Rules, Kinship Terms and Family Structure in the Bible,” *SBLSP* 26 (ed. Kent Harold Richards; Atlanta: Scholars Press, 1987), 542.

Why is this the only offense that Hammurabi penalizes with removal from the community? The offense is not treated as a death penalty crime, but given its similarity to the sex crime of Enlil (see “Myth of Enlil and Ninlil” below) and its perceived defiling character, this offense in CH §154 probably carried a stigma of defilement that necessitated expulsion of the perpetrator. Indeed, among the Hittites, Hoffner cites a purification ritual employed specifically for cases of father-daughter incest.¹²

2. Myth of Enlil and Ninlil, lines 59–61 — Sumer, third millennium B.C.

Sumerian text:¹³

^dEn-lil₂ u₂-zug₄-ge [iri-ta ba-ra-e₃]

^dNu-nam-nir u₂-zug₄-ge iri-ta ba-ra-e₃

^{7d}En-lil₂ nig₂-nam-še₃ nam mu-un-tar-ra-ke₄

^{7d}Nu-nam-nir nig₂-nam-še₃ nam mu-un-tar-ra-ke₄

^dEn-lil₂ i₃-ğen....

Akkadian version:

MIN (i. e., ^dEn-lil₂) mu-su-uk-kum i-na a-li li-ši

MIN (i. e., ^dNu-nam-nir) mu-su-uk-kum i-na a-li li-ši

MIN (i. e., ^dEn-lil₂) a-na šim-ti ša₂ ta-ši-mu

MIN (i. e., ^dNu-nam-nir) a-na šim-ti ša₂ ta-ši-mu

MIN (i. e., ^dEn-lil) il-la-ak...

“This sex-criminal Enlil will leave the town!”

¹² Hoffner, “Incest,” 89.

¹³ Cuneiform subscript numbers are used to identify the frequency ranking of a given symbol’s use to represent a given syllable. u₂ is the second most commonly used symbol for the u sound, u₃ is the third most common, and u₄ is the fourth most common. A superscript d is the symbol to mark the name of a deity. Other superscripts also represent symbols, such as *ki* for place names, *al* for cities, *m* for males, and *meš* for plurals.

This sex-criminal Nunamnir will leave the town!

Enlil, in accordance with that which had been decided as destiny

Nunamnir, in accordance with that which had been decided as destiny

Enlil (did) go (away)...”¹⁴

Several texts must be pieced together for this myth, where the divine council decrees banishment on the god Enlil for seducing and impregnating an underage female. In an early attempt by Kramer to reconstruct this myth, Enlil’s arrest and banishment are overlooked entirely.¹⁵ Only four out of the twenty extant texts of this myth contain these lines, although three additional texts contain fragments.¹⁶ Enlil’s pregnant partner follows him on his journey to the underworld, and gives birth to the moon god Suen (= Sin).

In his more recent translation of this myth, Jacobsen explains his translation of the term *u₂-zug₅-e₆*:

The term translated ‘sex offender’ denotes a person who for reasons connected with sex is, or has become, taboo; temporarily, as for instance a menstruating woman, or permanently, as here. The use of this term, and the penalty of banishment imposed, shows that Enlil’s offense was considered a crime, an act threatening society as a whole, probably because divine anger would bring retribution on the society unless the offender were removed from it.¹⁷

The date of the myth is uncertain, but it probably echoes reality in Mesopotamia in the late third millennium B.C. Several features of this myth are striking. How does such an unflattering tale come to be told about the most prominent Sumerian deity? And why is he punished with a

¹⁴ The text-critical edition of this myth is Hermann Behrends, *Enlil und Ninlil: Ein sumerischer Mythos aus Nippur* (Studia Pohl: Series Maior), Rome: Pontifical Biblical Institute, 1978. Translation cited here is from Thorkild Jacobsen, “Sumerian Mythology: A Review” (*JNES* 5 [1946]): 133.

¹⁵ Samuel Kramer, *Sumerian Mythology* (rev. ed.; New York: Harper, 1961), 43–47.

¹⁶ Behrends, *Enlil und Ninlil*, 28.

¹⁷ Thorkild Jacobsen, *The Harps That Once: Sumerian Poetry in Translation* (New Haven: Yale University Press, 1987), 174n18.

penalty that, while evidently not unknown in early Mesopotamia, is so rarely attested in other extant literature of the period? Indeed, Jacobsen points out that banishment was a severe penalty, compared to the approach of later Sumerian law, which only called for enforced marriage in cases like the present case.¹⁸ In an earlier analysis, Jacobsen writes, “since it seems to imply that Enlil must take the road to the nether world and the realm of death the story may reflect a development from an earlier punishment of death to a later one by banishment, or vice versa.”¹⁹ Westbrook suggests that in the viewpoint of the poem, the gods’ reaction was “unjustified,” and that “Enlil’s adventures in exile and the praise of him with which the poem closes are a criticism of the gods for their exaggerated response to his peccadillo.”²⁰

The practice of banishment of an *uzug*₄ is also found on Gudea Statue B (ca. 2100 B.C.):²¹

(15) *lu*₂ *uzug*₄ (KAxU₂)-*ga ni*₂-*ğal*₂

(col. iv. 1) *lu*₂-*si-gi*₄-*a* (2) NITA.UD (3) *munus-kiğ*₂-*du*₄-*ga* (4) *iri-ta im-ta-ed*₃

(5) *dupsik-bi munus-e nu-il*₂ (6) *sağ ur-sağ-e mu-na-du*₃

“Persons ritually unclean, unpleasant to look at (?), (and) women doing work²² he banished from the city; no woman would carry the basket, only the best of the warriors would work for him.” The text is a dedication of a votive offering by Gudea, ruler of Lagaš, for “Ningirsu, mighty warrior of Enlil.”

Gudea’s inscriptions include another reference to the *uzug*₄ (spelled *u*₂-*si*₁₁-*ni* or *u*₂-*si*₁₉-*ni*)

¹⁸ Ibid.

¹⁹ Thorkild Jacobsen, *Toward the Image of Tammuz and Other Essays on Mesopotamian History and Culture* (ed. William L. Moran; HSS 21; Cambridge: Harvard University Press, 1970), 207.

²⁰ Raymond Westbrook, “Personal Exile in the Ancient Near East,” *JAOS* 128 (2008):323.

²¹ Dietz Otto Edzard, *Gudea and His Dynasty* (Royal Inscriptions of Mesopotamia Early Periods 3/1; Toronto/Buffalo: University of Toronto Press, 1997), 32, col. iii.15–iv.6. Cuneiform text in Rafael Jiménez Zamudio, *Inscripciones Sumerias de las Estatuas de Gudea de Lagash: Texto Transliterado y Cuneiforme con Notas, Léxico y Signario* (Madrid: Ediciones de la Universidad Autónoma, 1997), 19, with transcription on 91–92.

²² Milgrom (AB 3, 763) translates “the woman in labor I caused to go out of the city,” by which he means

which occurs almost verbatim on both Statue B col. 7, line 34, and on Cylinder B col. 18, line 1: “In his/my city the one (who appeared) unclean to someone was permitted to sleep (only) outside.”²³ Again, although the cause of defilement is left unspecified, the *uzug*₄ must not be permitted to remain in the city.

The term *uzug*₄ occurs in seven distinct forms or spellings, according to the Pennsylvania Sumerian Dictionary.²⁴ The term is used in the name *Ki-uzug*, a city quarter in Šuruppak, indicating a possible locale where the unclean must be confined.²⁵ It occurs in the name of a city gate in VAT 10610, rev., line 14: “When [you] enter the Gate of the Impure like a storm” (*ka*₂.*gal*.*u*₂.*zug* *bar.šeg*₃.*ga*₂.*bi tu.ra.[zu.de*₃]), possibly indicating the place where the unclean are expelled from their city.²⁶ The term also appears to be the epithet of a neighborhood deity in pre-Sargonic Lagaš (twenty-fourth century B.C.): “Its deity is *Nin-ur*₄-*DU*, the Impure One of Ekur” (*dingir-bi* ^d*Nin-ur*₄-*DU u*₂-*ka-e*₂-*kur-ra*).²⁷ While Biggs rejects this meaning for an epithet for a deity,²⁸ at least two Sumerian myths feature deities who have become ritually defiled by a sex crime (see the myth of Enlil and Ninlil above, and the myth of Nergal and Ereškigal below).

In addition, the term *uzug*₄ is found in at least three Sumerian proverbs. Two of these are in

women in childbirth; the context seems to indicate otherwise.

²³ Edzard, *Gudea*, 36; 98.

²⁴ Pennsylvania Sumerian Dictionary, “muzug,” n. p. [cited 5/12/2009], online: <http://psd.museum.upenn.edu/cgi-bin/xff?xff=e3866>.

²⁵ Piotr Steinkeller, *Third Millennium Legal and Administrative Texts in the Iraq Museum, Baghdad* (texts by John Nicholas Postgate; Winona Lake, Ind.: Eisenbrauns, 1992), 21; Otto Edzard, *Sumerische Rechtsurkunden des III. Jahrtausends aus der Zeit vor der III. Dynastie von Ur* (Munich: Bayerischen Akademie der Wissenschaften, 1968), 62.

²⁶ Cited in William Lambert, *Babylonian Wisdom Literature* (Oxford: Clarendon, 1960), 120.

²⁷ Field number: 2H-T25. Cited in Robert D. Biggs, “Pre-Sargonic Riddles from Lagash,” *JNES* 32 (1973), cuneiform = 31, col.1, lines 2’–3’.

²⁸ Biggs, “Riddles,” 33.

collections by Gordon:²⁹

1.40 (= PSD 1:52): ninda-ni ninda u₂-zug_x he₂-a lu₂ nam-bi₂-in-šu₂-šu₂ “May his bread be (as) bread (made by an) unclean (woman), and no man eat it!”³⁰

2.110 (= PSD 2+6: 187): ur-nig₂-u₂-zug_x-ku₂-a “It is the dog which ‘eats’ things (sexually) defiling!”

The third proverb is from Alster, 3.153:³¹

ud₅-de₃ nam-um-ma ba-dug₄ nam-u₂-zug₄ ib₂-ak “The goat spoke in the manner of a wise old woman, but acted in the manner of an impure woman.”

The Akkadian cognate to *uzug* is used in the myth of Nergal and Ereškigal, where the queen of the underworld seduces Nergal, then uses blackmail to get the heavenly gods to send him back to her permanently. She says,

5[/] [That god, whom] you sent here, has had intercourse with me, let him lie with me.

6[/] Dispatch [that god] to me, that he may be my husband, that he may spend the night with me.

7[/] I am sexually defiled (*mu-suk-ka-ku-ma*), I am not pure, I cannot execute the judgments of the great gods. (These lines are repeated verbatim in lines 21[/]–23[/].)³²

Ereškigal claims that she is ritually impure, ostensibly because she has been seduced. The only difference between this case and the myth of Enlil and Ninlil is that here, both parties are

²⁹ Edmund I. Gordon, *Sumerian Proverbs: Glimpses of Everyday Life in Ancient Mesopotamia* (Philadelphia: University of Pennsylvania University Museum, 1959), 457; 258.

³⁰ The text and translation followed here is that of Thorkild Jacobsen, which differs from the version of 1.40 given on page 60. Jacobsen comments here, “The reference is to the taboo on bread-making – typically a woman’s task – during periods of menstruation.”

³¹ Bendt Alster, *Proverbs of Ancient Sumer: The World’s Earliest Proverb Collections* (2 vols.; Bethesda, Md.: CDL Press, 1997), 1:567.

³² Oliver R. Gurney, “The Sultantepe Tablets (Continued): VII. The Myth of Nergal and Ereshkigal,” *Anatolian Studies* 10 (1960): 122–23.

consenting adults. Ereškigal declares that the remedy for her defilement is for her seducer to marry her. Also, because she is defiled, Ereškigal claims that she is unable to execute the judgments (*ul a-da-ni di-ni*) of the great gods. While there is no banishment here (to where could one banish her?), Ereškigal’s inability to perform in her divine office is tantamount to banishment.

The term *uzug*₄ and its loanword in Akkadian convey a meaning that ostensibly stands behind both the punitive expulsion in CH §154 and the Torah’s practice of *kareth*. It is sufficiently early and geographically close to both legal codes to be the logical influence behind both of these legal formulations.

3. ARM 26 206:17–22 (= A 3893) — Mari, reign of Zimri-Lim, ca. 1775–1760 B.C.

Akkadian text:

a-na <ā>la-ne₂-e ru-gu-um-ma a-sa₃-ak-ka-am li-te-er-ru lu₂ ša ri-i-sa-am ip-pu-šu i-na a-lim^{ki} li-šē-šu-u₂

“Give orders to the cities to return the taboo material. Whoever commits an act of violence shall be expelled from the city.”³³

The above passage is a decree by an anonymous prophet of Dagan, according to Yaqqim-addu in a letter to King Zimri-Lim. It is the clearest punitive expulsion in the extant documents from Mari. The prophet requests a lamb to eat, and proceeds to devour it raw (“literally “alive”). The prophet then assembles the elders in front of the city gate and declares, “A devouring (*ukultum*) will take place!” This declaration has been taken to mean a threat of either an epidemic

³³ Transcription in Jean-Marie Durand, *Archives Épistolaires de Mari I/1* (*Archives Royales de Mari XXVI*; Paris: Recherche sur les Civilisations, 1988), 434, lines 19–22. Translation cited here is from Martti Nissinen, *Prophets and Prophecy in the Ancient Near East* (ed. Peter Machinist; SBL Writings from the Ancient World 12; Atlanta: Society of Biblical Literature, 2003), 38.

among the cattle or an even greater catastrophe. At this point, the prophet makes his demand that the cities return the *asakku*, and calls for the expulsion of anyone who has committed *rīsu*.

The prophet then asks to be clothed in a garment, apparently as a reward for his oracle, and the request is granted. The letter concludes with a certification that the writer has recorded the prophet's words and forwarded them to the king, and that the prophet's words were not spoken in private, but in public, with the assembly of elders as witnesses.

The term *asakku* refers to taboo material, possibly belonging to a deity in this case rather than to royalty. But the act of *rīsu* prompting expulsion in this oracle is unclear; according to Nissinen, Durand's translation "act of violence" is based on the word's only other extant occurrence in a Late Babylonian text.³⁴

The *CAD* (14:376) defines *rīsu* as "assault." It cites *JNES* 15 136:82 (*ri-is*[var. *-i*]-*sa lu īpuš risibta lu īpuš*, "though he committed assault, though he committed robbery [may he be absolved]"). It derives the word from the verb *rāsu* to smash or crush (14:183). Heimpel adds, "This verb is used of a meteor *ša qaqqara irāsu* 'that strikes the ground'."³⁵

Malamat dates the reign of Zimri-Lim, the recipient of this letter, to the dates 1775–1760 B.C.³⁶ Heimpel notes that "boxes that housed the correspondence of Zimri-Lim...were dated to the 7th month of the 32d year" of Hammurabi.³⁷ He writes that "Z L 9' – 11' correspond to 1765–1763 B.C. according to the middle chronology, or 1669–1667 according to the ultrashort chronology."³⁸

³⁴ Nissinen, *Prophets*, 39.

³⁵ Wolfgang Heimpel, *Letters to the King of Mari: A New Translation, with Historical Introduction, Notes, and Commentary* (Winona Lake: Eisenbrauns, 2003), 256n249.

³⁶ Abraham Malamat, *Mari and the Bible* (ed. Baruch Halpern and M. H. E. Weippert; *Studies in the History and Culture of the Ancient Near East* 12; Leiden: E. J. Brill, 1998), 6.

³⁷ Heimpel, *Letters*, 163.

³⁸ Heimpel, *Letters*, 54.

The fact that the offense in this text involves illicit possession of taboo material (*asakku*)³⁹ makes this case roughly parallel to the cases of fat and blood declared to be sacred to YHWH in Leviticus 7:25–27. To commit an assault (*rīsu*) against sacred property calls for punitive expulsion, both here at Mari and, arguably, in Israel’s Torah.

8. “From the Instructions of the Border Guards,” lines 11–16 — Hittite, ca. 1400 B.C.

Hittite text:

ka-ru-u₂-li-ja [ma]-ah-ha-an KUR.KUR-kan₂ an-da hu-ur-ki-la-aš
iš-hi-u₂-ul i-ja-an ku-e-da-ni-aš-kan₂ URU-ri ku-aš-ki-ir na-aš-kan₂
ku-wa-aš-kan₂-du ku-e-da-ni-ma-aš-kan₂ URU-ri ar-ha par₂-hi-iš-ki-ir
na-aš-kan₂ ar-ha par₂-hi-iš-kan₂-du nam-ma-za URU-aš EGIR-an-da wa-ar-ap-du
nam-ma w(a-ta)r-na-ah-ha-an e-eš-du na-aš-ša-an EGIR-pa li-e
ku-iš-ki tar-na-i ku-i-ša-an-ša-an EGIR-pa tar-na-i na-an ša-ku-wa-an-za

As it has been from olden days – in a town in which they have been accustomed to imposing the death penalty, they shall continue to do so. But in a town where they have been accustomed to imposing exile, they shall continue that (custom). Furthermore, the citizens shall bathe afterwards, and there shall be a public announcement. No one shall let (the exiled) return. He who lets him return, shall be put in prison.⁴⁰

Hoffner discusses the use of banishment by the Hittites for the punishment of incest and bestiality. He writes,

From the evidence of the Hittite laws (§§187–88, 199–200A) and the early 14th century instructions to the commanders of the border garrisons, it seems clear that persons found guilty of *hurkel*, i. e. having sexual relations of a forbidden (perhaps incestuous) type, were either executed or banished, while the town in which the offender lived was purified. During this early period it is unlikely that any known

³⁹ See discussion of *asakku* in Abraham Malamat, “The Ban in Mari and in the Bible,” in *Proceedings of the Ninth Meeting of Die Ou-Testamentiese Werkgemeenskap in Suid-Afrika* (Pretoria, n.p., 1966), 40–49.

⁴⁰ CTH 261. Cuneiform text in KUB, XIII, 2 ii 26 – iii 35. Transcription in Einar von Schuler, *Hethitische Dienstanweisungen für höhere Hof- und Staatsbeamte* (ed. Ernst Weidner; Archiv für Orientforschung Beheft 10; Osnabrück: Biblio-Verlag, 1967), 47. Translation by Albrecht Goetze, *ANET*, 211.

offender avoided either death or banishment. The phrase *huišnizi-an LUGAL-uš* “the king may spare his life” (§§187–88, 199) means he would be banished instead of executed.⁴¹

As time went on, Hoffner says, a ritual was developed where the animal involved in a sexual crime would be sent away, bearing the impurity of the crime away from the community. “In this way,” he says, “the offender could continue to live in the city without bringing the wrath of the gods upon it.”⁴²

Hoffner explains the difference between sexual crimes and the category of torts and personal offenses:

Hurkel constitutes an offense against the culprit’s city. By committing such an act, he has brought impurity upon his fellow townsmen and made them liable to divine wrath. Thus the townsfolk must protect themselves by eradicating the cause of the divine wrath, i.e. either by executing the offender(s) or removing them permanently from the town.⁴³

The purpose behind Hittite banishment here is much different than in the previous text. Cases of *hurkel*, as opposed to cases of political banishment, involve concepts of defilement and divine wrath similar to those involved in the proposed practice of punitive expulsion in the Torah. It must also be noted that, while a large number of offenses in Hittite society were considered defiling to the individual, cases of *hurkel* brought defilement upon the entire community, and thereby warranted punitive expulsion.

It is significant that in the cases of *hurkel* in the Hittite Laws, it is declared that the offender “may not come before the king” (HL §§187–90). The purpose of this provision appears to be to protect the ritual purity of the king, which was of paramount importance.⁴⁴ Those who were

⁴¹ Hoffner, “Incest,” 89–90.

⁴² Hoffner, “Incest,” 90.

⁴³ Hoffner, “Incest,” 85.

⁴⁴ James C. Moyer, “The Concept of Ritual Purity Among the Hittites,” Ph.D. diss., Brandeis University, 1969, 79: “The Hittite concern about purity reached its apex with the Hittite king. The person of the king was

impure were excluded from the king's presence. Hittite law adds in cases of bestiality involving horses or mules that, while the act is not a punishable offense, the subject is forbidden to become a priest.

9. RS 16:249, lines 13–19, 22, 25–26 — Ugarit, reign of Niqmepa, ca. 1313–1260 B.C.

*un-du ta-bi-ia-nu [] abdi-^{il}nergal mâr abdi-mi-ir u₃ [mu-n]a-hi-mu hi-it-ta rabîta^M i-te-ep-
š[u] ^{aban}kunukka mé-hé-er ^{aban}kunuk šarri rabî i-te-ep-šu ù tup-pa-ti sà-ar-ru-ti i-na libbi^{bi} al-ú-ga-
ri-it i-ša-at-tù-ru...ù šarru la id-du-uk-šu-nu-m[a(?)]...a-na ekallim la e-ru-b[u] i-na eqli âli^K ul i-
r[u-bu]*

“Because Tabiyanu..., Abdinergal son of Abdimir, and Munahimu have committed a great crime, because they have made a copy of the great seal and have written false tablets...(but the king has not put them to death)...they shall never again enter the palace! They shall never again enter the territory of the city [of Ugarit]!”⁴⁵

This incident is known only from this text. Such forgery would appear to be a form of treason. Yet, for some reason (mercy being one possibility), this case of treason is not punished with death, but with expulsion from Ugarit.

10. RS 1957.1, lines 6–13 — Ugarit, reign of Amistamru, ca. 1245–1215 B.C.

Akkadian text:

^ma-mis-tam-ri LUGAL ^{KUR.URU}u₂-ga-ri-it^fpi₂-id-da₂ ra-bi-ti

DAM-su₂ DUMU.SAL ^mZAG.ŠEŠ LUGAL ^{KUR}a-mur-ri

iš-tu E₂-šu KUR-šu i-ta-ba₂-ak-ši

considered holy, and all kinds of defilement had to be avoided...One text, KUB XIII 3, is devoted exclusively to the subject of the king's purity.”

⁴⁵ Jean Nougayrol, *Le Palais Royal d'Ugarit* (ed. Claude F.-A. Schaeffer; Mission de Ras Shamra Tome VI, Part 2; Paris: Imprimerie Nationale, 1955), cuneiform = plate 74, lines 13–26. Transcription in Nougayrol, *PRU* Tome VI, Part 3, 97–98, lines 13–26. Translation by the present author.

u₃ i-na^{KUR.URU} a-mur-ri ut-te-ir-ši u₃^{m.d} IŠDAR-mu-wa

LUGAL^{KUR.URU} a-mur-ri^f pi₂-id-da₂ ra-bi-ti NIN-šu

iš-tu E₂.GAL^{lim} -šu ša^{KUR.URU} a-mur-ri i-ta₂-ba₂-ak-ši

i-na URU^{lim} ša-ni-im-ma ul-te-ši-ib-ši

Amistamru, king of Ugarit, drove out Piddu, the Great Lady, his wife, daughter of Bentešina, king of Amurru, from his house (and) his land, and to Amurru he returned her. And Šaušgamuwa, king of Amurru, drove out Piddu, the Great Lady, his sister, from his palace of Amurru; in another city he placed her.⁴⁶

At first, this text may appear to be a simple case of divorce rather than banishment. (The cause appears to have been adultery on the part of the queen.) However, note that the queen is banished from the kingdom of Ugarit, and even her brother, the king of Amurru, banishes her from his palace to live in another town. Under the terms of the divorce decree, which was imposed by Initeššub king of Carchemiš on behalf of the Hittite king Tudhaliya (who was overlord of both kings), the king of Amurru is forbidden to speak to his banished sister or help her return to Ugarit. In a separate text (RS 17.159), the ex-wife of the king of Ugarit is also forbidden any contact with her children, who apparently remain with their father.

Another case of banishment in the family of Amistamru involves an unspecified political plot (*hi-ṭa₂-ta ih-ta-ṭu₃*, “ont commis une faute”) by two of his brothers during the reign of their mother, Queen Aḥatmilku.⁴⁷ The text is RS 17.352, lines 5–11. The brothers are banished to Alašia (Cyprus), but the text does not spell out the offense clearly enough to be treated here.

13. *P DM 27* — Egypt, reign of Rameses II, ca. 1250 B.C.

mtwe tidt mdit tanbt siwḥ fšriw fmss msdrw wiwf didi r p33ta K3š

⁴⁶ Cuneiform text in Loren Fisher, ed., *The Claremont Ras Shamra Tablets* (Analecta Orientalia 48; Rome: Pontifical Biblical Institute, 1971), 20 and plate 1 (photo). Transcription and translation cited here are from Fisher, *Claremont Tablets*, 11–12.

⁴⁷ Nougayrol, *PRU* 4:120–22.

ṛdd mtwi šwi mwi r p33nt tašri p33ywm‘ mw mrmim iw f didi rk h33š mp33dw šn 3bbwt.

Lines 2–4: “Sollte ich mit der Frau reden, (dann) sollen (meine)..., (meine) Nase (und) Ohren (verstümmelt werden und) (ich) soll nach dem Lande Nubien verbannt werden.” Lines 8–10: “Sollte ich dorthin gehen, wo die Tochter des *P3-ywm* (ist), (dann) soll (ich) zum Steinbrechen am Berg von Elephantine eingesetzt werden.”⁴⁸

Here is a judicial case where an Egyptian adulterer must swear to never again speak to the woman involved, on threat of mutilation and exile. The first oath is almost identical to the roughly contemporary oaths sworn by perjurers in Egypt. The second oath lacks mutilation as a sanction and features a different destination for banishment, which is to include hard labor. The adulterer breaks his first oath and impregnates the woman, whereupon his own father hauls him into court, and he is forced to take another oath. There is no indication that the adulterer is ever punished, perhaps because the offended husband never takes action against his wife. The location of this case is a workers’ village outside Thebes.

B. Post-exilic texts.

1. Edict of Artaxerxes in Ezra 7:26 — ca. 445 B.C.

“All who will not obey the law of your God and the law of the king, let judgment be strictly executed on them, whether for death or for banishment (Aramaic שרשו, “uprooting”) or for confiscation of their goods or for imprisonment.”

Fensham writes, “this word is to be derived from the Persian word *sraušya*, meaning ‘corporal or physical punishment.’ The punishments were not derived from the law of God,

⁴⁸ Schafik Allam, *Hieratische Ostraka und Papyri: Transkriptionen aus dem Nachlass von J. Černý* (Tübingen: im Selbstverlag des Herausgebers, 1973), hieroglyphic text = 99, verso, lines 2–4, 8–10. Transcription by Karen Hobson. German translation in Schafik Allam, *Hieratische Ostraka und Papyri aus der Ramessidenzeit* (Tübingen: im Selbstverlag des Herausgebers, 1973), 301–302, no. 272. English translation: “If I should speak with the woman, then let my..., my nose, and my ears be mutilated, and may I be banished to the land of Nubia” (lines 2–4); “If I should go there, where the daughter of *P3-ywm* is, then let me be sent to stonebreaking at the fortress of

although some of them are mentioned in the Pentateuch (Lev. 24:12; Num. 15:34); rather, they are of Persian origin and are thus state penalties.”⁴⁹ Jacob M. Myers translates the term in question as “exclusion,” but adds this note: “Possibly a Persian word, from *sraušya*, Avestan *sraošya* = ‘physical punishment.’”⁵⁰ Blenkinsopp prefers the translation “physical punishment,” noting that the parallel in 1 Esd 8:24 reads *τιμωρῖα*.⁵¹ But Breneman argues that the act of banishment in Ezra 10:8 (see below) is an implementation of this category of punishment in 7:26.⁵²

The most comprehensive and convincing argument, in the opinion of this writer, is made by Williamson:⁵³

It has been argued by Rundgren, *VT* 7 (1957) 400–404, Falk, *VT* 9 (1959) 88–89, and others that this should be translated “flogging,” or the like. Rundgren points to *סרושיתא* in *AD* 3:6, a Persian loan-word meaning punishment, which he then interprets as corporal punishment. He therefore prefers to see the first letter as *ש*, and thinks that MT arose later as an etymological speculation by the Massoretes (*שרש*, “to uproot”), giving rise to Vg’s *exilium*. However, it should be noted (i) that the step from “punishment” to “flogging” is speculative, and not, apparently, inherent in the meaning of the word; (ii) that Ezra 10:8 may be understood as an early testimony to the interpretation as “banishment”; and (iii) that the Vrs do not support the suggested meaning. LXX *παιδεῖαν* “discipline” is nowhere near so specific as “Prügel, Bastonade” “thrashing” (Rundgren), and 1 Esdr 8:24 *τιμωρῖα* “punishment” is again general, like the Iranian word. Such generalized senses are inappropriate to the context, however. Driver may therefore be right in his suggestion (*AD*, 99) that “assimilation has taken place, and the Iran.-Aram. *סרושי* ‘punishment’ has been used in the sense suggested by the Heb. *שָׁרַשׁ* ‘uprooted’.

Elephantine.” (lines 8–10)

⁴⁹ Frank Charles Fensham, *The Books of Ezra-Nehemiah* (NICOT; Grand Rapids: Eerdmans, 1982), 108

⁵⁰ Jacob M. Myers, *Ezra Nehemiah* (AB 14; Garden City: Doubleday, 1965), 59.

⁵¹ Joseph Blenkinsopp, *Ezra-Nehemiah: A Commentary* (Old Testament Library; London: SCM, 1989), 152: “Corporal punishment (*šerošī*, from Old Persian *sraušya*), especially flogging, is characteristic of Persian rather than Israelite penal practice...While the list of penalties is hardly complete, it seems that the Persian penal code was invoked even for infractions of traditional Jewish law.”

⁵² Mervin Breneman, *Ezra Nehemiah Esther* (New American Commentary 10; Nashville: Broadman and Holman, 1993), 138.

⁵³ H. G. M. Williamson, *Ezra, Nehemiah* (WBC 16; Waco: Word, 1995), 97.

2. Ezra 10:8 — If any did not come within three days to the assembly to deal with the intermarriage issue, “all their property should be forfeited, and they themselves banned (יִבְרָל) from the congregation of the exiles.” (Compare Malachi 2:12, where “May YHWH יִכְרַח (hip‘il) from the tents of Jacob” is declared as the penalty that intermarriage deserves.)

Fensham pictures the threatened punishment as follows:

He will be excluded from the community. The culprits will be removed from the community, viz., they would not be allowed at the service of the temple, and it might also mean that they would forfeit their rights as citizens. These were for Jews severe measures indeed. They were then not allowed to partake in the daily sacrifices for the removing of their sins. They were totally cut off from other members of the community and could expect no help in times of distress. They were regarded as foreigners without any claim on the religious communion of the exiles.⁵⁴

3. Nehemiah 13:28–29 — Nehemiah expels (וְאַבְרִיָּהוּ עָלָיו) the grandson of the high priest for marrying the daughter of Sanballat.

Describing the act in distinctly un-judicial language, Nehemiah inflicts on Eliashib’s grandson the penalty decreed by Ezra for failure to divorce a pagan wife. There is no decree of excommunication mentioned; the offender is simply driven out of the governor’s presence, leaving it unspecified whether the offender has also been driven out of Jerusalem and/or out of Jewish territory. Fensham points out, “Such an act as that of Eliashib’s grandson was a direct challenge to the authority of Nehemiah,” therefore it was “the highest form of religious apostasy.”⁵⁵ The immediate problem is that the Torah decrees that a high priest may only marry a virgin of Israel (Lev 21:14), and the offender in this case was in line for that office.

Josephus relates a similar incident that he appears to be conflating with the present case (*Ant.* 11.7.2–11.8.2). He tells of a Manasseh, the son of Johanan, brother of the high priest

⁵⁴ Fensham, *Ezra-Nehemiah*, 138.

⁵⁵ Fensham, *Ezra-Nehemiah*, 267.

Joiada, who married Sanballat's daughter. He states that the elders of Jerusalem give Manasseh the choice of either divorcing his wife or being forbidden to approach the altar. When Manasseh tells Sanballat of his dilemma, Sanballat offers to build a temple for him to serve in at Mount Gerizim. Manasseh agrees to join Sanballat, along with a number of Jews who are in mixed marriages. At this point, Alexander the Great enters the story, with both the Jews and Sanballat vying for his favor.

It appears Josephus may be giving a garbled version of an event in the time of Alexander, presented as an explanation of how the Samaritan temple came to be built. Josephus credits the elders of Jerusalem rather than Nehemiah for confronting the individual in question, and does not speak of an expulsion taking place. The biblical figure is not named, but is identified as the son of Jehoiada rather than his brother, and the incident related by Nehemiah takes place approximately 100 years before the coming of Alexander.⁵⁶ If there was a Sanballat in the time of Alexander, he is not the same figure as the one in Nehemiah's account, and the incident is not to be confused with the one in Nehemiah 13.

4. Josephus, *Ant.* 11.8.7 — “And whenever anyone was accused by the people of Jerusalem of eating unclean food or violating the Sabbath or committing any other such sin, he would flee to the Shechemites, saying that he had been unjustly expelled (ἐκβεβλήσθαι).” Josephus is apparently describing Jewish practice in the second century B.C., although the time here is unclear.

It is particularly significant that punitive expulsion is evidently being practiced in Jerusalem for Sabbath-breaking (which carries both a death penalty and *kareth* in the Torah), and for eating unclean food. The issue does not appear to be kosher food as per Leviticus 11, but

⁵⁶ See discussion by Ralph Marcus in Appendix B (498–511) of the Loeb Classical Library edition of the *Antiquities*.

food that is ritually unclean for other reasons. If this is correct, this also would be a case explicitly calling for *kareth*, and would indicate that this is how the penalty was interpreted in Jerusalem at that time.

The writer of 1 Maccabees 13 describes what may also be punitive expulsion being practiced at approximately this same time by Simon the Maccabean high priest. According to verses 47–48, Simon “expelled” (ἐξέβαλεν) pagans from the city of Gazara, “cleansed” (ἐκαθάρισεν) the houses that contained idols, and expelled all impurity (πᾶσαν ἀκαθαρσίαν) from the city. Likewise, in verse 50, Simon expels (ἐξέβαλον) enemy combatants from Jerusalem’s citadel, and cleanses (ἐκαθάρισεν) the citadel from contamination (τῶν μiasμάτων). While there is no direct connection with identifiable *kareth* offenses here, the concept of expulsion to remove contamination may be intended for the same purpose.

5. Josephus, *B. J.* 2.8.8 — “Men convicted of major offenses are expelled (ἐκβάλλουσι) from the order, and the outcast often comes to a most miserable end; for bound as he is by oaths and customs he cannot share the diet of non-members, so is forced to eat grass till his starved body wastes away and he dies.” Here Josephus is describing the Essenes, although the time is unspecified (first century A.D.?); he writes as if the Essenes were still in existence as a community. The Essenes may be the people who populated Qumran (below).

6. Dead Sea Scrolls.⁵⁷ Qumran uses כרת as extermination in eschatological contexts. For example, 1QS II 16–17 reads, “May God set him apart for evil, that he may be cut off from (וינכרת מתוכ) all the Sons of Light because of his backsliding from God through his idols and the stumbling block of his iniquity. May he put his lot among those who are cursed forever.”

⁵⁷ The translation of the Dead Sea Scrolls used throughout this dissertation, unless otherwise indicated, is James Charlesworth, *The Dead Sea Scrolls: Hebrew, Aramaic, and Greek texts with English translations* (6 vols.; Louisville: Westminster/John Knox, 1993–).

Likewise, CD^b XX 25–26 says, “But all who entered the covenant who have broken through the border of the Torah, when (26) the glory of the Lord appears to Israel they will be cut off from the midst of the camp (יכרתו מקרב המחנה) and along with them all the wicked ones of Judah, in the days when it is purged.” This text is the only text from Qumran where the root כרת is clearly connected with a physical location from which the unfaithful are separated, thus conveying a language of expulsion rather than eschatological destruction.

CD^a III 1 says, “Through it (wantonness of heart, שרירות לבם) strayed the sons of Noah and their families; through it they are cut off (נכרתים).” (See also CD^a III 9.) Similarly, 4Q88 VIII 6 contains the line, “all about are your enemies cut off (נכרתו), O Zion, all your foes have been scattered (התפזרו).” Note that here, the root כרת is paired with פזר, implying removal rather than destruction.

In 4QpPsa^a 1–10, the כרת root is employed numerous times, partly because the passage is a *peshet* on Psalm 37. In addition, the text says in column 2, lines 3–4, “all who refuse to turn back from their sin will be cut off (יכרתו),” while in column 3, lines 11–12, it says, “those cursed by him will be cut off – they are the ruthless ones of the cov[enant, the wic]ked ones of Israel, who will be cut off (יכרתו) and will be destroyed.”

In the Temple Scroll (11QTemp LIX 15–17),⁵⁸ God says that if a king’s heart and eyes stray wantonly from God’s commandments, “I will cut off (אכרית) his descendants forever from ruling over Israel,” but if he is obedient, “a man of his sons shall not be cut off (יכרת) from sitting on the throne of the kingdom of Israel forever.” Here the idiom of the “non-removal formula” is borrowed from 1 Kings 8:25, along with a corresponding “removal formula.”

⁵⁸ The edition used here is Yigael Yadin, ed., *The Temple Scroll* (3 vols.; Jerusalem: Israel Exploration Society, 1983).

But while Qumran almost always uses כרת only in an eschatological sense, Qumran regularly practices expulsion as a penalty for offenses (using שלח and בדל instead of כרת). 1QS V 18 declares, “all who are not accounted within his covenant (כול אשר לוא נחשבו בבריתו)... must be excluded (להבריל).” One of the most severe such penalties given is the penalty for pronouncing the sacred Name, either accidentally or on purpose, an act that merits the death penalty in the Torah:

1QS VII 1–2: “If he blasphemed – either because of being terrified with affliction or because of any other reason, while he is reading the Book or saying benedictions – he shall be excluded (והברילהו) (2) and never again return to the Council of the Community.”

The closest parallel to biblical *kareth* is to be found in 1QS VIII 20–23, which parallels Numbers 15:30–31:

And these (are) the precepts according to which the men of perfect holiness shall behave each with his fellow: (21) all who enter into the Council of Holiness of those who walk with the perfect of the Way as he commanded, (indeed) every man of them (22) who transgresses a word of the Torah of Moses deliberately or through negligence, shall be banished (ישלחהו) from the Council of the Community (23) and never come back again.

The passage goes on in line 24 to say that if the act in question was done “through inadvertence,” then he shall be “excluded from the pure-food⁵⁹ and from the Council” for two years.” In the next column (IX 1), it states, “For (it is because) of one inadvertence that he can be punished two years, while for the one who acts deliberately he shall never return.”

⁵⁹ It is not entirely clear what the term טהרה means here. Charlesworth has opted for the meaning “pure-food.” Göran Forkman (*The Limits of the Religious Community: Expulsion from the Religious Community within the Qumran Sect, within Rabbinic Judaism, and within Primitive Christianity* [Coniectanea Biblica New Testament Series 5; Lund: CWK Gleerup, 1972], 55–56) explains that at Qumran, “The Purity” (טהרה) in the singular seems to refer to a category of ritually clean items that is broader than food, while ritually clean food is denoted by the plural form of the word. Forkman cites Josephus, *B. J.* 2.8.5, where novitiates at Qumran, after a year, can “share the purer kind of holy water,” καθαρωτέρων τῶν πρὸς ἀγνείαν ὑδάτων μεταλαμβάνει, and only after two more years as a novice can they touch the common food, τῆς κοινῆς ἀψιασθαι τροφῆς. These levels of community membership contribute to the system of torts at Qumran, as will be seen in this chapter.

A text that appears to contradict the verdict of 1QS VIII 20–23 on “sinning with a high hand” is 4Q159 2–4 4–6, “and anyone who rebels [(6) He will be put to death, one who transgresses intentionally (יִזְמַת אֲשֶׁר עָשָׂה בְיַד רָמָה).” The language is the same as Numbers 15:30–31, but the context appears to be rebellion against a court, as envisioned in Deuteronomy 17:12, where the prescribed penalty is death.

Lesser offenses call for exclusions of six months or a year:

1QS VI 24–25: “If a man among them is found who lies (25) about property, and he knows (his deception), he shall be excluded (וּבְרִילָהוּ) from the midst of the pure-food of the Many (for) one year, and be fined one fourth of his food.” Note that the exclusion is not from the community, but from the certified food supply. The oaths described by Josephus (see previous section) with regard to eating the food of outsiders do not appear to apply here. Rather, this punishment seems to be a demotion in status, an exclusion that stops short of complete expulsion from the community as a whole. One must keep in mind that Qumran excludes from its membership the physically and mentally handicapped and the senile (1QS^a II 5–9, 1QM VII 3–6). The reason given is, “For the angels of holiness are in their congregation.” Consequently, Qumran’s expulsions need not all be considered punitive. They are administered according to the degree of seriousness of the offense.

1QS VI 25–27: “And one who answers (26) his fellow with stubbornness, addresses him impatiently, disregards the position of his associate by rebelling against the word of his fellow who is registered before him, (27) [or tak]es the law into his own hand shall be punished (וְנִאֲנַעַשׂ) (for) on[e] year [and excluded.]” The meaning of “punished” as opposed to “excluded” here is not clear, although the root in biblical Hebrew is used for imposition of a fine. Forkman

discusses the explanation of Hunziger, who argues that “נענש in 1 QS does not primarily imply fines but separation from the Purity, even though this is not expressly stated.”⁶⁰

1QS VII 4–5: “The man who unjustly and knowingly insults his fellow shall be punished (ובדילהו) (for) one year, (5) and be excluded (ונענש).”

1QS VII 15–18: “The man who slanders about his fellow (16) shall be excluded (ובדילהו) for one year from the pure-food of the Many, and be punished (ונענש); but if it is against the Many that he slanders them he shall be banished (ישלחהו) from them, (17) and he is never to come back again. The man who grumbles against the authority of the Community shall be banished (ישלחהו) and never come back, but if it is against his fellow that he grumbles (18) unjustly then he shall be punished (for) six months.”

1QS VII 22–25: “And every man who has been in the Council of the Community for as long as a period of ten years, (23) and whose spirit then backslides by being treacherous toward the Community, and he leaves the teachers of (24) the Many to walk in the stubbornness of his heart shall never again return to the Council of the Community. And a man from the men of the Communi[ity w]ho shares (25) with him his pure-food or his property wh[ich...] the Many, his judgment shall be the same; he shall be banis[hed,...] (ישלחהו).” Schiffman explains that the penalty for this crime of “throwing off the yoke of the sect” is different for novices: “If he is a recent member, he may repent and begin the initiation process anew, but if he has completed ten years, he may never again be admitted.”⁶¹

⁶⁰ Forkman, *Limits*, 57–59, citing C.-H. Hunziger, “Beobachtungen zur Entwicklung der Disziplinarordnung der Gemeinde von Qumrān,” in Hans Bardtke, ed., *Qumran-Probleme* (Berlin: Akademie-Verlag., 1963), 231–47.

⁶¹ Lawrence Schiffman, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony, and the Penal Code* (ed. Jacob Neusner et. al.; Brown Judaic Studies 33; Chico, Calif.: Scholars Press, 1983), 158.

4Q159 2–4 9–10: “But if by [...] he humbled her, he shall be fined two minas and be expelled (ושלח) all his life.” The context is false accusation against the virginity of one’s bride. Deuteronomy 22:18 prescribes a monetary fine equal to the one prescribed here, plus it says the elders shall “chastise” (ויסרו) the man.⁶² Here expulsion is provided as the punishment. It is unclear whether the woman is expelled de facto as well.

4Q269 7 I 13: “One who approaches to fornicate (לזנות) with his wife against the precept shall depart and return no more.” Commentators have puzzled over this unusual prohibition. Baumgarten has suggested that it refers to either sex during menstruation (a *kareth* offense) and/or sex during pregnancy, which was forbidden at Qumran (see Josephus, *B. J.* 2.8.13) and which also involved defilement that could lead to a *kareth* offense.⁶³

Similar language of punitive exclusion from the community, mostly in fragmentary form that lacks a context, is found in 1QS^a XIII 1; 1QS^b XX 3, 26; 4QD^a 10 II. 2, 10; 4QD^a 11 7, 14; 4QS^g IV 2–3; 4Q265 4 7, 12.

While Qumran’s requirements for Sabbath observance are stricter than the rest of the Jewish community, Qumran does not punish violation of the Sabbath with the death penalty, but with what appears to be either expulsion or probation. CD^a XII 3–6: “But each man who errs and profanes the Sabbath or the holy days shall not be put to death, for he is to be guarded by the sons of man, and if he is healed of it, he shall be guarded for seven years; then he may enter the assembly.” By contrast, m. Sanh. 7:4 prescribes death for Sabbath violations.

⁶² It is tempting to speculate whether Qumran read the hip‘il ויסירו “they shall remove (= expel him)” in place of ויסרו in this passage.

⁶³ Joseph M. Baumgarten, *Qumran Cave 4 XIII: The Damascus Document (4Q 266–273)* (Discoveries in the Judean Desert 18; Oxford: Clarendon, 1996), 164–65.

The one example of a *kareth* offense that appears to be treated as a capital offense at Qumran is in 4Q266 6 II 9–10, where the text says that a pregnant woman “shall not eat [any hallowed thing, nor come into the sanctuary,][for] it is a capital [of]fense (מִן־שֹׁפֵט מוֹת).” Here may be evidence of divergent opinion at Qumran, or of variation of opinion through time.

The controlling issue for the practice of expulsion at Qumran was the holiness of the community. To some extent, the *Sitz im Leben* of *kareth* in early Israel was also one of concern for the holiness of the community, to preserve the community from being a target of divine wrath. Qumran merely takes its standards of holiness to a much higher level than that of early Israel, which called for removal of anyone whose presence or behavior threatened that holiness.

It is true that *kareth* language is never explicitly applied to the practice of banishment at Qumran. Yet Qumran’s practice of banishment seems to be an echo of an earlier understanding of the Torah. It may reflect the Sadducean branch of Second Temple period exegesis, in which case its apparently different approach to *kareth* carries a great deal of weight.⁶⁴ The present writer would argue that Qumran’s interpretive tradition is more faithful to the original meaning of *kareth* than the tradition of the LXX and the rabbinic tradition.

Additional Evidence of Punitive Expulsion

The following evidence consists of examples of punitive expulsion that do not parallel biblical *kareth* as closely as the above group of examples. In some cases, the reason for expulsion is not clear. In other cases, the offense does not resemble the kind of offense for which

⁶⁴ Arguing in favor of this possibility is Lawrence H. Schiffman, “The Sadducean Origins of the Dead Sea Scroll Sect,” in Hershel Shanks, ed., *Understanding the Dead Sea Scrolls* (New York: Random House, 1992), 35 – 49. Arguing against Schiffman are Eyal Regev, “Were All the Priests the Same? Qumranic Halakah in Comparison with Sadducean Halakah,” *Dead Sea Discoveries* 12 (2005): 158–82; and James C. VanderKam, “The People of the Dead Sea Scrolls: Essenes or Sadducees?” in Shanks, *idem*, 50–62.

kareth was practiced. Nevertheless, these examples serve as added evidence that punitive expulsion was indeed practiced in biblical times.

A. Second millennium B.C. texts.

1. *P BM 10052*, 8, plate 31, 17–18 — Egypt, sixth year of Rameses XI, ca. 1100 B.C.

Standard Egyptian penalty for perjury: *mtwi dd d3 iwf hšb.f didi tw Kšy* “If I speak falsehood, may <I> be mutilated and sent to Kush.”⁶⁵

A total of nine examples are referenced in David Lorton, “Treatment of Criminals in Ancient Egypt,” *JESHO* 20 (1977): 33–38. All nine are found in Thomas Eric Peet, *The Great Tomb-Robberies of the Twentieth Egyptian Dynasty*.⁶⁶ The example cited above is found in Peet, 151. The others are:

P BM 10052, 3, plate 27, 22–23 (Peet, 146)

P BM 10052, 5, plate 28, 4–5 (Peet, 147)

P BM 10052, 5, plate 29, 26–27 (Peet, 148)

P BM 10052, 7, plate 30, 9–10 (Peet, 150)

P BM 10052, 9, plate 31, 1–2 (Peet, 151)

P BM 10052, 11, plate 31, 1–2 (Peet, 152 – suspect?)

P BM 10052, 11, plate 32, 9–10 (Peet, 153)

P BM 10052, 11, plate 32, 23 (Peet, 153 – suspect?).

These tomb robbery texts come from the judicial court of Thebes. The destination of the threatened banishment was therefore not a long distance, although hard labor is implied.

⁶⁵ Transcription by Karen Hobson.

⁶⁶ Thomas Eric Peet, *The Great Tomb-Robberies of the Twentieth Egyptian Dynasty*; Oxford: Clarendon, 1930; repr. Hildesheim/New York: Georg Olms, 1977.

In addition, Lorton cites a judicial text published by Hayes⁶⁷ that says, “a ship’s captain who helped an escapee was deprived of his position and his name (*w3 n rn.f*) and banished (? *shr*), and his family assigned to a labor camp.”⁶⁸ The text dates to the thirty-first year of the reign of Amenemhet III (1812 B.C.), making it the earliest extant Egyptian banishment text. There is no indication of the destination to which the offender is banished. The text reads as follows:

Handed over to the Office of the Provider-of-People is the fami[ly of] the one who was [ba]nished because of complicity (?) in his plot (?), the one removed from (the office of) Skipper of the Treasury and deprived of his name Deduamūn’s son, Montuhotpe.”⁶⁹

The same oath, “May my nose be cut off and may I be sent to Kush,” is also found in the Ramesside Inscription of Mes, lines N21, N27-8, and N30.⁷⁰ The legal actions described in this text take place at On and at Pi-Ramesses in Lower Egypt, both places being at least 500 miles north of Kush.

Aside from assignment to penal servitude in the granite quarries,⁷¹ it would appear that Kush (= Nubia) was the destination of choice for such banishment as early as the reign of Rameses II. *P DM 27*, discussed above, is the only extant text where there is an oath that penalizes disobedience by sending the offender to Elephantine.

It is uncertain whether this sanction of banishment in these oaths was actually put into practice. The indication that the accompanying threat of mutilation was actually employed in the

⁶⁷ William Christopher Hayes, *A Papyrus of the Late Middle Kingdom* (Papyrus Brooklyn 35:1446; Brooklyn: Brooklyn Museum, 1955), 53–54.

⁶⁸ Lorton, “Treatment of Criminals,” 17.

⁶⁹ Hayes, *Papyrus*, 53–54.

⁷⁰ Alan Gardiner, *The Inscription of Mes: A Contribution to the Study of Egyptian Judicial Procedure* (Untersuchungen zur Geschichte und Altertumskunde Aegyptens 4/3; Hildesheim: Georg Olms, 1964), 9–10.

⁷¹ Lorton, “Treatment of Criminals,” 6–7. The location is not specified, but may be Elephantine.

process of interrogation increases the possibility that banishment was also employed if and when perjury could be established.

This oath formula appears to have been current from the reign of Rameses II into the Twentieth Dynasty. Unlike biblical *kareth*, the Egyptian penalty (if actually put into practice) involves transportation to a specific, distant inhospitable location, rather than an unspecified expulsion from the local community. However, expulsion to Kush is found here in texts surrounding the time and place in which the Hebrew nation was born under Moses.

2. Decree of Horemheb, lines 16–17, 20–22 — Egypt, reign of Horemheb, ca. 1330 B.C.

(Now) if there i[s the man] who (wants to) deliver dues [for] the breweries (?) and abattoirs (?) of Pharaoh on behalf of the t[wo] deputies [of the army] – [*and there is anyone who interferes*] and he takes away the craft of any military man (or) of any (other) [per]son in any part of the country, the law shall be applied to him by cutting off his nose, he being sent to Si[le]... [*If there is anyone who interferes with those who*] – and those who are supplying the harīm as well as the offerings of all (kinds of) gods in that they deliver dues on behalf of the two deputies of the army, a[nd he] – , the law [shall be applied] against him by cutting off his nose, he being sent to Sile likewise.⁷²

The scope of the Horemheb decree is surprisingly narrow. This text decrees banishment to the Asiatic frontier to the border fortress of Sile for government officials who plunder tax revenues brought by citizens. While only two offenses specify banishment as punishment, two additional statutes read “it shall also be done accordingly,” implying the same punishment, and several more provisions in the decree have penalties that are unclear or illegible.

Horemheb, the issuer of this decree, comes to the throne, not by royal blood, but by virtue of his military position as commander in chief, having served as the de facto ruler under Tutankhamun and Ay. It appears that this time of Egyptian political weakness was accompanied by domestic anarchy. According to Aldred,

⁷² Stela in the Temple of Amun-Re at Karnak. Hieroglyphic text is published in Kurt Pflüger, “The Edict of

This pillaging is but one indication of a general lawlessness that seems to have prevailed since the end of the reign of Akhenaten, and suggests that the disorder referred to by Tutankhamun in his Restoration Stela had by no means been curbed. The great granite stela which Horemheb erected...bears other witness to this general unrest. The woefully damaged text which is usually referred to as 'The Edict of Horemheb' appears to be a selection of the ordinances which the king issued 'to seek the welfare of Egypt' by suppressing illegal acts.⁷³

Of all the Egyptian banishment decrees, this is the only one that sends offenders to the Asiatic frontier rather than south to Nubia or west to the Sahara oases. The decree is issued at Karnak, near Thebes. Sile, also known as Tjaru, is located by James Hoffmeier approximately seven kilometers north of the end of Lake Ballah, at a site known as Tell Hebua.⁷⁴ *Sillu* is mentioned in EA 288 (fourteenth century B.C.). Its fame as a border fortress is corroborated by excavation, which reveals a military facility that expanded considerably during the New Kingdom period. While Sile was not as isolated, and may not have been as hot, as the other two known destinations for Egyptian banishment, being sent to Sile may have involved hard labor in the construction of this fortification.

3. Banishment Stela of Menkheperre (= Maunier Stele, Louvre C256), lines 11, 15–16 — reign of Psusennes I (?), ca. 1020 B.C.

O my good lord, (it is) the matter of these servants, against whom thou art wroth, who are in the oasis, whither they are banished...Thou shalt hearken to my voice on this day, and thou shalt [relent] toward the servants whom thou banished to the oasis, and they shall be brought (back) to Egypt.⁷⁵

King Haremhab [sic]," *JNES* 5 (1946): 269–76. Translation is in Pflüger, "Haremhab," 260–67.

⁷³ Cyril Aldred, *The Cambridge Ancient History*, 3d ed., vol. 2, part 2 (ed. I. E. S. Edwards; Cambridge: Cambridge University Press, 1975), 75.

⁷⁴ James K. Hoffmeier, *Ancient Israel in Sinai: The Evidence for the Authenticity of the Wilderness Tradition* (Oxford: Oxford University Press, 2005), 90–94.

⁷⁵ Louvre C 256 (Maunier Stela). Hieroglyphic text is published in Jürgen von Beckerath, "Die 'Stele der Verbannten' im Museum des Louvre," *Revue d'Égyptologie* 20 (1968): 11–12. Translation in James Henry Breasted, *Ancient Records of Egypt* (5 vols.; Chicago: University of Chicago Press, 1906–1907; repr. New York: Russell & Russell, 1962), 4:317–18.

The high priest of Amun at Thebes issues an oracle to convince Pharaoh that Amun wants banishment stopped. It is debated whether this text is actually from the Menkheperre who served as high priest in the Twenty-first Dynasty, or whether it is from Neo-Assyrian times, and whether it concerns banishment of individuals or mass exile. Von Beckerath states,

Dies geschah im 25. Regierungsjahr eines leider ungenannten Pharaos. Diese Datierung ist das geschichtliche Hauptproblem unserer Stele; es bildet wie wir sehen werden, ein Schlüsselproblem der immer noch sehr umstrittenen Chronologie der 21. Dynastie.⁷⁶

The chief advocate of a Neo-Assyrian date for this stele is Reilly, who argues that the use of characters from the Twenty-first Dynasty is fictional, and that the banishment victims here have been exiled to this Sahara oasis by the Assyrians.⁷⁷ Reilly points to Breasted's puzzlement about the identity of the banished persons in this text, and claims that a context of Theban liberation from Assyrian rule in 637 B.C. provides a better explanation for these exiles. Reilly offers no epigraphic evidence to support his theory; furthermore, the idea that the Assyrians would banish captives to this Sahara oasis does not fit with Assyrian practice elsewhere.

Virtually all other commentators assign this text to the Menkheperre of the late eleventh century B.C. Černý cites this text as evidence of "internal strife within the Theban state."⁷⁸ Young tentatively assigns the stele to this era, locating it in Amenemope's twenty-fifth year (to whom Young attributes a long reign).⁷⁹ Wente concurs on this dating, without identifying the

⁷⁶ Von Beckerath, "Verbannten," 27–28.

⁷⁷ Jim Reilly, "Piankhi the Chameleon: The Next Generation," n. p. [cited 5/27/2008], online: http://www.kent.net/DisplacedDynasties/The_Next_Generation.html.

⁷⁸ Jaroslav Černý, "Egypt from the Death of Ramesses III to the End of the Twenty-first Dynasty," in *History of the Middle East and the Aegean Region, c. 1380–1000 B.C.* (ed. I. E. S. Edwards, C. J. Gadd, N. G. L. Hammond, and E. Sollberger; vol. 2, pt. 2 of *The Cambridge Ancient History*, ed. I. E. S. Edwards, C. J. Gadd, N. G. L. Hammond, and E. Sollberger; 3d ed.; Cambridge: Cambridge University Press, 1975), 657.

⁷⁹ Eric Young, "Some Notes on the Chronology and Genealogy of the Twenty-First Dynasty," *Journal of the American Research Center in Egypt* 2 (1963): 110.

pharaoh in question.⁸⁰ Kitchen assigns a 53-year high priesthood to Menkheperre, thereby implying that the stele is dated by the year of his priesthood rather than by the year of any pharaoh's reign.⁸¹

Kitchen describes the scene behind the Banishment Stela as follows:

Menkheperre was summoned to Thebes by Amun himself to 'come South in valour and victory to pacify the land and suppress its (his?) foe' – a person unnamed, perhaps some Theban pretender to the high-priesthood of Amun who had arisen as focus of local opposition in a hiatus period following the death of Menkheperre's predecessor. Such opposition was quickly beaten down and the ringleaders exiled to the western oases...

Thus, behind the proud façade of Pinudjem's pose as nominal co-pharaoh in Tanis with his sons as successive military commanders of the south and high priests in Thebes, there lurked outright opposition, even rebellion, against the ruling house in Thebes itself. With its talk of exiles in the oases and stays of execution, the Banishment stela of Menkheperre casts a lurid light on a sombre pattern of tension between priestly military commanders based in the north and local opposition parties in Thebes itself.⁸²

Once he was firmly in power, Kitchen writes, "Menkheperre now deemed it politic to seek further reconciliation with local interests at Thebes. Encouraged by a favorable oracle of Amun during his procession in Karnak a day before New Year's Eve, Menkheperre recalled the exiles from the oases and set aside the death-penalty except for such as might in future seek to use it. These concessions seem to have secured him peace."⁸³

⁸⁰ Edward F. Wente, "Chronology of the Twenty-First Dynasty," *JNES* 26 (1967): 168: "From a reading of the Banishment Stele it appears to me that Kees was quite correct in concluding that Menkheperre was inducted into the office of his father Painutem I as high priest and generalissimo in a Year 25."

⁸¹ Kenneth A. Kitchen, *The Third Intermediate Period in Egypt (1100–650 B.C.)* (2d rev. ed.; Warminster: Aris & Phillips, 1986), 269–71, 465.

⁸² Kitchen, *Intermediate Period*, 260.

⁸³ Kitchen, *Intermediate Period*, 261.

Von Beckerath interprets the phrase “not slaying the living” (which Kitchen interprets as forbidding the death penalty) as a figurative reference to exiling people, and that it is the practice of exile itself that is here being banned as a virtual death sentence.⁸⁴

Banishment here takes the place of a death penalty, but is apparently viewed as a virtual death sentence, if this interpretation is correct. The place of banishment, in this case, is believed to be the El-Kharga Oasis, which is 400 miles south of Memphis but only 140 miles due west of Thebes.

Although the offenses that call for banishment in this text are not specified, political rebellion seems to be what is being punished.

4. Apology of Hattusilis 12:33–36 — Hittite, ca. 1300 B.C.

Hittite text:

*na-aš a-pi₂-ya e-eš-ta ma-a-an-kan₂ da-ma-a-in ku-pi₂-ya-ti-in ku-up-ta ma-an I-NA KUR
^{URU}KA-RA^D-DU-NI-YA pí-en-bi-eš-ta nu GIM-an me-mi-an AŠ-ME na-an e-ip-pu-u-un na-an-
kan₂ A.AB.BA ta-puša*

“He (Urhitesupas) would have planned another plan, (and) would have proceeded into the land of Karaduniya; but when I heard of the matter, I arrested him and banished him across the sea.”⁸⁵

Sturtevant and Bechtel explain the context of this text.⁸⁶ Hattusilis was the younger brother of Muwattallis, who ruled as king ca. 1325–1303 B.C. After the death of Muwattallis, Hattusilis was required by the Decree of Telepinus to establish his nephew Urhitesupas on the throne,

⁸⁴ Von Beckerath, “Stele der Verbannten,” 26n23b; 34–35.

⁸⁵ CTH 81. Cuneiform text is from Edgar Sturtevant and George Bechtel, eds., *A Hittite Chrestomathy* (Philadelphia: Linguistic Society of America, 1935), 60. Transcription and translation cited here are from Sturtevant and Bechtel, *Chrestomathy*, 78–81.

⁸⁶ Sturtevant and Bechtel, *Chrestomathy*, 84.

rather than inheriting the kingship himself. Urhitesupas gradually takes away cities that are under Hattusilis' rule to erode his authority. Finally, Hattusilis seizes the throne by military action, appealing to several oracles from Ištar. Urhitesupas is allowed to rule a limited amount of territory, but when he seeks to expand his rule into Mesopotamia, Hattusilis banishes him, just as Urhitesupas himself has banished others (12:19). Here, banishment is practiced as both a political act and as an act of mercy.

5. Apology of Hattusilis 10:17–30 — Hittite, ca. 1300 B.C.

Hittite text:

(17–19) DI-*eš-šar* EGIR-*pa pi₂-e-hu-te-it nu-kan₂ A-NA¹AR-MA-^DU QA-DU DAM-ŠU*
DUMU.MEŠ-ŠU *al-wa-an-za-tar u₂-e-mi-i-e-ir na-at-ši-ya-at pi₂-ra-an kat-ta ti-i-ir nu URU-*
LUM DINGIR-LIM-ya^{URU} Ša-mu-ha-an al-wa-an-zi-eš-na-za šu-un-na-aš (25–29) nu-mu¹Ar-
ma-^DU-aš [ku-it...-w]a-aš an-tu-uh-ša-aš e-eš-ta nam-ma-aš^{LU₂}ŠU-GI-an-za e-eš-ta [na-aš ir-
ma-li-y]a-at-ta-at [na-a]n ar-ha da-a-li-ya-nu-un¹Ši-ip-pa-LU₂-in-n[a ar-ha d[a-li-ya-nu-un
[GIM-an-ma-a]t *da-a-li-ya-nu-un na-aš U₂-UL ku-it-ki DU₃-nu-un [¹Ar-ma-^DU-an] im-ma*
DUMU-ŠU-ya [A-N]A A-LA-ŠI-YA *up-pa-ah-hu-un*

Now they found witchcraft in Armadattas along with his wife and sons, and they established it against him; and he had filled even Samuhas, the city of the goddess, with witchcraft... Now because Armadattas was a man related (?) to me, (and) because he was an aged man, and he was ill, I let him off. And I let Sippa-LU₂ off. When, however, I had let them off and had done nothing to them, I actually sent Armadattas and his son to Alasiya...⁸⁷

Witchcraft was a capital crime among the Hittites, but the “Instructions to the Border Guards” text indicates that banishment was a merciful alternative option. Here, Hattusilis commutes the sentence due to Armadattas' age and illness by banishing the man and his son to

⁸⁷ CTH 81. Cuneiform text is from Sturtevant and Bechtel, *Chrestomathy*, 56. Transcription and translation cited here are from Sturtevant and Bechtel, *Chrestomathy*, 74–75.

Cyprus (Alašia). In the following sentence (not in the above text), Hattusilis says he also gave half of Armadattas' estate back to him.

The crime here is not purely a political crime, since the community is put at risk of forces from the underworld and possible contamination. Therefore, the resemblance to biblical *kareth* is not as strong as a case of *hurkel* would be.

B. First millennium B.C. texts and later.

1. *RIMA* 3 A.O.104.9, rev., lines 10–14 (duplicate: AAA 20 105+, rev., lines 10–13) — Neo-Assyrian. Adad-nerari III, dated 797 B.C.

Akkadian text:

še-ši ina ŠU ša₂-ni-im-ma mu-nu-šu₂ MAN EN-šu₂ ul-tu qe₂-reb E₂.GAL-šu₂ [i]t'²-ti a-mat HUL-tim u MU NU SIG₅ i-na-sah₃-šu₂ a-di u₄-me TIL.A ina qe₂-reb E₂.GAL e-rib-šu₂ NU GAL₂

If anyone tells the king to remove the province of Hindanu from the authority of Nergal-eriš, “may the king his lord banish (*i-na-sah-šu*) him from his palace with curses and maledictions. As long as he lives, may he not be allowed to re-enter the palace.”⁸⁸

This text is from a stone tablet on display in the temple of Ištar in Nineveh.⁸⁹ It contains a warning against challenging the authority of the governor that Adad-nerari has installed in Hindanu. Since the offender is to be banished from the palace but not from the temple, a purely political offense is in view.

2. ADD 647 = K 211, rev., line 29 — Neo-Assyrian. Assurbanipal, dated 657 B.C.

⁸⁸ Reginald Campbell Thompson and M. E. I. Mallowan, “The British Museum Excavations at Nineveh, 1931–32,” AAA 20 (1933): 71–186; plates 80–104. Cuneiform = plate 99, tablet 105, rev., lines 11–13; transcription: pages 113–14; translation: 115. Transliteration and translation cited here are from Albert Kirk Grayson, *Assyrian Rulers of the Early First Millennium BC II 858–745* (Royal Inscriptions of Mesopotamia Assyria 3; Toronto: University of Toronto Press, 1991), 215, rev., lines 10–14.

⁸⁹ Grayson, *RIMA* 3, 213.

Akkadian text:

qe₂-reb E₂.KUR E₂.GAL i-tal-lu-ka li-za-am-me-[š_u₂]

Whoever disturbs the body of this servant of the king after he dies, “May the king...forbid him to walk in temple and palace.”⁹⁰ Three other verbatim examples are: NARGD 12+, rev., line 29;⁹¹ K14444, rev., line 5; K6197, rev., line 1.⁹² All three are royal grants from the period of Assurbanipal, but dates are unavailable due to the fragmentary nature of the texts. The preceding sentence makes a decree over the offender that reads (apparently verbatim in all three cases despite gaps in the texts), “May the king his lord be angry with him and show him no mercy,” while the banishment decree is followed by, “and by the wrath of god and king may a bloodstained weapon await him. May the dogs tear apart his corpse as it lies unburied.”

Although this standard threat resembles a curse, it is almost entirely within the power of the king who is making the threat to deliver what he promises, with little if any help needed from deity. The limited banishment that is decreed here, therefore, qualifies as a form of punitive expulsion, although its resemblance to biblical *kareth* is admittedly remote.

3. NARGD 37, rev., lines 2–4 — Neo-Assyrian. Private undated votive text.

Akkadian text:

^dİŠ.TAR *a-šib-bat URU.arba-il₃ SAHAR.ŠUB.BA-a li-mal-li-š_u₂ a-na E₂.KUR E₂.GAL e-reb-š_u₂ li-hal-liq*

⁹⁰ Claude H. W. Johns, *Assyrian Deeds and Documents* (4 vols.; Cambridge: Deighton, Bell, and Company, 1898), cuneiform = 1:506, tablet 647, rev., line 29. Transliteration and translation cited here are from Laura Kataja and Robert Whiting, *Grants, Decrees, and Gifts of the Neo-Assyrian Period* (State Archives of Assyria 12; Helsinki: Helsinki University Press, 1995), 26, no. 25.

⁹¹ John Nicholas Postgate, *Neo-Assyrian Royal Grants and Decrees* (Rome: Pontifical Biblical Institute, 1969), 34, no. 12, K 2814 (+ ADD 734, ADD 4, pp 172–3-) + K 14460 + Rm 572, plate 16, rev., line 62. Transcription and translation are in Kataja, SAA 12, 34, no. 31.

⁹² Transcription and translation for these are in Kataja, SAA 12, 35, nos. 33 and 34.

“May Ištar dwelling in Arbela fill him with leprosy and cut off his entrance to temple and palace.”⁹³

Postgate states that this text is from “an unstratified context East of the Nabu temple at Nimrud,” and that it is “clearly a grant to the Nabu temple at Kalhu,” therefore it must be a royal gift.⁹⁴ This text is a curse rather than a legal decree. It calls upon a deity to inflict a plague that will bar the offender from the presence of god and king. According to lines 3–4 of the text, the donor has cleared a third party of unspecified claims, and hereby warns anyone else of bringing claims against that party, invoking curses by several deities in addition to the above curse if anyone should try to do so. While the text does not function to declare a punishment by human legal authority, it does call for a form of limited banishment (albeit by divine hand), a form that becomes a standard threat in similar Neo-Assyrian decrees.

4. ABL 1105, rev., line 11–12 — Assurbanipal, treaty with Babylonian allies, from the time of the Šamaš-šumu-ukin rebellion, 652–648 B.C.

Akkadian text:

^d30 *na-an-na-ru* AN-*e u* KI.TIM [xxxxxxxxxxxxxxxx] E₂.KUR *u* E₂.GAL *e-re-ba-nu*

“May Sin, light of heaven and earth, [...*prohibit*] your entry into temple and palace [...].”⁹⁵

Similarly, Esarhaddon’s treaty with Ratamaia:

⁹³ Postgate, *Grants*, cuneiform =74, plate 23, rev., lines 14’–16’. ND 6207. Not collated. Menzel Tempel [sic] n 67 T 171–72. Transliteration and translation cited here is from Kataja, SAA 12, 123, no. 97, rev., lines 2–4.

⁹⁴ Postgate, *Grants*, 74–75.

⁹⁵ Robert F. Harper, *Assyrian and Babylonian Letters* (14 vols.; Chicago: University of Chicago Press, 1892–1914), cuneiform = 11:1216, tablet 1105, 82-5-22, 130, rev., line 11. Transliteration and translation cited here are from Simo Parpola and Kazuko Watanabe, eds., *Neo-Assyrian Treaties and Loyalty Oaths* (State Archives of Assyria 2; Helsinki: Helsinki University Press, 1988), 67, no. 9.

[^dxxx n]a-an-mar [AN-e u KI-ti₃ SAHAR.ŠUB.BA-e] [li-h]al-lip-ku-nu [ina IGI DINGIR.MEŠ u LUGAL e-rab-ku-nu a-a iq-bi] [ki-]ma sir-ri-me MAŠ.DA₃ [ina EDINru-up-d]a

“[May Sin], the brightness of heaven and earth,...[forbid your entering into the presence of the gods or king (saying): ‘Roam the desert] like the wild-ass (and) the gazelle.’”⁹⁶

Slanski gives three more examples of this curse that invokes the moon god Sin.⁹⁷ The first is from Šamaš-šuma-ukīn (ca. 650 B.C.):⁹⁸

^d30 ^dŠEŠ^{ki} na-nar [šamê saḥaršubba lā tebâ kīma lāni]
li-šal-bis-su-ma [kīma serrēmi ina kamât ālīšu] li-ir-tap-pu-ud

“May Sîn, luminary of [the heavens,] clothe him [(in) intractable leprosy like a garment], so that [like a wild onager] he may run about ceaselessly [on the outskirts of his city]!”

Another is from Sargon II, ca. 709–705 B.C.:⁹⁹

^d30 ^dŠEŠ^{ki}-na-ra AN-e u KI-ti SAHAR.ŠUB.PA.A li-lab-bi-is-su-ma GIN₇ x?
ANŠE.EDIN(!).NA i-na ka-mat URU-šú liš-tap-pu-ud

“May Sîn, luminary of the heavens and the earth, clothe him (in) leprosy so that like a wild onager he may run about ceaselessly on the outskirts of his city!”

Slanski’s third example is from Marduk-nādin-ahhē,¹⁰⁰ and repeats the material of her first two examples, adding only, “and may he be unable to become clean until the day of his destiny!”

⁹⁶ Donald J. Wiseman, “The Vassal-Treaties of Esarhaddon,” *Iraq* 20 (1958): 1–99. Cuneiform = ND 27, plate 6, column 6, lines 419–21. Transcription and translation cited here are from Wiseman, 59–60, lines 419–21.

⁹⁷ Kathryn E. Slanski, *The Babylonian Entitlement narûs (kudurrus): A Study in their Form and Function* (ASOR 9; Boston: ASOR, 2003), 222–26.

⁹⁸ Šamaš-šuma-ukīn, *Archiv für Orientforschung* 16, rev., lines 5–7. Transcription and translation are those of Slanski, *Entitlement*, 223–24.

⁹⁹ VAS I 70, lines v 9–12. Text cited here is from E. F. Weidner, “Babylonische Privatorkunden aus dem 7. Jahrhundert v. Chr.,” *Archiv für Orientforschung* 16 (1952–53): 35–46. Translation is from Slanski.

¹⁰⁰ Text is from Leonard W. King, *Babylonian Boundary Stones and Memorial Tablets in the British Museum*

It should be noted that, while these curses do speak of condemnation to an existence outside of one's city, none of Slanski's examples make any explicit reference to banishment from temple or palace, as the first two examples in this section do. Slanski's examples give no evidence that they are punishment of an offender by human authorities; they are divinely enforced curses.

6. ABL 706 + ABL 1318 + K 12968, rev., line 10 — Neo-Assyrian. Reign of Sargon II, ca. 725 B.C.

Akkadian text:

i-ti-ši-šu ma-a a-na KUR.e-bir-ID₂ u₂-sa-ga-li-uš

“They took him away and deported him to the land beyond the River.”¹⁰¹

The letter is addressed to the king. It is written by “your servant Zeru-ibni.” The letter concerns a Ninevite scribe Erra-Gamil, about whom the king has inquired. He states:

I summoned him, and thoroughly questioned Nabû-šumu-ušur and the scribes from Nemed-Ištar and Laqê, servants of the king my lord, (who told me): “He came two years ago, got a position with Ila'i-Bel, and worked punctually on his behalf. Last year, while Ila'i-Bel was still alive, a *tracker* came and took him away.”

It must be noted that this scribe has been deported without any knowledge of the king. The matter appears not to have been reported to the king by those responsible for this action. No offense by the deportee is indicated. It is possible that this expulsion had no legal basis.

7. K 1033 = ABL 58, rev., line 9 — Neo-Assyrian. Reign of either Esarhaddon or Assurbanipal, approximately 670 B.C.

Akkadian text:

(2 vols; London: Trustees of the British Museum, 1912), 7 ii 16–18. Translation is from Slanski.

¹⁰¹ The text in which this line occurs is a combination of the following texts: Harper, *ABL*, cuneiform = 7:759, tablet 706 (= K 1076); Harper, *ABL*, cuneiform = 13:1474, tablet 1318 (= K 5420B); Simo Parpola, ed., *Cuneiform Texts from Babylonian Tablets in the British Museum, Part 53: Neo Assyrian Letters from the Kuyunjik Collection* (London: Trustees of the British Museum, 1979), cuneiform = plate 115, no. 444. Transcription and translation of the combined text cited here are from Simo Parpola, ed., *The Correspondence of Sargon II, Part I: Letters from Assyria and the West* (State Archives of Assyria 1; Helsinki: Helsinki University Press, 1987), 160, no.

u₃ ki-i ši^{d15} ša₂ N[INA. 'KI] ^{d15} ša₂ arba-il₃ iq-ba-a[n-ni] ma-a ša₂ TA LUGAL be-li-
n[i¹] la ke-nu-ni ma-a ša₂ TA* KUR-aš-šur. [KI] ni-na-sah-šu₂ ket¹-tu¹-ma¹ TA* KUR-aš-šur. KI
li-in-ni-s [ih₂¹]*

“And inasmuch as Ištar of Nineveh and Ištar of Arbela have said: ‘We shall root out from Assyria those who are not loyal to the king, our lord,’ he should really be banished (from) Assyria!”¹⁰² The reference is to an unnamed troublemaker. The speaker is Nabu-nadin-šumi, “your (the king’s) servant.” The line previous to the quote in question reads, “[I]f he has been troublesome, may the gracious face [of the king] tur[n] away from him!” No other context is given.

Geographic punitive expulsion is clearly what is being described, and the offense is said to be political disloyalty. Political disloyalty in a public servant, however, involves the violation of an oath to deity, the breaking of which calls down the wrath of the deity. Consequently, the king must execute the deity’s wrath on the offender. Wherever a loyalty oath has been sworn to deity, punitive expulsion must be described as more than simply political.

8. ABL 505, lines 9–12 — Neo-Assyrian. Reign of Sargon II, dated 710 B.C.

Akkadian text:

ŠEŠ-šu₂ 1-en ina URU.arrap-ha it-ta-lak ma-a lu-šag-li-a-šu₂ ih-t[i¹-li]q LUGAL it-ta-har

“A brother of (Šîn-uballiṭ, mayor of Dar-šarrukku) went to Arrapha, saying ‘I will deport him,’ so he ran away and appealed to the king.”¹⁰³

204.

¹⁰² Harper, ABL, cuneiform = 1:55, tablet 58, K 1033, rev., line 9. Transcription and translation cited here are from Simo Parpola, *Letters from Assyrian and Babylonian Scholars* (State Archives of Assyria 10; Helsinki: Helsinki University Press, 1993), 221, no. 284.

¹⁰³ Harper, ABL, cuneiform = 5:544, tablet 505, 81-2-4, 95, obv., lines 9–12. Transcription and translation cited here are from Andreas Fuchs and Simo Parpola, *The Correspondence of Sargon II, Part III: Letters from Babylonia and the Eastern Provinces* (State Archives of Assyria 15; Helsinki: Helsinki University Press, 2001), 116, no. 169.

Sender: Il-yada'. Addressee: the local vizier (unnamed).

9. ABL 712, rev., lines 2–7 — Neo-Assyrian. Reign of Sargon II, dated 710 B.C.

Akkadian text:

[E₂ ^mDINGIR-*ma – tak*]-*lak nu-šag-la* [xxx] *nu-šag-la-a-ma* [LUGAL] *i-pa-lu-hu* [*ki-ma*]

E₂ ^mDINGIR-*ma – tak-lak nu-sag-li ur-ke-ti am-me-e-ša₂ an-nu-ti nu-šag-li* [0]

“We must deport the house of Ilumma-taklak, and we must also deport..., so that they will fear the king. After we have deported the house of Ilumma-taklak, let us thereafter deport the latter there, too.”¹⁰⁴

Sender: Nabû-belu-ka''in. Addressee: Sargon II.

10. Piankhy Prohibition Stela¹⁰⁵ — Reign of Piankhy, 747–716 B.C.

Egyptian text:

(6) *Nn rdít 'q.sn r hwt-ntr nt 'Imn n Pmw hry-ib Dw W'b hr mdt pfy, btw pw dd.f ír.sn m hwt-ntr nt 'Imn. 'Ir.sn (7) mdt nn wd.tw n ntr ír sw. 'Ir.sn w3ww m ib.sn, m sm3 s n wn bt3.f*

“Not letting them enter the Temple of Amun of the town of Pemu-Within-the-Pure-Mountain on account of that thing, that crime that he says they committed in the Temple of Amun...They have committed evil in their hearts, even killing an innocent man.”¹⁰⁶

Here is not a case of expulsion from the community, but exclusion from the temple. It is unclear why mere exclusion is being contemplated here, for a crime that normally merited death under Egyptian jurisprudence. It may be that the crime is known to the temple personnel, but has not been prosecuted by civil authorities.

¹⁰⁴ Harper, ABL, cuneiform = 7:764, tablet 712, Sm 1223, rev., lines 2–7. Transcription and translation cited here are from Fuchs and Parpola, SAA 15, 28, no. 40.

¹⁰⁵ Hieroglyphic text in Heinrich Schäfer, ed., *Urkunden der Älteren Athiopienkönige* (Leipzig: J. C. Hinrichs, 1905), “Bannstela,” *Urkunden* III, lines 110–13.

¹⁰⁶ Transliterated text and English translation is from Sara Orel, ed., *Death and Taxes in the Ancient Near*

11. 1 Kings 2:27 — “So Solomon banished (ויגרש) Abiathar from being priest to YHWH, thus fulfilling the word of YHWH that he had spoken concerning the house of Eli in Shiloh.” Note that in 1 Samuel 2:33, God promises, “The only one that I will not cut off (אכריה) from my altar shall be spared to weep out his eyes and grieve his heart.” Solomon’s motive is stated as mercy: “You deserve death, but I will not execute you at this time.” Abiathar has committed no death penalty offense to be found in the Torah; the issue is entirely political loyalty.

Tzevat discusses the case of Eli’s sons as an example of *kareth*, as decreed in 1 Samuel 2:33.¹⁰⁷ The reasons for God’s decree against Hophni and Phineas include treating sacred offerings with contempt (Lev 22:3, Num 15:30–31), and having illicit sex with the women who served in the sanctuary, thus bringing pollution upon themselves.

12. Jeremiah 36:5 — reign of Jehoiakim, December 605 B.C.

“I am restrained (אצור). I cannot enter the house of YHWH.”

This verse parallels the roughly contemporary Neo-Assyrian texts (above) where offenders are forbidden “to walk in temple or palace.” Here appears to be a similar case of political expulsion. Lundbom, quoting Zimmerli, rejects the literary invention approach and insists that the detail is historical: “With the account of Jeremiah 36, we enter into historically secure territory.”¹⁰⁸ While Duhm believes that Jeremiah is excluded from the Temple for reasons of Levitical impurity,¹⁰⁹ most other commentators’ views are like that of John Bright: “The probable sense is that Jeremiah had (after the incident of xx 1–6?) been forbidden to enter the temple; or perhaps it was simply that the authorities had him under observation and would stop

East (Lewiston, Idaho: E. Mellen, 1992), 114.

¹⁰⁷ Tzevat, “Studies,” 191–216.

¹⁰⁸ Jack R. Lundbom, *Jeremiah 21–36: A New Translation with Introduction and Commentary* (New York: Doubleday, 2004), 584.

him if he tried to speak there.”¹¹⁰ Bright states that אָצַר “cannot denote physical arrest” here as it does in Jeremiah 33:1 and 39:15.¹¹¹

The ancient versions themselves show a variety of interpretations of אָצַר in this passage. The LXX reads φυλάσσομαι, “I am being guarded.” Aquila and Symmachus read συνέχομαι, “I am being restrained.” Origen reads *conclusus sum*, “I am restricted/confined.” The Vulgate reads *clausus sum*, “I am shut in.” The Peshitta reads *kl’*, while the Targum reads *kly*, both implying physical restraint or incarceration. It is unlikely that Jeremiah is in prison, since in 36:19, Baruch and Jeremiah are told to “go and hide,” which would also argue against a literal interpretation of φυλάσσομαι. The most logical explanation of all the evidence is that Jeremiah is on an unwritten no-entrance list to keep him out of the Jerusalem sanctuary. 2 Chronicles 23:19 states that Temple gatekeepers were to prevent the unclean from entering the sanctuary (see Chapter Five); these may have also barred entrance to those who had been punitively expelled. This may give a picture of how *kareth* may have been practiced in the First Temple period, although it must be noted that not a single word of the *kareth* formula is found in this text.

13. Jerusalem and Babylonian Talmudim.¹¹² There are several pages on excommunication in y. Mo’ed Qat. 3:1.I–XI (distinct from *kareth*, but practiced nonetheless). The passage says that there are 24 offenses that merit excommunication, but nowhere in the text itself are these offenses listed. Examples cited in this Jerusalem Talmud chapter include a synagogue teacher who “hit a child more than was necessary” (X.G), and “whoever holds the community back from carrying out a religious duty” (VII.D).

¹⁰⁹ Bernhard Duhm, *Das Buch Jeremia* (Tübingen: J. C. B. Mohr, 1901), 290.

¹¹⁰ John Bright, *Jeremiah: A New Translation* (Anchor Bible 21; Garden City, N. Y.: Doubleday, 1965), 179.

¹¹¹ Ibid.

¹¹² Jacob Neusner, trans., *The Talmud of the Land of Israel: A Preliminary Translation and Explanation*. 5

The complete list of 24 offenses spoken of in the Jerusalem Talmud is pieced together by Strack and Billerbeck, mainly with materials from the Babylonian Talmud:¹¹³

1. Whoever despises or speaks contemptuously of a scholar – m. ‘Ed. 5:6 (see below).
2. Whoever treats the messengers of a Jewish court with contempt – b. Qidd. 70a.
3. Whoever calls one’s fellow a slave – b. Qidd. 28a.
4. Whoever belittles the words of the scribes or the words of the Torah – m. ‘Ed. 5:6.
5. Whoever is summoned to appear before a Jewish court on a specific date, and does not appear. (No reference given.)
6. Whoever does not pay a penalty or verdict handed down by a Jewish court – b. Mo’ed Qat. 14b.
7. Whoever owns a biting dog or an ox that causes damage, who does not repair the damage – b. B. Qam. 15b.
8. Whoever sells property to a Gentile, until that person takes responsibility for all disturbances that this may cause to neighboring Israelites – b. B. Qam. 114 a.
9. Whoever testifies for a Gentile against an Israelite in a heathen court for the sake of economic reward – b. B. Qam. 113b.
10. Any priestly butcher who does not give the meat that is owed to fellow priests – b. Ḥul. 132b.
11. Whoever desecrates the second day of Pentecost in the Diaspora, even if it is local custom to work that day – b. Pesah. 52a.
12. Whoever does work after noon on the fourteenth of Nisan – b. Pesah. 50b.

vols. Chicago: University of Chicago Press, 1982–.

¹¹³ Hermann Strack and Paul Billerbeck, *Kommentar zum Neuen Testament aus Talmud und Midrasch* (5 vols.; Munich: C. H. Beck, 1956), 4/1:309–13.

13. Whoever is heard to utter the Divine Name unnecessarily – b. Ned. 7b.
14. Whoever leads the masses to eat sacred offerings outside Jerusalem. (No reference.)
15. Whoever leads the masses to desecrate the divine Name – b. Ta’an. 23a.
16. Whoever calculates leap years outside Israel and determines when to change the calendar – b. Ber. 63a. See also y. Mo’ed Qat. III 81d, 22–24 (below).
17. Whoever puts a stumbling block before the blind – b. Mo’ed Qat. 17a.
18. Whoever hinders the crowd from fulfilling a religious obligation – j. Mo’ed Qat. 3, 81d, 21 (see below).
19. Any butcher who gives or sells meat from torn animals – b. Sanh. 25a.
20. A priestly butcher who will not let his butcher-knife be inspected by scholars – b. Hul. 18a.
21. Any male who sexually stimulates himself – b. Nid. 13b: “A man who wilfully causes erection should be placed under the ban.” This passage is based on m. Nid. 2:1: “The hand that oftentimes makes examination is, among women, praiseworthy; but among men – it is to be cut off!”
22. Any divorced couple who bring complaints to court against one another that give suspicion that they have resumed sexual intimacy with each other – b. Ketub. 28a. This chapter forbids all remarriage with a former spouse, and prescribes how much distance is to be kept between former spouses to prevent all suspicion of resumed intimacy.
23. Any scholar, whose “reputation is a most offensive one (dessen Ruf ein übler ist)” – b. Mo’ed Qat. 17a.
24. Whoever pronounces a ban on someone who does not deserve it – y. Mo’ed Qat. 3, 81d, 40.

Much of the material in the Talmudim involves characters and events long after the destruction of the Temple. The case of Theudas of Rome is one case that appears to take place while the Temple is still standing:

It was taught: Said R. Yosé, “Todos of Rome taught the people of Rome to eat lambs roasted helmet-style on the night of Passover. Sages said to him, “If you were not Todos, should we not excommunicate you [for this proper instruction]?” (And what was so special about Todos? Said R. Hanania, “He would send gifts in support of rabbis.”) “For do you not turn out to cause the community to eat Holy Things outside [of the Temple]? And whoever causes the community to eat Holy Things outside of the Temple is supposed to be excommunicated.”¹¹⁴

Also in the Jerusalem Talmud is a case involving the official reporting of the new moon. Rabbi Gamaliel II threatens a ban against Rabbi Akiba, who wanted to prevent large numbers of people from reporting the new moon because it was a Sabbath. Gamaliel says that Akiba “hindered the people from complying with a commandment.” (y. Mo’ed Qat. III 81d, 22–4) Similarly, in the Babylonian Talmud, Hananiah is threatened with a ban for determining intercalary months in Babylon, taking upon himself authority that was reserved for the rabbis in Palestine (b. Ber. 63a).

In addition, in b. Mo’ed Qat. 17a, the text says, “Rabbi (Jehuda) had a maid servant who saw a man flogging his grown-up son. She banned him because by so doing he was transgressing the commandment ‘You shall not put a stumbling-block before the blind.’” The date for this incident would be ca. 200 A.D., if it is not legendary. It is remarkable that here, a woman who is not a rabbi pronounces the ban. Presumably she commands the authority of her master, Rabbi Judah ha-Nasi. This may be the same incident referred to in the Jerusalem Talmud (Mo’ed Qat. 3:1 X. G), although names and details do not match.

¹¹⁴ Neusner’s translation refers to this passage as y. Mo’ed Qat. 3:1 VII. E–H. The traditional reference is p. Moed Qatan III 81d, 24–28.

There are also brief allusions to excommunication in the Mishnah. In m. Ta'an. 3:8, Onias the Circle Maker (ca. 80 A.D.) is threatened with a ban for being too familiar and irreverent toward God. In m. Mid. 2:2, both mourners and those who are under a ban find it necessary to go around the Temple rather than passing through it. This tradition appears to be an authentic tradition from the time when the Temple still stood. It provides evidence that excommunication included exclusion from the Temple for the length of time that it was decreed on the individual.

In m. 'Ed. 5:6, Akabya b. Mahalaleel is reportedly banned for failing to retract four of his opinions on purity, although the Mishnah's editor (Rabbi Judah) denies it: "God forbid that it should be Akabya that was put under the ban! — for the Temple Court was never shut against the face of any man in Israel so wise and sin-fearing as Akabya b. Mahalaleel." Also in this same passage, Eleazar b. Enoch is banned "because he threw doubt on [the teaching of the Sages concerning] the cleansing of hands."

The Babylonian Talmud contains several references to how excommunication was practiced in b. Mo'ed Qat. 16a. It says, "Our Rabbis taught: No 'separation' ban (שְׁמִרָה אוֹ נִדְוִי) holds less than thirty days and no 'reproof' (נִזְיָפָה) holds less than seven days." In this passage, Rabbi Hisda remarks, "Our 'separation' [in Babylon] corresponds to their 'reproof' [in Palestine]." Also in this same passage, one rabbi pronounces the ban by saying, "'Bar Ḳappara, I have never known you!' He realized that he [Rabbi] had taken the matter to heart and submitted himself to the [disability of a] 'reproof' for thirty days."

Forkman reviews the range of opinions on this practice:

Around the question of the ban's function there reigns a certain amount of confusion. נִדְוִי is most often translated as "excommunicated" or something similar. This happens often, for example, in the Soncino edition of the Bab. Talmud. E. Schürer equates the ban with expulsion from the Jewish community. G. F. Moore speaks of the ban as excommunication. S. Krauss describes it as a temporary exclusion, and L. Finkelstein calls it "expulsion."

Contrary to this interpretation Billerbeck maintains that the ban, נדוי, was something completely different from an expulsion...Hunziger stresses that the ban never aimed at complete exclusion from the synagogue.¹¹⁵

At its earliest stage, this practice of expulsion may have only been practiced within the circle of the Pharisees, who had an exclusive membership. Only with the passage of time does it become a generalized practice. John 9:22 (see also 12:42) claims that this form of expulsion was employed on followers of Jesus. Certainly by the time John was written, in the last decade of the first century A.D., this ban had become official for a large portion of the Jewish community.

Talmudic excommunication bears more resemblance to Jesus' teaching in Matthew 18:15–17 than it does to *kareth*. It nevertheless serves as evidence for punitive expulsion, although the rationale for Talmudic excommunication may not have been exactly the same as for *kareth*, since there is no indication in the Talmud that such offenders threaten to bring wrath on the community. Forkman observes,

If we inquire into the kind of opposition which brought on the threat of a ban or was belayed with a ban we find, namely, that opposition to questions of purity played a greater part before the year 70, while the traditions after the year 70 lay more stress on the character of the opposition as being defiance against the rabbinic authority.¹¹⁶

Thus, purity and authority, both of which are components of *kareth*, served as the unspoken rationale for excommunication in the rabbinic period. Excommunication was intended to preserve the authority of the *halakoth*. The handling of the *kareth* offenses specified in the Torah had already been institutionalized, as well as the theology of *kareth* as punishment at the hands of heaven (see Chapter One). But the need for punitive expulsion persisted, as threats of impurity and insubordination arose that were not covered by *kareth*, but which resembled *kareth* offenses.

¹¹⁵ Forkman, *Limits*, 102.

¹¹⁶ Forkman, *Limits*, 97.

Rabbinic practice may have been similar to the way that *kareth* offenses were handled in preexilic and early postexilic Israel.

8. 1 Corinthians 5:1–13 — ca. 55 A.D.

Paul here is addressing a case of a man who has begun a sexual relationship with his father’s wife (presumably his widowed stepmother). Although Paul’s advice to “deliver this man to Satan for the destruction of his flesh” is not entirely clear, the consensus is that Paul is calling for the offender to be expelled from the local faith community. Collins observes that for Paul, “His major concern was for the holiness of the community...Whoever destroys the temple by polluting it through unclean acts will also be destroyed.”¹¹⁷ Under this understanding, Paul views the faith community in a way similar to the way the sanctuary was regarded in the *kareth* offenses in the Torah.

At the conclusion of this passage, Paul quotes Deuteronomy 17:7 (LXX): “Expel (ἐξῆρατε) the wicked person from among you.” The Hebrew of this passage, “You shall purge (ויבערת) the evil from your midst,” is a Deuteronomic formula that is exclusively associated with death penalty offenses (see also Deut 13:5; 17:12; 19:13; 19:19; 21:21; 22:24; 24:7), which is what this offense at Corinth calls for in the Torah (see Lev 20:11). Yet Paul calls for expulsion rather than death (possibly because death is not an option under the prevailing legal situation). He essentially commutes the deserved sentence to what is arguably a form of *kareth*. What is important to note is Paul’s purpose in this action: “Excommunication was not simply a matter of discipline...its main purpose was to keep the church from corruption by amputation of the diseased member.”¹¹⁸

¹¹⁷ Adele Yarbro Collins, “The Function of ‘Excommunication’ in Paul,” *Harvard Theological Review* 73 (1980): 259–60.

¹¹⁸ Pope, *IDB* 1:184.

Other texts.

The final group of texts consists of texts where it is unclear whether punitive expulsion is being practiced at all. They are presented here for their value to be judged by the reader.

1. *ARM* 26 144: 9–15 — Mari, ca. 1765 B.C.

Akkadian text:

[u]m-ma šu-u₂-ma [l]u₂ dumu-meš ra-pi₂-qi₂-im^{ki} ša i-n[a l]i-ib-bi ter-qa^{ki} [wa-aš-bu] ma-la i-ba-[aš]-šu-u₂ i-na a-lim^{ki} šu-ši₂ lu₂ dumu-meš [ra]-pi₂-qi₂-im^{ki} [š]a i-na ter-qa^{ki} [w]a-aš-b[u] u[š]-te-ši₂-ma [i/a-na] kap-ra-tim

“‘Evict the citizens of Rapiqum who [are staying] inside Terqa, however many they are, from the city!’ I have evicted the citizens of Rapiqum who were staying in Terqa...”¹¹⁹

There are numerous expulsions and fugitives at Mari, but most of them are groups, and/or they occur in the context of warfare, and there is not enough evidence that specific crimes have been committed. Here, a population within a town is being deported specifically for rebellion.¹²⁰ The move is a response to an omen obtained by extispicy. The purposes are entirely practical and political.

2. *EA* 37:24 — Amarna, letter from the king of Alašia to the king of Egypt, ca. 1400 B.C.

Akkadian text:

[^m]Pa-aš₂-tum-me-e ^mKu-ni-e-a ^mE-til-lu-na [^m] _ _ -r[u-u]m-ma ^mUš-bar-ra
^m[B]e-[e]l-[š]a₂-a[m-]m[a] a_hu^ú-a l[i]-[mi-]š[i-r]a-[š]u₂-nu[-t]i

¹¹⁹ Durand, *Archives Épistolaires*, 308. Translation cited here is from Wolfgang Heimpel, *Letters to the King of Mari: A New Translation, with Historical Introduction, Notes, and Commentary* (Winona Lake, Ind.: Eisenbrauns, 2003), 230.

¹²⁰ Durand, *Archives Épistolaires*, 308.

“Paštummê, Kunêa, Etilluna, _ _ _r[u]mma, Ušbarra, [B]el[ša[m]m[a], all these let my brother send.”¹²¹

In Moran’s edition, Cyrus Gordon restores the gap in line 24 with a verb rather than a name: “May the city expel (*[li-it-ru-d]an-na*) Paštumme, Kunnen, [and] Etilluna.”¹²² It must be noted that this possible example of punitive expulsion rests entirely on a proposed restoration. Mercer’s translation (above) makes no reference to expulsion. However, the context indicates that the king of Alašia (Cyprus) is inviting the king of Egypt to deport any Cypriots who are causing trouble in Egypt.¹²³

3. EA 62:37–38 — Amarna, letter of Abdi-Aširta to Paḥanate, ca. 1400 B.C.

Akkadian text:

_ _ _ [š]u₂-nu iš-tu ^{al}Šu-mu-ri^{ki} _ _ _[b]e-t[u-m]a la-a aṭ-ru-ud-[m]i
[mi-ni]m [i]-k[a]-az-zi-bu-nim [^{amēlūt}] ḥa-za-nu[-t]e^{m[e]š} a-na pa-ni-ka

“I did not expel (*aṭ-ru-ud-mi*) them out of Šumur. What lies did the regents tell thee?”¹²⁴

This passage seems to be a reference (via a denial) to the kind of political expulsion practiced by the Hittites and in Mari. However, it is unclear whether the act was a formal legal or political act, or whether the individuals were merely expelled out of animosity.

¹²¹ Carl Bezold and Ernest Alfred Budge, *The Tell el-Amarna Tablets in the British Museum* (London: British Museum, 1892), cuneiform = 17, no. 7, rev., line 24. BM 29790, B. U. 88-10-13, 48. Transcription is from Samuel A. B. Mercer, ed., *The Tell el-Amarna Tablets* (2 vols.; Toronto: Macmillan, 1939), 1:200. Translation cited here is from William L. Moran, ed. and trans., *The Amarna Letters* (Baltimore: Johns Hopkins University Press, 1992), 110.

¹²² Moran, *Amarna*, 110.

¹²³ Mercer, *Amarna*, 201n38: “It seems that people of the land of Lukki had to some extent molested Egyptian territory, and that the pharaoh thought that Alašians helped them. The king of Alašia professes ignorance of the matter, and explains that the people of Lukki are no friends of his, and that, if the pharaoh can prove that any Alašians are conspiring with the people of Lukki, he will speedily deal with them.”

¹²⁴ Otto Schroeder, *Die Tontafeln von El-Amarna* (Vorderasiatische Schriftdenkmäler der Königlichen Museen zu Berlin, Heft 11–12; Osnabrück: Zeller, 1915), cuneiform: 42, no. 28, lines 37–38. VAT 1680. Transcription in Mercer, *Amarna*, 1:254. Translation in Moran, *Amarna*, 134.

4. *YOS* 10 31 ii.52–54 — The date of this text is uncertain, as is often true for omen texts, although Lafont places it in the Old Babylonian period.¹²⁵

Akkadian text:

šum-ma mar-tum ap-pa-ša a-na KA₂ E₂.GAL-im ša-ki-in ʔa-ri-du-u₂-um ša kuššudu ana ālišu itâr

“If the tip of the gall bladder is located at the palace gate, the exile who has been hunted shall return to the city.”¹²⁶ At least eighteen other examples of exiled figures (mostly political) are cited in similar texts in *CAD* 19:60–61, including:

šarru ʔar-du itibbēma māta ibêl — “an exiled king will rise up and rule the land” (*CT* 39 11:48).

ʔar-du ana bīt abišu itâr — “the exile will return to the house of his father” (*CT* 30 50:12, also *CT* 51 158:11; *CT* 20 22 81–2–4, 279:8.)

ʔar-du kussâ iṣabbat — “an exile will usurp the throne” (*ZA* 52 242:34).

ʔar-du pi-du-šu ta-nam-din — “you (Marduk?) pay the ransom for the exile” (*KAR* 321, rev.1).

It is unclear whether these are exiles who are being punished for political crimes, fugitives from justice, or escapees from a *coup d'état*. Because of the hypothetical nature of omen texts, the only context that can be spoken of is the real life conditions in which the predictions would be heard. The texts speak of a fairly common phenomenon of political leaders being sent away to live in exile. No doubt, there were also fugitives who were avoiding capital punishment (the question of why the hypothetical figure in the *YOS* text is being “hunted” raises this possibility),

¹²⁵ Lafont, *Femmes*, 184.

¹²⁶ Albrecht Götze, ed., *Old Babylonian Omen Texts* (Yale Oriental Series, Babylonian Texts 10; New Haven: Yale University Press, 1947), cuneiform = plate 43, tablet 31, column ii, lines 52–54. Transcription and translation cited here is from *CAD* 19:61.

but at least some of the hypothetical figures in these omen texts seem to have been punitively expelled (the term *ṭarīdum* strongly suggests one who has been sent away rather than an escapee). The resemblance to biblical *kareth* in these cases is superficial, but it appears that such expulsion was practiced commonly enough to be proverbial.

5. *HSS 5 71:36* (+ *HSS 19:25, 39*; *JEN 444:23*) — Nuzi (ca.1500 B.C.):

Akkadian texts:

HSS 5 71:36 – TUG₂.HI.A *iḥammašuma eriššiša u₂-še-šu₂-uš*

HSS 19:25, 39 (repeat) – TUG₂.-šu *uḥammaš u u₂-še-eš-ši*

JEN 444:23 – *iḥammašu u uštubīti₃ya u₂-še-eš-šu₂-u₂*

“...they take off (her) clothing and drive her out naked.”¹²⁷

Lafont sees these texts as describing a local penalty for adultery. It is admittedly unclear in these passages whether the woman involved is merely cast out of her home or driven out of town, but what is described appears to be a standardized practice rather than a chance occurrence. Both Lafont and Jacobsen cite a similar example in the Sumerian text “The Guilty Slavegirl,” where the goddess Inanna throws Ama-namtagga at the foot of the city wall, accusing her of adultery with her husband Dumuzi.¹²⁸ Lafont argues that in the early second millennium B.C., adultery was handled in a manner resembling a lynching more than a judicial case: “la pécheresse est jetée aux pieds des murailles de la ville et exposée à la vengeance publique.”

¹²⁷ The first text is from Edward Chiera, *Excavations at Nuzi: Conducted by the Semitic Museum and the Fogg Art Museum of Harvard University, with the Cooperation of the American School of Oriental Research at Bagdad* (sic; Harvard Semitic Series 5; Cambridge, Mass.: Harvard University Press, 1929), cuneiform = plate 66, tablet 71, rev., line 36. Transcription in Lafont, *Femmes*, 40n44. Translation cited here is that of the present writer. The second text is from Harvard Semitic Museum, *Excavations at Nuzi* (Harvard Semitic Series 19; Cambridge: Harvard University Press, 1962). The third text is from Edward Chiera, ed., *Joint Expedition with the Iraq Museum at Nuzi: Mixed Texts* (American Schools of Oriental Research Publications of the Baghdad School Texts 5; Philadelphia: University of Pennsylvania Press, 1934), cuneiform = plate 427, text 444, obv., line 23.

¹²⁸ Lafont, *Femmes*, 40; Jacobsen, *Tammuz*, 206. The text is found in Paul Haupt, *Akkadische und Sumerische Keilschrifttexte* (Assyriologische Bibliothek 1; Leipzig: J.C. Hinrichs, 1882), no. 17, lines 13–22.

However, according to Gordon, in the case of *HSS 5 71*, the text is actually a will where the husband decrees the above penalty if the wife remarries after the husband's death.¹²⁹ Similarly, a Kassite marriage contract from Nuzi cited by Gordon states that if the wife ever says to her husband, "Thou art not my husband," the wife shall be thrust out naked (*e-ri-ši-ša u₂-ši*).¹³⁰ If Gordon is correct, one could argue that these texts from Nuzi become completely irrelevant to *kareth*. However, Westbrook observes on this text, "The rationale of the penalty would appear to be that the wife's action is deemed a betrayal on a par with adultery."¹³¹ He adds that the woman will be forced to go to the roof of the palace after being stripped, as part of a previously agreed disincentive to divorce, comparable to similar penalties in other Mesopotamian marriage contracts. The resemblance to *kareth* here is almost nil, but is worth noting.

Conclusions

Three purposes of punitive expulsion reveal themselves in the Near Eastern evidence. The first purpose is political, to deprive a person who is a political threat of the ability to participate in society. The second purpose is mercy, where expulsion is practiced as a less drastic punishment than death. The third purpose is removal of contamination to avoid the wrath of deity upon the community, a purpose that is particularly evident in Hittite practice.

The Near Eastern evidence cited above verifies the hypothesis that, contrary to the impression created by its virtual absence in the formal Near Eastern legal codes, expulsion or banishment was, in practice, an accepted form of judicial punishment in Israel's broader Near Eastern context that was widespread both geographically and chronologically. The evidence

¹²⁹ Cyrus Gordon, "Hos 2⁴⁻⁵ in the Light of New Semitic Inscriptions," *ZAW* 54 (1936): 278.

¹³⁰ *Ibid.*

¹³¹ Raymond Westbrook, "Adultery in Ancient Near Eastern Law," *Revue Biblique* 97 (1990): 559.

establishes the plausibility of the expulsion penalty in Israel as a combination of mercy for a crime that deserves death, plus removal of contamination. It demonstrates a clear precedent in the second millennium B.C. for such expulsion, and documents its use throughout the biblical period in the ancient Near East. It also shows clear evidence that such expulsion was practiced by post-exilic Jews, even if that practice is not clearly connected to the language of *kareth*.

The question is, How strong are the parallels between any of these pieces of evidence and the biblical *kareth* penalty? In terms of time and geography, the early Mesopotamian, Hittite, and Egyptian evidence are closest to the context in which the biblical *kareth* penalties are set. The former is likely to have been a component of the Hebrews' patriarchal heritage. The latter provides a contemporary context for Hebrews who have just come out of Egypt (expulsion was a well-attested legal option right there in their own time, at least in theory). Both Israel and the Hittites appear to have inherited culturally from the Hurrians, therefore Hittite banishment and its accompanying concept of impurity may be a clue to Israelite practice. Two significant differences of Egyptian punitive expulsion from biblical *kareth* are the specification of a distant destination for the banished offender, and the almost complete confinement of this penalty in Egypt to its presence in oath formulas.

CH §154 is the closest parallel to what is proposed to be biblical *kareth*: a provision in a legal code that punishes by geographic expulsion from one's city a perpetrator of a sex crime like the kinds described in Leviticus 18, a penalty more merciful than death, that also removes what may have been viewed as a source of contamination. Hittite practice becomes the next closest parallel: expulsion clearly is practiced by local option as a merciful commutation of capital punishment in the standard legal code, with the motive to remove contamination clearly in evidence.

Royal decrees become the next closest parallels to *kareth*. The foremost of these is the case from Ugarit. The crime of counterfeiting royal restricted property parallels the sacred restricted items in Exodus 30:33 and 38, and a merciful alternative to death is provided for. The next closest parallel is the decree by the Mari prophet quoted by Yaqqim-addu, where the offense appears to be a cultic one, but the punishment stops mercifully short of death. Protection of the community from divine wrath may also be in view. The Edict of Horemheb and the Neo-Assyrian decrees bear the least resemblance to *kareth* (expulsion and possibly mercy being the only common elements), although the Neo-Assyrian decrees (expulsion from temple and palace) do resemble Israelite expulsions during the later monarchy.

Evidence from curse formulas does not parallel *kareth* as to the offenses involved. The one exception is Papyrus Deir el-Medineh, where adultery is the crime. Unlike most Near Eastern curse provisions, however, the Egyptian perjury examples do not require the action of a deity, but call for a punishment that is entirely within human power to perform. The same is true for the Neo-Assyrian curses: while Sin and Ištar are invoked, banishment from temple and palace do not require any action from deity. The punishments invoked in the above-cited passages appear to bear witness to realistic practice, as opposed to curses such as “(M)ay you be food in the belly of a dog or pig.”¹³² To the extent that a curse formula is either unlikely or impossible to have been fulfilled by deliberate punitive action by those who have decreed it, such a curse does not qualify as evidence of *kareth*.

This raises a separate issue, whether *kareth* itself is really a curse rather than a codified punishment. If it is a curse, then the parallel with these extrabiblical curses becomes obvious. It

¹³² Wiseman, “Vassal-Treaties,” 66, line 484.

is argued here that in the case of *kareth*, expulsion of the offender is achieved by human rather than divine agency.

The category of matter-of-fact references to expulsion bears the least resemblance to true biblical *kareth*. There is one monumental exception: the myth of Enlil and Ninlil, where a shocking sex crime is involved, and where expulsion rather than death is decreed by the gods (could capital punishment have been carried out against a fellow deity?). Historical evidence for expulsion among Jews in the postexilic period cannot serve as proof of the meaning of *kareth*; it can only serve as evidence that not all Jews followed the point of view of the LXX, Josephus, and the later rabbis as to how *kareth* was to be put into practice.

If *kareth* is indeed expulsion in codified form, its presence and its frequency in the Torah becomes unique among Near Eastern sources. Only Qumran, at the very end of the period in view, offers codified punitive expulsion on any comparable scale. Nevertheless, without the additional evidence presented above, the argument that *kareth* was originally intended as punitive expulsion would be more difficult to maintain. But if *kareth* is a curse rather than a codified punishment, it becomes unusual among the curses of the Torah, which are not normally mixed together with statutes. This is possibly the strongest argument against the Wold-Milgrom theory on *kareth*: no ancient Near Eastern law code contains any divine extermination curse within its system of torts.

While it is easy to trace the origins of the Wold-Milgrom interpretation of *kareth* back through the rabbinic sources to the LXX, a different interpretative tradition may be traced back from Qumran through the Maccabean period (as described by Josephus) to Ezra's fifth century B.C. community. Near Eastern evidence appears to indicate that it is the latter interpretive tradition that faithfully preserves the meaning of a penalty whose meaning had been lost to the greater part of Israel.

CHAPTER FOUR

THE *KARETH* TEXTS

Having examined the meaning of the verb כרת and other lexical issues related to the *kareth* penalty, and having examined ancient Near Eastern evidence for expulsion as a possible meaning for this penalty, the purpose of this chapter is to reexamine the *kareth* texts themselves in light of the evidence discussed in the previous three chapters. In each case, the nature of the offense will be explored to determine why it merits punishment, and whether that punishment is likely to have been divine destruction, capital punishment by human agency, or possibly expulsion.

28 verses in OT legal texts employ the *kareth* formula. It is found once in Genesis, five times in Exodus, 17 times in Leviticus (13 of which are in the Holiness Code), and five times in Numbers. It is also found twice in a nonlegal context in Ezekiel 14:8–9, the only two places where the form “my people” is found in the formula.

The *kareth* formula may be formulated in the following default form (found in precisely this form in Gen 17:14; Lev 7:20, 21, 25, 27; 17:3–4, 8–9), from which deviations must be taken note of:

כל איש or איש + אשר + qal imperfect verb + ונכרתה הנפש ההוא מעמיה

In terms of the categories defined by Alt, the form of the *kareth* penalty is always apodictic and is never casuistic.¹ A few cases, however, closely resemble casuistic statutes, since they

¹ Albrecht Alt, *Essays on Old Testament History and Religion* (trans. R. A. Wilson; Oxford: Basil Blackwell, 1966), 79–132. Alt defines apodictic legislation to be broad, categorical, unconditional commands, tersely stated,

delineate a specific case of punishable behavior, and lack only the introductory **כִּי** or **אֲשֶׁר** characteristic of classic casuistic form. The verb is passive in 24 cases (nip'al), in which cases the question whether God or human agents are the instruments of the action is left unanswered. In only four cases (Lev 17:10; 20:3, 5, 6), the hip'il form is employed, with God as the first-person subject. Only once is the infinitive absolute added to the verb for emphasis (Num 15:31, in the nip'al), and only twice (Lev 17:14; Num 15:31) is **כִּרְתָּ** employed in the imperfect rather than the waw + perfect (in Num 15:31, both of these exceptions are found in the same verse). Twice (Lev 17:14; Num 15:31) the verb occurs with no modifying prepositional phrase indicating the sphere from which one is "cut off." **עַם** is sometimes singular and sometimes plural, with possible implications for meaning.

The following is offered as a hypothesis, whose value depends entirely on whether it fits, and adequately explains, the data. It is proposed here that the above default formula is the oldest and most original form, and that, although it is also the most ambiguous, it is the form most likely to denote expulsion, given the Near Eastern evidence for expulsion to protect one's community from divine wrath. The texts that most resemble the default formula seem to have then been followed chronologically by a second category of texts that make the locus of separation more explicit. These are the clearest examples where expulsion appears to be the

usually with a participial subject. Casuistic law, by contrast, is marked by narrowly defined cases presented in **אֲשֶׁר** or **כִּי** clauses. Alt believes that casuistic law was inherited from the Canaanites and has its setting in court, while apodictic law probably comes from the wilderness period, and has its setting in worship. Others take issue with Alt as to whether there is any such distinction, arguing that the laws identified as apodictic are in reality casuistic. See Erhard Gerstenberger, *Wesen und Herkunft des 'Apodiktischen Rechts'* (WMANT 20; Neukirchen-Vluyn: Neukirchener Verlag, 1965); Fred L. Horton, "A Reassessment of the Legal Forms in the Pentateuch and their Functions," *SBLSP 1971* (Missoula, Mont.: Scholars Press, 1971), 2:359–60; Walter Kornfeld, *Studien zum Heiligkeitsgesetz (Lev 17–26)* (Vienna: Herder, 1952), 49–54; Moshe Weinfeld, "The Origin of Apodictic Law," *VT* 23 (1973): 63–75. Noth (*Exodus*, 179) argues that the participial apodictic commands in the Covenant Code are a mixed category. A. Bentzen (*Introduction to the Old Testament* [Copenhagen: G. E. C. Gad, 1952], 1:224) believes that the participial commands are part of the casuistic category. R. A. F. Mackenzie ("The Formal Aspect of Ancient Near Eastern Law," in *The Seed of Wisdom: Essays in Honor of T. J. Meek* [ed. W. S. McCullough; Toronto: University of Toronto Press, 1964], 39) believes that "just as the casuistic style is characteristic of Mesopotamian

meaning. A final category of texts resembles the language of Ezekiel and are probably the latest, although they most likely precede Ezekiel (see Chapter Five). These are the texts most likely to use כרת in the sense of “destruction.”

The passages where *kareth* appears most likely to be punitive expulsion are the passages that meet the following criteria: 1. There is a מן-phrase that clearly delineates a community from which the subject is separated; 2. עם is either used in the singular or has been replaced by “Israel,” “the congregation,” or “from my presence” (the use of מִקֶּרֶב may also add to the concept of a physical separation); 3. No contextual obstacles exist to a meaning of expulsion rather than death.

Passages that use עַמִּים do not need to be ruled out as referring to punitive expulsion, since they may refer to expulsion by one’s clan, but the Wold-Milgrom theory views this term as part of its picture of a nongeographic separation caused by the eternal extermination of the offender. Less ambiguous passages will meet criterion #2 above.

The passages will be grouped together by related subject where possible, and will be treated in the general order in which the first of each group appears in the Pentateuch.

Genesis 17:14: Penalty for failure to circumcise.

וערל זכר אשר לא־ימול את־בשר ערלתו ונכרתה
הנפש ההוא מעמיה את־בריתי הפר

כרת occurs here in the nip‘al. “Any uncircumcised male” replaces the participial subject in the default form presented above. עם occurs in the plural. Here is the lone instance where the LXX uses γένος to translate עַמִּים.

jurisprudence, so Egyptian law, or what passes for it, is conceived always in apodictic terms.”

The question here is whether a penalty of death or extermination is in view here for failure to circumcise oneself or one's sons. The possibility that death at the hand of God is intended here may explain what happens to Moses on the road back to Egypt (Exod 4:24–26).²

Considerable puzzlement was provoked in ancient times by the reading of the LXX (also found in the Samaritan text, Old Latin texts, and twice in Justin Martyr), which reads that “he who was not circumcised in the flesh of his foreskin *on the eighth day* shall be cut off from his people.”³ Philo and Origen both questioned how a child could be punished with destruction for the sin of his parents (see Chapter One), while others sought to amend the passive voice (περιτμηθήσεται) to active voice (περιτέμνει).⁴

Genesis 17:14 is commonly assigned by source critics to the P stratum. Texts assigned by source critics to P (such as Exod 12 and Num 19) tend to lean toward a nonfatal sense of *kareth*. It is this passage that serves as Morgenstern's rationale for *kareth* as exclusion; he argues that failure to circumcise amounts to de facto exclusion from the chosen people:

Those who refuse to submit to the rite of circumcision...have practically excommunicated themselves from fellowship in Israel and from participation in the cult of Yahwe. And certainly from the standpoint of Israel itself they must have been regarded as excommunicated and outside the fold.⁵

Likewise, von Rad writes on this passage,

² m. Nedarim 3:11 and Exodus Rabbah V 8 claim that Moses' life was threatened for failing to circumcise his second son. R. Simon b. Gamaliel (Mekilta יתרו, I) believes that the angel did not seek to kill Moses, but the infant.

³ Matthew Thiessen, “The Text of Genesis 17:14,” *JBL* 28 (2009): 625–42. Thiessen argues that the LXX preserves the original text. He proposes that the variant in the MT may be explained by the fact that it preserves the option of proselyte circumcision, which the LXX reading appears to invalidate. Thiessen observes that the words “on the eighth day” are more likely to have been removed than added. He also declares that there is no evidence that the MT reading existed prior to or during the Second Temple period, and no evidence for it in the Mishnah or Tosefta.

⁴ See discussion in Victor Aptowitzer, “The Rewarding and Punishing of Animals and Inanimate Objects: On the Aggadic View of the World,” *HUCA* 3 (1926): 126–29.

⁵ Morgenstern, “Addenda”, 48n52 (note begins on 43).

Whoever refuses the sign of this recognition is to be ‘cut off from his people.’ This scarcely means the death penalty, which is expressed by P in a different way, but rather exclusion from the sacred community, a kind of excommunication, which also meant ruin for the one concerned.⁶

The motive clause is explanatory: “He has broken my covenant.” The verb is פָּרַר, which is used 51 times in the OT (always in the hip‘il). The verb is used 22 times with בְּרִית as its object, four times in Numbers 30 to refer to “nullifying” a vow, and eight times for rendering advice powerless. Ashley and Hamilton suggest that it should be understood in the sense of “reneging on revealed truth.”⁷ The same word is also used in Numbers 15:31 in still another *kareth* case, “sinning with a high hand,” where הִפָּר is paralleled by בִּזָּה (כִּי דִבְרֵי־יְהוָה בִּזָּה וְאֶת־מִצְוֹתָי הִפָּר), “because he has despised the word of YHWH, and his commandments he has reneged on”).

The issue in this context appears to be loyalty to YHWH, as indicated by the language of “reneging” on the covenant. It may also be an issue of purity, if circumcision is viewed as a purification ritual, although evidence for this is slim at best.⁸ *Gērim* are not allowed to celebrate the Passover unless they are circumcised. Wold observes that by definition, “a member of the עַמִּים would be quintessentially one who has been enrolled in the covenant community of Israel by means of the circumcision which, we submit, grants to him positive ritual status.”⁹

Failure to circumcise would not be difficult to detect or prove. The question is whether anything more severe than exclusion from the covenant people is in view here. The question whether Gentiles will suffer divine extermination for simple failure to be circumcised was as thorny a question for the ancients as it is today. Interpreters found it difficult to understand how

⁶ Gerhard Von Rad, *Genesis: A Commentary*, rev. ed., trans. John H. Marks (London: SCM, 1961), 201.

⁷ Timothy R. Ashley, *The Book of Numbers* (NICOT; Grand Rapids, Mich.: Eerdmans, 1993), 289. See also Victor Hamilton, “פָּרַר,” *TWOT* 2:738.

⁸ See discussion in William Propp, *Exodus 1–18: A New Translation with Introduction and Commentary* (AB 3; New York: Doubleday, 1999), 453.

divine execution of parent or child could be meant by this penalty with reference to Gentiles.

This is evidenced by Origen's substitution of ἀφανισθήσεται (“they shall be made to disappear”) for ἐξολοθρεύεσθαι (“they shall be utterly destroyed”) in his reading of the LXX, which suggests a tradition of interpretation that understood this passage as mandating punitive expulsion, possibly in light of the fact that Gentiles are not part of the covenant people, and that Israelites who fail to practice circumcision, place themselves in the same position as the Gentiles.

While the wording of Genesis 17:14 follows the ambiguous wording of the default *kareth* formula, the context of a cultic requirement performed usually on newborn boys, plus the fact of what is communicated by failure to accept this covenant sign, strongly favors expulsion rather than destruction as the proper way to understand this text. The logic of the situation lends itself best toward a non-fatal penalty: those who refuse to be circumcised are by default separating themselves from the covenant people, and shall consequently be expelled from it. The fact that Origen offers ἀφανισθήσεται as an option at Genesis 17:14 strengthens the likelihood that expulsion rather than destruction is meant, in that it shows that at least one early writer understands “made to disappear” (by expulsion?) as one possible meaning of this text.

Exodus 12:15: Penalty for eating leaven during Passover.

כי כל-אכל חמץ ונכרתה הנפש ההוא מישראל מיום
הראשן עד-יום השבעי

Exodus 12:19: Penalty for eating leaven during Passover (repeated).

כי כל-אכל מחמצת ונכרתה הנפש ההוא מעדת ישראל
בגר ובאזרח הארץ

⁹ Wold, “Kareth,” 11.

Numbers 9:13: Penalty for failing to observe Passover.

והאיש אשר־הוא טהור ובדרך לא־היה וחדל לעשות הפסח
ונכרתה הנפש ההוא מעמיה כי קרבן יהוה לא הקריב
במעדרו חטאו ישא האיש ההוא

The first two verses both concern the prohibition of leaven during Passover. The first passage replaces “from his people” with “from Israel;” the second passage does so with the more pleonastic “from the congregation of Israel.” The prohibition against leaven is applied to both alien and native Israelite.

The third passage concerns anyone (איש) who is clean and has no excuse not to observe the Passover, but fails to do so.¹⁰ In this passage, the penalty declaration is followed by a כי clause that gives the rationale for the penalty: “because he did not present YHWH’s offering at its appointed time.” עמ occurs in the plural. The passage adds: “he shall bear his חטא,” a variation on the expression “to bear one’s עון” discussed in Chapter Two. It is a syntagmic expression that often accompanies *kareth*, taken here to be an indication that the offense is more serious than an offense for which sacrifice can atone.¹¹

The issue is sacred time. The motive clause in Exodus 12:17 is historical: “for on this very day I brought you out from the land of Egypt.” The implication is that the date of Passover is sacred because of YHWH’s historic act of salvation that took place that day. To ignore that date is an act of contempt against YHWH, unlike failure to observe the Feast of Šabu‘ot or of Sukkot, neither of which carries any penalty for failure to observe them. Also, unlike Šabu‘ot or Sukkot,

¹⁰ The third passage pairs the masculine איש with the feminine נפש, making it clear that נפש is used here to mean “individual” rather than “life,” as discussed in Chapter Two.

¹¹ As argued in Chapter Two by Schwartz, “Bearing,” 15; and Milgrom, AB 3A, 1490.

Passover marks the birth of Israel as a nation, and is therefore deeply connected to the identity of the people as a covenant community.

Sacred time is one of the issues in the Hittite text “Instructions for Temple Officials,” 9:59–77, a text where an unnamed but severe divine penalty is declared:¹²

You who are temple officials, if you do not celebrate the festivals at the time proper for the festivals and if you celebrate the festival of spring in the autumn, or (if) – when in the course of time a festival is about to be celebrated – he who is to perform it comes to you, the priests, the “anointed,” the mothers-of-god, *and* to the temple officials and embraces your knees (saying): “The harvest is before me, or arranging for (my) marriage, or a journey, or some other business. Do me a favor and let me finish that business first. But when that business of mine is finished, I shall perform the festival as prescribed” – do not yield to a man’s whim, let him not *take precedence* (of the gods). You must not make a deal of the gods’ pleasure. Should with you a man *take precedence* (of the gods) and should you make a deal for yourselves, the gods will seek revenge on you in the future. They will hold a grudge against you, yourselves, your wives, your children (and) your servants. So act only according to the pleasure of the gods!

While violation of sacred time is the ultimate issue here, part of the issue is what specific acts violate the sanctity of the Passover. Segal observes,

But it is not the order to eat *massoth* whose infringement carries the extreme penalty of excommunication; it is the prohibition against leaven. And so firm and definite is the rule against fermenting matter that it applies not only to all Israelites, but also to *gerim*, whether circumcised or not.¹³

Failure to eat unleavened bread would be difficult to establish. It is evidently assumed that unleavened bread will be eaten, and the commandment thus fulfilled, if all leavened products are removed from the community.

There is some question as to the extent to which the Passover per se was consistently observed, as described in Exodus 12. Joshua 5 raises the issue of the extent to which the

¹² “Instructions for Temple Officials,” trans. Albrecht Goetze, *ANET*, 207–10.

¹³ Juda H. Segal, *The Hebrew Passover: From the Earliest Times to 70 A.D.* (London Oriental Series 12; New York: Oxford, 1963), 178.

Passover was actually kept during the wilderness period, since all the men must be circumcised before Passover is celebrated here. Kaufmann, citing Numbers 9, counters that Passover was “the only festival that *was* celebrated during the Wandering.”¹⁴ It is clear that the “Feast of Unleavened Bread” was observed since Israel’s earliest days as a nation, from its multiple attestation in sources that are conceded to be early (Exod 23:15; 34:18). Yet 2 Kings 23:22 declares when the Passover kept in 622 B.C. by Josiah, “No such Passover had been kept since the days of the judges who judged Israel, even during all the days of the kings of Israel and of the kings of Judah.” Perhaps the attempt to hold a centralized observance is what is in view here. 2 Chronicles 30:26 records an earlier centralized Passover held by Hezekiah. It says, “There was great joy in Jerusalem, for since the time of Solomon son of King David of Israel there had been nothing like this in Jerusalem.” The significance of this issue is that the penalty in question here applies to failure to observe a key holy day associated with the identity of the nation, which failure in this case appears to have gone unpunished for a substantial period, if this is what the above cited texts intend to convey.

Failure to observe Passover (roasting and eating the lamb) would not be difficult to ascertain. However, the specific offense in Exodus 12, consumption of leaven, would be more difficult to detect or prove. The language of separation “from the congregation of Israel” argues in favor of a form of excommunication rather than prevention of future reunion with one’s extended family in the afterlife, as argued by the Wold-Milgrom position, because the specific language used in Exodus 12 for the sphere from which the offender is separated appears to provide interpretation for the more ambiguous עַמִּים of Numbers 9:13. The language used both

¹⁴ Yehezkel Kaufmann, *The Religion of Israel: From Its Beginnings to the Babylonian Exile* (trans. and abridged by Moshe Greenberg; Chicago: University of Chicago Press, 1960; repr., New York: Schocken Books, 1972), 235n11 (emphasis added).

here and in verse 19 (הקהל) makes it clear that the earthly community of Israel rather than one's extended family in the afterlife is what is meant by עמים in the view of this biblical writer.

The *kareth* declarations in Exodus regarding the Passover belong to the category of instances where the formula has been preserved with added specificity. The first formulation is that the offender shall be separated “from Israel.” Whether this implies geographical expulsion or deprivation of citizenship is not clear, but the language used here makes it less likely to mean separation from one's kin in the afterlife. The second formulation makes it clear that both Israelite and גר who are found guilty of eating leaven during the period of the festival are to be excluded from the worshipping congregation (הקהל).¹⁵ Regardless of how consistently the Passover was celebrated in preexilic Israel, the Festival of Unleavened Bread appears to belong to the earliest stratum of Israel's practice.¹⁶ It is the consumption of leaven, not the sacrifice of the Passover lamb, that is at issue in the *kareth* declarations in Exodus 12, a text that places these two *kareth* penalties firmly within the earliest tradition, even if the added specificity in the formula here may be a secondary development.

Numbers 9:13 reverts to the standard *kareth* formulation, making it both more ambiguous than the Exodus 12 penalties and yet more likely to be early. Yet it is obvious that the second-month Passover provision is a secondary development; the text clearly presents the issue as an afterthought that had to be presented to YHWH for a ruling. One need not assume that the development is post-Mosaic. The first recorded observance of a second-month Passover is performed *en masse* by Hezekiah (2 Chr 30:1–27), due to lack of a sufficient number of priests

¹⁵ The extent of the *ger*'s obligations to obey laws that are penalized by *kareth* will be discussed in Chapter Five.

¹⁶ Propp (AB 2, 428–29) writes, “Far from being a late development, the *Pesah-Maṣṣôt* complex makes more sense in early Israel... *Pesah*'s origins belong to Semitic prehistory and long antedate the historical Moses.” Propp theorizes that late monarchic centralization of worship would convert the Passover sacrifice from a home observance

who were sanctified.

Numbers 9 provides an option for those who are unclean or on a journey to celebrate the Passover.¹⁷ But the passage does not provide for, presumably because it does not envision, a scenario where Israelites permanently live outside the land. Perhaps it is assumed that the Passover is incumbent only on residents of the land.¹⁸ Or perhaps exclusion from the cult as a penalty is in view here. Here in Numbers 9, unlike in Exodus 12, the issue is not the consumption of leaven, but failure to offer the Passover sacrifice, which failure would be readily verifiable.

As was the case with failure to circumcise, at issue in this offense is one's right to remain an Israelite. Budd writes, "Failure to observe the Passover at its proper time brings a severe penalty – probably excommunication – an appropriate fate for one who values his identity within the community so little."¹⁹ And as Ashley points out, the original penalty for failure to obey this command, on the night of the Exodus itself, was death.²⁰

Exodus 30:33: Penalty for counterfeiting or misuse of sacred oil.

איש אשר ירקח כמזהו ואשר יתן ממנו על-זר ונכרת מעמיו

Exodus 30:38: Penalty for counterfeiting or misuse of sacred incense.

איש אשר-יעשה כמזה להריח בה ונכרת מעמיו

to a Temple sacrifice, while doing the reverse for the Feast of Unleavened Bread.

¹⁷ Ashley (*Numbers*, 179) raises the question whether the reference to travelers is "a later application inserted in this text." He notes (180) that the traveler is separated from the Israelite community in an unclean land.

¹⁸ Noth (*Exodus*, 71) notes that while Passover is to be celebrated "at home" as opposed to in a Temple setting, it must be celebrated "only within the enclosed Israelite domain."

¹⁹ Philip J. Budd, *Numbers* (WBC 5; Waco, Tex.: Word, 1984), 99.

²⁰ Ashley, *Numbers*, 180.

This passage deals with counterfeiting sacred oil and incense. Both verses are formulated: **איש** + **אשר** + qal infinitive verb + nip'al of **כרת** + plural of **עם**. Some light may be thrown on these texts by the Ras Shamra parallel to them discussed in Chapter Three. The offense at Ras Shamra is the counterfeiting of a royal seal and the consequent production of counterfeit royal documents, offenses which are clearly punished with banishment. While the Ras Shamra offenses are royal rather than cultic offenses, it is argued here that these offenses would be equivalent in severity in ancient Near Eastern thought.

In both cases in the Exodus text, the context includes directions on how to make the sacred formula, and specifications on how it is to be used, directions that are evidently intended solely for a priestly audience.²¹ There is then (in the case of the sacred oil) a command that it is not to be diverted for private use (v 32), and in both cases (vv 32, 37) a command that the sacred material is not to be duplicated privately. The motive clause (in both cases) is that the sacred formula is “holy to YHWH.” While it has been surmised that the purpose was to avoid use for one’s own pleasure,²² one may speculate that the purpose here may have been rather to prevent manipulative magical use of the holy formulae, although evidence for this possibility is lacking.

These two prohibitions on the use of sacred formulae appears to be unparalleled in extant ancient Near Eastern texts.²³ Oil is normally used in the Near East as an offering to the gods, either as a food product (olive oil) or a perfume (such as cedar oil). In the anointing of Baal’s high priestess at Emar (fourteenth century B. C.), “fine oil” is used to anoint the priestess, but

²¹ The term **זר** used here is probably not intended to be literally “foreigner,” but appears to be a reference to anyone who is not a priest. See Menahem Haran, “The Priestly Image of the Tabernacle,” *HUCA* 36 (1965): 222; Milgrom, *Studies*, 1:5–6; L. A. Snijders, “The Meaning of **זר** in the Old Testament,” *Oudtestamentische Studiën* 10 (1954): 126.

²² Douglas Stuart, *Exodus* (New American Commentary 2; Nashville: Broadman & Holman, 2006), 644–45.

²³ Robert J. Forbes, “Cosmetics and Perfumes in Antiquity,” in Forbes, *Studies in Ancient Technology* (3 vols.; Leiden: E. J. Brill, 1955), 3:1–49.

nothing more is said on the subject of oil, other than the offerings of cedar oil and plain oil.²⁴

Whiting alludes to evidence from recipes for three types of such “fine oil” (*šamnum t̄ābum*) that the substance in question was “an aromatic unguent made of a complicated mixture of ingredients, none of which was ì or ì-giš.”²⁵ In fact, “high quality beer (kaš sig₅) seems to have formed the liquid base for ì-dùg-ga,” since the amount of beer used almost equals the volume of the finished product.²⁶

Likewise, the incense specified in Exodus 30:34–38 is described as קדש קדשים. It is not common incense that can be offered anywhere by anyone. It is only to be used in front of the ark of the covenant in the spot where YHWH appears, presumably by a priest authorized to be there.

The penalty for unauthorized production of sacred oil and/or incense is articulated according to the standard formulation, placing it within the category of passages that are original in form, ambiguous in meaning, but likely to call for expulsion. The Ras Shamra parallel, for which banishment is explicitly prescribed, adds to the likelihood of this conclusion.

Counterfeiting of royal (or in this case sacred) exclusive property calls for a severe penalty, yet both at Ugarit and in the Torah the penalty stops mercifully short of death. The fact that both royal seals, and sacred oil and incense, are means by which royal power (or in this case, divine favor) is procured, compounds the offense. These two instances may be firmly located within the category of likely cases of expulsion.

Exodus 31:14: Penalty for violating Sabbath (שבת שבתון).

²⁴ Daniel Fleming, *The Installation of Baal's High Priestess at Emar: A Window on Ancient Syrian Religion* (Harvard Semitic Studies 42; Atlanta: Scholars' Press, 1992), 145–46.

²⁵ Robert M. Whiting, *Old Babylonian Tablets from Tell Asmar* (Assyriological Studies 22; Chicago: Oriental Institute, 1987), 107–108.

²⁶ Whiting, *Asmar*, 108.

ושמרתם את-השבת כי קדש הוא לכם מחלליה מות יומת
כי כל-העשה בה מלאכה ונכרתה הנפש ההוא מקרב עמיה

Leviticus 23:29: Penalty for violating Yom Kippur (also a שבת שבתון).

כי כל-הנפש אשר לא-תענה בעצם היום הזה ונכרתה מעמיה

These statutes deal with violations of the Sabbath and Yom Kippur, both of which are designated as שבת שבתון (Exod 31:15; Lev 23:32). The Sabbath command declares both *kareth* and the death penalty in the same verse. The *kareth* declaration here is formulated: כי (referring back to the immediately preceding death penalty) + participial subject + nip'al of כרת + מקרב + plural of עם. The Yom Kippur command is formulated כל-הנפש + אשר + pu'al imperfect verb + nip'al of כרת + plural of עם. Like Exodus 31:14, the Yom Kippur command is followed immediately in Leviticus 23:30 with a reiteration of the command in almost identical language, stating (in the first person) that God will not merely כרת the offender, but והאברתי that person from the midst of his/her people, a declaration that resembles similar divine declarations in Leviticus 20:1–6. While the MT uses the first person in this verse, the LXX uses the third person passive ἀπολείται, “(that soul) will perish.”

Knohl claims that, unlike the Holiness Code, the P source, which he refers to as the “Priestly Torah” (PT), “does not forbid labor on the Sabbath.”²⁷ The evidence he cites is Numbers 28, where work is explicitly forbidden on the holy convocation days listed in the chapter, but not on the Sabbath. Knohl writes that the Holiness School compares the holiness of the Sabbath with the holiness of the Sanctuary, and grants the Sabbath pride of place among the

²⁷ Israel Knohl, “The Priestly Torah versus the Holiness School: Sabbath and the Festivals,” *HUCA* 58 (1987): 76.

מִקְרָאֵי קֹדֶשׁ, whereas according to the PT, the Sabbath is not a day of מִקְרָאֵי קֹדֶשׁ at all.²⁸ The H legislation is the only stratum that quotes YHWH using the expression “my Sabbaths.” The Sabbath command is also the only ethical command to be issued twice in Leviticus 19, at both the beginning (v. 3) and end (v. 30) of the chapter.

By implication, profaning Yom Kippur threatens the entire camp of Israel with disaster by removal of God’s presence through failure to purify the sanctuary. The motive clause, in verse 28, simply states, “for it is a day of atonement, to atone on your behalf (לְכַפֵּר עֲלֵיכֶם).” The motive clause relies on the audience to understand the critical importance of atonement for the well-being of the nation, and the potential implications of sabotaging that atonement through failure to observe this requirement.

The punishment for not practicing self-denial is not mentioned in Leviticus 16, which is an extensive discussion of Yom Kippur. In fact, the people are addressed on the subject of how they must observe this day only in verses 29–34, a passage that Milgrom attributes to the same source as 23:29–30.²⁹ If Milgrom is correct, one may surmise that the source deemed it unnecessary to repeat the penalty, but this leaves the unanswered question why the rest of the material is repeated. If 16:29–34 comes from a different source than 23:29–30, the reason may be a less severe attitude toward the offense and how it should be punished. Other possible explanations include an incomplete citation of source material in 16:29–34, or an emphasis on concerns other than punishment.³⁰ The significance of such a divergence in the tradition would be that it would be unlikely (although not impossible) for one Mosaic tradition to prescribe death for an offense, while the other tradition called for no penalty at all, if this is indeed the case.

²⁸ Knohl, “Priestly Torah,” 77.

²⁹ Milgrom, AB 3, 1065.

The term תענה used here in 23:29 is the only occurrence of this verb in the pu'al imperfect in the OT. The expression is usually expressed reflexively, either by the pi'el + נפש (Lev 16:31), or by the hithpa'el (Dan 10:12).³¹ Self-affliction refers to measures in addition to fasting that are taken to humble oneself, such as the wearing of sackcloth (1 Kgs 21:27), refusing to anoint oneself (Dan 10:3), and laying on the ground (2 Sam 12:16) or in ashes (Est 4:3, Job 2:8). The Mishnah (m. Yoma 8:1) states that the self-denial commanded in this passage involves five abstentions: from food and drink, from bathing, from anointing oil, from wearing shoes, and from sexual intercourse.

The severity expressed in verse 30 may be due to the fact that work on Yom Kippur is a public violation, whereas failure to fast is a private violation. The alien may be punished for working on this day, since it is a day of total rest, but in 23:29 the alien is not punished for eating or for not practicing self-denial,³² although Leviticus 16:29 is unclear whether both of its commands (“you shall afflict yourselves and do no work”) apply to both the native and the *ger*.

Because of the presence of the death penalty in Exodus 31:14, this *kareth* declaration as it stands in the present text must clearly be placed among the passages where expulsion does not fit as a meaning for the נכרת formula. The wording is similar to the standard (original?)

³⁰ Milgrom, AB 3A, 1756: “P is concerned with the nature of the generated impurity, not with its penalties.”

³¹ Kiuchi (*Leviticus*, 307) strongly denies that the use of נפש here is reflexive. He posits an “egocentric” נפש equivalent to the human unconscious that “hides itself from the Lord” and must be rigorously kept in line. In his comments on the present passage (*Leviticus*, 426–27), he notes that the term נפש occurs five times, and concludes, “Atonement concerns the salvation of the human soul... Therefore the Israelites ought to lay bare their egocentric souls as much as possible, which practically begins with a cessation from ordinary work.” The present writer is disinclined to accept Kiuchi’s approach.

³² Such is the opinion of Levine, *Leviticus*, 109. See also Milgrom, AB 3, 1055: “The prohibition directed to the resident alien only concerns his work. He is not required to practice self-denial (see Ibn Ezra)... Sins of omission, of non-observance, generate no pollution, either to the land or sanctuary. Thus the *ger*, the residential non-Israelite, does not jeopardize the welfare of his Israelite neighbor by not complying with the performative commandments.” Notice that here, Milgrom unintentionally points to the real purpose of *kareth*, provocation of divine wrath that calls for removal from the community, rather than to frighten potential offenders into obedience with threats of divine extermination.

formulation, with the exception of the addition of **מִקְרָב**, which only occurs in eight of the 28 *kareth* declarations, including three (possibly four?) times in a death penalty context. The context dictates that the meaning must be a specific (albeit drastic) form of removal, as discussed in Chapter Two. The type of removal denoted here is explicitly achieved via the death penalty.

Leviticus 23:29 is a borderline case. Taken by itself, it reads like other passages with an ambiguous standard *kareth* formulation, and in the absence of any death penalty, it could be taken as a likely expulsion penalty. However, the context presents one possible objection: the next verse (v. 30) appears to be a restatement of verse 29 in synonymous language, which indicates that the offender shall be “destroyed” (**וְהֵאבְדִי**) from among his/her people. Therefore, the “destruction” meaning for *kareth* becomes a convincing possibility. If the meaning is not intended to be expulsion per se, there are two remaining possibilities. One is execution (treating this offense identically to violation of the Sabbath). The other possibility is that this is a divine declaration of destruction, parallel to Leviticus 20:1–6. The fact that the divine first person is used in verse 30 increases this possibility. However, verses 29 and 30 may not be intended to be identical in what behavior they condemn, or in the prescribed penalty for that behavior.

Leviticus 17:3–4: Penalty for sacrifice apart from Tabernacle.

אִישׁ אִישׁ מִבֵּית יִשְׂרָאֵל אֲשֶׁר יִשְׁחַט שׁוֹר אֶבְרָכָשׁ אֶרְעֹז בְּמַחֲנֶה
אוֹ אֲשֶׁר יִשְׁחַט מִחוּץ לְמַחֲנֶה
וְאֶל־פֶּתַח אֹהֶל מוֹעֵד לֹא הֵבִיאוּ לְהִקְרִיב קָרְבָן לַיהוָה
לִפְנֵי מִשְׁכַּן יְהוָה דָּם יִחֲשֹׁב לְאִישׁ הַהוּא דָּם שִׁפְךָ
וְנִכְרַת הָאִישׁ הַהוּא מִקְרָב עַמּוֹ

Leviticus 17:8–9: Penalty for sacrifice apart from Tabernacle.

וְאֵלֵהֶם תֹּאמַר אִישׁ אִישׁ מִבֵּית יִשְׂרָאֵל וּמִן־הַגֵּר
אֲשֶׁר־יִגֹּר בְּתוֹכְכֶם אֲשֶׁר־יַעֲלֶה עֲלֶה אֶרְצֹכֶם
וְאֶל־פֶּתַח אֹהֶל מוֹעֵד לֹא יֵבִיאוּ לַעֲשׂוֹת אֹתוֹ לַיהוָה וְנִכְרַת הָאִישׁ הַהוּא מִעַמּוֹ

These passages deal with slaughter without offering the animal as a sacrifice to YHWH. Both verses begin with **איש איש** + a participial subject, followed by lengthy **אשר** clauses with *qal* imperfect verbs, followed by **כרת** in the *nip'al* + **ההוא** + **האיש** + **מקרב** + **עם**. **עם** is masculine singular in the first passage and masculine plural in the second. The **אשר** clauses are so lengthy that they may be rightly called the protases of casuistic statutes.

There are several textual variations in verse 4. According to the editors of *BHS*, the Samaritan Pentateuch and the LXX add after the word **הביאו** the following material: “to present it as a burnt offering or well-being offering to YHWH for your acceptance as a soothing aroma, and he slaughters it outside, and he does not bring it to the entrance of the Tent of Meeting.” The Samaritan Pentateuch, a few LXX MSS, Targum Neofiti, and the Syriac indicate a pronominal suffix on the infinitive **להקריב**, “to present.” In verse 3, as well as in 17:10 (see below), some Hebrew MSS, the LXX, and the Syriac read “from the sons of” rather than “from the house of,” which raises the question whether women are included as the addressees of this command (although “sons of” can often mean “children of”). Also, in verse 4, in place of “that man” (**ההוא** **האיש**), the LXX reads ἡ ψυχὴ ἐκείνη, “that person,” as the text reads in 22:3, and finishes the sentence with τοῦ λαοῦ αὐτῆς, since ψυχή is feminine. It is unclear whether this variant is a mere translational choice, or whether it reflects a different Hebrew text than the MT, but it does probably reflect the equivalence in meaning of these two phrases in the mind of those who were transmitting and translating the text at the time of the LXX.

The LXX adds in verses 3, 8, 10, and 13, ἢ τῶν προσελύτων τῶν προσκειμένων ἐν ὑμῖν, “or the resident aliens living among you.” This variant raises a substantive issue, whether resident aliens were bound by this regulation. The thrust of these verses is that game could be slaughtered in the field, but not sacrificial animals. If the LXX is to be disregarded as

nonoriginal, which this writer is inclined to do on grounds of *lectio brevior*, only non-Israelites could practice profane slaughter of animals that were fit for sacrifice.³³

The distributive formula **אִישׁ אִישׁ** is found only in Exodus–Numbers, and in Ezekiel 14:4, 7.³⁴ In Leviticus 17, four **אִישׁ אִישׁ** formulae serve to mark the four basic statutes being presented in this chapter. Reventlow argues that this four part series presupposes the wilderness period: “Bei diesen beiden ersten Stufen der Entwicklung ist die Verwurzelung in der Wüstensituation ganz deutlich.”³⁵ However, Noth thinks that Leviticus 17 is postexilic in its original form,³⁶ while Sun claims that it “clearly presupposes Deut 12 where the two texts share common subject matter.”³⁷ Reventlow’s proposed *Sitz im Leben*³⁷ provides a place in the life of early Israel for this prohibition, in contrast to this prohibition being a late innovation being projected back onto Moses, as required by Noth’s and Sun’s positions.

These two related commands contain no motive clause, unless one takes the *kareth* penalty itself as a motive clause. However, between the two, two explanatory clauses are juxtaposed. Verse 5 explains that the purpose of requiring all slaughter to be done at the sanctuary of YHWH is so that all shedding of blood performed on sacrificial animals may be done in the context of legitimate worship, with the blood offered to Israel’s God. Verse 7 gives a further purpose as a

³³ Milgrom (AB 3A, 1349) points out that Lev 17:13 speaks of game animals that “may be eaten,” but does not specify what species are intended. He argues, “A knowledge of forbidden game...must be presumed.” Therefore, this passage must post-date the kosher animal list in Lev 11.

³⁴ Exod 36:4; Lev 15:2; 17:3, 8, 10, 13; 18:6; 20:2, 9; 22:4, 18; 24:15; Num 1:4, 44; 4:19, 49; 5:12; 9:10; Ezek 14:4, 7. For the individualizing force of **אִישׁ אִישׁ**, see Milgrom, AB 3A, 1729; Wilhelm Gesenius, *Gesenius’ Hebrew Grammar, as Edited and Enlarged by the Late E. Kautsch: Second English Edition, Revised in Accordance with the Twenty-Eighth German Edition (1909)* (trans. A. E. Cowley; Oxford: Clarendon, 1910; repr., Mineola, N. Y.; Dover Publications, 2006), 123c; Joüon 135d; Waltke-O’Connor 7.2.3.

³⁵ Henning Reventlow, *Das Heiligkeitsgesetz formgeschichtlich untersucht* (WMANT 6; Neukirchen Kreis Moers: Neukirchen Verlag, 1961), 40. Reventlow has a similar assessment of chapter 18: “Die Urform mit der Großfamilienverfassung als Grundlage paßt am besten in die Wüstenzeit; die zweite Stufe wird wie die entsprechende in Kap. 17 in eine frühe Epoche nach der Landnahme anzusetzen sein.”

³⁶ Noth, *Leviticus*, 129–30.

corollary to the first: the requirement is given so that the people will no longer offer their sacrificial animals to “goat demons” (שעירים).

Noth argues that *kareth* is proclaimed here as a means of enforcing an early centralization of worship.³⁸ But Kaufmann denies that P (or H, which he regards as part of P) advocates centralized worship.³⁹ Kaufmann argues, “Leviticus 17 does not oppose one sanctuary to many, but sanctuary to no-sanctuary, YHWH to satyrs. It demands not that sacrifice be restricted to one sole sanctuary, but that sacrifice be made at a legitimate sanctuary, not ‘in the field.’”⁴⁰

Milgrom concurs: “P presumes both multiple sanctuaries and nonsacrificial slaughter.” In Leviticus 26, he emphasizes that reference is made to “sanctuaries” in the plural (26: 31). One may also ask what Leviticus 17’s purpose is, if not to reform a situation where no ban on profane slaughter existed at first. This ban may function to stop a newly arisen aberration, to clarify an ambiguous question, or simply to make explicit a prohibition that the community has always tacitly assumed.

Propp claims that Leviticus 17:3–9 is a direct contradiction of the Passover, and is in fact an abolition of the home observance thereof.⁴¹ Such an interpretation goes too far. In the wilderness context, as well as in an apparently decentralized sacrificial context in early Israel, one would be able to both bring the lamb or its blood to be offered at the altar of YHWH, and still celebrate the Passover at home with the blood applied to the doorposts.

The שעירים stand out as an unusual feature in this passage, because they are almost never mentioned elsewhere in the field of competitors to YHWH in the OT, much less so than Baal or

³⁷ Sun, “Holiness Code,” 96.

³⁸ Noth, *Leviticus*, 130.

³⁹ Kaufmann, *Religion of Israel*, 176–78.

⁴⁰ Kaufmann, *Religion of Israel*, 182.

even Molech. According to 2 Chronicles 11:15, Jeroboam included the שְׁעִירִים among the deities to whom he erected high places. This form of idolatry also appears in 2 Kings 23:8, where Josiah smashes their high places (provided that we read שְׁעִירִים for the MT's שְׁעִירִים). Milgrom regards these deities as chthonic, like Molech.⁴² They appear to be evidence of a *Sitz im Leben* in the wilderness period, particularly since these creatures are said to dwell in desert places (Isa 13:21; 34:14). The allusion to early Israel sacrificing to שְׁדִים found in Deuteronomy 32:17 (echoed in Ps 106:38, where child sacrifice to Molech appears to be in view) may also be a reflection of the situation contemplated in this passage.

Kleinig observes on this passage:

No private sacrificial cult was to exist apart from the national cult...Those who offered private sacrifices apart from it were cut off from the community of Israel (17:4, 9, 10). The inclusive, communal orientation of this teaching is underscored by the repeated use in 17:3, 8, 10, and 13 of the inclusive formula אִישׁ אִישׁ...אִשׁר, “each and every person who” (a formula that is rare outside of Leviticus and Numbers)...

God reserved all blood for himself as the life-giver. It had to be given back to him... (God) did not allow anyone to take the life of any animal unless he himself had sanctioned it (Gen 9:3–4). Since he had not sanctioned the ritual slaughter of animals apart from the tabernacle, those who did so were guilty of bloodshed.⁴³

The significance of this command appears to be the prevention of clandestine pagan sacrifice under the guise of nonsacral slaughter. The offense is not equivalent to idolatry per se, but the legislation is intended to erect a firewall against the potential intrusion of idolatry. Defiance of this command constitutes a felony that merits a stiff penalty, because allowing the practice potentially threatens the integrity of the cultic community.

The profane slaughter prohibitions in Leviticus 17 are presented in two slightly different

⁴¹ Propp, AB 2, 449.

⁴² Milgrom, AB 3A, 1492.

⁴³ Kleinig, *Leviticus*, 362, 366–67.

formulations. While verse 9 contains the standard formulation hypothesized to be original, verse 4 uses *מִקְרַב עִמּוֹ* as the locus of separation. The singular of *עַם* in verse 4 may be taken as a sign of added clarification, namely, that one’s “people” means specifically the nation of Israel rather than one’s clan or unspecified kin. Because verses 3–4 and 8–9 are so similar in content (although not identical), it is possible to assign them to parallel sources (the material commonly assigned to H tends to use the singular of *עַם*). Since the two passages are evidently juxtaposed because they are understood to deal with the same phenomenon (profane sacrifice) and its penalty, they may both be classed as most probably cases where expulsion is decreed.

Leviticus 7:25, 27: Penalty for eating fat or blood.

כִּי כָל־אֲכַל חֵלֶב מִן־הַבְּהֵמָה אֲשֶׁר יִקְרִיב מִמֶּנָּה
אֲשֶׁה לִּיהוָה וְנִכְרַתָּה הַנֶּפֶשׁ הַאֲכַלְתָּ מֵעֲמִיָּה

כָּל־נֶפֶשׁ אֲשֶׁר־תֹּאכַל כָּל־דָּם וְנִכְרַתָּה הַנֶּפֶשׁ הַהוּא מֵעֲמִיָּה

Leviticus 17:10, 14: Penalty for eating blood.

וְאִישׁ אִישׁ מִבֵּית יִשְׂרָאֵל וּמִן־הַגֵּר הַגֵּר בְּתוֹכְכֶם אֲשֶׁר יֹאכַל כָּל־דָּם
וְנִתַּחֲתִי פָנָי בְּנֶפֶשׁ הַאֲכַלְתָּ אֶת־הַדָּם וְהִכְרַתִּי אֹתָהּ מִקְרַב עַמִּי

כִּי־נֶפֶשׁ כָּל־בֶּשֶׂר דָּמוֹ בְּנֶפֶשׁוֹ הוּא וְאָמַר לְבְנֵי יִשְׂרָאֵל
דָּם כָּל־בֶּשֶׂר לֹא תֹאכְלוּ כִּי נֶפֶשׁ כָּל־בֶּשֶׂר דָּמוֹ הוּא כָּל־אֲכַלְיוֹ יִכְרַת

These statutes deal with eating blood or fat. In 7:25, the form is *כִּי + כָל + qal participle* as subject + *nip‘al* of *כָּרַת + הַנֶּפֶשׁ הַאֲכַלְתָּ + עַם* (feminine plural). In 7:27, the form is *אֲשֶׁר + כָּל־נֶפֶשׁ + qal imperfect + standard kareth formula*. 17:10 begins with the subjects “*אִישׁ אִישׁ* or “*גֵּר־גֵּר*” + *אֲשֶׁר + qal imperfect*. Then God speaks in the first person against the *הַנֶּפֶשׁ הַאֲכַלְתָּ*, and promises, “I will cut (him) off” (the only use of *hip‘il* other than 20:1–6; both are God speaking in first person) + direct object marker (with feminine singular suffix) + *מִקְרַב + עַם* (feminine singular). 17:14 reads simply “all its eaters” (masculine plural participle with masculine singular suffix)

with nip'al imperfect (not waw-consecutive) and no predicate. The Samaritan version, plus the LXX, Syriac, Targum Onqelos, and Targum Pseudo-Jonathan have a singular participle here. The MT may be read as a distributive plural.⁴⁴

One Hebrew MS, plus the LXX, Syriac, and Vulgate do not contain בנפשׁ in verse 14. Due to the difficulty of making sense out of this expression here, the question arises whether בנפשׁ is an insertion, or whether it has simply been eliminated in translation. Its presence in the Samaritan version and in the overwhelming majority of the MT would indicate its originality. Keil and Delitzsch,⁴⁵ as well as Milgrom,⁴⁶ have taken the preposition -ב as the *beth essentiae*.⁴⁷ Brichto, however, has questioned the existence of the *beth essentiae*, particularly in this context; indeed, many cases of *beth essentiae* could be better translated “as” in places such as Exodus 6:3 and Psalm 118:7.⁴⁸ It has also been suggested that בנפשׁ has appeared here by attraction from verse 11.⁴⁹

Levine understands the use of -ב in verse 11 as the -ב of price. He translates the phrase כפר יהיה בנפשׁו כדמיו as “it is the blood that effects expiation in exchange for life.”⁵⁰

Still another theory on בנפשׁ in this verse is given in the *Preliminary and Interim Report on the Hebrew Old Testament Text Project*: “נפשׁ means here ‘living body, living being’. The relative

⁴⁴ GKC §145l.

⁴⁵ Keil, *Commentary*, 2:410.

⁴⁶ Jacob Milgrom, *Studies in Cultic Theology and Terminology* (Leiden: E. J. Brill, 1983), 96.

⁴⁷ GKC §119i.

⁴⁸ Brichto, “Slaughter,” 26–27.

⁴⁹ Hartley, *Leviticus*, 263.

⁵⁰ Levine, *Leviticus*, 115–16.

phrase, then, means ‘which (i. e. the blood) is in the living body’.” They translate: “for the soul (or : life) of all flesh is in its blood, < as long as > it (i. e. the blood) is in its living body.”⁵¹

Schwartz comments on issues of form in verses 15–16:

Why **נפש וכל** instead of **ואיש איש**, if the two are functionally equivalent? Indeed, so much is **נפש** taken as a synonym for **איש** in this paragraph that it is construed – except for its first predicate, **תאכל** – as being masculine (**...ורחץ...וטמא...וטהר...יכבס...בשרו**) (**...ירחץ...וכבס בדיו ונשא עונו**), while throughout the rest of the chapter, in eight more appearances, it is, as it should be, feminine. The new opening, however, is not an accidental substitution of an equivalent form. **נפש אשר תאכל** is designed to resume the **לא תאכל** of the third paragraph’s motivational section (v. 12aβ), which is itself an echo of **את דם בנפש האכלת** (v. 10bα), and which is further echoed in the fourth section’s paraphrase **לא תאכלו דם כל בשר לא תאכלו** (v. 14aβ).⁵²

Hartley points out the play on the various meanings of **נפש** in 17:11: there is the general use, there is the use to mean “person,” and there is a use for animals. An estranged **נפש** presents a gift of **נפש** in order to be reconciled with God.⁵³ Hartley also declares that the preposition **-ב** in this verse is instrumental.⁵⁴

The first prohibition on the consumption of blood is in Genesis 9:4, commonly assigned along with Leviticus 7 to the P source: “you shall not eat flesh with its life, that is, its blood.” This passage may help illuminate Leviticus 17:14’s reference to blood as the creature’s life, although Kaufmann, citing rabbinic exegesis, believes this to be a ban on eating animals alive.⁵⁵

Both Qumran and Jubilees reaffirm the *kareth* penalty for the consumption of blood:

CD III 6: “And they ate the blood and their males were cut off (**ויכרת**) in the desert (after they were told) in Kadesh “Go up and possess”...

⁵¹ *Preliminary and Interim Report on the Hebrew Old Testament Text Project, Pentateuch* (2d rev. ed.; 5 vols.; New York: United Bible Societies, 1979), 1:186.

⁵² Schwartz, “Blood,” 41.

⁵³ Hartley, *Leviticus*, 276.

⁵⁴ Hartley, *Leviticus*, 277.

⁵⁵ Kaufmann, *Religion of Israel*, 296n3.

Jubilees 6:12: “And the man who eats the blood of the beasts or cattle or birds throughout all the days of the earth shall be uprooted, he and his seed from the earth. And you, command the children of Israel not to eat any blood so that their names and seed might be before the Lord God always.”

Wenham writes, “Because animal blood atones for human sin in this way, it is sacred and ought not to be consumed by man.”⁵⁶ He goes on in his comments on vv. 15–16 to say, “to drink the blood of wild animals is just as sacrilegious as drinking other animal blood.”⁵⁷

Propp describes blood as “the current of life...(It) both attracts and repels the divine, removing and causing impurity. Blood is dangerous in the wrong hands. Laymen must pour it out..., while consecrated priests may sprinkle it on the altar...Under no circumstances may blood be eaten.”⁵⁸

Hartley cites the following quote from Gese:

The decisive factor for the cultic act of atonement is that this sacrifice of life is not a mere killing, a sending of life into nothingness, but it is a surrender of life to what is holy, and at the same time an incorporation into the holy, given expression through contact with blood. By means of the atoning rites in which blood is applied, the *nephesh* is dedicated to and ‘incorporated into’ the holy.⁵⁹

Blood and fat belong to God, as affirmed both in the above passages, and in Leviticus 3:16b–17. Whatever belongs to God must not be used for any common purpose, as has been seen in the cases of sacred oil and incense in Exodus 30. In the case of fat, it is explicitly permissible to use for purposes such as fuel (Lev 7:24: *לכל-מלאכה*, “it may be put to any use”), but it may not be eaten.⁶⁰ Kleinig makes it clear that not all fat is forbidden for food, however: “The ‘fat’ is the technical term for the deposits of fat that cover the kidneys, liver, and intestines in the

⁵⁶ Gordon J. Wenham, *The Book of Leviticus* (NICOT; Grand Rapids, Mich.: Eerdmans, 1979), 245.

⁵⁷ Wenham, *Leviticus*, 246.

⁵⁸ Propp, AB 2, 437.

⁵⁹ Hartley, *Leviticus*, 276–77, quoting H. Gese, *Essays in Biblical Theology* (trans. K. Crim; Minneapolis: Augsburg, 1981), 107–108.

abdomen of the animal. (It does not refer to the fat on or in its meat.)”⁶¹ The Mishnah (m. Ker. 4:1–2) concurs in its interpretation that ordinary fat (as opposed to fat that covers the internal organs) is permissible for food.

The Covenant Code makes no mention of the prohibition on consuming blood, although this may be the unspoken rationale behind the Code’s prohibition on consuming carrion (Exod 22:30). Deuteronomy 12:23 gives the same rationale for its prohibition on consumption of blood as the Holiness Code gives: “For the blood is the life, and you shall not eat the life with the meat.” Deuteronomy does not present the *kareth* formula for this offense, but it gives a motive clause for obedience: “that it may be well with you and your children after you.”

Improper disposal of animal’s blood is a related issue. Even if blood is not consumed, it can still be misused unless it is properly disposed of. Leviticus 17:13 directs that animal blood which has not been offered in sacrifice, such as blood from wild game, shall be poured out and covered with earth. The purpose of this, according to Kleinig, is because according to pagan logic, such blood could be misused to “feed” spirits of the dead and to appease evil spirits.⁶² Gurney, citing CTH 446, states that among the Hittites, blood “was a regular offering for the chthonic deities, who craved for it.”⁶³ Schwartz proposes a different reason for the prohibition: to keep blood from being eaten by burying it to render it inedible.⁶⁴

Weinfeld argues that the reason for covering the blood with dust is because “all spilt blood, even of fowl and beasts of prey, cries out for vengeance and satisfaction,” and must be covered if

⁶⁰ Noth (*Leviticus*, 64) views this verse as a later addition.

⁶¹ Kleinig, *Leviticus*, 85.

⁶² Kleinig, *Leviticus*, 365–66.

⁶³ Oliver R. Gurney, *Some Aspects of Hittite Religion* (Schweich Lectures 1976; Oxford: Oxford University Press, 1977), 29. See also Harry A. Hoffner, “Second Millennium Antecedents to the Hebrew *’ōbh*,” *JBL* 86 (1967): 395.

⁶⁴ Schwartz, “Blood,” 62.

it cannot be offered on the altar.⁶⁵ Similarly, in Ezekiel 24:7–8, YHWH sees to it that Jerusalem pours blood on bare rock and does not cover it with earth, in order to rouse YHWH’s wrath to take vengeance. However, Deuteronomy 12:24 does not require that the blood be covered with earth; it simply commands that the blood be “poured out like water,” requiring no sacral precautions.

Among Hittites, the god’s food was holy and could not be eaten by anyone else. The text “Instructions for Temple Officials” prescribes the death penalty for anyone who withholds sacrificial meat, bread, beer, or wine from the gods, or embezzles cattle or sheep from the gods “and thus [take it away from] the god and withhold it from (his) mouth.”⁶⁶ In another Hittite text, a worshipper declares, “That which is holy (*šuppi*) to my god and hence not fit for me to eat, never have I eaten it. I have not brought impurity (*paprahun*) upon my body.”⁶⁷ Moyer states, “Uncleanness resulted through improper appropriation of the god’s food or through improper handling under unclean conditions.”⁶⁸ In Mesopotamia, the taboo on “eating the *asakku*” (*asakkam akālu*, the touching or consumption of what belonged to a ruler) may also be a parallel to the offense in question here.⁶⁹

But the real issue in the Holiness Code is not the prohibition of food that belongs exclusively to God, but the uniquely atoning character of blood. Hartley writes, “God himself has bestowed this power on blood...blood in itself does not effect expiation, only blood from an

⁶⁵ Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: Clarendon, 1972), 214. Similarly, see Hartley, *Leviticus*, 277.

⁶⁶ KUB 13.5 i. 50–65; ii.12–30. Translation by Albrecht Goetze, “Instructions for Temple Officials,” *ANET*, 208.

⁶⁷ KUB 30 10 i 13–4. Translation in Moyer, “Purity,” 30, 41, 109.

⁶⁸ Moyer, “Purity,” 110. Moyer explains (138–39) that according to the Hittites, sins like malice, anger, and slander can also defile.

⁶⁹ Malamat, “Ban,” 40–49.

animal sacrificed before Yahweh according to certain prescribed rituals.”⁷⁰ Hartley notes that God provides other means of expiation: cereal offerings, the oil rite in Leviticus 14:15–18, the half-shekel tax, and Moses’ prayer in Exodus 32:30. “Nevertheless,” he says, “the handling of blood from a ritually sacrificed animal is the primary means of expiation given by God to his people.”⁷¹

With regard to the imposition of the *kareth* penalty for this offense, Hartley writes, “Misappropriation of the means of expiation receives such a grave penalty, for a person abuses the only means of finding forgiveness from the holy God.”⁷²

Milgrom points out that Akkadian literature “distinguishes carefully between drinking blood (alone) and eating blood (with its flesh).”⁷³ One Mesopotamian text published by Bottéro contains six recipes that specify blood as one of the ingredients, all of which involve adding blood to the broth in which meat is cooked.⁷⁴ In addition, Černý cites a Ramesside period text, “You have mingled with ‘Amu having eaten bread (mixed) with blood.”⁷⁵ The text indicates that the blood mixed into the bread was the blood of the two men who are making a blood brotherhood pact. Both of these practices were forbidden by the Mosaic legislation.

An issue related to the eating of blood is the eating of carrion. Ezekiel 33:25 condemns those who “eat flesh with (על) the blood.” While this may be a reference to a chthonic practice,

⁷⁰ Hartley, *Leviticus*, 273.

⁷¹ Hartley, *Leviticus*, 274.

⁷² Hartley, *Leviticus*, 272. Hartley writes of *kareth*, “The precise nature of the punishment prescribed by this language is no longer known,” although he thinks it is probably “one of the worst fates for a person who has been a member of the covenant community.” (Hartley, *Leviticus*, 100)

⁷³ Milgrom, AB 3A, 1470.

⁷⁴ YOS 11 25, as published in English translation in Jean Bottéro, *Textes Culinaires Mésopotamiens: Mesopotamian Culinary Texts* (Winona Lake: Eisenbrauns, 1995), 9.

⁷⁵ Jaroslav Černý, “Reference to Blood Brotherhood Among Semites in an Egyptian Text of the Ramesside Period” (*JNES* 14/3 [1955]): 161–63.

this may be a simple case of eating flesh whose blood has not been properly drained. Leviticus 19:26a uses identical language in its prohibition, which is juxtaposed in this verse with divination and necromancy, strengthening the likelihood that a chthonic practice is in view here.

Leviticus 17:15 states that anyone who eats what dies of itself or has been torn by beasts shall simply wash their clothes and bathe in water, a simple case of defilement that may be remedied the same day by washing. According to Leviticus 22:8, only priests are absolutely forbidden to eat carrion. If eating blood by itself merits *kareth*, it is unclear why the eating of meat whose blood has not been properly drained should call for a far lesser penalty. Kleinig's explanation is that if an animal is already dead, its blood lacks "life." The meat is not banned, but it renders one unclean, a case of low level ritual impurity, not serious desecration.⁷⁶ The ultimate answer why the eating of carrion does not merit *kareth* seems to be that there is no potential for misuse of blood. It becomes a matter of corpse contamination, although the contamination is less severe (it causes one day of pollution as opposed to seven days). Nevertheless, the issue was considered important enough to be addressed not only in the Holiness Code, but also in the Covenant Code (Exod 22:31) and Deuteronomy (Deut 14:21), both of which forbid Israelites to eat carrion, but neither of which specify any penalty for disobedience.

While Leviticus 7:25–27 is formulated similarly to the standard default formula (the participle **האכלת** replaces **ההוא** in v. 25) and probably intends to denote expulsion, Leviticus 17:10–14 is more doubtful as to its intention. Both *kareth* declarations in this pericope are formulated substantially differently from the default form. Verse 10 uses the divine first person hip'il imperfect of **כרת**, characteristic of a divine declaration of destruction; it also uses **עם** in the singular as its specific locus of separation. Verse 14 eliminates the locus of separation entirely.

⁷⁶ Kleinig, *Leviticus*, 366–67.

When כרת is used this way (in this case, in the nip'al imperfect), there is a strong likelihood of destruction as the intended meaning.

Leviticus 7:25–27 and 17:10–14 are regarded by source critics as parallels that are attributable to the P and H sources respectively. Although the offense is basically the same in both passages, only the P passage qualifies as a probable expulsion penalty. While there is nothing firm that stands in the way of such an interpretation for the H passage, it is more doubtful whether the H passage has the narrow meaning of expulsion in mind. In practice, the P passage probably preserves how this offense was handled.

Leviticus 7:20–21: Penalty for eating sacred offerings while unclean.

והנפש אשר־תאכל בשר מזבח השלמים אשר ליהוה
ושמאתו עליו ונכרתה הנפש ההוא מעמיה
ונפש כִּי־תגע בכל־טמא בטמאת אדם או בבהמה
טמאה או בכל־שקץ טמא ואכל מבשר־זבח השלמים אשר ליהוה
ונכרתה הנפש ההוא מעמיה

These verses deal with eating sacred offerings while in a state of uncleanness. Two *kareth* declarations are made here. Both begin with נפש as their subject (the second begins without the definite article). The first then sets up the scenario with אשר + the qal imperfect verb “eats”; the second does so by using כי (“when”) + the qal imperfect verb “touches.” Both verses then describe the particulars of the case. Both end with the identical default *kareth* declaration.

In 7:21, the Samaritan version and Targum Onqelos read שרץ instead of שקץ. This variation appears to be due to a confusion of the letters ק and ר, which can only be confused in the paleo-Hebrew script. Kleinig observes that שרץ “probably refers to the carcasses of the eight reptiles

and rodents listed in 11:29–31 that polluted by contact with their carcasses as well as by consumption of their meat.”⁷⁷

The cases enumerated here are comparatively minor, secondary contamination that can easily be remedied and therefore avoided: genital discharge, contact with a menstruant, and corpse contamination.⁷⁸ Such cases become major when the contamination is brought deliberately into YHWH’s sanctuary, or when contaminated persons consume the holy offerings outside the sanctuary. The issue of contact with holy offerings is also found in the *kareth* declaration in Leviticus 22:3 (see below).

Both *kareth* declarations in Leviticus 7:20–21 follow the standard *kareth* formula. They both belong to what is likely the earliest class of *kareth* declarations, and they likely (although not unambiguously) denote punitive expulsion. These verses are addressed to Israel as a whole. They parallel Leviticus 22:3, where similar behavior is forbidden to priests, and a narrow locus of separation is specified (see below).

Van der Toorn cites evidence that menstruating women were known to have touched sacred offerings in Babylon.⁷⁹ Although no priest could see it, he says, “the gods, so people thought, did see it and held the woman in question guilty of cultic activity while in a state of impurity.” Impurity in contact with sacrifices was an issue both inside and outside of Israel. In

⁷⁷ Kleinig, *Leviticus*, 163.

⁷⁸ Ibid.

⁷⁹ Karel van der Toorn, *From Her Cradle to Her Grave: The Role of Religion in the Life of the Israelite and the Babylonian Woman* (trans. Sara J. Denning-Bolle; Sheffield: JSOT Press, 1994), 50. Van der Toorn cites VAT 10868, rev., lines 11, 15, as well as Baruch 6:29, a text of uncertain date that may nevertheless preserves genuine reflections of the practice of Neo-Babylonian idolatry. Tarja S. Philip (*Menstruation, and Childbirth in the Bible: Fertility and Impurity* [Studies in Biblical Literature 88; New York: Peter Lang, 2006], 6) cites KAR 423, line 15: *sinništu ša naḥṣatu marṣat niqâ lu’â* [DU₃]-uš (“a woman sick with a hemorrhage brings an impure victim”), while noting that a hemorrhage may not have been equated by the Mesopotamians with menstruation in its potential to defile.

Mesopotamia, no punishment is prescribed; the issue is entirely provocation of the displeasure of the gods, which could involve any number of unspecified consequences.

Leviticus 19:8: Penalty for eating desecrated sacrifices.

ואכליו עונו ישא כי־את־קדש יהוה חלל ונכרתה הנפש ההוא מעמיה

This verse deals with eating leftover sacrificial meat. This verse continues the thought of the previous three verses, where the subject is sacrificial meat that has been left over until the third day. Verse 8 begins, “Its eaters” (qal active participle masculine plural with a singular suffix) “shall bear (qal imperfect third person masculine singular) their iniquity (masculine singular with singular suffix).” This is followed by an explanatory כִּי clause and the default *kareth* formula.

The rationale given in the כִּי clause is “because he/she has defiled the sanctuary of YHWH.” In this case, the contaminating factor is that the leftover sacrifice has become פֶּגֶל, “desecrated” meat. What is holy has become a source of revulsion that ought to have been disposed of by burning, the same measure that is to be taken against meat that has come into contact with uncleanness (Lev 7:19–20).

The parallel to this statute is in Leviticus 7:18. The consequences are stated as follows: If the *šlamim* offering is eaten on the third day, it “shall not be acceptable, nor shall it be credited to the one who offered it; it shall be an abomination, and the soul who eats of it shall bear his/her iniquity (עוֹנֵה חַשָּׂא).” Here, עוֹנֵה חַשָּׂא is used as if it were synonymous with *kareth*. If it is not, then there is no explicit penalty here, merely guilt for which no atonement is provided. (See

discussion of **ישא עונה** in Chapter Two.) Milgrom takes the addition of the rationale clause as evidence that Leviticus 19:5–8 is secondary to Leviticus 7:16–18.⁸⁰

Although it is situated within the H corpus, Leviticus 19:8 is formulated according to the standard formula that is characteristic of material assigned to P. It is to be classed among the ambiguous passages that are likely to refer to expulsion due to antiquity of their form.

Offenses in Leviticus 18 identified as death penalty offenses in chapter 20.

The overarching issue here is why all the offenses listed in chapter 18 appear to be punished by banishment, while some of the same offenses call for an explicit death penalty in chapter 20. The key verse is 18:29:

כי כל-אשר יעשה מכל התועבות האלה ונכרתו הנפשות
העשת מקרב עמם

The verse begins with **כי**, which refers back to a warning in the previous verse that the land will “vomit” the people out if they commit the abominations listed in this chapter. The subject is **כל-אשר** + a qal imperfect verb, followed by **כרת** + the plural of **נפש** as the subject of the verb, modified by a qal active participle (“those who do”) + **מקרב** + **עם** in the singular with a 3rd person masculine plural suffix.

The sexual provisions in this chapter apply both to the alien and to the Israelite (v. 26). The rationale is that these practices were the cause behind the expulsion of previous pagan nations from the land. The language of expulsion used here (**תקיא** as well as **משלח**) is an argument in favor of expulsion as the meaning of **כרת** in verse 29.

⁸⁰ Milgrom, AB 3A, 1349.

It is significant that there are no punishments at all prescribed in this chapter, other than the blanket declaration at the end. Hartley argues that in chapter 18, the head of the household holds responsibility for enforcing the moral code, therefore the punishments are not spelled out.⁸¹ Likewise, Phillips states that “family law was administered in the home by the head of the household acting unilaterally...But in spite of the absolute authority of the head of the household in cases of family law, he none the less had no power of life or death over those under his protection.”⁸²

Milgrom discusses the issue of whether chapter 20 is a continuation of chapter 18, whether it is an independent composition, or whether the author of chapter 20 had chapter 18 in front of him.⁸³ Milgrom offers the following evidence that the two chapters are independent compositions:

1. A number of prohibitions in chapter 18 are missing in chapter 20: the mother (18:7), the granddaughter (18:10), and the taking of two sisters (18:18). Furthermore, the mother-daughter prohibitions are differently construed (compare 18:17 versus 20:14). In addition, two prohibitions in chapter 20 (necromancy in 20:6 and dishonoring parents in 20:9) are absent in chapter 18.
2. Some of the same laws are worded differently, such as the prohibition of sex during menstruation.
3. The form of the prohibitions is second person apodictic in chapter 18, but third person casuistic in chapter 20.
4. Chapter 20 is addressed primarily to the community, while chapter 18 appears to be addressed to the fathers' houses.
5. Leviticus 20 appears to refer to previous chapters, raising the possibility that the source of chapter 20 is re-presenting material from chapter 18 as well.
6. The penalties are different and cannot be reconciled.

⁸¹ Hartley, *Leviticus*, 285.

⁸² Anthony Phillips, “Some Aspects of Family Law in Pre-exilic Israel,” *VT* 23 (1973): 361.

⁸³ Milgrom, *AB* 3A, 1765–68.

7. “The rationales are also different: chap. 18 dwells negatively on the sins that will lead to exile, while chap. 20 speaks positively of the effect of observing the prohibitions: it will lead to separation from other nations and achieving holiness (v. 26).”⁸⁴

In addition, Milgrom argues elsewhere that Leviticus 18:6–23 is shown to be older than verses 1–5 and 24–30 because the term *תועבה* is used for only one of the specific prohibitions in this section (v. 22), while all of these prohibitions are labeled *תועבה* in the closing exhortation.⁸⁵

Milgrom’s believes that these two chapters are independent, rather than a case of chapter 20 supplementing chapter 18. He believes the strongest evidence to be the missing prohibitions and the conflicting penalties. However, neither of these objections rules out the use of the one chapter in the formulation of the other. Missing prohibitions may simply be due to different needs or emphases, while the difference between penalties may be described as clarification rather than contradiction. Chapter 20’s presence in the text, as well as the character of its contents, is better explained as being for the purpose of spelling out penalties that are not made explicit in chapter 18.

Leviticus 18:29 is the only *kareth* declaration where a plural of *נפש* and a plural verb are both used, in a blanket declaration on whomever does “any of these abominations” listed in this chapter. The context is one that contains offenses where different penalties are assigned in the parallel material in chapter 20, where some offenses are punished with *נכרת מעמיה*, some with a clear death penalty. In this context, one must conclude either that *kareth* = execution, or that *נכרת* is being used in its broader sense. It is argued here that in Leviticus 18:29, *נכרת* is being used in its broader sense.

⁸⁴ Milgrom, AB 3A, 1767.

⁸⁵ Jacob Milgrom, “From the Workshop of the Redactor H_R: An Egalitarian Thrust,” in *Emanuel: Studies in Hebrew Bible Septuagint and Dead Sea Scrolls in Honor of Emanuel Tov* (ed. Shalom M. Paul et al.; Supplements to Vetus Testamentum 94; Leiden: E. J. Brill, 2003), 741.

Non-capital offenses in Leviticus 18. There seems to be a note of lesser severity here, compared to the offenses that carry death penalties elsewhere. Sex during menstruation appears out of nowhere here as a moral issue, paralleled only in Ezekiel 18 and 22; likewise, there are forms of incest here that are not singled out for punishment elsewhere in the Torah.

Only two of the non-capital offenses use the *kareth* formula where these penalties are restated in Leviticus 20:

Leviticus 20:17: Penalty for brother-sister incest.

ואיש אשר ייקח את־אחותו בת־אביו או בת־אמו
וראה את־ערוֹתה והיא־תראה את־ערוֹתו
חסד הוא ונכרתו לעיני בני עמם ערות אחתו גלה עונו ישא

Leviticus 20:18: Penalty for sex during menstruation.

ואיש אשר ישכב את־אשה דוה וגלה את־ערוֹתה
את־מקרה הערה והיא גלתה את־מקור דמיה ונכרתו שניהם מקרב עמם

In verse 17 (brother-sister incest), the subject is איש + אשר + two qal imperfect verbs (“takes” and “uncovers” nakedness), together with definitions of the parties involves (quasi-casuistic). Hartley addresses the question whether statutes like this one are intended to prohibit marriage to next of kin, or to regulate incest, by pointing out that the language of chapter 18’s version of this statute, לנלות ערוה, “depicts a driven, passionate sexual encounter.”⁸⁶ In chapter 20, the verb “uncovers” has been replaced by “sees.” The verbs in this statute indicate a mutually consenting (“takes” = usually a term for “marries”) act of passion (“sees”). The text then declares, “It is a disgrace” (homonym of חסד, occurring elsewhere only in Prov 14:34), and it announces that the offending couple (“the two”) shall be cut off “in the eyes of/sight of their

⁸⁶ Hartley, *Leviticus*, 286.

people” (singular). Lastly, “he shall bear his iniquity” (singular; the LXX reads the plural on this phrase) is added, which can mean either, “he shall be punished,” or “he will have to carry guilt.” The fact that only the male is targeted here may be explained by the concept that it is the brother’s responsibility to guard the sister’s honor.⁸⁷

Good points out that the fact that offenders here can be “cut off in plain view of the community...implies that the punishment was not entirely metaphysical.⁸⁸ He also observes, “In this particular case, both male and female sex offenders are made subject to *kareth*, and the penalty therefore cannot be castration” (contra Daube’s theory of *kareth*’s origin).⁸⁹

Brother-sister incest is well known among Egyptian royalty. However, it is forbidden among the Hittites, according to Suppiluliuma I in his treaty with Huqqana of Hayasa, to whom Suppiluliuma has given his sister as wife. Suppiluliuma writes:

But for Hatti it is an important custom that a brother does not take his sister or female cousin (sexually). It is not permitted. In Hatti whoever commits such an act does not remain alive but is put to death here. Because your land is barbaric, it is in conflict (?). (There) one quite regularly takes his sister or female cousin. But in Hatti it is not permitted.⁹⁰

With regard to the unanswered question as to whether the issue of brother-sister incest is a matter of marriage or not, it may be argued that this statute makes it clear that it is not only one’s full-blooded sibling that is forbidden in marriage, but also one’s half sibling, and even one’s stepsibling who is not a blood relation.

Verse 18 (sex during menstruation) begins similarly: אִשׁ + אִשָּׁר + qal imperfect verb with further description of the facts of the case. The *kareth* formula is given as “they shall be cut off,

⁸⁷ Hartley, *Leviticus*, 340.

⁸⁸ Good, *Sheep*, 87.

⁸⁹ Ibid. See also Daube, “Umbildung,” 251–52.

⁹⁰ Gary Beckman, *Hittite Diplomatic Texts* (ed. Harry A. Hoffner, Jr.; 2d ed.; SBL Writings from the Ancient

the two, מִקְרַב עִמָּם.” In verses 19–21, the *kareth* declaration on these offenses from Leviticus 18 is not restated, but “they shall bear their iniquity...they shall die childless.” Rather than this being a punishment of instant death, it is strongly implied that the offenders are allowed to live.

Milgrom argues that, while menstruation is the specific condition at issue in Leviticus 18, in Leviticus 20, the “infirmity” (דִּוּה) is conceived in broader terms, not just menstrual, although the context here (“he has uncovered her fountain, and she has uncovered the fountain of her blood”) points clearly to menstruation.⁹¹ The term דִּוּה is used in three times in Leviticus (12:2; 15:33; 20:18) and once in Isaiah (30:22) with reference to menstruation; its two occurrences in Lamentations (1:13, 5:17) refer to generalized sickness due to the grief of exile, although they may retain the connotation of uncleanness.

The term נִדָּה is used 26 times in the OT; it is used for discharge of all kinds, although it chiefly refers to menstruation. The connotation of דִּוּה, by contrast, is “sickness,” as seen by its use in Leviticus 12:2 in connection to women who have just borne a child.

Virtually all Near Eastern cultures had a ban on contact with a menstruant, both sexual and merely tactile. One South Arabian confession inscription serves as an example:

Ḥarim, son of Ṭawbân, avowed and did penance to Dû-Samâwî because he drew near a woman during a period illicit to him [*or* her] and fondled a woman during her menses; and that he came together with a woman in childbed; and that he went without any purification and wore his clothes without purification; and that he touched women during their menses and did not wash himself..⁹²

As noted by Milgrom, the significance of the text cited above is that every category of impurity named by the individual is also found among the categories in the Torah: sex with a menstruant (Lev 15:24) and a woman who has just given birth (Lev 12:2), prolonged impurity

World 7; Atlanta: Scholars Press, 1999), 31, §25.

⁹¹ Milgrom, AB 3A, 1754.

(Lev 5:3), touching a menstruant without washing oneself (Lev 15:19), and seminal emission without washing oneself (Lev 15:16–17).⁹³

The concept of defilement by menstruation is well known among the Egyptians, Persians, Greeks, Arabs, Hindus, and in rabbinic Judaism.⁹⁴ What matters most in the present context is our ability to document the concept's presence in contemporary Mesopotamia, for which evidence does exist, although it is not abundant. The relevant Akkadian term is *musukkatu*, the feminine form of *usukku*, a Sumerian loanword that is used to identify Enlil as an unclean sex criminal after he seduces an underage girl (see Chapter Three). A more stringent standard than the Torah is reflected in one Babylonian text that reads, "If a man touches a *musukkatu* woman who is passing by, for six days he will not [be pure]." (CAD 10:239) In another text, reference is made to "Water into which no *harištu* has descended, no *musukkatu* has washed her hands." (Ibid.) The CAD also notes, "The term *musukku* refers to a woman in the period after she has given birth (note the mention of the (first) milk of a *m.*-woman) when she is in tabooed state until she has taken a ritual bath; it may also refer to a menstruating woman."⁹⁵

A case of menstruation is implied in a Middle Assyrian palace decree that reads, "As for a woman of the harem for whom intercourse is forbidden (*ša lā qarabšani*), she may not come into the presence of the king." (CAD 13:233)⁹⁶ Van der Toorn argues that the context here is the time

⁹² "Ḫay(û)m [of the family of] Ga'irân," trans. A. Jamme, *ANET*, 508.

⁹³ Milgrom, AB 3, 311.

⁹⁴ W. H. Gispen, *Het Boek Leviticus* (Commentaar op het OT; Kampen: Kok, 1950), 230; Milgrom, AB 3, 948–53.

⁹⁵ CAD 10/2: 240.

⁹⁶ Text: VAT 14407, lines 17–18.

for sacrifices, and that the Assyrian ruler “took the part of the high priest and could not be exposed to influences of pollution. Even visual contact could harm the purity of the cult.”⁹⁷

The *kareth* penalty in this case, however it is understood, must be compared to Leviticus 15:24, where if a man has intercourse with a menstruating woman, he suffers seven days’ impurity (in contrast to one day for merely touching her), and no penalty is provided for the woman. Part of the answer may be that Leviticus 15 is focused on issues of impurity rather than punishment. Source criticism attributes the two passages to different sources, assigning Leviticus 15 to P. Such is the approach of Tarja Philip, who writes, “In Lev 15 menstrual sex is not forbidden, since the impurity threatens only the holy and the impure can easily be prevented [sic]...and the legislation gives the proper and relatively easy ways to remove the impurity.”⁹⁸ In this context, she argues, holiness is restricted to areas with which the public does not regularly have contact. In Leviticus 18–20, however (an H passage), holiness is a daily imperative, and impurity cannot be removed, hence the need to threaten a severe sanction in this case.

The question of intentional versus unintentional defilement could be part of the answer to the apparent contradiction. In m. Ker. 2:6, if one party in a forbidden sex act acted unintentionally, “the one that acted in error is liable to a sin offering and the one that acted wantonly is liable to punishment by Extirpation.” But it is obvious that in Leviticus 15:24, an offense that is so easily remedied does not appear in its context to be a crime that merits execution or divine extermination. There is no Near Eastern evidence that execution is ever employed for contact with a *musukkatu*. All of the scant available evidence (see the section on the *uzug₄* in Chapter Three) points to expulsion. Only the Hittite punishment for priests who fail

⁹⁷ Toorn, *Cradle*, 51.

⁹⁸ Philip, *Menstruation*, 58.

to purify themselves before reentering the sanctuary after intercourse comes anywhere close to resembling such a severe punishment.

Milgrom conjectures that “H is creating a deterrent that will protect the woman from unwanted advances by her husband during her period of weakness.”⁹⁹ Yet such a deterrent already exists in the form of seven days’ defilement. It is unnecessary to place an extermination curse in the mouth of YHWH to accomplish this purpose. The real issue is defilement that threatens the sanctuary, for which threat a removal from the community is more than sufficient.

These two prohibitions are made with the singular of עַם as their locus of separation, characteristic of H. In addition, the incest prohibition is the only *kareth* declaration to use the specific designation “in the eyes of the children of” their people, which seems to hint strongly at a public act of expulsion of the offenders.¹⁰⁰ The use of מִקְרָב in verse 18 likewise seems to indicate an expulsion “from the midst” of the nation.¹⁰¹ These two prohibitions, then, both fall in a class of expulsions that is slightly less original in form, but which specifically point to expulsion as the penalty’s meaning.

Leviticus 20:1–5: Penalty for sacrifice to Molech.

וידבר יהוה אל־משה לאמר ואל־בני ישראל תאמר
איש איש מבני ישראל ומן־הגר הגר בישראל אשר יתן מזרעו למלך
מות יומת עם הארץ ירגמהו באבן ואני אתן את־פני באיש ההוא
והכרתי אתו מקרב עמו כי מזרעו נתן למלך
למען שמה את־מקדשי ולחלל את־שם קדשי

⁹⁹ Jacob Milgrom, AB 3A, 1754–55.

¹⁰⁰ See Kiuchi (*Leviticus*, 377) and Kleinig (*Leviticus*, 427), who concur that the act of punishment here is public in nature. Kleinig writes, “Since they cohabited in secret, God would punish them in public.”

¹⁰¹ The construction מִקְרָב is used 22 times in the Hebrew OT, nine of which are in the *kareth* texts, and eight of which are in Deuteronomy. All but two (Deut 32:17; Jer 23:23) convey a strong sense of physical separation from within a given location (Deut 4:34 refers to taking “a nation from the midst of another nation”), although three texts refer to death or destruction “from the midst of” the camp or people (Deut 2:14; 2:15; 2:16).

וּאִם הָעֵלֶם יִעֲלִימוּ עִם הָאָרֶץ אֲתֵעִינֵיהֶם
 מִן־הָאִישׁ הַהוּא בַתְּתוּ מִזֶּרְעוֹ לְמֶלֶךְ לְבַלְתִּי הַמֵּית אֶת־
 וְשִׁמְתִי אֲנִי אֲתֵפְנִי בְּאִישׁ הַהוּא וּבְמִשְׁפַּחְתּוֹ וְהִכְרַתִּי אֶת־
 וְאֵת כָּל־הַזֵּנִים אַחֲרָיו לְזִנוֹת אַחֲרֵי הַמֶּלֶךְ מִקְרֵב עַמּוֹ

These verses address Molech worship. This is an anomalous case, both because it employs the hip‘il form, God speaks in the first person, and the death penalty is invoked. Furthermore, it is unclear why Molech worship is the only form of idolatry associated with *kareth*. Critical scholarship has drawn the conclusion that the mention of Molech worship is evidence that this legislation is to be dated no earlier than its appearance in OT historical texts in the eighth century B.C. However, Heider’s study of the Molech cult finds “a substantial and growing body of evidence that an ancient Syro-Palestinian deity Malik, later Milku/i or Molek, played an important role in the popular cultus of Ebla and was worshipped as a chthonic god in Mesopotamia, Mari, Ugarit – and Israel.”¹⁰² Day cites deity lists from the Old Babylonian period and the Middle Assyrian period that read ^dMa-lik = ^dNergal, along with a bilingual Akkadian-Ugaritic deity list that lists the plural ^dMA.LIK.MEŠ = *mlkm*, , and a deity ^dMa-lik šarru ša Ma₂-ri^{ki}, “Malik king of Mari,” whose name is also spelled Muluk in the place name Ilum-Muluk.¹⁰³

There is therefore no need to see the polemic against Molech worship as evidence of lateness. Why the text does not devote similar effort to opposing Baal worship by name is not evident, but the reason may be because the tradition sees chthonic worship as even more dangerous than the Canaanite fertility cult. The reason Molech worship is viewed as desecrating God’s name is because it is practiced syncretistically, as part of the worship of YHWH. To equate YHWH with the equivalent of the underworld deity Nergal was a proposition evidently

¹⁰² George C. Heider, *The Cult of Molek: A Reassessment* (ed. David J. A. Clines and Philip R. Davies; JSOT Supplemental Series 43; Sheffield: JSOT Press, 1985), 401.

¹⁰³ John Day, *Molech: A God of Human Sacrifice in the Old Testament* (Cambridge: Cambridge University Press, 1989), 48–49.

more hideous than to equate YHWH with Baal. The fact that other Canaanite deities are not named may reflect a context where the Canaanite cult within Israel has become so endemic that now it is only the most hideous form of idolatry, the chthonic, that is singled out by name.

Another question to be answered here is why a lone provision against a specific kind of idolatry appears in a chapter where every other offense named is a sexual offense. Snaith follows the suggestion of the Talmud that “giving one’s seed to Molech” means giving one’s children to be sacred prostitutes.¹⁰⁴ It is also argued that the term נתן is never used to mean “sacrifice,” therefore “dedicate” would seem to fit the meaning better both here and in 18:21. However, both נתן and להעביר occur together with זבח and שחת in Ezekiel 16:21. And 2 Kings 23:10 is unambiguous that באש להעביר one’s children to Molech was done (see also Deut 18:10).

If Snaith’s claim is not correct, the reason why Molech worship is juxtaposed with a chapter full of sexual offenses (Lev 18) may be that the worship of a chthonic deity was believed to cause defilement on a par with the defilement caused by sexual immorality, defilement of a particularly contagious nature. Indeed, Molech worship contaminates the sanctuary, even though it takes place outside the sanctuary, because the same people who practice it also enter the sanctuary of YHWH (Ezek 23:38–39). “Molech worship generates such powerful impurity that it defiles the temple from afar.”¹⁰⁵

One may argue from context that here is a declaration of destruction rather than a legal penalty per se, where the use of “cut off” language is only coincidental. Two senses of “cut off” may be converging here. Note that first, death by stoning is commanded. The pair of subjects is אִישׁ אִישׁ and גַּר + גַּר + אִשֶּׁר + qal imperfect verb, followed by the formula מוֹת יוֹמָת and the

¹⁰⁴ Norman Snaith, “The Cult of Molech,” *VT* 16 (1966): 123–24. See also Moshe Weinberg, “The Worship of Molech and of the Queen of Heaven and its Background,” *Ugarit Forschungen* 4 (1972): 133–54.

¹⁰⁵ Joosten, *People*, 126.

specification that the **עַם** of the land shall stone the individual with stone. Then (v. 3) God declares, “I will set my face (a phrase echoed in Ezekiel) against that man (**אִישׁ**) and I will cut him off (hip‘il + direct object marker) **מִקֶּרֶב עִמּוֹ**” (singular), followed by a **כִּי** rationale. Then God warns in verse 5 that if anyone hides their eyes and does not execute the culprit, “I will set my face against that **אִישׁ** and his family, and I will cut off/destroy him, and all who prostitute themselves after him to prostitute themselves after Molech, **מִקֶּרֶב עַמּוֹ**” (singular). The use of the phrase **וּבְנֵי שִׁפְחוֹתָיו** “and his family” is not equated with “from his people” (but note that **עַם** occurs here in the singular).

Hartley rejects the notion that a human punishment is being called for here:

But nothing in this context indicates that such a transgressor’s offspring are to be punished. Rather, this verse expresses God’s extreme loathing of such a transgression. He personally excludes such a person from the covenant community, meaning that that person will have none of the community’s benefits in the age to come.¹⁰⁶

The issue of group punishment argues against treating this passage as jurisprudence with a prescribed penalty. Leviticus 20:5 is the only passage in any legislative portion of the Torah where destruction is declared against a whole family (or potentially a community), other than the apostate city legislation in Deuteronomy 13:12–18. Even the apostate city case involves taking up the sword against the offending community rather than the judicial stoning of a family or authorities who turn a blind eye to an offense.

This passage is to be classed among the definite cases where **נִכְרַת** must be taken in its sense of “extreme” removal (here via a clear death penalty) rather than its sense of expulsion. The first person divine hip‘il imperfect adds to the certainty of this conclusion. The locus of

¹⁰⁶ Hartley, *Leviticus*, 337–38.

separation is specifically עַם in the singular, characteristic of H, but the rhetorical form of this passage points to a divine declaration of extermination rather than a statute with penalty.

Leviticus 20:6: Penalty for patronizing occult practitioners.

והנפש אשר תפנה אל-האבת ואל-הידענים לזנות אחריהם
ונתתי את-פני בנפש ההוא והכרתי אתו מקרב עמו

This verse addresses those who patronize mediums or wizards, such as Saul in 1 Samuel 28, as opposed to mediums and wizards themselves, who shall be put to death (Lev 20:27; see also Exod 22:17; Deut 18:10–11).¹⁰⁷ The subject is stated as הנפש + אשר + qal imperfect verb. The declaration then proceeds almost exactly like the immediately preceding pronouncement on Molech worship: “I will set my face against that soul (הנפש ההוא, rather than איש in v. 5), and I will cut him off (hip‘il + direct object marker) מקרב עמו.” Note that even though נפש is the subject, the text is grammatically problematic, since it uses a third person masculine singular suffix on both the direct object marker and on עַם (the Samaritan Pentateuch corrects both of these). The equation of איש with נפש here helps to firmly establish the meaning of נפש in this passage as “individual.”

It is no accident that in this verse, necromancy is juxtaposed with Molech worship. Both involve powers of the underworld, and consequently both must involve the defiling of YHWH’s sanctuary. One must ask, if Wold and Milgrom are correct that *kareth* is extermination, why those who patronize occult practitioners are punished worse than the practitioners themselves, who are merely executed.

¹⁰⁷ Milgrom (AB 3A, 1769) quotes an incantation text from Ugarit which reads that a deity will “expel” (*ygrš*) spell-casters and young soothsayers (KTU 1.169, lines 8–10). However, an examination of the context reveals that this text is a formula for exorcism, and that the verb *ygrš* refers to the expulsion of spirits (*ḥbrm* and *d‘tm*) rather than of occult practitioners. See Dennis Pardee’s translation in William Hallo and K. Lawson Younger, eds., *The*

Leviticus 20:6 is virtually identical in form to the previous passage (see remarks above). It lacks only the explicit presence of a death penalty. The form (a divine first person hip'il) casts doubt on what might otherwise be viewed as a case for expulsion.

Leviticus 22:3: Penalty for contact with sacred gifts while unclean.

אמר אלהם לדרתיכם כל-איש אשר-יקרב מכל-זרעכם
אל-הקדשים אשר יקדישו בני-ישראל ליהוה וטמאתו עליו
ונכרתה הנפש ההוא מלפני אני יהוה

This verse deals with approaching sacred gifts while unclean. The subject is essentially איש + אשר + qal imperfect verb: “Anyone who approaches...and his uncleanness is upon him.” The form is semi-casuistic, although it lacks the אם. The offender (הנפש ההוא) is to be cut off “from before me” (מלפני) rather than “from his people.”

This legislation is addressed specifically to Aaron and his sons, that is, to the priestly personnel. The offerings dedicated to YHWH that are spoken of here are off-limits for consumption by non-priests. What is imperative is that the priests be free from cultic contamination when preparing or consuming the sacred offerings, or dealing with them in any way. A parallel may be found in the instructions to the Hittite priesthood that they must not come on duty unclean; if they leave the sanctuary to have intercourse, they must be purified before they come on duty again, or else they risk execution.¹⁰⁸

In context, this passage lists numerous potential sources of uncleanness that would disqualify a priest from handling the holy offerings until the uncleanness is remedied (vv. 4–8).

Context of Scripture (3 vols; Leiden: E. J. Brill, 1997–2002), 1:301–302.

¹⁰⁸ “Instructions for Temple Officials,” *ANET*, 209.

The passage concludes in verse 9 with a warning that failure to observe this statute may result in sudden death in the sanctuary. This verse is part of the third category of severe offenses mentioned in the Chapter One. The question is whether it means that “cut off” = death (in this case, immediate death) at the hand of God. The answer may be that *kareth* is done to prevent wrath from striking the community, if the offending priest does not suffer immediate automatic (fatal) consequences for his offense.

The thrust of this verse argues strongly for banishment from the holy place rather than expulsion or extermination from among humans as the meaning of *kareth*.¹⁰⁹ Milgrom concedes, “In the priestly texts, the expression *millipnê YHWH* always refers to the sanctuary (9:24, 10:12, 16:12; Num 17:11, 24; 20:9; cf. 1 Sam 21:7). It also has the extended meaning of the (prophetic) service of YHWH (Jon 1:3; contrast 1 Kgs 17:1; 18:15; 2 Kgs 3:14; 5:16; Jer 15:19).”¹¹⁰

However, Gerstenberger comes to the opposite conclusion on this passage: “An impure priest must stay away from the sacred donations of the congregation, under penalty of death.”¹¹¹

The problem is verse 9, which appears to be tied into the context of verse 3: “They shall keep my charge, so that they may not incur guilt and die in the sanctuary for having profaned it.” The explanation may be in the intervening material. Milgrom insists that the divinely inflicted death penalty in verse 9 is distinct from and less severe than the *kareth* penalty of verse 3.¹¹² He sees the crime in verse 9 as consumption of carrion by a priest who is in a state of purity: “Thus

¹⁰⁹ See Hartley, *Leviticus*, 355; Noth, *Leviticus*, 160. Kleinig (*Leviticus*, 463) writes, “This varies the usual formula for extirpation from one’s kinsfolk or people. In this case the priest would no longer have access to the altar, but would be excluded from God’s presence.”

¹¹⁰ Milgrom, AB 3A, 1850.

¹¹¹ Gerstenberger, *Leviticus*, 324.

¹¹² Milgrom, AB 3A, 1859.

the priest who eats carrion has committed the lesser crime, and his penalty is also the lesser: death instead of *kārēt* (i.e., the end of his line).”¹¹³

An alternate explanation of the death decree in Leviticus 23:9 is that it is a warning of the automatic consequence that may ensue if the offending priest is not expelled from the sanctuary as prescribed in verse 3. In the opinion of this writer, this is the best explanation, although Milgrom may also be partially correct in that verse 9 may have a different offense in view.

The construction מִלְפָּנַי, either in construct or with a suffix, is used 50 times in the Hebrew Bible. If one subtracts the two anomalous cases where it means “because of” (1 Sam 8:18; 18:12) and the 16 cases where it refers to the presence of humans or inanimate objects, the remaining 32 uses refer to the presence of God, at least eight of which refer to a specific sanctuary or holy place (Gen 4:16; Lev 9:24; 10:2; 16:12; 22:3; Num 17:24; 20:9; 1 Kgs 8:54). Two passages (both in Jon 1:3) treat Israel as a whole as the locus of the presence of God. Six times the presence of God is treated as virtually universal (twice in Ps 97:5; twice in Ps 114:7; Isa 48:19; Jer 31:36). מִלְפָּנַי is also used three times in the non-removal formula (1 Kgs 8:25 = 2 Chr 6:16; Jer 33:18). In the Jeremiah passage (which involves the verb כָּרַת), Milgrom observes that the text distinguishes between kings, who shall not be cut off from David to sit on the throne, and the Levitical priests, who “will not be cut off from the divine presence in the sanctuary.”¹¹⁴

While the use of מִלְפָּנַי is attested for both the universal divine presence and for the sanctuary, only in Isaiah 48:19 is this term used in connection with removal from the universal presence of God, in a passage where the context encompasses future generations of the nation as a whole. It would appear, then, that the use of נִכְרַת in this passage is almost certainly spatial with

¹¹³ Milgrom, AB 3A, 1860.

¹¹⁴ Milgrom, AB 3A, 1850.

regard to the earthly sanctuary, rather than a term for destruction that removes someone from the presence of an omnipresent God.

The formulation makes it abundantly clear that the statute is intended for all Israel throughout its generations. The term לדרהיכם occurs 27 times in the OT, all found in Exodus–Numbers with the exception of Genesis 17:12. It occurs in the context of a number of *kareth* statutes, including circumcision (Gen 17:12), Passover observance (Exod 12:14, 17), sacred oil (Exod 30:31), and Sabbath observance (Exod 31:13).

Leviticus 22:3 is a prohibition expressed specifically to priests. While the parallel legislation addressed to Israel as a whole in Leviticus 7:20–21 is formulated entirely according to the standard default *kareth* form (from his עמים), the law addressed to the priests calls for the offending priest to be cut off “from my presence” (מלפני). The form may be secondary, but the intended meaning is specific, giving this passage a clear place among the passages that denote expulsion.

Numbers 15:30–31: Penalty for deliberate disobedience.

והנפש אשר תעשה ביד רמה מן האזרח ומן הגר
את־יהוה הוא מגדף ונכרתה הנפש ההוא מקרב עמה
כי דבר־יהוה בזה ואת־מצותו הפר הכרת תכרת הנפש ההוא עונה בה

This passage addresses sinning “with a high hand,” i. e. intentional as opposed to unintentional disobedience, such as sins of omission or failure to perform a positive command. The *kareth* formula occurs in a climactic position after nine preceding uses of the שגד/שגה root to contrast inadvertence with what is punishable by *kareth*.

Verse 30 is formulated with הנפש as subject + a long אשר clause with a qal imperfect verb, followed by a de facto result clause “he reviles Yahweh” (pi‘el participle), and concludes with a

nip'al *kareth* clause with מקרב and עם in the singular (plural in the Samaritan). Verse 31's pronouncement begins with causal (or possibly temporal) כי and is followed by two qal perfect verbs, and ends with a combination nip'al infinitive absolute + nip'al (not waw-consecutive) imperfect of כרת + ההוא הנפש, plus a warning that the offender must "bear his/her guilt." Note the emphatic severity conveyed by the use of both the infinitive absolute and the final clause. The warning is applied to both alien and native Israelite. Budd writes that the author is "anxious to affirm that these principles apply to aliens as well as to native Israelites, and to insist that there are no sacrifices for deliberate offenses."¹¹⁵

The verb גרף (revile, blaspheme) is used a total of seven times in the OT. Once it is used with no specified object (Psa 44:16). It is used with YHWH as its object in Ezekiel 20:27, and four times in reference to the actions of Sennacherib against YHWH (2 Kgs 19:6, 22; Isa 37:6, 23). The verb פרר (nullify) is used only here (in v. 30) and in Genesis 17:14 in the *kareth* texts, indicating in both cases a serious repudiation of God's commands.

Levine compares the expression "with a high hand" with the open defiance shown by Israel in its exodus from Egypt. He writes, "In a legal context, *beyad rāmāh* connotes premeditation and contrasts with *bišegāgāh* 'inadvertently', in other words, without prior intent."¹¹⁶

By implication, the deliberate offenses for which *kareth* is pronounced in this statute must not usually be in themselves offenses that merit the death penalty, otherwise the statute would be redundant. It is not the seriousness of the offenses themselves, but the defiance of YHWH that calls for a severe penalty to avoid the wrath of YHWH upon the community.

¹¹⁵ Budd, *Numbers*, 173.

¹¹⁶ Baruch A. Levine, *Numbers 1–20: A New Translation with Introduction and Commentary* (AB 4; New York: Doubleday, 1993), 398.

This *kareth* passage is followed in context with the account of the man who is executed for gathering wood on the Sabbath. The incident presents an example of a deliberate disobedience, although this particular offense already carries an explicit death penalty according to Exodus 31:14. The question is whether this piece of legislation warrants the same degree of destruction for all deliberate disobedience. This question must be answered in the negative. Here would be an example of where the verb כרת appears to be used in a broad and elastic way, a context where punitive expulsion may be intended in cases that do not warrant the death penalty (v. 30), but where it is warned that the intense anger of God points to destruction in either case (v. 31).

The two back-to-back *kareth* declarations in Numbers 15 are formulated differently, to the extent that each seems to carry very different rhetorical force. Verse 30 has a locus of separation “from the midst of one’s people” (singular), secondary in form, but specific, a passage that is very amenable to interpretation as expulsion. In contrast, verse 31 is formulated in a form highly suggestive of destruction: a nip‘al imperfect with infinitive absolute for emphasis (a construction of כרת found nowhere else), with no locus of separation. Taken together, it is not certain how the penalty for “sinning with a high hand” shall be understood. The answer may depend on the specific offense that is committed deliberately. One may be inclined to see the penalties added one on top of the other: to class verse 30 with the clear expulsion penalties, coupled with a threat of destruction in verse 31. Whether or not כרת denotes destruction here, it is clear that later on Qumran chooses to implement permanent expulsion as the penalty for this offense.

Maimonides’ comments in his *Mishneh Torah* (Hilchoth Teshubah 2:3) capture the spirit of this *kareth* declaration: “Anyone who makes a verbal confession without resolving in his heart to

abandon his sin is like one who takes a ritual bath while grasping a defiling reptile. The bath is useless unless he first casts the reptile away.”¹¹⁷

Numbers 19:13: Penalty for failing to cleanse oneself from corpse contamination.

כל־הנגע במת בנפש האדם אשר־ימות ולא יתחטא את־משכן יהוה
טמא ונכרתה הנפש ההוא מישראל כי מי נדה
לא־זרק עליו טמא יהיה עוד טמאתו בו

Numbers 19:20: Penalty for failing to cleanse oneself from corpse contamination.

ואיש אשר־יטמא ולא יתחטא ונכרתה הנפש ההוא מתוך הקהל
כי את־מקדש יהוה טמא מי נדה לא־זרק עליו טמא הוא

The context is the chapter where the red heifer ritual is provided for decontamination from corpse defilement. The subject in 19:13 is כל + participle. There are two modifying phrases. The first modifies the object of the participle (מת) and reads literally, “the soul of a person who has died”. The second modifier is an action verb that adds to the action of the subject participle (“whoever touches”): “and does not decontaminate oneself.” It is then said that the subject of both of these actions “defiles the sanctuary of YHWH.” Then comes the default *kareth* formula with the change to “from Israel.” Finally, a כי clause is added as rationale.

Hutton takes the words “he/she shall be unclean” as an indication that “(t)he person has a future. It is a future of continued uncleanness, suggesting expulsion from the worshipping community.”¹¹⁸ To proclaim that the offender “will be unclean” (a rendering of the imperfect tense made unambiguous in this case by the juxtaposition of the adverb עוד) makes no sense if the penalty in this case is to be executed.

¹¹⁷ Philip Birnbaum, ed., *Maimonides' Mishneh Torah (Yad ha-Hazakah)* (New York: Hebrew Publishing Company, 1944), 37.

Verse 20 expresses the same warning in a shorter form. The subject is אִישׁ + אֲשֶׁר + two qal imperfect verbs, followed by the default *kareth* formula with a change to “from the midst of the congregation.” Here also is added a כִּי clause as rationale, essentially the same rationale as the one given in verse 13. This passage clearly envisions expulsion from the cultic community as the remedy for the offense in question.

The offense in Numbers 19 goes beyond the issue of direct defilement of sacred space or property through contact by an unclean person. Corpse pollution lasted seven days, therefore it is regarded as more severe than other cases of contamination. Some, such as the Nazirite and the high priest, were not allowed to touch any dead body. Death within the camp or community was unavoidable, and pollution from it would be unintentional at this point. As for death outside the camp, “Death pollution poses no serious threat as long as it remains outside, but whoever brazenly brings it into the midst of Israel is liable to kareth.”¹¹⁹ Unless the person applied the water of decontamination as prescribed in the Mosaic corpus, the person became a threat to the holiness of the community until he or she was removed from there. The threat apparently exists whether the defiled person enters the sanctuary or not, as long as the defiled person remains present in the community without remedying their condition.

These two *kareth* declarations in Numbers 19 both contain specific loci of separation: “from Israel” and “from the midst of the congregation.” They would appear to be therefore secondary, but they are clear expressions of expulsion as the meaning intended by נִכְרַת in each case.

¹¹⁸ Hutton, “Formulae,” 139.

¹¹⁹ Wold, “Kareth,” 110.

Conclusions

Some overall differences may be noted in these texts. *Kareth* seems to have a well worn standardized formula, judging from where ungrammatical alterations occur. Most instances of *kareth* seem to lean toward physical separation from the community rather than destruction, particularly where the language “from his/her people” is replaced by “from Israel” or “from the קהל.” Two exceptions are significantly different in form. In these cases, the hip‘il form is used, and God speaks in the first person. Leviticus 20:1–5 (as well as Leviticus 20:6, and 23:30, which is appended to a *kareth* penalty in 23:29) reads more like a prophetic exhortation such as those in Ezekiel 14:8 and 15:7 than like a legal statute. Another exception, Exodus 31:14, is clearly identified as a death penalty offense, and it occurs in a verse where the *kareth* penalty itself appears to be out of place.

The chart below categorizes the *kareth* formulae in the Torah, according to the criteria established at the beginning of this chapter. The passages least likely to be explained by punitive expulsion are the ones where the death penalty is juxtaposed with *kareth*: Exodus 31:14, Leviticus 18:29 (covering a chapter that contains many death penalty offenses), and Leviticus 20:1–5. The rest of the *kareth* passages contain a degree of ambiguity, but most of them are clearly open to interpretation as punitive expulsion.

| Expulsion almost certain: | Offense: | Penalty formula: |
|---|--|--|
| Exod 12:15 (P) Exod 12:19 (P) Lev 17:4 (H) Lev 17:10 (H) Lev 20:17 (H) Lev 20:18 (H) Lev 22:3 (H) Num 19:13 (P) Num 19:20 (P) | Leaven during Passover Leaven during Passover Sacrifice outside sanctuary Eating blood Brother-sister incest Sex during menstruation Trespass by impure priest Failure to decontaminate Failure to decontaminate | ונכרתה הנפש ההוא מישראל ונכרתה הנפש ההוא מעדת ישראל ונכרת האיש ההוא מקרב עמו והכרת אתה מקרב עמה ונכרתו לעיני בני עמם ונכרתו שניהם מקרב עמם ונכרתה הנפש ההוא מלפני ונכרתה הנפש ההוא מישראל ונכרתה הנפש ההוא מתוך הקהל |
| Expulsion likely: Gen 17:14 (P) Exod 30:33 (P) | Failure to be circumcised Counterfeiting holy oil | ונכרתה הנפש ההוא מעמיה ונכרת מעמיו |

| | | |
|--|---|---|
| Exod 30:38 (P) Lev 7:20 (P) Lev 7:21 (P) Lev 7:25 (P) Lev 7:27 (P) Lev 17:9 (H) Lev 19:8 (H) Num 9:13 (P) | Counterfeiting holy incense Unclean eats sacrifice Unclean eats sacrifice Eating sacrificial fat Eating blood Sacrifice outside sanctuary Eating leftover sacrifice Failure to keep Passover | ונכרת מעמיו ונכרתה הנפש ההוא מעמיה ונכרתה הנפש ההוא מעמיה ונכרתה הנפש האכלת מעמיה ונכרתה הנפש ההוא מעמיה ונכרת האיש ההוא מעמיו ונכרתה הנפש ההוא מעמיה ונכרתה הנפש ההוא מעמיה |
| Expulsion doubtful: Lev 17:14 (H) Lev 20:6 (H) Lev 23:29 (H) Num 15:30 (P) Num 15:31 (P) | Eating blood Patronizing occultists Violating Yom Kippur Sinning with “high hand” Sinning with “high hand” | כל-אכליו יכרת והכרתי אתו מקרב עמו ונכרתה מעמיה ונכרתה הנפש ההוא מקרב עמה הכרת תכרת הנפש ההוא |
| Definitely not expulsion: Exod 31:14 (P) Lev 20:1-5 (H) | Violating Sabbath Sacrifice to Molech | ונכרתה הנפש ההוא מקרב עמיה והכרתי אתו מקרב עמו |
| Some expulsion, some not: Lev 18:29 (H) | Mixture of capital and non-capital crimes | עמם ונכרתו הנפשות העשת מקרב |

Milgrom observes that “P scrupulously distinguishes between the divine punishments *mût* ‘death’ and *kārēt* ‘excision’ ...H, however, interchanges them indiscriminately.”¹²⁰ If one follows Milgrom’s theory that P preserves an earlier form of the Mosaic legislation than H, one can see a possible trend where the *kareth* = exclusion concept eventually becomes the *kareth* = extermination approach that dominates the Jewish interpretive tradition thereafter. The question is whether this development was a move toward greater clarity or toward confusion.

It is proposed that the tendency to forget what was originally clear (because it was assumed) is the operative principle in the history of the use of the *kareth* formula. The default formula identified at the beginning of this chapter appears to be the oldest form (particularly due to its archaic use of עמיה), although it is the most ambiguous form with regard to its meaning. In subsequently formulated passages, clarifying language is used to specify the locus of separation.

¹²⁰ Milgrom, AB 3, 37.

After this, the predominant trajectory of interpretation from Ezekiel onward through the LXX points to a final stage of understanding of the *kareth* formula in the transmission of the Mosaic tradition, namely, a connotation of destruction. The latest passages use עַם, but they use a divine first person singular hip‘il verb, thereby exhibiting a different rhetorical context. While the use of כרת to mean either death or punitive expulsion was probably employed from the beginning, the sense of “destruction” came to dominate the use of כרת completely over time, to where the sense of “expulsion” was lost for this term, and other words came to replace the use of כרת both for punitive expulsion and for destruction.

Having examined the individual *kareth* texts in context, the final question to be explored is how an original meaning of punitive expulsion for this penalty fits into the legal practice of ancient Israel. This will be the subject of Chapter Five.

CHAPTER FIVE

THE PLACE OF *KARETH* IN OLD TESTAMENT LAW

After summarizing the evidence examined and the conclusions drawn on the meaning of *kareth* in the previous three chapters, this chapter will seek to integrate these conclusions into an understanding of the *kareth* penalty's place in OT law. As the implications of punitive expulsion are examined in this regard, three topics will be addressed. First, a theory of original meaning for the *kareth* penalty versus subsequent development will be articulated. Second, a *Sitz im Leben* for the *kareth* penalty will be proposed that will seek to answer the questions of why *kareth* is prescribed (that is, what do the *kareth* offenses have in common that merits expulsion?), who is responsible for administering it, and how the penalty is administered (expulsion from Temple, town, or clan, or simple non-association?). Finally, the issue of comparative seriousness of the *kareth* penalty will be addressed vis-à-vis death penalty offenses and comparative “misdemeanors,” including the question of whether those who are expelled from the community are therefore cut off from an eternal saving relationship with God, according to the totality of testimony presented by the OT.

Summary and conclusions on the evidence

The *kareth* penalty appears entirely in texts that classical source criticism attributes to the designated P and H strata. It is completely absent from the Covenant Code (Exodus 21–23) and from Deuteronomy. The *kareth* offenses themselves are entirely absent from the Covenant Code, and what few are found in Deuteronomy, such as the prohibition of consuming blood, state no penalty, simply a motive: “that it may be well with you and your children” (Deut 12:23–25). The

Deuteronomic formula “You shall purge the evil from your midst” is not an equivalent expression to *kareth*, although the LXX treats it as such; this formula is tied exclusively to the death penalty in Deuteronomy.¹ The Shechemite Curses in Deuteronomy 27:15–26 (most of which are for offenses done in secret or which are hard to detect) contain one *kareth* offense, but they also contain some death penalty offenses and some offenses for which no explicit penalty is stated elsewhere.

Fifteen of the *kareth* passages are commonly assigned to P (that is, the passages outside of Leviticus 17–26), and thirteen are assigned to H, although one could argue that the presence of *kareth* is a sign of H’s hand in all 28 verses. Two-thirds of the P passages contain the archaic term עמיים as the locus from which the offender is separated, four passages name specific loci of separation (Israel, or the “congregation”), and one instance contains no locus of separation, indicating destruction as a possible meaning. In H, eight out of 13 verses refer to עם in the singular (= nation) as the locus of separation, one refers to “from my presence” as the locus of separation, only three contain the archaic עמיים, and one lacks a locus of separation.

It was seen in Chapter Two that the use of כרת as a pronouncement may convey a broad range of meanings. When כרת is pronounced against nations or dynasties whom God desires to punish, context and syntagmic lexical clues often point to a connotation of “destruction.” However, in other cases, including most instances of the *kareth* penalty, grammatical and contextual clues allow for, and in some cases demand, a less than fatal sense for כרת, such as “removal” or “expulsion.” Even in cases where it may be determined that expulsion rather than execution is called for as a penalty in such statutes, however, such expulsion may have been

¹ Deut 13:5; 17:7; 17:12; 19:13; 19:19; 21:21; 22:24; 24:7.

understood as a way of achieving the offender's destruction by less violent means, which also left open the possibility of temporal mercy in the event that the offender survives.

Wold and Milgrom, in a position articulated originally by rabbinic Judaism, see destruction by divine rather than human agency as the meaning in virtually all cases of the *kareth* penalty. They present this as the unanimous position of historic Judaism, as evidenced both by the discussion of *kareth* in the Mishnah and Talmud, and by the translation in the LXX. They also cite Near Eastern extermination curses as parallels to *kareth*. Furthermore, they argue that Exodus 31:14 and Leviticus 20:1–6 serve as evidence that כרת denotes destruction rather than expulsion.

The Wold-Milgrom position contains several weaknesses. First, it overlooks substantial evidence of an early tradition of *kareth* as expulsion. This includes evidence from Qumran, Josephus, and the OT period (see Chapter Three), plus evidence from the Targumim (see Chapter Two). Second, in its effort to prove that כרת = destruction, it overlooks substantial evidence of the use of כרת to mean removal in a nondestructive sense (see Chapter Two). Third, the Near Eastern parallels to *kareth* offered by Wold and Milgrom are unconvincing as true parallels, since never is the *krt* root employed in these texts, and since it is by no means clear that the objects of extermination in the Near Eastern curses are the same as the objects of the verb in the *kareth* penalty. Fourth, in its insistence that כרת = destruction, it fails to consider the possibility that כרת is best understood as removal, in some cases being mild (expulsion), and in other cases being extreme (execution). Finally, in the area of implications, even if the Wold-Milgrom hypothesis were true, it would create a scenario where capital crimes such as murder, adultery, and most forms of idolatry are treated less severely by the biblical God than offenses such as

eating leavened bread during Passover, which ultimately contradicts the total picture of the biblical God presented elsewhere in the OT, as will be argued later in this chapter.

The lexical evidence for *kareth* as expulsion, plus traces of historical evidence for this interpretation within Judaism, is strengthened by evidence of expulsion as a legal penalty in the practice of surrounding ancient Near Eastern cultures (see Chapter Three). Particularly in Mesopotamia and among the Hittites, one finds the concept of contamination by an offender that requires the removal of the offender from the community, a concept that is arguably the rationale behind the proposed practice of punitive expulsion in biblical Israel.

The position of this dissertation is that while the broad, overarching sense of “removal” may be consistently maintained for all instances of the *kareth* penalty, “destruction” as a specific connotation for כרת is only demanded in the handful of cases where the divine first person hip‘il (Lev 17:10; 20:1–6) or the nip‘al without locus of separation (Lev 17:14; Num 15:31) are used, and in the case of Exodus 31:14, where a clear death penalty is specified in context, and where the presence of the term כרת is apparently employed to underscore the sense of total removal of the offender. In all other cases of the *kareth* penalty, a meaning of “expulsion” is not merely plausible, but also may provide a better explanation for how these offenses fit into the implied system of torts underlying the legislation contained in the Torah. In addition, it will be argued in this chapter that the concept of contamination that requires removal of the offender to avoid the wrath of deity is the most convincing explanation for the purpose of *kareth*. It is concluded here that “expulsion” is indeed the original meaning of the majority of the *kareth* penalties.

Original meaning and subsequent development

Questions such as the date of *kareth*, or theories on its original meaning or subsequent development are by nature highly speculative. For this reason, the discussion of *kareth* will now

move from firmly advocated conclusions based on evidence, to hypotheses that can be neither solidly confirmed nor refuted, but which may prove helpful in explaining the evidence.

With regard to determining original meaning, the issue of an early versus late setting for the *kareth* penalty is an issue that cannot be avoided, regardless of whether one sides with direct Mosaic authorship, whether one holds to the authorship theories of Wellhausen or Milgrom, or somewhere in between in one's view of the origin and composition of the Pentateuch. Such theories impact conclusions. One may see *kareth* as a development such as a commutation of an original death penalty, or a late creation *de novo* by Israel. Or one may see *kareth* (if it is expulsion) as a piece of original wilderness period legislation that fell into disuse, and was then resurrected in later times. Original circumstances also affect our understanding of how the penalty was implemented. If the original application was exclusion from the camp, one must ask how this penalty was applied to the postsettlement period. It may have become an exclusion from the Temple, like the exclusion imposed on Jeremiah, as opposed to banishment from the territory of Israel.

While source critics such as Morgenstern see a development from an early divine extermination belief, to a late concept of expulsion from the nation or cult attributed to a postexilic P source, the reverse is equally plausible. If P is preexilic and prior to H, then the direction of development appears to go in the opposite direction from the direction envisioned by Morgenstern.

Tzevat hypothesizes a "late pre-monarchical or very early monarchical date for *kareth*."² He suggests that at the time that *kareth* is proclaimed against Eli's household, *kareth* is already

² Tzevat, "Studies," 206.

being transformed from a priestly prerogative into a form where it can be proclaimed by a “free agent” such as a prophet.

Milgrom is the best-known critical scholar to assign a comparatively early date to the materials where *kareth* is found. As opposed to Wellhausen’s postexilic setting for these strata, Milgrom sees H as “substantially the product of the eighth century BC.”³ He also thinks that P is earlier than H, and that it preserves authentic ancient material that goes back to Shiloh and earlier. Among Milgrom’s arguments that H is preexilic (and pre-Deuteronomic) are that H and P have no ban on intermarriage, they use *נכנע* or *התורע* instead of *שוב* to denote “repentance,” and the high priest is not anointed in the postexilic period.⁴ Milgrom also offers 22 passages where Ezekiel borrows and alters H, all of which borrowing points, he argues, in only one direction.⁵

One need not adopt Milgrom’s specific dates to accept the value of his argument that the P material is prior to H, and that both are prior to Deuteronomy in the form that they present the Mosaic legislation. If both P and H are priestly materials, this may further explain *kareth*’s absence from both the Covenant Code and Deuteronomy, which are manifestly written for public instruction, and which deal predominantly with nonpriestly issues.

It is P where *עמיים* is used by far the most often (ten out of 15 times), while P also preserves the most cases that seem to speak most clearly of expulsion from a specific community, be it Israel or the extended family. It is H that prefers the singular *עם*. It is also in H where one finds

³ Jacob Milgrom, *Leviticus: A Book of Ritual and Ethics* (Continental Commentaries; Minneapolis: Fortress, 2004), 216–17.

⁴ Milgrom, AB 3A, 1361–64. Similar arguments are offered by Kaufmann, *Religion of Israel*, 175–200.

⁵ Milgrom, AB 3A, 1360.

passages that resemble Ezekiel's use of כרת to mean "destruction," together with YHWH's expression in Ezekiel, "I will set my face against that person." Ezekiel (datable to the Exile at the earliest) is echoing the language of H. From here, one can trace the trajectory onward to the concept of *kareth* as "extermination" in the LXX and the rabbinic tradition.

The extent of the Holiness Code and its *Sitz im Leben* have both been disputed. In fact, H's very existence as a source distinct from the Priestly stratum has been disputed. Eerdmans was among the first to reject its existence: "Daß Lev 17,1 der Anfang einer selbständigen Gesetzsammlung ist, geht aus nichts hervor."⁶ For those who hold to the existence of H, it is usually thought to include Leviticus 17–26. However, some also include passages from elsewhere in Leviticus, Exodus, and Numbers. Among them is Milgrom:

It has long been recognized that laws attributable to the Holiness Source can be found outside H (Lev 17–26), not only in Leviticus itself (e. g., 11:43–45) but in Exodus (e. g., 31:12–17) and Numbers (e. g., 15:37–41). Moreover, because these passages appear either at the end of a pericope or as links between pericopes, I had come to the conclusion that they constituted the final layers of the composition. Who, then, was responsible for their insertion? The evidence clearly pointed to their authors, the H tradents themselves. The implication was obvious: the school of H is later than P; indeed, H is P's redactor.⁷

Another scholar who finds H far beyond Leviticus 17–26 is Knohl. Knohl includes Exodus 6:2–7:6; 10:1–2, 20–23, 27; 12:1–20, 43–49; 25:1–9; 29:38–46; 31:1–17; 35:1–40:38; Leviticus 9:17; and 16:29b–33 among the texts he attributes to H, along with a sprinkling of passages from the rest of the Pentateuch.⁸ Knohl believes that the diversity and the spread-out occurrences of H material is evidence that it is H rather than P who is the final editor of the Torah.

⁶ Bernardus K. Eerdmans, *Alttestamentliche Studien IV: Das Buch Leviticus* (Gießen: Töpelmann, 1912), 83.

⁷ Milgrom, AB 3, 13.

⁸ Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995), 104–106.

Hartley presents a helpful summary of theories on the development of the Holiness Code.⁹ Reventlow sees a gradual growth of H from an original that at first included only the collection of apodictic laws in chapters 17–20.¹⁰ To these were added instructional material, including cultic instruction in chapters 21–25, the blessings and curses in chapter 26, and finally homiletic material, identified by the use of direct address.¹¹ Likewise, Kilian identified an *Ur*-Holiness Code consisting of portions of chapters 18–22 and 25, followed by a second redaction during the exilic period.¹² Finally, Cholewiński proposes five cores from which the Code developed, which he designates as H1 through H5, followed by a later redactor who added hortatory material and gave the Holiness Code its present form.¹³

There is debate as to whether the Holiness Code is an in-house priestly document, or whether it is intended for public instruction. This question impacts the question of whether the average person could be deterred by a penalty that only would have been known by priests. Budd argues that the abundant existence of motive clauses throughout the Mosaic legal material indicates an active teaching role for the priests, whose job “demanded an ability, not only to analyse certain ritual conditions, but also to give authoritative guidance in situations where there was no exact precedent. To do this the priest would draw on a common stock of priestly knowledge, and since his reply dealt with the question ‘What should we do?’ it would probably

⁹ Hartley, *Leviticus*, 251–60.

¹⁰ Reventlow, *Heiligkeitsgesetz*, 162.

¹¹ Hartley, *Leviticus*, 253.

¹² Kilian, *Literaturkritische*, 164–74.

¹³ Alfred Cholewiński, *Heiligkeitsgesetz und Deuteronomium: Eine vergleichende Studie* (Analecta Biblica 66; Rome: Pontifical Biblical Institute, 1976), 132–35.

be personally framed.”¹⁴ This process may be seen in practice in Haggai 2:11–13, Zechariah 7:2–7, and 1 Samuel 6:2–9 (in the case of pagan priests).

Von Rad approached the material in the Holiness Code as priestly authoritative pronouncements of three types: “act” (“he has shed blood”), status (“he is a murderer”), and response (“he shall surely die”).¹⁵ Daube sees a pattern in passages such as Leviticus 20:14 that he says is rare in ancient legal texts, but is found in Egyptian and Babylonian medical codes; he declares the *Sitz im Leben* of such passages to be one of priestly diagnosis.¹⁶

Reventlow finds the following pattern in the legislation of the Holiness Code:

1. Protasis, d. h. Darstellung des Falles. 2. rituelle Beurteilung (זמה הוא o. ä.) 3. Todzusage (מוות יומת); 4. deklaratorische Schuldfeststellung (אביו ואמו קלל o. ä.); 5. Fluchformel (ישא דמיו בו, כרת). Nicht alle diese Stufen finden sich in jedem Satz, oft sind es nur zwei oder drei. Auch die Reihenfolge ist nicht immer ungestört. Aber der Grundaufbau läßt sich doch durchgehend ermitteln und ist ein sicheres Merkmal für die ursprüngliche Zusammengehörigkeit der Glieder.¹⁷

Reventlow holds that the Holiness Code is a “gottesdienstliches Dokument” whose home is in the Israelite *Bundesfest*, which grew from original units of material to its final form in this setting, where the liturgical setting and the needs of the people dictated the compilation.¹⁸ The present text is a product of the *Prediger und Gesetzesverkündiger* who stands in the place of Moses as a “Moses *redivivus*” to articulate God’s will for the present time.¹⁹ The Holiness Code is therefore popular instruction (mediated perhaps by Levites) rather than an in-house priestly

¹⁴ Philip J. Budd, “Priestly Instruction in Pre-Exilic Israel,” *VT* 23 (1973): 6.

¹⁵ Gerhard von Rad, *Gesammelte Studien zum Alten Testament* (Theologische Bucherei, Bd. 8; Munich: C. Kaiser, 1958), 130–34.

¹⁶ Reuven Yaron, *Introduction to the Laws of the Aramaic Papyri* (Oxford: Clarendon, 1961), 110, citing David Daube, *Abstracts of the Proceedings of the Oxford Society of Historical Theology* (1944–45), 39–42.

¹⁷ Reventlow, *Heiligkeitgesetz*, 89.

¹⁸ Reventlow, *Heiligkeitgesetz*, 162–67.

collection of legal rulings. Reventlow's *Bundesfest* finds no attestation by name in the OT, although it could be the public re-reading of the Law stipulated in Deuteronomy 31:10–11 to be done every seventh year during the Feast of Sukkoth.

In a similar way, Kraus cites with approval Alt's conception of apodictic law as a *Sitz im Leben* for the Holiness Code.²⁰ Alt argues that in contrast to casuistic law, whose setting is the practice of law in the gate,²¹ divine apodictic law has its setting in worship, where the community as a whole is addressed and the will of YHWH is re-proclaimed, not in the specifics of case law, but in broad imperatives.²² Alt observes that the "passionate intensity" of the apodictic law could never have arisen in ordinary legal practice: "A context is required in which the whole people, and through them their God, could adopt the imperative tone towards individuals, and impose on them the absolute prohibitions."²³ He concludes, "The apodeictic [sic] law provides the central text for a sacral action involving the whole nation, and those who proclaim it are the mouthpiece of Yahweh, the levitical priests," who carried out "the function of making his demands known to Israel."²⁴

It is argued here that an originally legislated practice of exclusion (which fell into disuse and whose meaning was subsequently forgotten, like many elements of the Mosaic law) became a divine curse in later Jewish tradition, a position first anticipated by Zimmerli.²⁵ One can see the

¹⁹ Reventlow, *Heiligkeitsgesetz*, 165.

²⁰ Hans-Joachim Kraus, *Worship in Israel: A Cultic History of the Old Testament* (trans. Geoffrey Buswell; Richmond, Va.: John Knox, 1966), 12.

²¹ Alt, *Essays*, 91: "Such laws can have been used only in the exercise of normal jurisdiction."

²² Alt, *Essays*, 113; 123.

²³ Alt, *Essays*, 125.

²⁴ *Ibid.*

²⁵ Zimmerli, *Ezekiel*, 304.

pattern evidenced by the use of כרת in Ezekiel. If one employs the dating of Ezekiel as later than H, as held by Zimmerli, Milgrom, Elliott-Binns, Paton, and Lyons,²⁶ one can see that the pattern moves toward a meaning of destruction for כרת.

Some scholars would argue that Ezekiel preceded H, or even authored H. But others offer evidence to substantiate the belief that H precedes Ezekiel. Elliott-Binns observes that unlike Ezekiel, “H knows nothing of the sole responsibility of the individual for his own sins.”²⁷ He believes that H is

parallel to Deuteronomy, but is probably earlier...It still regarded all slaughter of domestic animals as sacrificial and did not contemplate a single sanctuary...It was related to but earlier than Ezekiel...It dates from the latter years of the monarchy, but before Josiah...²⁸

Paton observes that Ezekiel says nothing about the high priest, that preexilic kings never did what Ezekiel’s נשיא does, and that the similarity between Ezekiel and H is “sporadic,” with no close parallelism of thought.²⁹ He writes, “The standing phrase of H, ‘And I will cut him off from the midst of his kinsfolk’, is apparently more original than the two forms which occur in Ez., ‘I will cut him off from the midst of my people,’ and ‘I will destroy him from the midst of my people Israel.’”³⁰

²⁶ Leonard E. Elliott-Binns, “Some Problems of the Holiness Code,” *ZAW* 67 (1955): 26–40; Lewis Paton, “The Holiness Code and Ezekiel,” *The Presbyterian and Reformed Review* 26 (1896): 98–115; Michael A. Lyons, *From Law to Prophecy: Ezekiel’s Use of the Holiness Code* (New York: T&T Clark, 2009).

²⁷ Elliott-Binns, “Holiness Code,” 34.

²⁸ Elliott-Binns, “Holiness Code,” 40.

²⁹ Paton, “Holiness Code,” 107–110.

³⁰ Paton, “Holiness Code,” 112.

Hurvitz identifies 37 linguistic elements where he demonstrates that P (in which he includes H) is prior to Ezekiel.³¹ Among them, the following examples appear particularly salient:

1. P uses עֲמִית (nine times in H and twice outside it), while Ezekiel avoids or replaces it. “It is this repeated application of ‘*āmīth*’ within H which makes its total absence in Ez. even more striking.”³²
2. Ezekiel avoids P’s archaic use of שֹׁאֵר to mean “kin,” which is found seven times in H, once in P outside of H, and nowhere else in the OT.³³
3. The term אֲשֶׁה is only used three times outside of P (Deut 18:1, Josh 13:14, 1 Sam 2:28); Ezekiel avoids this term, even when discussing offerings made by fire.³⁴
4. “(N)owhere in P or in classical biblical literature do we find *hithqaddēš* attached to God.”³⁵ Only in Ezekiel does one find God as the subject of this verb form, which otherwise means “to sanctify oneself.”
5. The common term רָחַץ “to wash” in P is replaced by the late technical term הִרְיִחַ in Ezekiel (40:38), found elsewhere only in Isaiah 4:4, 2 Chronicles 4:6, and Jeremiah 51:34.³⁶
6. The dual אַמְתַּיִם “double cubit” becomes שְׁתַּיִם אַמּוֹת “two cubits” in Ezekiel.³⁷

If it is true that Ezekiel is later than the legal traditions that produced the *kareth* penalty, as argued by the above evidence, then it becomes possible to trace a pattern of development in Israel’s understanding of *kareth*, ending in the “divine extermination” understanding found in the LXX and rabbinic Judaism. Levine observes this pattern of change over time for the *kareth*

³¹ Avi Hurvitz, *A Linguistic Study of the Relationship Between the Priestly Source and the Book of Ezekiel: A New Approach to an Old Problem* (Cahiers de La Revue Biblique 20; Paris: Gabalda, 1982).

³² Hurvitz, *Linguistic Relationship*, 74–78.

³³ Hurvitz, *Linguistic Relationship*, 71–74.

³⁴ Hurvitz, *Linguistic Relationship*, 59–63.

³⁵ Hurvitz, *Linguistic Relationship*, 41.

³⁶ Hurvitz, *Linguistic Relationship*, 63–65.

³⁷ Hurvitz, *Linguistic Relationship*, 30–32.

penalty: “This penalty originally meant banishment from one’s clan or territory,” but in the course of time it came to connote premature death, loss of status or office, and finally “death at the hands of heaven...”³⁸

Sitz im Leben

What do the *kareth* offenses have in common that calls specifically for expulsion? Milgrom observes that “*karet* is imposed for ritual and not ethical sins.”³⁹ Alt observes that the genre of the *kareth* commands (i. e. apodictic) deals “to an overwhelming degree with matters which the casuistic law never mentions, and with which from its secular nature it could have no concern.”⁴⁰ They deal with “the sacral realm of man’s relations with the divine,” including not only worship of YHWH alone and avoiding abuse of anything that belongs to YHWH, but also the area of the family.⁴¹

A large number of these offenses involve defilement. The exceptions would appear to be Sabbath violations, counterfeiting sacred oil or incense, sinning “with a high hand,” and failure to observe Passover or circumcision. With regard to defilement, some defilements are easily remedied (by washing or by sacrifice); why must these offenses require a more severe measure? For some reason, it appears that these defilements put the community at risk if the offenders are not removed from its midst. People are removed from the community because of leprosy (Num 5:2–3, שִׁלֵּחַ), a nonmoral but ongoing source of defilement that it is beyond human power to

³⁸ Levine, *Numbers*, 466.

³⁹ Milgrom, *Numbers*, 125.

⁴⁰ Alt, *Essays*, 113 (see also 123: “the apodeictic [sic] laws deal with matters with which casuistic law is never concerned”).

⁴¹ Alt, *Essays*, 113–14.

remove.⁴² Those who are removed because of leprosy do not cease to belong to the people of God, but they are removed for the protection of the community.

Philo (*Spec.* 1.60.325–26; 1.61.333) said that the Torah “banishes” (ἐλαυνει) those with mutilated genitals, harlots and children of harlots, Ammonites, and Moabites (see also Josephus, *Ant.* 3.261, who adds lepers, those suffering a discharge, and menstruants to the list). It must be noted that Philo’s list (from Deut 23:2–4, MT) refers to persons who are excluded from the “congregation” (קהל), which may mean either the sanctuary or the community as a whole. The Ammonites and Moabites are included probably because their ancestors were children of incest, according to Genesis 19. All the groups on this list may be said to be defiled in ways for which there is no remedy other than removal of the individual.

Most of the remaining instances of *kareth* involve offenses against important elements of Israelite identity. None of the *kareth* provisions apply explicitly to Gentiles,⁴³ other than the prohibition against leaven (Exod 12:19, although it is unclear whether the גר is a Gentile per se or a proselyte who is part of the “congregation” of Israel). Furthermore, the three Noahic commandments that are explicitly applied to Gentiles by later Judaism (murder, adultery, and idolatry) are punished in Israel by the death penalty, not by *kareth*.⁴⁴

⁴² Milgrom (“Redactor H_R,” 746) points out that the זב and those defiled by a corpse are allowed to remain at home in Lev 15 and Num 19. He explains the discrepancy by observing that Num 5 legislates for the wilderness war camp in which the divine presence rests and more stringent impurity rules exist. Deut 23 expels even men who have had a seminal emission, again implying a military camp context rather than a settlement context.

⁴³ In m. Zebah. 4:5, Rabbi Meir exempts the heathen from certain defilement provisions penalized by *kareth*.

⁴⁴ It may be argued that adultery is named in Leviticus 18:20, and is covered by the blanket *kareth* declaration in 18:29. However, it is argued here that provisions in this chapter may qualify as *kareth* only if they are reaffirmed in chapter 20 (where adultery is not punished by *kareth*), and that the translation of עמיה in 18:20 is unclear and may mean “kinsman’s” rather than “neighbor’s” wife. Concerning idolatry, it is curious why only Molech worship occurs with כרת in the Torah. God makes a broader promise to “cut off” (הכרית) idol worshippers in Ezekiel 14:7–8, but it is questionable with one may equate this case of divine prophetic speech with the *kareth* legal provision in the Torah.

Weinfeld writes:

The Priestly document imposes upon the *ger* only those obligations which affect the sanctity and purity of the congregation...It does not require the *ger* to observe the regulations and ceremonies which are part of Israel's special religious heritage and which do not particularly involve ritual purity. For example, such 'covenant signs' of the Priestly document as the Sabbath and circumcision (Exod. 31:16–7; Gen. 17:10–11), the non-observance of which entail the *kareth* penalty (Exod. 31:14; Gen. 17:14), are not binding upon the *ger*.⁴⁵

Weinfeld enumerates requirements that are binding upon the *ger*: regulations on sacrificial procedure, the prohibition of leaven during Passover, regulations on corpse defilement, the impurity of incest, Molech worship, murder, blasphemy, and work on Yom Kippur.⁴⁶ Likewise, Milgrom states that the *ger* is responsible only for observing negative commands, that is, avoiding practices that put the entire community at risk; the *ger* is not required to obey positive commands that are signs of Israel's covenant relationship with YHWH.⁴⁷ It may be argued that to some extent the *ger* is already "cut off" or excluded from Israel to a limited degree in that he/she is barred from the holy place and from celebrating Passover. In this light, the *kareth* statutes are applied to the *ger* only in cases that put the entire community at risk, that is, the negative commands (as argued by Milgrom above).

Frymer-Kensky describes the significance of the *kareth* penalty as follows:

The deeds that entail the *kareth* sanction are acts against the fundamental principles of Israelite cosmogony; in particular, acts that blur the most vital distinctions in the Israelite classificatory system, the separation of sacred and profane.⁴⁸

The protection of the sacred was the primary purpose of the *kareth* penalty...the function of the *kareth* belief is clear: it serves as a divine reinforcement of the

⁴⁵ Weinfeld, *Deuteronomy*, 230–31.

⁴⁶ *Ibid.*

⁴⁷ Milgrom, AB 3, 1055.

⁴⁸ Frymer-Kensky, "Pollution," 404.

boundaries between sacred and profane by providing a sanction for acts which violate these boundaries but which are not normally provided with legal sanctions.⁴⁹

One may ask, Why do clear capital crimes not also threaten the sacred, like the *kareth* offenses do? The answer may be that perhaps they do, but they must also be punished immediately, for the sake of deterring evil, as stipulated in Deuteronomy 13:5; 17:12; 19:13; 19:19; 21:21; 22:24; and 24:7.

Wold's summary is helpful for the way it explains what the *kareth* offenses hold in common: "Kareth is found for deliberate violations of the Priestly Writer's holiness/purity-impurity rules, the result of which is the defilement of sacred time, sacred space, sacred substance, and God's holy name as well as the offender himself."⁵⁰ Rebellion (Num 15:30–31) fits within this description, as well as clear failure to observe God's unique commands to Israel, such as observance of Passover and Yom Kippur. It is violations of these principles of YHWH's holiness that put the community of faith at risk.

Wold writes, "The Priestly kareth penalty is ultimately aimed at making Israel a pure and holy people, patterned after the holiness of God Himself (Lev. 20:26)."⁵¹ It is unclear, however, how the *kareth* penalty is intended to accomplish this aim if it is merely an extermination curse, since the target of God's wrath remains in the community and continues to defile the community if he or she is not removed, unless one presumes that the threat of extermination must serve as an incentive to maintain obedience. If *kareth* is expulsion, however, then expulsion of the offender serves to remove the source of impurity and/or object of divine wrath, thereby preserving the purity of the people as a whole.

⁴⁹ Frymer-Kensky, "Pollution," 405.

⁵⁰ Wold, "Kareth," 2–3.

What the *kareth* offenses hold in common is their defiling character that offends the holiness of God. The question is whether the penalty is intended to punish the offender, or to protect the community against the wrath of God that the offense against God's holiness provokes. Occasions such as Qorah's rebellion, or Achan's disobedience to the ban on sacred plunder, suggest that the community was in need of protection whenever its holiness was compromised by an act of sufficient gravity. To preserve the holiness of the community, one must remove the offending individual, whether the issue is rebellion or ceremonial impurity. Leviticus 18:24–29 warns that if such offenders are not removed from the land, the land itself will eventually expel the community who allowed the moral contamination to remain in its midst. Likewise, in Near Eastern cases that closely resemble *kareth*, such as the case of the *uzug*⁴, or cases of *hurkel*, the focus is not on punishment per se (although punishment may also be involved), but on the removal of a contaminating individual who endangers the surrounding community.

Failure for an heir to the covenant to circumcise oneself or one's son is an act of insolence in the face of a holy God, an act that endangers not merely the offender, but the surrounding community, since a holy God cannot be expected to tolerate such insolence. Failure to offer the Passover sacrifice at either of its appointed times likewise puts oneself in the position of a non-observing Gentile, while consumption of leaven by an Israelite or an alien would appear to endanger the community by virtue of failing to treat this sacred day as holy. Counterfeiting sacred oil or incense may also be seen as an act of rebellion.

All sorts of sins could potentially defile God's name. As seen in Chapter Three, the Hittite

⁵¹ Wold, "Kareth," 63.

concept of defilement included numerous sins that did not require physical contact with an unclean substance. The employment of the *kareth* penalty helps spell out the specifics as to which sins cause a level of defilement which normal purification measures cannot remove.

It is the conclusion of this writer that defilement that calls for removal from the community is the best overarching framework in which to understand *kareth*. This concept appears to originate in the Mesopotamian concept of the contaminated *uzug*.⁴ From there, the Torah extends the concept of uncleanness to include offenses that do not involve physical contact with impure substances. This framework appears to be better suited for the understanding of *kareth* than the framework of a threat of divine extermination. The latter understanding tends to be both anthropocentric and anthropomorphic. It is anthropocentric in that, in a legal context, this understanding is usually found only in curses pronounced by humans; the hip‘il divine first-person decrees of destruction, for instance, are almost always pronouncements of judgment after the offense. The divine extermination understanding of *kareth* is also anthropomorphic in that it portrays God as a being who must resort to increasingly harsh threats to control hidden human behavior.

Where was the *kareth* offender expelled from? Wold and Milgrom, based on Alfrink, argue that it is the circle of one’s kin from whom one is cut off, particularly in the afterlife.⁵² While it may be true that offenders were originally punished by separation from their kin (particularly if the *kareth* formula preserves pre-Mosaic language), the context of several of the *kareth* statutes (Exod 12:15, 19; Num 19:13, 20) calls for the cultus of YHWH, if not the community as a whole, to be understood as the locus from which offenders are to be removed.

⁵² Wold, “Kareth,” 8–12; Milgrom, AB 3, 459–60.

Who was responsible for implementing *kareth*? Put this way, the question presumes a penalty implemented by humans. The Wold-Milgrom position insists that this penalty is not administered by human tribunals, but is inflicted by God and God alone.⁵³ However, human involvement in some way would have been unavoidable. Tzevat writes, “Ordinarily *kareth* is the domain of the priests who decide and pronounce it.”⁵⁴ Kraus declares that in Deuteronomy 27, “the Levites appear as the proclaimers of apodeictic [sic] divine law” and that “they decide who shall be admitted to the Yahweh community and can exclude anyone from taking part in worship.”⁵⁵ The fact that the *kareth* offenses virtually all are cultic in nature indicates that they would most likely be regulated by the priests rather than by village elders or by royal authority. However, if *kareth* is punitive expulsion, its apparent origin in the clan may argue against this. While the priesthood may have proclaimed the authoritative teaching of what calls for *kareth*, it would seem that ultimately the responsibility for implementing the required expulsion would fall upon whomever was responsible for the sphere from which the offender was to be excluded: the clan, the community, or the cult.

2 Chronicles 23:19 tells that during the reign of Joash (mid-ninth century B.C.), Jehoiada the high priest “stationed the gatekeepers at the gates of the house of YHWH so that no one should enter who was in any way unclean.” It is unclear how these gatekeepers were to ascertain the clean or unclean status of those who would enter the Temple; perhaps this involved the use of questioning under oath. Such a screening provision may explain how *kareth* was enforced as well, at least with regard to excluding offenders from the house of YHWH. In particular, the

⁵³ Milgrom, AB 3, 459–60; see also Tzevat, “Studies,” 196–97; Morgenstern, “Addenda,” 20, 55–57.

⁵⁴ Tzevat, “Studies,” 206.

⁵⁵ Kraus, *Worship*, 97.

existence of such a procedure may explain how Jeremiah would be kept excluded from the Temple (Jer 36:5). Such gatekeepers were still employed for the same purpose late in the Second Temple period, according to Philo (*Spec.* 1.156). The Mishnah (m. Kel. 1:8) states that the Temple Mount was regarded as holier than the rest of Jerusalem, “for no man or woman that has a flux, no menstruant, and no woman after childbirth may enter therein.” It would be up to gatekeepers such as the ones spoken of by Philo to maintain the sanctity of the Temple Mount in this way.

To conceptualize how exactly *kareth* may have been implemented in the pre-exilic period, clues may be found in the way that punitive expulsion was practiced in the post-exilic period, particularly in the Talmudim and at Qumran. During the Persian period, Artaxerxes authorizes Ezra to appoint שפטין and דינין to administer both the law of God and the law of the king (Ezra 7:25–26). This power was promptly used to threaten punitive expulsion with regard to pagan intermarriage (Ezra 10:8), and was evidently used by Nehemiah to expel an unnamed grandson of the high priest (Neh 13:28).

Josephus testifies that in the late intertestamental period, offenders were physically expelled from the Jewish communities in which they lived, and were compelled to flee to the Samaritans for asylum. No evidence is given as to who issued the decree of expulsion or how the verdict was arrived at, other than that the persons in question were “accused by the people of Jerusalem,” but the offenses specified by Josephus here do appear to be *kareth* offenses, and the offenders claim that they were forced to leave the community (*Ant.* 11.8.7).

At Qumran, offenders are convicted by the Council of the Community, or by a court of ten men. 1QS VIII 1 says that a Council consisted of twelve laymen and three priests. CD X 4–10 states that a court shall consist of “up to ten men, chosen...four of the tribe of Levi and Aaron,

and from Israel six,” while 4Q159 2–4 3 prescribes “[te]n men and two priests.” A clear list of offenses is spelled out. There is a sliding scale of sanctions, of which punitive expulsion is a prominent option. From 1QS VIII 20–IX 2, one may deduce that punitive expulsion, whether temporary or permanent, involved exclusion from decision making, from voice in the community’s affairs, and from information of any kind about the community, as well as from economic associations with the expelled person.⁵⁶ When a person’s guilt could not be proven, CD IX 21, 23 dictates that the suspect must be “separated from the Purity...The association with the sect’s holiness is clearer here than in 1QS. Separation from the Purity is less of a punishment than a safety measure to prevent the holy premises and articles from being bespotted by someone who might turn out to be unclean.”⁵⁷

An apparent ceremony for expulsion at Qumran has been found in 4Q266 9–14. In a preface, the text states that when an individual “rebels against the Many he shall be sent away.” Then a priest shall speak concerning him as follows:

Blessed are you, Almighty God, everything is in your hands, (you are) the maker of everything, (it is) you who have established [n]ations according to their families, and tongues for their tribes. And you led them astray in a wilderness with no path. And you chose our fathers and to their descendants you gave your true statutes and your holy laws which humankind must act upon and thereby live. You set up boundaries for us, those who transgress them you have cursed. But we are the people of your deliverance and the flock of your pasture. You have cursed those who transgress them, but we have upheld (the correct observance of the law). And the person being sent away shall depart.⁵⁸

⁵⁶ Forkman, *Limits*, 61.

⁵⁷ Forkman, *Limits*, 65.

⁵⁸ Translation in Charlotte Hempel, *The Laws of the Damascus Document: Sources, Tradition, and Redaction* (Studies in the Texts of the Desert of Judah 29; Leiden: E. J. Brill, 1998), 176. Text in Baumgarten, *Qumran Cave 4*, 76 and Plate XIV.

Where would expelled persons be sent from Qumran? The Temple Scroll commands that latrines be built 3,000 cubits northwest of the community (see also 1QM VII 7), and that three separate places be set up east of the city for lepers, those who suffer a discharge, and men who have had a nocturnal emission (11QTemp 46:13–18). In another passage, the Temple Scroll states that “in every city you shall allot places for those afflicted with leprosy or with plague or with scab, who may not enter your cities and defile them, and also for those who have a discharge, and for women during their menstrual uncleanness and after giving birth, so that they may not defile in their midst with their menstrual uncleanness.” (11QTemp 49:14–17; 1QM VII 6–7 specifies a distance of 2000 cubits.) It may be in one of these places where offenders who have been expelled are also condemned to live. This must be held in tension with Josephus’ description of offenders struggling to subsist on grass.

Punitive expulsion as practiced in the Talmudim could be declared by vote of a council of rabbis, or even by a single rabbi. In all but its most extreme cases, it appears to have been exercised as a refusal of fellowship, rather than physical removal from the community. In this way, it resembles the ban on Jeremiah, who appears to be living in the community, but forbidden to enter the Jerusalem sanctuary.

Comparative seriousness of *kareth*

Brin argues that *kareth* is intended as a threat worse than the death penalty, partly because it is prescribed for offenses that are hard to detect and/or prove in court, and therefore deterrence requires harsher threats.⁵⁹ Wold writes, “Given the concern in ancient Israel, as throughout the

⁵⁹ Gershon Brin, *Studies in Biblical Law: From the Hebrew Bible to the Dead Sea Scrolls* (JSOT Supplemental Series 176; Sheffield: Sheffield Academic, 1994), 64: “where the violation of the law is easily available and feasible, the legislator threatens a severe sanction...those acts performed in the privacy of one’s home may tempt a person to violate the law, thinking that it is impossible to supervise whether or not he or she has done

ancient Near East, for children to carry on one's name, kareth is the most extreme penalty to which the Priestly Writer could appeal in motivating his audience to holiness and purity."⁶⁰

Wold's objection to *kareth* as a lesser penalty is that it "strips kareth of its force as a deterrent to misconduct."⁶¹

Notwithstanding, it is argued here that in most cases, *kareth* is less serious than the death penalty. Sinning "with a high hand" (Num 15:30–31) clearly involves acts that do not in themselves merit death, otherwise death would be called for as a penalty here. The Mishnah (m. Ker. 3:15) provides for the *kareth* punishment (conceived as future punishment by God) to be removed by flogging, which make it possible for the offender to repent and be forgiven.⁶² Furthermore, Maimonides states that death is assigned to those cases "in which the criminal act is easily done, is of frequent occurrence, is base and disgraceful, and of a tempting character; otherwise excision – *kareth* is the punishment."⁶³ Wold concedes that in the case of Maimonides, "Thus he appears to view kareth as a punishment less severe than death, just as do the medieval halachists in general. We view this situation as a transformation, indeed a reversal, of P's original presentation of the law."⁶⁴

If *kareth* is always a fate worse than the death penalty, this creates an apparent inconsistency. Why should the clear *kareth* offenses be treated more harshly by God than death

what is required." Also, Kleinig (*Leviticus*, 163) characterizes *kareth* as "the most severe penalty for any offense," because it involves violations of God's holiness.

⁶⁰ Wold, "Kareth," 55.

⁶¹ Wold, "Kareth," 50.

⁶² "All they who are liable to Extirpation, if they have been scourged they are no longer liable to Extirpation, for it is written, *And thy brother seem vile unto thee* – when he is scourged then he is thy brother."

⁶³ Maimonides, *Guide of the Perplexed*, III, 197ff, quoted in Wold, "Kareth," 124.

⁶⁴ Wold, "Kareth," 124.

penalty offenses such as adultery, murder, and idolatry? To say that secret sins require more severe threats gives an unflattering impression of Israel's God, and creates a logical inconsistency that conflicts with the overall OT system of torts.

Wold's theory assumes a firm concept of afterlife, and fear of punishment therein, as a moral motivation for obedience, in contrast to the commonly-held view that the early Semitic concept of Sheol reflects a vague concept of existence that pales in comparison to the land of the living. If this commonly-held view is correct, then death itself arguably becomes a more severe punishment than any threats against one's future existence or the extinction of one's descendants.

One question to be addressed in connection with the comparative seriousness of the *kareth* penalty is the question whether to be punitively expelled from the community of YHWH is the same as to be cut off from God. The concept of being "cut off from God" requires definition. Such definition involves two further questions. The first question is whether to be outside the covenant community of YHWH automatically implies temporal and/or eternal destruction. The second question is whether geographic expulsion automatically implies severance from the covenant and consequent loss of its benefits. If the answer to both questions is yes, then *kareth* offenses such as eating leavened bread during Passover appear to become just about as serious as murder, Baal worship, or adultery, if one is unable to exercise repentance or obtain forgiveness outside the covenant community.

David's complaint to Saul in 1 Samuel 26 is that to be driven out of Israel would force him to serve pagan gods. Saalschütz's objection to punitive expulsion as the meaning of *kareth* was that YHWH would never sentence an Israelite to life in a land that belonged to pagan idols.⁶⁵ But

⁶⁵ Saalschütz, *Recht*, 476n595.

the Babylonian exile is proof to the contrary as to whether YHWH would be willing to make such a move. The Babylonian exile is also evidence that being cut off from YHWH's land does not equal destruction, and does not imply that the expelled people cease to belong to YHWH or cease to be objects of YHWH's care.

The expulsion of Adam and Eve from Eden, and the expulsion of Cain from the presence of God, both serve as further examples that expulsion does not equal disownment by God or automatic destruction. Von Rad observes that when Cain is sent away from the presence of the Lord, he is "cursed by separation from God and yet incomprehensibly guarded and supported by God's protection. Even his life belongs to God, and he does not abandon it."⁶⁶

The Mishnah (m. Sanh. 10:1) states that "All Israelites have a share in the world to come," but then this passage goes on to deny this promise to those who do not believe in the resurrection, those who deny that the Torah is from heaven, "Epicureans," and those who read the heretical books. None of the *kareth* offenses (or any behavioral issue) is named here. However, a few *kareth* offenses are alluded to in m. Aboth 3:12:

If a man profanes the Hallowed Things and despises the set feasts and puts his fellow to shame publicly and makes void the covenant of Abraham our father, and discloses meanings of the Law which are not according to the *Halakah*, even though a knowledge of the Law and good works are his, he has no share in the world to come.

The Aboth passage seems to supersede the Sanhedrin passage in its assessment as to whether *kareth* offenders have a share in the world to come.

Schiffman stresses that "the question of Jewish status and that of a portion in the world to come are separate issues. The fact that certain heretics or nonbelievers are excluded from the

⁶⁶ Von Rad, *Genesis*, 103.

world to come in no way implies expulsion from the Jewish people.”⁶⁷ Schiffman argues that neither the excommunication of Christians nor of Jewish heretics in the Middle Ages cancelled the Jewish status of the excommunicant: “It cannot be overemphasized that while the benediction against the *minim* sought to exclude Jewish Christians from active participation in the synagogue service, it in no way implied expulsion from the Jewish people.”⁶⁸ Schiffman’s proof is in b. Ḥul. 5a, where sacrifices cannot be accepted from the *meshummad* (apostate), one who pours idolatrous libations, or one who violates the Sabbath in public:

Whereas all non-Jews (including idolaters) may send voluntary offerings to be sacrificed in the Jerusalem temple, this right is denied to certain Jews, namely to those who have apostasized to the extent of performing idolatrous worship or violating the Sabbath in public. These *meshummadim* are, therefore, still Jews, for if they were excluded from the Jewish people, their offerings *would* be acceptable. Indeed, this principle is seen by the Tannaim as derived from the Torah itself. There can be no question, therefore, that the *meshummad*, like the heretic and the *'apiqoros* [Epicurean], is never deprived of his Jewish status. Nevertheless, there is a legal disability under which he lives as a consequence of his actions.⁶⁹

Being temporarily barred from the sanctuary is arguably not the same as being cut off from God. Numbers 5:2–4 commands that lepers and those who are polluted by discharges or by contact with a corpse must be put out of the camp. Deuteronomy 23 commands that a number of different categories of persons be kept out of the sanctuary. Temporary uncleanness causes others to be excluded from the sanctuary. These are all nonmoral causes for exclusion. Those who are excluded do not cease to belong to YHWH or to be recipients of YHWH’s care. The most that can be said is that if one is cut off from the covenant community, one loses whatever

⁶⁷ Lawrence Schiffman, “At the Crossroads: Tannaitic Perspectives on the Jewish-Christian Schism,” in Ed P. Sanders, ed., *Jewish and Christian Self-Definition* (3 vols.; Philadelphia: Fortress, 1980–), 2:144.

⁶⁸ Schiffman, “Crossroads,” 2: 152–53.

⁶⁹ Schiffman, “Crossroads,” 2: 146. Schiffman also notes (“Crossroads,” 2:349n182) that *meshummadim* “are listed separately from the *goyim*, the non-Jews. See bAZ 26a–b; bGitt 45b.”

unique divine protection one had as a part of that community.

The case of leprosy may provide a helpful analogy for cases of punitive expulsion. While the OT never actually teaches that leprosy is a punishment for sin or a sign of God's wrath, the concept seems to hover in the background, similar to the way that childlessness is likewise perceived to be a curse from God, and is actually decreed as a divine punishment for intercourse with one's aunt or one's brother's wife (Lev 20:19–21).

YHWH strikes Miriam with leprosy for rebellion (Num 12:10), a case where leprosy serves as a sign of YHWH's wrath. Uzziah is struck with leprosy because he usurped the place of a priest to burn incense in the Temple, a parallel to the *kareth* offense of approaching sacred gifts in a state of uncleanness (2 Chr 26:19; see Lev 22:3). Gehazi is cursed with Naaman's leprosy because he tried to profit from Elisha's miracle cure (2 Kgs 5:27). David includes leprosy on a list of curses he invokes on Joab (2 Sam 3:29). Those who are healed of leprosy are required to make a guilt offering (Lev 14:1–32). But despite all the above, the OT never explicitly makes a direct connection between leprosy and sin. The classic curse of leprosy, common in Near Eastern treaty and *kudurru* curses, never appears in the covenant curses in Leviticus 26 or Deuteronomy 28, although other diseases appear in these chapters.

The leper is removed from the community, not usually for sin, but for the protection of the community, since he/she remains perpetually unclean. Being outside the community, he or she was unable to practice Israel's cult. Yet there is no indication that the leper is thereby in greater danger of God's wrath because of his or her inability to function in the cult.

The Mesopotamians did draw the explicit connection between leprosy (SAHAR.ŠUB.BA) and the curse of deity for sin. Together with that curse was the direct consequence that the offender would be forced to wander in the desert like an onager (VTE, lines 419–21). Yet it was

recognized that the curse of SAḤAR.ŠUB.BA could be lifted and the leper could be healed, indicating divine forgiveness. Likewise, expulsion of the leper in Israel was provisional, and was not even contingent on any conscious sin on the part of the person with the disease. This suggests the possibility that *kareth*, if it was punitive expulsion, was in some cases provisional as well and qualified for the possibility of divine reprieve, incumbent on the offender's repentance.

Could repudiation of YHWH's commands (הַפֵּר — Gen 17:14; Num 15:31) be grounds for being cut off from connection to YHWH entirely? If one "reneges" (Ashley) on the covenant, is not one likely to end up outside the covenant? Such a result is possible, but by no means certain. It took more than isolated instances of sin to cause YHWH's people to be expelled from their land, and even then, they could not be described as cut off from or abandoned by YHWH.

The expulsion of Adam and Eve from Eden may be viewed as paradigmatic for *kareth*, in that both elements of how *kareth* has been historically understood are incorporated into this account. Death is decreed in advance on the offense, but the sentence on the offending couple is provisionally commuted to expulsion from the presence of God, where the two must wait until the ultimate sentence of death is carried out. A similar pattern may be seen in the banishment of Cain: his death penalty (presumed on the basis of Gen 9:6) is commuted to expulsion, yet he lives in dread of eventual destruction of the kind envisioned by the divine extermination theory.

It is more likely, therefore, that a fate less than ultimate perdition is generally envisioned by the OT system of torts that calls for this category of offenses to be punished by being "cut off from one's people." Part of the merciful character of punitive expulsion as opposed to execution (if *kareth* is in fact punitive expulsion) is the fact that such a sentence leaves open the possibility of repentance. Milgrom, citing Ibn Ezra, declares that "sins performed in secret, even

deliberately, can be commuted to the status of inadvertencies by means of repentance.”⁷⁰ Ibn Ezra has in mind the sacrifices prescribed for inadvertent sin in Numbers 15 immediately prior to the *kareth* penalty for willful, deliberate sin. Ezekiel 33 also declares that those who commit the offenses described in the Holiness Code, whether they be capital or *kareth* offenses, may live and not die by turning away from the offenses they used to practice.

Although *Sipre Numbers* 125 views *kareth* as being the same as the death penalty, *Sipre Numbers* 112:4.5.E–G indicates that the *kareth* penalty allows for the penalty to be removed by repentance on the part of the offender:

E – Scripture says, “...his iniquity shall be upon him,” but not so long as he has repented. [F cites Deut 32:5, “they are no longer his children because of blemish.”] G – When they are blemished, they are not his children, but when they have through repentance removed the blemish, they are his children.⁷¹

Conclusion

Taken together, the evidence indicates that the penalty “cut off from one’s people” in the Torah most often refers to a punitive removal from the community, a practice dating back to the wilderness period and subsequently adapted to the conditions of the monarchy and the postexilic period. Comparisons with clear death penalty formulas make it clear that *kareth* is not the death penalty, and that therefore Exodus 31:14 and Leviticus 20:1–6 must be understood in some alternative fashion. Exodus 31:14 may present a distinction between “profaning” the Sabbath and “doing any work” on that day, although it is most likely that the present text of this passage contains one or more glosses on the original. Leviticus 20:1–6 reads like an extermination

⁷⁰ Jacob Milgrom, *Numbers (במדבר): The Traditional Hebrew Text with the New JPS Translation* (JPS Torah Commentary; Philadelphia: Jewish Publication Society, 1990), 125.

⁷¹ Jacob Neusner, *Sifré to Numbers: An American Translation and Explanation* (2 vols.; Brown Judaic

declaration from God for two pernicious death penalty offenses, a declaration that is not to be confused with the standard practice of *kareth*. Leviticus 18:29 makes a blanket statement concerning the offenses contained in Leviticus 18 that is subsequently interpreted by Leviticus 20, where some of the previously named offenses are specified as death penalty crimes, while the rest may be regarded as *kareth*.

In all cases, כרת denotes removal. In a few cases of the *kareth* penalty, כרת denotes extreme removal, but in most cases, punitive expulsion provides the best overall explanation for the meaning of *kareth*.

The conclusion of this dissertation is that in the vast majority of its occurrences in the Torah, *kareth* is a nonfatal penalty that serves as an expression of relative mercy, and preserves the possibility of repentance. It is a penalty whose purpose is to remove a source of ongoing moral contamination from the community that puts the community at risk. *Kareth* is the equivalent of a life sentence in a prison without bars. The conclusion that *kareth* is usually a form of punitive expulsion makes more sense of the data than the theory that *kareth* is a divine extermination curse, for which there is no evidence as a threatened penalty in the legal provisions of any ancient Near Eastern law code.

Studies 118–19; Atlanta: Scholars Press, 1986–), 2:170.

APPENDIX ONE

NON-LITERAL USES OF כרת

When Zimmerli argued in 1954 that the use of כרת to mean “destroy” or “exterminate” is confined almost entirely to the hip‘il conjugation (see Chapter One), he did not give the data that led him to this conclusion. This chart presents the 149 uses of כרת in a non-literal sense in the Hebrew Bible. The *kareth* passages are listed in bold print. The writer has made judgments on some, based on his arguments in Chapter Two, while treating others to be ambiguous. The term “total removal” is based on the principle that the hip‘il serves as the intensive stem for this verb, thereby intensifying the basic sense of “removal.” The use of the nip‘al with no predicate also seems to convey this sense. “Total removal” may or may not involve destruction; Genesis 41:36 is the sole case where only destruction can be intended (how does one “totally remove” the land of Egypt, unless a possible recipient of this action such as “sustenance” is assumed by the text?). This data is provided so that the reader may make his/her own assessment of the evidence.

| <u>Text</u> | <u>Predicate</u> | <u>Verb</u> | <u>Recipient of action</u> | <u>Remarks</u> |
|-------------------|-------------------|--------------------|----------------------------|----------------|
| Gen 9:11 | min (= “by”) | Ni impf | “all flesh” | removal |
| Gen 17:14 | min clause | Ni perf + ׀ | “person” | removal |
| Gen 41:36 | be- (= “by”) | Ni impf | “land” | destruction |
| Exod 8:5 | min clause + obj | Hi inf const | “frogs” | total removal |
| Exod 12:15 | min clause | Ni perf + ׀ | “that person” | removal |
| Exod 12:19 | min clause | Ni perf + ׀ | “that person” | removal |
| Exod 30:33 | min clause | Ni perf + ׀ | “that person” | removal |
| Exod 30:38 | min clause | Ni perf + ׀ | “that person” | removal |
| Exod 31:14 | min clause | Ni perf + ׀ | “that person” | removal |
| Lev 7:20 | min clause | Ni perf + ׀ | “that person” | removal |
| Lev 7:21 | min clause | Ni perf + ׀ | “that person” | removal |
| Lev 7:25 | min clause | Ni perf + ׀ | “that person” | removal |
| Lev 7:27 | min clause | Ni perf + ׀ | “that person” | removal |
| Lev 17:4 | min clause | Ni perf + ׀ | “that איש” | removal |
| Lev 17:9 | min clause | Ni perf + ׀ | “that איש” | removal |
| Lev 17:10 | min clause + obj | Hi perf + ׀ | “him (person)” | total removal |
| Lev 17:14 | Ø | Ni impf | “whoever” | total removal |
| Lev 18:29 | min clause | Ni perf + ׀ | “persons” | removal |
| Lev 19:8 | min clause | Ni perf + ׀ | “that person” | removal |
| Lev 20:3 | min clause + obj | Hi perf + ׀ | “him (איש)” | total removal |
| Lev 20:5 | min clause + obj | Hi perf + ׀ | “him (איש)” | total removal |
| Lev 20:6 | min clause + obj | Hi perf + ׀ | “him (person)” | total removal |
| Lev 20:17 | min clause | Ni perf + ׀ | “that person” | removal |
| Lev 20:18 | min clause | Ni perf + ׀ | “that person” | removal |

| | | | | |
|------------------|---------------------|--------------------|------------------------|----------------------|
| Lev 22:3 | min clause | Ni perf + ך | “that person” | removal |
| Lev 23:29 | min clause | Ni perf + ך | “that person” | removal? |
| Lev 26:22 | obj | Hi perf + ך | “beasts” | |
| Num 4:18 | min clause + obj | Hi impv | “tribe” | |
| Num 9:13 | min clause | Ni perf + ך | “person” | removal |
| Num 15:30 | min clause | Ni perf + ך | “person” | removal |
| Num 15:31 | Ø | Ni inf abs | “person” | total removal |
| Num 19:13 | min clause | Ni perf + ך | “person” | removal |
| Num 19:20 | min clause | Ni perf + ך | “person” | removal |
| Deut 12:29 | object | Hi impf | “nations” | |
| Deut 19:1 | object | Hi impf | “nations” | |
| Jos 3:13 | min clause | Ni impf | “waters” | removal |
| Jos 3:16 | min clause | Ni perf | “waters” | removal |
| Jos 4:7 | min + peney | Ni perf | “waters” | removal |
| Jos 4:7 | Ø | Ni perf | “waters” | removal |
| Jos 7:9 | min clause + obj | Hi perf + ך | “name” | |
| Jos 9:23 | min clause | Ni impf | Gibeonites | non-removal |
| Jos 11:21 | 6 min clauses + obj | Hi perf + ך | Anaqim | total removal |
| Jos 23:4 | obj | Hi perf | “nations” | total removal |
| Jdg 4:24 | obj | Hi perf | “Jabin” | total removal? |
| Ruth 4:10 | min clause | Ni impf | “name” | removal |
| 1 Sam 2:33 | min clause + obj | Hi impf | אִישׁ | total removal |
| 1 Sam 20:15 | min clause + obj | Hi impf | חֶסֶד | total removal |
| 1 Sam 20:15 | min clause + obj | Hi inf const | “enemies” | |
| 1 Sam 24:22 | min clause + obj | Hi impf | “seed” | השומר |
| 1 Sam 28:9 | min clause + obj | Hi perf | “mediums” | הסיר in 28:4 |
| 2 Sam 3:29 | min clause + obj | Ni impf | house of Joab | non-removal |
| 2 Sam 7:9 | min clause + obj | Hi impf + ך | “enemies” | |
| 1 Kgs 2:4 | le-, min clauses | Ni impf | אִישׁ | non-removal |
| 1 Kgs 8:25 | le-, min clauses | Ni impf | אִישׁ | non-removal |
| 1 Kgs 9:5 | le-, min clauses | Ni impf | אִישׁ | non-removal |
| 1 Kgs 9:7 | min clause + obj | Hi perf + ך | Israel (2 Chr 7:20) | נחש in parallel |
| 1 Kgs 11:16 | obj | Hi perf | male | total removal |
| 1 Kgs 14:10 | le- clause + obj | Hi perf + ך | one who urinates | total removal |
| 1 Kgs 14:14 | obj | Hi impf | house of Jeroboam | total removal |
| 1 Kgs 18:4 | obj | Hi inf const | prophets | total removal |
| 1 Kgs 18:5 | min clause | Hi impf | “we” | removal??? |
| 1 Kgs 21:21 | le- clause + obj | Hi perf + ך | one who urinates | total removal |
| 2 Kgs 9:8 | le- clause + obj | Hi perf + ך | one who urinates | total removal |
| 1 Chr 17:8 | min clause + obj | Hi impf + ך | “enemies” | |
| 2 Chr 6:16 | le-, min clauses | Ni impf | אִישׁ | non-removal |
| 2 Chr 7:18 | le- clause | Ni impf | אִישׁ | non-removal |
| 2 Chr 22:7 | obj | Hi inf const | house of Ahab | total removal |
| Psa 12:3 | obj | Hi impf | lips, tongue | total removal |

| | | | | |
|------------|-----------------------|--------------|-----------------------------------|---------------|
| Psa 34:17 | min clause + obj | Hi inf const | remembrance | total removal |
| Psa 37:9 | Ø | Ni impf | evildoers | |
| Psa 37:22 | Ø | Ni impf | those cursed | |
| Psa 37:28 | Ø | Ni perf | seed | |
| Psa 37:34 | Ø | Ni inf const | the wicked | |
| Psa 37:38 | Ø | Ni perf | posterity | |
| Psa 101:8 | min clause | Hi inf const | evildoers | |
| Psa 109:13 | Ø | Hi inf const | posterity (“name blotted out”) | |
| Psa 109:15 | min clause | Hi juss | memory | |
| Prov 2:22 | min clause | Ni impf | wicked | נסח |
| Prov 10:31 | Ø | Ni impf | tongue | removal |
| Prov 23:18 | Ø | Ni impf | hope | |
| Prov 24:14 | Ø | Ni impf | hope | |
| Isa 9:13 | min clause + obj | Hi impf + ך | head and tail etc. | total removal |
| Isa 10:7 | obj | Hi inf const | enemies | השמד |
| Isa 11:13 | Ø | Ni impf | harassers of Judah | סרה |
| Isa 14:22 | min clause + obj | Hi impf + ך | name etc. | |
| Isa 29:20 | Ø | Ni perf + ך | watchers | כלה, אפס |
| Isa 48:9 | obj suffix | Hi inf const | you | |
| Isa 48:19 | min clause | Ni impf | name | “השמד ן” |
| Isa 55:13 | Ø | Ni impf | sign | removal |
| Isa 56:5 | Ø | Ni impf | name | removal |
| Jer 7:28 | min clause | Ni perf | truth | אבר ? |
| Jer 9:20 | min clause | Hi inf const | children etc. | total removal |
| Jer 11:19 | min clause | Qal coh | Jeremiah | שחת ? |
| Jer 33:17 | le- clause | Ni impf | איש | non-removal |
| Jer 33:18 | le-, min clauses | Ni impf | איש | non-removal |
| Jer 35:19 | le- clause | Ni impf | איש | non-removal |
| Jer 44:7 | le- clause | Hi inf const | man and woman etc | |
| Jer 44:8 | le- clause as subject | Hi inf const | you (reflexive?) | |
| Jer 44:11 | obj | Hi inf const | all Judah | |
| Jer 47:4 | min clause | Hi inf const | “every helper” | |
| Jer 48:2 | min clause | Hi coh | Moab (cut off “from being” a גוי) | |
| Jer 50:16 | min clause | Qal impv | sower, etc. | |
| Jer 51:62 | obj suffix | Hi inf const | “this place” | destruction |
| Ezek 14:8 | min clause + obj | Hi perf + ך | “him” (איש) | |
| Ezek 14:13 | min clause + obj | Hi perf + ך | “human and beast” | |
| Ezek 14:17 | min clause + obj | Hi perf + ך | “human and beast” | |
| Ezek 14:19 | min clause + obj | Hi inf const | “human and beast” | |
| Ezek 14:21 | min clause + obj | Hi inf const | “human and beast” | |
| Ezek 17:17 | obj | Hi inf const | “many souls” | |
| Ezek 21:8 | min clause + obj | Hi perf + ך | righteous and wicked | |
| Ezek 21:9 | min clause + obj | Hi perf | righteous and wicked | |
| Ezek 25:7 | min clause + obj | Hi perf + ך | you (obj suffix) | השמד, האבר |

| | | | | |
|---------------|------------------|--------------|----------------------|---------------------|
| Ezek 25:13 | min clause + obj | Hi inf const | “human and beast” | |
| Ezek 25:16 | min clause + obj | Hi perf + ך | Cherethites | האבד |
| Ezek 29:8 | min clause + obj | Hi perf + ך | “human and beast” | |
| Ezek 30:15 | obj | Hi perf + ך | multitude of Thebes | |
| Ezek 35:7 | min clause + obj | Hi perf + ך | all who come and go | |
| Dan 9:27 | Ø | Ni impf | anointed one | |
| Hos 8:4 | Ø | Ni impf | they | |
| Joel 1:5 | min clause + obj | Ni perf | wine | removal |
| Joel 1:9 | min clause + obj | Hof perf | cereal offering etc | total removal |
| Joel 1:16 | min clause + obj | Ni perf | food, etc. | removal |
| Amos 1:5 | min clause + obj | Hi perf + ך | inhabitant | total removal |
| Amos 1:8 | min clause + obj | Hi perf + ך | inhabitant | total removal |
| Amos 2:3 | min clause + obj | Hi perf + ך | inhabitant | total removal |
| Obad 9 | min clause + obj | Ni impf | איש | “by slaughter” |
| Obad 10 | Ø | Ni perf + ך | you | |
| Obad 14 | obj | Hi inf const | fugitives | |
| Mic 5:8 | obj | Ni impf | enemies | |
| Mic 5:9 | min clause + obj | Hi perf + ך | horses | האבד |
| Mic 5:10 | obj | Hi perf + ך | cities | |
| Mic 5:11 | obj | Hi perf + ך | sorceries | |
| Mic 5:12 | obj | Hi perf + ך | images, etc | |
| Nah 1:4 | min clause + obj | Hi impf | images | |
| Nah 2:1 | Ø | Ni perf | “the wicked” | |
| Nah 2:14 | min clause + obj | Hi perf + ך | prey | |
| Nah 3:15 | obj suffix | Hi impf | you | אכל |
| Zeph 1:3 | min clause + obj | Hi perf + ך | humankind | סוף |
| Zeph 1:4 | min clause + obj | Hi perf + ך | remnant etc | total removal |
| Zeph 1:11 | Ø | Ni perf | all who weigh silver | נדמה |
| Zeph 3:6 | obj | Hi perf | nations | destruction |
| Zeph 3:7 txt? | Ø | Ni impf | their dwelling | |
| Zech 9:6 | obj | Hi perf + ך | pride | total removal |
| Zech 9:10 | min clause + obj | Hi perf + ך | chariots etc | total removal |
| Zech 9:10 | Ø | Ni perf + ך | bow | total removal |
| Zech 13:2 | min clause + obj | Hi impf | names | העבר |
| Zech 13:8 | Ø | Ni impf | “two-thirds” | “ <u>and</u> ינוער” |
| Zech 14:2 | min clause | Ni impf | “rest of the people” | removal |
| Mal 2:12 | le-clause + obj | Hi juss | “anyone who” | total removal |

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“*Aselgeia* in Mark 7:22,” *Filologia Neotestamentaria* 21 (2008): 65–74

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