

*Stone and Dung, Oil and Spit*

Jewish Daily Life in the Time of Jesus

Jodi Magness

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## Contents

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He who plows in a pit filled with bones, in a pile of bones, in a field in which a tomb was lost, or in which a tomb was [afterwards] found . . . (m. 'Ohal. 17:2)

Dogs gnawed on corpses left lying in the streets of Rome and dug up human remains buried in shallow pits, depositing body parts around the city, as reflected in Suetonius's *Life of Vespasian* (5:4): "Once when he was taking breakfast, a stray dog brought in a human hand from the cross-roads and dropped it under the table."<sup>139</sup> The Mishnah indicates that similar conditions prevailed in Palestine:

A dog which ate the flesh of a corpse, and the dog died and was lying on the threshold . . . (m. 'Ohal. 11:7; see also *Serm.* 6:8)

These contaminate in the Tent: (1) the corpse, and (2) an olive's bulk [of flesh] from the corpse, and (3) an olive's bulk of corpse dregs, and (4) a ladleful of corpse mold; (5) the backbone, and the skull, and (6) a limb from the corpse . . . (m. 'Ohal. 2:1)<sup>140</sup>

The author of the polemical Qumran work 4QMMT objected to dogs scavenging sacrificial refuse in the Jerusalem temple:

And one should not let dogs enter the h[o]ly camp, because they might eat some of the [bo]nes from the temp[le] (with) the flesh on them. (4Q394, frag. 8 col. IV: 8-9)

Perhaps in addition to making the burials visible to passersby, the stones heaped on the trench graves at Qumran were intended to prevent dogs and other scavengers from digging up the remains.

### The Burial of Jesus

*We have no option to drawing on the evangelists: Their writings represent the best body of evidence we have for reconstructing the historical Jesus.*<sup>141</sup>

This review of Jewish tombs and burial customs has provided the background for understanding the manner in which Jesus and his brother

### Tombs and Burial Customs

James were buried. According to the Gospel accounts, Jesus expired and was removed from the cross on the eve of the Sabbath (Friday afternoon).<sup>142</sup> The Synoptic Gospels are in broad agreement in their description of this event:<sup>143</sup>

Although it was now evening, yet since it was the Preparation Day, that is, the day before the Sabbath, Joseph of Arimathea, a highly respected member of the council, who was himself living in expectation of the reign of God, made bold to go to Pilate and ask for Jesus' body. . . . And he [Joseph] bought a linen sheet and took him down from the cross and wrapped him in the sheet, and laid him in a tomb that had been hewn out of the rock, and rolled a stone against the doorway of the tomb. (Mark 15:42-46)

In the evening a rich man named Joseph of Arimathea, who had himself been a disciple of Jesus, came. He went to Pilate and asked him for Jesus' body. . . . Then Joseph took the body and wrapped it in a piece of clean linen, and laid it in a new tomb that belonged to him, that he had cut in the rock, and he rolled a great stone over the doorway of the tomb, and went away. (Matt 27:57-60)

Joseph of Arimathea seems to have been motivated by a concern for the observance of Jewish law. On the one hand, Deut 21:22-23 mandates burial within twenty-four hours of death, even for those guilty of the worst crimes, whose bodies were hanged after death.<sup>144</sup> On the other hand, Jewish law prohibits burial on the Sabbath and festivals. Because Jesus expired on the cross on the eve of the Sabbath, he had to be buried before sundown on Friday, because waiting until after sundown on Saturday would have exceeded the twenty-four-hour time limit. Since there was no time to prepare a grave, Joseph of Arimathea placed Jesus' body in his family's rock-cut tomb.

Martin Hengel argued that since crucifixion was a sadistic and humiliating form of corporal punishment reserved by the Romans for the lower classes (including slaves), Jesus "died a criminal's death on the tree of shame."<sup>145</sup> Hengel's claim that Jesus was buried in disgrace because he was an executed criminal who died a shameful death is widely accepted and has become entrenched in scholarly literature.<sup>146</sup> In my opinion, this view is based on a misunderstanding of archaeological evidence and Jewish law. Jesus was condemned by the Roman authorities for crimes against

Rome, not by the Sanhedrin for violating Jewish law. The Romans used crucifixion to punish rebellious provincials for incitement to rebellion and acts of treason, whom they considered common "bandits."<sup>147</sup> For this reason, the local (provincial) governor could impose the penalty of crucifixion to maintain peace and order.<sup>148</sup> Although victims of crucifixion could be left on their crosses for days, this was not usually the case.<sup>149</sup>

According to the Mishnah, those found guilty by the Sanhedrin of violating Jewish law were executed by stoning (like James), or were burned, decapitated, or strangled: "Four modes of execution were given in the court stoning, burning, decapitation, and strangulation" (*m. Sanh. 7:1*).<sup>150</sup> Biblical law requires the body of an executed criminal to be hanged from a tree:

When someone is convicted of a crime punishable by death and is executed, and you hang him on a tree, his corpse must not remain all night upon the tree; you shall bury him that same day, for anyone hung on a tree is under God's curse. (Deut 21:22-23)<sup>151</sup>

The rabbis (and perhaps Pharisees) understood this passage as referring to the hanging of a corpse after death for the purpose of public display.<sup>152</sup> The Mishnah describes this procedure as involving tying together the hands of the deceased and dangling the body from a pole: "How do they hang him? They drive a post into the ground, and a beam juts out from it, and they tie together his two hands, and thus do they hang him" (*m. Sanh. 6:4*).

In contrast, the Qumran sectarians interpreted Deut 21:22-23 as meaning that the person condemned should be put to death by being hanged alive from a tree.<sup>153</sup> The *Temple Scroll* makes this clear by twice reversing the biblical word order so that hanging precedes dying:

If a man informs against his people, and delivers his people up to a foreign nation, and does harm to his people, you shall hang him on the tree, and he shall die. On the evidence of two witnesses and on the evidence of three witnesses he shall be put to death, and they shall hang him on the tree. And if a man has committed a crime [e] punishable by death, and has defected into the midst of the nations, and has cursed his people [and] the children of Israel, you shall hang him also on the tree, and he shall die. And their body shall not remain upon the tree all night, but you shall bury them the same day, for those hanged on the tree are accursed by God and men. (11QT 64:6-12)<sup>154</sup>

The author of the *Temple Scroll* elaborated on biblical law by making hanging while alive the punishment for treasonous acts.<sup>155</sup> There is evidence that some Pharisees/rabbis also considered hanging someone alive (*th/h*) to be a legal form of execution, equating it with strangulation (*hng*).<sup>156</sup> A reference in the scholion to *Megillat Ta'anit* (iv:1 [75]) seems to indicate that the Sadducean "Book of Decrees" (apparently a penal code) prescribed hanging someone alive (*w'hw šhnhgyn*) as the penalty for certain crimes.<sup>157</sup>

Some scholars believe that after Judea came under direct Roman rule, crucifixion was imposed only by the Roman authorities.<sup>158</sup> They argue that Jews would not have sanctioned impalement and crucifixion as legal forms of execution because they did not result in immediate death.<sup>159</sup> Other scholars note that some rabbinic sources designate hanging/strangulation [on a tree] by the term *šybh* and argue that crucifixion is meant.<sup>160</sup> Beth Berkowitz cites a midrash from *Sifre Deuteronomy* that seems to equate hanging someone alive with crucifixion:

Is it possible that they hang him alive the way that the kingdom does? The Torah teaches: "[If a man is guilty of a capital offense] and is put to death, and you impale him on a stake . . ." (Deut 21:22)<sup>161</sup>

Whether crucifixion was ever employed as a legal mode of execution by Jews in Palestine before 70 C.E. depends largely on how one understands hanging and strangulation to have been carried out.<sup>162</sup>

Much attention has focused on an episode reported by Josephus in which the Hasmonean king Alexander Jannaeus had eight hundred Pharisee opponents crucified, dining with his concubines as his victims writhed in agony.<sup>163</sup> Jannaeus's actions are described as an atrocity in the *Peshar Nahum* from Qumran (4Q169 frags. 3-4), where crucifixion is described as hanging someone alive (*hym*): "who hanged living men [from the tree, committing an atrocity which had not been committed] in Israel since ancient times, for it is [hor]rible for the one hanged alive from the tree."<sup>164</sup>

Roman crucifixion involved spreading apart the arms of a live victim, so that he/she could be affixed to the crossbeam by ropes or nails.<sup>165</sup> Josephus knew the difference between the hanging of a dead victim and Roman crucifixion. When referring to the former, he employs the verb *krenannumi* ("to hang"), as for example: "He that blasphemeth God let him be stoned, and let him hang (*Krenasthō*) [upon a tree] all that day" (*Ant.* 4:202). In contrast, Josephus uses the verb *anastaurō* ("to crucify")

when describing the crucifixion of live victims: "he [Alexander Jannaeus] ordered about eight hundred of them to be crucified (*anastaurōsai*)" (*Ant.* 13:380); "as I came back, I saw many captives crucified (*anastaurōmenous*)" (*Life* 75 [420]).<sup>166</sup>

Josephus indicates that Jews took care to bury victims of Roman crucifixion by sunset in accordance with Deut 21:22-23:

Now, they proceeded to that degree of impiety, as to cast away their bodies without burial, although the Jews used to take so much care of the burial of men, that they took down those that were condemned and crucified (*anestaurōmenous*), and buried them before the going down of the sun. (*War* 4:317)<sup>167</sup>

Although crucifixion victims often were left unburied, the Roman authorities sometimes granted permission to bury them, as Justinian's *Digest* indicates:

The bodies of those who suffer capital punishment are not to be refused to their relatives; and the defiled Augustus writes in the tenth book of his *de Vita Sua* that he observed this [custom]. Today, however, the bodies of those who are executed are buried in the same manner as if this had been sought and granted. But sometimes it is not allowed, particularly [with the bodies] of those condemned for treason. The bodies of those condemned to be burned can also be sought so that the bones and ashes can be collected and handed over for burial. (48:24.1)<sup>168</sup>

The bodies of executed persons are to be granted to any who seek them for burial. (48:24.3)<sup>169</sup>

Roman legislation is consistent with the Gospel accounts, according to which Joseph of Arimathea requested from Pilate permission to bury Jesus' body: "Joseph of Arimathea, a respected member of the council, who was also himself waiting expectantly for the kingdom of God, went boldly to Pilate and asked for the body of Jesus. . . . When he [Pilate] learned from the centurion that he was dead, he granted the body to Joseph" (*Mark* 15:43, 45).<sup>170</sup>

The discovery of the remains of a crucified man named Yohanan in an ossuary demonstrates that crucifixion victims could be interred in

rock-cut family tombs.<sup>171</sup> John Dominic Crossan claims that Yohanan's interment in a rock-cut family tomb is exceptional and extraordinary because victims of crucifixion would not have received an honorable burial.<sup>172</sup> However, the Mishnah attaches no stigma to crucifixion by the Roman authorities and does not prohibit victims of crucifixion from being buried with their families.<sup>173</sup> On the other hand, the Sanhedrin excluded those executed for violating Jewish law from burial in family tombs or burial grounds:

And they did not bury [the felon] in the burial grounds of his ancestors. But there were two graveyards made ready for the use of the court, one for those who were beheaded or strangled, and one for those who were stoned or burned. (*m. Sanh.* 6:5)<sup>174</sup>

Crossan argues that, "with all those thousands of people crucified around Jerusalem in the first century alone, we have so far found only a single crucified skeleton, and that, of course, preserved in an ossuary. Was burial then, the exception rather than the rule, the extraordinary rather than the ordinary case?"<sup>175</sup> In fact, the exact opposite is the case: the discovery of the identifiable remains of even a single victim of crucifixion is exceptional. Crossan's assumption that we should have the physical (archaeological) remains of additional crucified victims is erroneous for several reasons. First, with one exception (the repository in the late Iron Age cemetery at Ketef Hinnom) not a single undisturbed tomb in Jerusalem has ever been discovered and excavated by archaeologists.<sup>176</sup> This means that even in cases where tombs or ossuaries still contain the original physical remains, the skeletons are often disturbed, damaged, or incomplete. Second, the Jerusalem elite who owned rock-cut family tombs with ossuaries favored the preservation of the status quo through accommodation with the Romans. Presumably, relatively few of them were therefore executed by crucifixion. Instead, the majority of victims crucified by the Romans belonged to the lower classes<sup>177</sup> — precisely those who could not afford rock-cut tombs. Third, and most important, the nail in Yohanan's heel was preserved only because of a fluke:

The most dramatic evidence that this young man was crucified was the nail which penetrated his heel bones. But for this nail, we might never have discovered that the young man had died in this way. The nail was preserved only because it hit a hard knot when it was pounded into the ol-

the wood upright of the cross. The olive wood knot was so hard that, as the blows on the nail became heavier, the end of the nail bent and curled. We found a bit of the olive wood (between 1 and 2 cm) on the tip of the nail. This wood had probably been forced out of the knot where the curled nail hooked into it. When it came time for the dead victim to be removed from the cross, the executioners could not pull out this nail, bent as it was within the cross. The only way to remove the body was to take an ax or hatchet and amputate the feet.<sup>178</sup>

In other words, the means by which victims were affixed to crosses usually leave no discernable traces in the physical remains or archaeological record. Some victims were bound with ropes, which were untied when the body was removed from the cross.<sup>179</sup> When victims were nailed to a cross, the nails had to be pulled out so that the body could be taken down. This is exactly how the *Gospel of Peter* (6:21) describes Jesus' crucifixion: "And then they drew the nails from the hands of the Lord and placed him on the earth."<sup>180</sup> The nail in Yohanan's ankle was preserved only because it bent after hitting a knot in the wood and therefore could not be removed from the body.

Jesus came from a family of modest means that presumably could not afford a rock-cut tomb.<sup>181</sup> Had Joseph not offered to accommodate Jesus' body in his tomb (according to the Gospel accounts), Jesus likely would have been disposed of in the manner of the lower classes: in a pit grave or trench grave dug into the ground. When the Gospels tell us that Joseph of Arimathea offered Jesus a spot in his tomb, it is because Jesus' family did not own a rock-cut tomb and there was no time to prepare a grave — that is, there was no time to dig a grave, *not* hew a rock-cut tomb (1) — before the Sabbath.<sup>182</sup> It is not surprising that Joseph, who is described as a wealthy Jew and perhaps even a member of the Sanhedrin, had a rock-cut family tomb.<sup>183</sup> The Gospel accounts seem to describe Joseph placing Jesus' body in one of the loculi in his family's tomb. The "new" tomb mentioned by Matthew probably refers to a previously unused loculus. The Gospel accounts include an accurate (although not necessarily historical) description of Jesus' body being wrapped in a linen shroud.<sup>184</sup> When Joseph departed, he sealed the entrance to the tomb by blocking the doorway with a rolling stone.<sup>185</sup>

This understanding of the Gospel accounts removes at least some of the grounds for arguments that Joseph of Arimathea was *not* a follower of Jesus or that he was a completely fictional character (although, of course, it

does not prove that Joseph existed or that this episode occurred).<sup>186</sup> In addition, the tomb must have belonged to Joseph's family, because rock-cut tombs were family tombs (see below).<sup>187</sup> There is no evidence that the Sanhedrin or Roman authorities paid for and maintained rock-cut tombs for executed criminals from lower-class families.<sup>188</sup> Instead, these unfortunates would have been buried in pit graves or trench graves. This sort of tradition is preserved in the New Testament reference to the Potter's Field (Matt 27:7-8).<sup>189</sup>

There is no need to assume that the Gospel accounts of Joseph of Arimathea offering Jesus a place in his family tomb are legendary or apologetic.<sup>190</sup> The Gospel accounts of Jesus' burial appear to be largely consistent with the archaeological evidence.<sup>191</sup> In other words, although archaeology does not prove there was a follower of Jesus named Joseph of Arimathea or that Pontius Pilate granted his request for Jesus' body, the Gospel accounts describing Jesus' removal from the cross and burial accord well with archaeological evidence and with Jewish law. The source(s) of these accounts were familiar with the manner in which wealthy Jews living in Jerusalem during the time of Jesus disposed of their dead. The circumstances surrounding Jesus' death and burial can be reconstructed as follows.

Jesus expired on the cross shortly before sundown on Friday. Because Jesus came from a lower-class family that did not own a rock-cut tomb, under ordinary circumstances he would have been buried in a pit grave or trench grave. However, there was no time to prepare (dig) a grave before the beginning of the Sabbath. Joseph of Arimathea, a wealthy follower of Jesus, was concerned to ensure that Jesus was buried before sundown in accordance with biblical law. Therefore, Joseph hastened to Pilate and requested permission to take Jesus' body. Joseph laid Jesus' body in a loculus in his own rock-cut tomb, an exceptional measure due to the circumstances as rock-cut tombs were family tombs. When the women entered the tomb of Joseph of Arimathea on Sunday morning, the loculus where Jesus' body had been laid was empty. The theological explanation for this phenomenon is that Jesus was resurrected from the dead. However, once Jesus had been buried in accordance with Jewish law, there was no prohibition against removing the body from the tomb after the end of the Sabbath and reburial. It is therefore possible that followers or family members removed Jesus' body from Joseph's tomb after the Sabbath ended and buried it in a pit grave or trench grave, as it would have been unusual to leave a nonrelative in a family tomb.<sup>192</sup> No matter which explanation one prefers, the fact that Jesus' body did not remain in Joseph's tomb means that his

bones could not have been collected in an ossuary, at least not if we follow the Gospel accounts.

### The Talpiyot Tomb

The so-called Talpiyot tomb is a modest, single-chamber loculus tomb that was discovered in 1980 during construction work in Jerusalem's East Talpiyot neighborhood. The tomb was excavated by Joseph Gat, and a final (scientific) report was published in 1996 by Amos Kloner.<sup>199</sup> Of the ten ossuaries found in the tomb, four are plain and six are inscribed (five in Hebrew and one in Greek). The tomb has attracted attention because some of the names on the inscribed ossuaries correspond with figures mentioned in the New Testament in association with Jesus, specifically Yeshua (Jesus), Mariamene (Mary), and Yosef (Joseph). It is mainly on this basis that the claim has been made that this is the [lost] tomb of Jesus and his family.<sup>194</sup> If true, this would mean that the Church of the Holy Sepulcher does not enshrine the site of Jesus' crucifixion and burial, a tradition that goes back at least to the time of Constantine (early fourth century). Furthermore, if true, this claim would mean that Jesus was married and had an otherwise unknown son named Judah (since one ossuary is inscribed "Yehudah son of Yeshua") and that Jesus was not resurrected (since his remains were gathered in an ossuary).

The identification of the Talpiyot tomb as belonging to Jesus' family flies in the face of all available evidence and contradicts the Gospel accounts, which are our earliest sources of information about Jesus' death and burial. This claim is also inconsistent with evidence from these sources indicating that Jesus was a lower-class Jew. Even if we accept the unlikely possibility that Jesus' family had the means to purchase a rock-cut tomb, it would have been located in their hometown of Nazareth, not in Jerusalem. For example, when Simon, the last of the Maccabean brothers and one of the Hasmonean rulers built a large tomb or mausoleum for his family, he constructed it in their hometown of Modin, not in Jerusalem. In fact, the Gospel accounts indicate that Jesus' family did not own a rock-cut tomb in Jerusalem — for if they had, there would have been no need for Joseph of Arimathea to take Jesus' body and place it in his own family's rock-cut tomb! If Jesus' family did not own a rock-cut tomb, it means they also had no ossuaries.

A number of scholars including Kloner have pointed out that the

names on the ossuaries in the Talpiyot tomb are very common among the Jewish population of Jerusalem in the first century.<sup>195</sup> Furthermore, the ossuary inscriptions provide no indication that those interred in this tomb were Galilean (not Judean) in origin, as we would expect in light of Rahmani's observation: "In Jerusalem's tombs, the deceased's place of origin was noted when someone from outside Jerusalem was interred in a local tomb."<sup>196</sup> On ossuaries in rock-cut tombs belonging to Judean families it was customary to indicate the ancestry or lineage of the deceased by naming the father, as, for example, Judah son of John (Yohanan); Shimon son of Alexai; and Martha daughter of Hananya.<sup>197</sup> But in rock-cut tombs owned by non-Judean families (or which contained the remains of family members from outside Judea), it was customary to indicate the deceased's place of origin, as, for example, Simon of Prolenais; Papias the Bethshanite (of Beth Shean); and Gaios son of Artemon from Berenike.<sup>198</sup> If the Talpiyot tomb indeed belonged to Jesus' family, we would expect at least some of the ossuary inscriptions to reflect their Galilean origin, by reading, for example, Jesus [son of Joseph] of Nazareth (or Jesus the Nazarene), Mary of Magdala, and so on. However, the inscriptions provide no indication that this is the tomb of a Galilean family and instead point to a Judean family.

The claim that the Talpiyot tomb belongs to Jesus' family is based on a string of problematic and unsubstantiated claims, including adding an otherwise unattested Matthew (Matya) to the family of Jesus; identifying an otherwise unknown son of Jesus named Judah (and assuming that Jesus was married); and identifying the Mariamene named on one of the ossuaries in the tomb as Mary Magdalene by interpreting the word *Mara* (which follows the name Mariamene) as the Aramaic term for "master" (arguing that Mariamene was a teacher and leader).<sup>199</sup> To account for the fact that Mary/Mariamene's name is written in Greek, the filmmakers transform the small Jewish town of Migdal/Magdala/Tarichae on the Sea of Galilee (Mary's hometown) into an important trading center where Greek was spoken.<sup>200</sup> Instead, as in other Jewish towns of this period, generally only the upper classes knew Greek, whereas lower-class Jews spoke Aramaic as their everyday language.<sup>201</sup> Individually each of these points weakens the case for the identification of the Talpiyot tomb as the tomb of Jesus' family, but collectively they are devastating.

To conclude, the identification of the Talpiyot tomb as the tomb of Jesus and his family contradicts the canonical Gospel accounts of the death and burial of Jesus and the earliest Christian traditions about Jesus.

This claim is also inconsistent with all available information — historical and archaeological — about how Jews in the time of Jesus buried their dead, and specifically the evidence we have about lower-class, non-Judean families like that of Jesus.<sup>202</sup> Finally, the fact that not a single source preserves any reference to or tradition about any tomb associated with Jesus aside from Joseph of Arimathea's is a loud silence indeed, especially since Paul's writings and some sources of the Synoptic Gospel accounts antedate 70 C.E. Had Jesus' family owned a rock-cut tomb in Jerusalem, presumably some of his followers would have preserved the memory of its existence (if not its location) and venerated the site.<sup>203</sup> In fact, our earliest sources contradict the identification of the Talpiyot tomb as the tomb of Jesus and his family. For example, Hegesippus reported seeing James' grave in the second century C.E. — but he seems to describe a pit grave or trench grave marked by a headstone (see below) and makes no reference to James having been interred with his brother Jesus in a rock-cut family tomb.

### The Burial of James

After Jesus' death his brother James became the leader of Jerusalem's early Christian community.<sup>204</sup> Although marginalized in later Western Christian tradition, James is widely regarded as a righteous and observant Jew. His pious and ascetic lifestyle earned him the nickname "the Just."<sup>205</sup> Even if the Letter of James was not composed by James (which is a matter of debate), its attribution to James suggests that he was known for his opposition to the accumulation of wealth and the lifestyle of the wealthy, as illustrated by the following passages:<sup>206</sup>

Let the believer who is lowly boast in being raised up, and the rich in being brought low, because the rich will disappear like a flower in the field. For the sun rises with its scorching heat and withers the field; its flower falls, and its beauty perishes. It is the same way with the rich; in the midst of a busy life, they will wither away. (Jas 1:9-11)

Has not God chosen the poor in the world to be rich in faith and to be heirs of the kingdom that he has promised to those who love him? But you have dishonored the poor. Is it not the rich who oppress you? Is it not they who drag you into court? (2:5-6)

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Come now, you rich people, weep and wail for the miseries that are coming to you. Your riches have rotted, and your clothes are moth-eaten. Your gold and silver have rusted, and their rust will be evidence against you, and it will eat your flesh like fire. You have laid up treasure for the last days. Listen! The wages of the laborers who mowed your fields, which you kept back by fraud, cry out, and the cries of the harvesters have reached the ears of the Lord of hosts. You have lived on the earth in luxury and in pleasure . . . (5:1-5)

John Painter notes that "One of the aspects of James that offers some support for the view that the epistle has its context in Judaea and Galilee before the Jewish war is the focus on the exploitation of the poor by the rich."<sup>207</sup> The negative views on wealth expressed in the Letter of James are consistent with the nature of the early Christian community in Jerusalem, which is known for a modest, communal lifestyle, although some members came from wealthy families.<sup>208</sup> In this regard, the early Christian community in Jerusalem resembled the Qumran community.<sup>209</sup>

In 62 or 63 C.E., during a hiatus in the office of procurator, the Jewish high priest Anannus took advantage of the opportunity to condemn James and had him executed by stoning.<sup>210</sup> James's opposition to the wealthy, who of course included the high priests, might explain why Anannus had him put to death.<sup>211</sup> Josephus provides a contemporary account of this episode:

So he [Anannus the high priest] assembled the Sanhedrin of the judges, and brought before them the brother of Jesus, who was called Christ, whose name was James, and some others [or some of his companions]; and when he had formed an accusation against them as breakers of the law, he delivered them to be stoned. (*Ant.* 20.200)<sup>212</sup>

According to the second-century C.E. church historian Hegesippus, James was buried just below the Temple Mount (presumably in the area of the Kidron Valley or Mount of Olives).<sup>213</sup> Hegesippus mentions that in his time the stele marking the grave could still be seen:

So they went up and threw down the Just, and they said to one another, "Let us stone James the Just," and they began to stone him since the fall had not killed him. . . . And a certain man among them, one of the laundrymen, took the club with which he used to beat out the clothes, and hit the Just on the head, and so he suffered martyrdom. And they bur-

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ied him on the spot by the temple, and his gravestone (*stèle*) still remains by the temple. (apud Eusebius, *Hist. eccl.* 2.23:15-18)<sup>214</sup>

Ben Witherington argues that the "James ossuary" should be understood as the stele described by Hegesippus.<sup>215</sup> However, ossuaries are referred to in ancient inscriptions and literary sources by the Greek words *osteophagos*, *glissokomon*, and *soros*, and in Hebrew and Aramaic as *gluskoma*, *aron*, and *halat*.<sup>216</sup> The Greek word *stèle* (Hebrew *massēbah*) denotes a stone such as a cippus or headstone. Stelae were used to mark individual graves dug into the ground, whereas monumental columnar, pyramidal, or conical *nefashot* were erected above rock-cut tombs. Therefore, Hegesippus's testimony suggests that James was buried in a pit grave or trench grave marked by a headstone (*stèle*).<sup>217</sup>

Jesus was interred in a rock-cut tomb because he was removed from the cross on the eve of the Sabbath, when there was no time to dig a trench grave for him, and because a wealthy follower offered a loculus in his own family tomb. On the other hand, none of our sources indicates that James was placed in a rock-cut tomb, and in fact all available evidence suggests the opposite. As we have seen, the family of Jesus and James probably could not afford a rock-cut tomb.<sup>218</sup> Even if they owned a rock-cut tomb, the fact that James was executed by stoning for violating Jewish law means that his remains could not have been placed in it (*m. Sanh.* 6:5).<sup>219</sup> Unlike Jesus, James did not die on the eve of a Sabbath or holiday, which means there would have been plenty of time to dig a pit grave or trench grave for him. And finally, James's opposition to wealth and the wealthy makes it hard to believe that he would have been buried in the kind of rock-cut tomb that was a hallmark of the elite lifestyle. James's conflict with the Jerusalem elite might even have led to his execution: "James's conflict with Ananus was a result of his opposition to the exploitation of the poor by the rich aristocratic ruling class and in particular the exploitation of the poor rural priesthood by the aristocratic urban chief priests."<sup>220</sup>

Some scholars have suggested that the early Christian community of Jerusalem chose to "honor" James by preparing a rock-cut tomb for him or by offering him a spot in one of their family tombs, analogous to Jesus' burial.<sup>221</sup> I find it hard to believe that Jerusalem's early Christian community, which lived in communal poverty, would have honored a man who supposedly believed that "riches are a mark of the ungodly" by burying him in the manner of the upper classes.<sup>222</sup> Furthermore, the Gospel accounts make it clear that Joseph of Arimathea placed Jesus' body in his

family's tomb because of the unique circumstances surrounding Jesus' death, which included Jesus' expiration on the cross just before the onset of the Sabbath, his abandonment by relatives and followers, and the fact that Jesus' family did not own a rock-cut tomb in Jerusalem into which his body could have been placed (as discussed above). Joseph's concern was to ensure that Jesus was buried in accordance with Jewish law, not "honor" Jesus by interring him in a rock-cut tomb.

The notion that a wealthy patron would "honor" a nonrelative by burying him in a manner that was incompatible with his social class was alien to Jewish Palestine, certainly before 70. The patron-client relationship that was characteristic of other parts of the Roman world was not a feature of Jewish culture at this time.<sup>223</sup> Instead, social categories were religiously based (for example, priests versus Israelites or being a member of a particular sect or movement) but were not economically defined.<sup>224</sup> Charity among Jews was a religious obligation that was unconnected to patronage ties.<sup>225</sup> The Qumran community and early Christian community of Jerusalem supported their members in an egalitarian but impoverished lifestyle through the pooling of possessions, not through patron-client relationships. Even after 70 the rabbis make it clear that the deceased is honored through burial with his/her family:

Neither a corpse nor the bones of a corpse may be transferred from a wretched place to an honored place, nor, needless to say, from an honored place to a wretched place; but if to the family tomb, even from an honored place to a wretched place, it is permitted, for by this he is honored. (*Sem.* 13:7)<sup>226</sup>

All available evidence indicates that Judean rock-cut tombs were family tombs.<sup>227</sup> By the late Second Temple period, the nuclear family seems to have replaced the extended family as the primary social unit among the Jews. Martin Goodman and Eyal Reggev each view the relatively small number of loculi in most rock-cut tombs as reflecting this change in familial social structure.<sup>228</sup> Anthropological analyses of human skeletal remains from several rock-cut tombs of the late Second Temple period have confirmed that the individuals in each tomb were related and that the tombs were family-owned.<sup>229</sup> Inscriptions sometimes indicate family ownership of a tomb or familial relationships among those interred within. For example, an inscription on the architrave informs us that the tomb of Bene Hezir belonged to that priestly family: "This is the grave and

nefesh of Eleazar Honia Ioezer Joudah Simeon Johanan sons of Joseph son of Obed Joseph and Eleazar sons of Honia priests of the sons of Hezi.<sup>230</sup> The name "Caiaphas" is inscribed on two of the ossuaries from that family's tomb.<sup>231</sup> Perhaps the best evidence that these were family tombs comes from the tomb of Goliath in Jericho, which yielded a wealth of skeletal remains and inscribed ossuaries. An analysis of this material indicated that three generations of the Goliath family were interred in the tomb between ca. 10 and 70 C.E.<sup>232</sup> Family members included the parents and their sons and families but not the parents' daughters and their families.<sup>233</sup> Rachel Hachlili and Patricia Smith concluded, "The findings indicated that this was a family tomb."<sup>234</sup> The rabbis took it for granted that the rites of mourning and gathering bones in a tomb (ossilegium) were carried out by relatives (see, e.g., *m. Ber.* 3:1; *y. Pesah.* 8:8; *y. Mo'ed Qat.* 1:5).<sup>235</sup>

We have no evidence such as inscriptions or literary testimony that nonfamily members including slaves were interred in Judean rock-cut tombs before 70.<sup>236</sup> Even after 70, when different families purchased space in the catacombs at Beth She'arim, there is no indication that nonfamily members were included among them.<sup>237</sup> As Rabbi Judah reportedly said, "Whomsoever a person may sleep with when he is living, he may be buried with when he is dead" (*Sem.* 13:7).<sup>238</sup> Rabbinic literature indicates that although slaves were members of the household, they were considered material possessions like animals, not as human beings.<sup>239</sup>

For heathens or slaves, no [mourning] rites whatsoever should be observed, but one may join in the lament, "Alas, O lion! Alas, O mighty one! . . . One does not receive condolences for slaves.

And when his [Rabban Gamaliel's] slave Tevi died, he received condolences about him. They said to him: Our teacher, did you not teach us that one does not accept condolences for slaves? He said to them: My slave Tevi was not like other slaves, he was honest. (*Sem.* 1:9-10)

Hence, about unrelated freed men one accepts condolences? So is the Mishnah: one does not accept condolences for slaves.

It happened that Rabbi Eliezer's maidservant died and his students came to him for condolences but he did not accept. He entered the courtyard, they followed him there. He entered the house, they followed him there. He told them: I was thinking that you would be burned by lukewarm water but you are not burned even by boiling water. Did they not say that one does not accept condolences for slaves

because slaves are in this like animals? If not does not accept condolences for unrelated free persons, so much more for slaves. If one's slave or animal died, people say to him: The Omnipresent may replace your loss. (*y. Ber.* 2:8; see also *Sem.* 1:10)<sup>240</sup>

On the basis of this evidence, Dov Zlotnick concluded: "Although humane treatment of slaves was enjoined, the master's treatment of his slave was not that of a kinsman but that of a stranger."<sup>241</sup>

There is no indication that the members of Jerusalem's first-century early Christian community abandoned the principle that rock-cut tombs were used by families. In Palestine, the custom of community burial in catacombs is not attested before the second to third centuries (most prominently at Beth She'arim).<sup>242</sup> There is no reason to assume that James was placed in someone else's tomb since we have no testimony that this happened (unlike the case of Jesus). Even if we assume that the early Christians of Jerusalem buried their members as a community instead of as individuals with their families,<sup>243</sup> we should probably envisage a practice analogous to the Qumran burials.<sup>244</sup> In fact, pit graves and trench graves are more suitable than rock-cut tombs for communities in which group membership superseded family ties. Hegesippus's relatively early date (within a century of James's death) and the fact that he was apparently from Palestine (as Eusebius certainly was) suggest that he preserves an accurate tradition about the manner in which James was buried — in a pit grave or trench grave marked by a headstone.<sup>245</sup> The suggestion made by some scholars that all or part of the inscription on the "James ossuary" is an ancient forgery — added by a pious Christian in the fourth to fifth centuries — is anachronistic, since the custom of ossilegium had disappeared from Jerusalem long before then.<sup>246</sup> Contemporary Christians would not have been familiar with the custom of ossilegium. Those who encountered ossuaries in earlier tombs would have had no reason to associate these objects with the first century C.E. or with James.<sup>247</sup>

The evidence that James was buried in a grave dug into the ground and not in a rock-cut tomb renders the controversy over the "James ossuary" moot. Even if the inscription is authentic, it does not refer to James the Just, the brother of Jesus.<sup>248</sup> Ossuaries were introduced into rock-cut tombs to collect the remains removed from loculi.<sup>249</sup> However, ossuaries are not associated with pit graves or trench graves, as there was no reason to exhume the remains and place them in an ossuary in order to make space for new burials.<sup>250</sup> Instead, new graves were dug as the need arose.

In my opinion, the prevailing scholarly views and popular controversies about the burials of Jesus and James are the result of a number of widespread misconceptions:

Ossuaries and ossilegium in Jerusalem tend to be viewed without considering the development of Jewish rock-cut tombs and burial customs over time.

Ossuaries and rock-cut tombs in Jerusalem usually are considered in isolation from their local social and economic context (elite versus non-elite burials).

Ossuaries in Jerusalem generally are discussed in isolation from the larger Mediterranean (Hellenistic and Roman) setting and contemporary trends.

In contrast to other countries and periods for which archaeologists acknowledge the diversity that characterized tombs and burial customs, in late Second Temple-period Judea rock-cut tombs have been the focus of attention to the exclusion of other burial types.

Interpretations of ancient Jewish tombs and burial customs have been influenced by assumptions about beliefs in resurrection and the afterlife.

Ancient literary accounts describing the burials of Jesus and James have been interpreted without a correct understanding of Jewish law and have been influenced by anachronistic assumptions about Jewish society in pre-70 Palestine.

## CHAPTER 12

### *Epilogue — The Aftermath of 70*

*With the destruction of the temple the primary focal point of Jewish sectarianism disappeared. . . . For most Jews, however, sectarian self-definition ceased to make sense after 70.*

Cohen, "The Significance of Yavneh," 45

*The standard assumption that these Jewish groups disappeared soon after 70 is therefore no more than an assumption. Furthermore, the presuppositions which have encouraged the assumption are so theologically loaded that historians' suspicions should be instinctive. . . . My hypothesis is that groups and philosophies known from pre-70 Judaism continued for years, perhaps centuries, after the destruction of the Temple.*

Goodman, "Sadducees and Essenes after 70 C.E.," 348, 355

For many Jews the disastrous events of 70 — which culminated with the destruction of the Jerusalem temple — had little or no impact on the most basic aspects of daily life. They consumed the same foods, wore the same types of garments, and attended to their toilet needs in the same manner as before 70. However, some changes can be discerned after 70, most of which reflect the reconfigured social and religious landscape. For now not only

- mandates that corpse impurity extends to the nails and pegs in a house, see Eshel, "CD 12: 15-17"; Noam, "Qumran and the Rabbinic on Corpse-Impurity," 415-28.
119. Noam, "Qumran and the Rabbinic on Corpse-Impurity," 427, concludes that according to sectarian law raw materials became susceptible to impurity once they were adapted and converted to human use, though I do not know whether she would include rock-cut tombs in this category. I agree with Werrett, *Ritual Purity and the Dead Sea Scrolls*, 40-41, that the *Damascus Document* assumes that an individual entering a tent or house in which someone has died contracts corpse impurity, though this is not explicitly stated (in contrast to the *Temple Scroll*).
120. See Green, "Sweet Spices in the Tomb," 161-63.
121. This possibility is supported by the rabbinic ruling that a woman carrying a still-born child is clean. See Yadin, *The Temple Scroll*, 1:336, who observed that "the likeness in language, on the one hand, and the contrast between the laws, on the other, arrests a palpable controversy, and there is no doubt that the Tannaites knew of laws such as those in the [Temple] scroll." For a more recent discussion, see Noam, "Qumran and the Rabbinic on Corpse-Impurity," 407-15. Sanders, *Jewish Law from Jesus to the Mishnah*, 34, remarks on the apparent Pharisaic and rabbinic lack of concern with corpse impurity. See also Neusner, *A History of the Mishnaic Law of Purities*, 208-9 (discussing the Ushans).
122. Eshel, "Q414 Fragment 2"; "Ritual of Purification." For the sectarian legislation, see 11QT 49 and 4Q414; for a discussion, see Millgram, "Deviations from Scripture."
123. Eshel, "Q414 Fragment 2," 9; "Ritual of Purification," 138-39.
124. Eshel, "Q414 Fragment 2," 9; "Ritual of Purification," 139; Kloner and Zissu, *The Necropolis of Jerusalem*, 44-45; Zissu and Armit, "Common Judaism, Common Purity," 59-61. For Jericho, see Hachlili and Killebrew, *Jericho*, 47; Regev, "Non-Priestly Purity and Its Religious Aspects," 235-36, connects this phenomenon with "non-priestly" purity.
125. Magness, *The Archaeology of Qumran*, 154.
126. Adler, "Ritual Baths Adjacent to Tombs." However, if this had been a widespread concern, miqva'ot adjacent to tombs should be much more common.
127. De Vaux, *Archaeology and the Dead Sea Scrolls*, 46; see also Zissu, "Qumran Type Graves in Jerusalem," 160; "Odd Tomb Out," 52.
128. See McCane, *Roll Back the Stone*, 68-70.
129. This legislation is reiterated in the *Temple Scroll* (11QT 50:4-6); see Yadin, *The Temple Scroll*, 1:334-36; Noam, "Qumran and the Rabbinic on Corpse-Impurity," 397-407.
130. See Sanders, *Jewish Law from Jesus to the Mishnah*, 34; Schiffman, "The Impurity of the Dead," 143, who notes that according to the *Temple Scroll* corpse impurity contains even objects attached to the ground.
131. Sanders, *Jewish Law from Jesus to the Mishnah*, 34.
132. *m. Šeqal*, 1:1 and *m. Ma'as. Š.* 5:1 describe marking off graves or areas of graves (in the latter reference using lime), apparently due to purity concerns.
133. See Kazen, *Jesus and Purity Halakhah*, 179.
134. Yadin, *The Temple Scroll*, 1:322-23; see also Wright, *The Disposal of Impurity*, 123-27; Schiffman, "The Impurity of the Dead," 137, expands on Yadin's observation, noting that whereas the tannaim and amoraim allowed burials everywhere except within walled cities and the boundaries of the Levitical cities (respectively), the *Temple Scroll* restricts burial to designated cemeteries. But Noam, "The Bounds of Non-Priestly Purity," 147-52, argues that Yadin misunderstood the rabbinic position, which in reality sought to ban burials from all settlements, walled and unwalled alike. Nevertheless, the Mishnah and tractate *Semahor* indicate that the random disposal of bodies was common.
135. Bodel, "Graveyards and Groves," 34-35; see also "Dealing with the Dead," 129.
136. Bodel, "Dealing with the Dead," 131.
137. Bodel, "Graveyards and Groves," 38; "Dealing with the Dead," 133.
138. See Patterson, "Living and Dying in the City of Rome," 267; Bodel, "Dealing with the Dead," 129, estimates that some 1500 unclaimed and unwanted corpses turned up annually on the streets of ancient Rome.
139. See Scobie, "Slums, Sanitation, and Mortality," 418; Bodel, "Dealing with the Dead," 129; Hobson, *Larriane et Fortiae*, 97-98.
140. In a rare example of leniency compared with the rabbis, the Qumran sectarians apparently considered as defiling only severed limbs from a corpse and not those belonging to someone who was still alive; see Baumgarten, "The Pharisaic-Sadducean Controversies," 161 n. 17; "Halvni's *Midrash*," 61. This leniency might be an illusion, since according to sectarian law a bone could render a "tent" impure, whereas the early rabbis restricted this type of impurity to corpses; see Noam, "Qumran and the Rabbinic on Corpse-Impurity," 397-407.
141. Fredriksen, *Jesus of Nazareth*, 11.
142. *Matt* 27:57-60, 28:1; *Mark* 15:33-34, 42-43; *Luke* 23:44, 50-54; *John* 19:31.
143. For a discussion of the differences in the Gospel accounts of this episode, see McCane, *Roll Back the Stone*, 101-2; for John's account, see Murphy-O'Connor, *Review of The Necropolis of Jerusalem*, 451-54. Here I focus on the accounts of Mark and Matthew. The differences between the two include describing Joseph as a member of the council/Sanhedrin (Mark) or as a rich man (Matthew) (which are complementary, not contradictory statements) and mentioning that this was Joseph's family tomb (Matthew) versus no such reference (Mark). Since rock-cut tombs belonged to families, I believe that Matthew is accurate in this detail.
144. See McCane, *Roll Back the Stone*, 94-95.
145. Hengel, *Crucifixion in the Ancient World*, 19, 83, 90.
146. See, e.g., Evans, *Jesus and the Ossuaries*, 101; McCane, *Roll Back the Stone*, 89; Crossan, *Who Killed Jesus?* 160-63; Brown, *The Death of the Messiah*, 2:947. But for an argument that Jesus did receive a proper burial, see Evans, "Jewish Burial Traditions and the Resurrection of Jesus."
147. Hengel, *Crucifixion in the Ancient World*, 34, 40, 46-47; Tzaferis, "Crucifixion — the Archaeological Evidence," 48; Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, 44; Bertkowitz, *Execution and Invention*, 174-77, notes that although the rabbinic execution system resembles the Roman one in some respects, the rabbis changed the equation between the methods of execution used and an individual's social status.
148. Hengel, *Crucifixion in the Ancient World*, 49.
149. McCane, *Roll Back the Stone*, 90, 105; Brown, *The Death of the Messiah*, 2:1207; *pate* Crossan, *Who Killed Jesus*, 160-61.
150. For discussions, see Shemesh, "The Dispute between the Pharisees and the Sadducees," Regev, *The Sadducees and Their Halakhah*, 124, who concludes that the rabbinic system of execution is a late (and somewhat idealized) development.
151. For a discussion of this passage, see Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, 117-20.
152. Bertkowitz, *Execution and Invention*, 160-61; Berrin, *The Pesher Nahum Scroll from*

Qumran 171; Eshel, *The Dead Sea Scrolls and the Hasmonean State*, 129 n. 34; Baumgarten, *Studies in Qumran Law*, 173-74; Vermes, *The Complete Dead Sea Scrolls in English*, 473. See also Bauckham, "For What Offense Was James Put to Death?" 221, who notes that according to Jewish law "hanging is not a method of execution but the exposure of an already dead corpse." Halperin, "Crucifixion, the Nahum Peshet and Strangulation," 40-41, observes that the rabbis seem to have altered earlier methods of execution to shorten the process of dying and thereby lessen the victim's suffering.

153. See Yadin, *The Temple Scroll*, 2:289 n. 8; Berrin, *The Peshet Nahum Scroll from Qumran*, 172, 183 (with a reference to the interpretation of Deut 21:23 as reflecting a sectarian controversy); Halperin, "Crucifixion, the Nahum Peshet, and Strangulation," 43; Crown, "Qumran, Samaritan Halakha and Theology," 427; Bernstein, *Midrash Halakha at Qumran?* 150, 154-55.

154. From Yadin, *The Temple Scroll*, 1:373-74; "Peshet Nahum Reconsidered," 9. See also Berrin, *The Peshet Nahum Scroll from Qumran*, 180-84; Baumgarten, *Studies in Qumran Law*, 173; Shemesh, "The Dispute between the Pharisees and the Sadducees," 19-20, who notes that the author of the *Temple Scroll* elaborated on the biblical injunction, which does not specify for which crimes the hanged criminal was executed. For a different reading of this passage in the *Temple Scroll*, see Schwartz, *Studies in the Jewish Background of Christianity*, 81-88 ("The Contemners of Judges and Men"). For a review of secondary literature on this passage, see Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, 125-32.

155. Yadin, *The Temple Scroll*, 1:374; 2:289 n. 7; Baumgarten, *Studies in Qumran Law*, 175-76 n. 13; Shemesh, "The Dispute between the Pharisees and the Sadducees," 20-28, notes that the authors of the *Temple Scroll* and the *Damascus Document* added to the crimes punishable by death listed in the Hebrew Bible (whereas the rabbis added none) and changed the agent of execution for defilement of the temple from divine to human; see also Reges, *The Sadducees and Their Halakha*, 127. Similarly Bernstein, "Midrash Halakha at Qumran?" observes that the author of the *Temple Scroll* added a clause from Lev 19:16a to the legal material of Deut 21:22-23, and changed the meaning of the *kyi* from being a slanderer or tale-bearer to committing treason. He suggests that 11QT 64:6-13 is an interpolation, perhaps replacing an earlier version which contained a closer paraphrase of Deut 21:22-23. Weinfeld, "High Treason in the Temple Scroll," demonstrates that the law of high treason found in the *Temple Scroll* had a long history in the ancient Near East.

156. See Baumgarten, *Studies in Qumran Law*, 173-74; Halperin, "Crucifixion, the Nahum Peshet, and Strangulation."

157. See Baumgarten, *Studies in Qumran Law*, 176 n. 13; Halivni's *Midrash*,<sup>3</sup> 63; Shemesh, "The Dispute between the Pharisees and the Sadducees," 30-31; Reges, *The Sadducees and Their Halakha*, 126. For a comprehensive study of the scholion, see Noam, "From Philology to History." According to the scholar the Sadducees were unable to provide a scriptural basis for this practice, instead citing the fact that the book had been "written and deposited" (publicized) as a basis for its authority. For evidence of Jews executing criminals by hanging in the Second Temple period, see Yadin, *The Temple Scroll*, 1:375-76.

158. See Hengel, *Crucifixion in the Ancient World*, 85: "From the beginning of direct Roman rule crucifixion was taboo as a form of the Jewish death penalty." Baumgarten, *Studies in Qumran Law*, 179, notes that the rabbis viewed crucifixion as a Roman practice. See also Tzaferis, "Crucifixion — the Archaeological Evidence," 48: "Among the Jews crucifixion was an anathema. . . . The traditional method of execution among the Jews was ston-

ing. . . . At the end of the first century B.C., the Romans adopted crucifixion as an official punishment for non-Romans for certain legally limited transgressions."

159. Baumgarten, *Studies in Qumran Law*, 178-79; Eshel, *The Dead Sea Scrolls and the Hasmonean State*, 129. The prolonged process of dying would have made it difficult to ensure burial took place within twenty-four hours of death, something to which even executed criminals were entitled according to Jewish law. For the opposite view, see Berrin, *The Peshet Nahum Scroll from Qumran*, 190 n. 72.

160. See Halperin, "Crucifixion, the Nahum Peshet, and Strangulation," who notes that "tree" can denote a wooden pole; see also Eshel, *The Dead Sea Scrolls and the Hasmonean State*, 128-29 n. 33; Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, 15-26, 112-14. But Berrin, *The Peshet Nahum Scroll from Qumran*, 167 n. 10, points out that *shb* is simply Aramaic for *th*. She argues that the author of the *Temple Scroll* understood "hanging alive" as including crucifixion (188). In Acts 5:30; 10:39; and Gal 3:13 the Deuteronomistic verse is applied to Jesus' crucifixion; see Schwartz, *Studies in the Jewish Background of Christianity*, 82 ("The Contemners of Judges and Men").

161. Berkowitz, *Execution and Invention*, 160-61, who notes that the reference to "the Ancient Jewish and Christian Perceptions of Crucifixion" is intended. See also Chapman, 143-44.

162. For comprehensive discussions of the terms hanging and strangulation, see Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, esp. Part One (see 177 for his conclusion); Berrin, *The Peshet Nahum Scroll from Qumran* 165-68, who concludes, "It is most likely that the range of the term *h'ln* included, but was not limited to, sorts of hanging executions denoted by the word *h'ln*. . . . Crucifixion could be called *h'ln* though it would probably not be called *h'ln*" (168). Berrin notes that the apologetic tendencies of modern scholars have influenced their views (178-79). Halperin, "Crucifixion, the Nahum Peshet, and Strangulation," esp. 40, argues that the Jews adopted crucifixion as a mode of execution from the Romans early on and that it was rejected by the rabbis. See also Yadin, "Peshet Nahum Reconsidered."

163. Josephus, *War* 1:57; *Ant.* 13:380; see also Hengel, *Crucifixion in the Ancient World*, 84, with references.

164. The reconstruction and interpretation of this passage have been the subject of much debate. For recent discussions with different opinions, see Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, 14-15; Berrin, *The Peshet Nahum Scroll from Qumran*, 165-94; Eshel, *The Dead Sea Scrolls and the Hasmonean State*, 117-31. See also Baumgarten, *Studies in Qumran Law*, 178-80, who concludes that "hanging alive" refers to crucifixion whereas "hanging" describes hanging someone alive or dead from a tree. Yadin, "Peshet Nahum Reconsidered"; *The Temple Scroll*, 1:378 n. 11; and Halperin, "Crucifixion, the Nahum Peshet, and Strangulation," believe that the *Temple Scroll* and *Peshet Nahum* (and rabbinic sources) indicate that some Jewish groups in pre-70 Palestine sanctioned crucifixion as a legal mode of execution by equating it with hanging/strangulation.

165. Although the exact manner in which the body was affixed to the cross is debated, for two different reconstructions, see Tzaferis, "Crucifixion — the Archaeological Evidence," 49; Zias and Sekles, "The Crucified Man from Giv'at ha-Mivtar," 27. Zias and Sekles note (26) that death resulted from asphyxiation and not from the trauma caused by nailing the body to the cross.

166. In light of the relationship between Luke and Acts, it is interesting that in these

two books (but not in Mark and Matthew) the distinction between hanging and crucifixion is blurred, with the Greek terms being used interchangeably; see Luke 23:39: "One of the criminals who was hanging there (*kremasthēton*) abused him"; Acts 5:30: "The God of our forefathers raised Jesus to life when you had hung him on a cross (*kremasantes epi xylou*) and killed him." I thank Bart Ehrman for bringing this to my attention. For a discussion, see Fitzmyer, "Crucifixion in Ancient Palestine," 509-10, who suggests that the Pauline and Lucan references to hanging on a tree may have been influenced by the LXX of Deut 21:22. See also Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, 9-10, including n. 40; 211.

167. Pace Crossan, *Who Killed Jesus*, 166, 169. In my opinion, Josephus's rhetorical use of this episode to illustrate the impiety of the rebels (in this case, Idumeans) does not affect the value of his testimony regarding the burial of crucifixion victims in accordance with Jewish law. For Josephus's condemnation of the rebels' lawless and impious behavior, see Cohen, *Josephus in Galilee and Rome*, 88, 97; Rajak, *Josephus*, 81.

168. From Watson, *The Digest of Justinian*, 864.

169. From Watson, *The Digest of Justinian*, 864. Evans, "Jewish Burial Traditions and the Resurrection of Jesus," 5-7, believes that the Romans usually prohibited burial during times of open rebellion and armed conflict, not when it was peaceful. Berkowitz, *Execution and Invention*, 137-38, suggests that perhaps the Roman authorities denied families the right to bury relatives executed for treason but not those guilty of other violations.

170. Baumgarten, *Studies in Qumran Law*, 178, notes that Jesus' quick death on the cross seems to have come as a surprise to Pilate (Mark 15:44), as crucifixion victims typically suffered longer before expiring.

171. As McCane, *Roll Back the Stone*, 100-1, notes, pace Crossan. See also Tzaferis, "Crucifixion — the Archaeological Evidence"; Rahmani, "Ancient Jerusalem's Funerary Customs and Tombs, Part Three," 51; 1994: 131 no. 218. McCane, *Roll Back the Stone*, 99, remarks, "Dishonorable burial was reserved for those who had been condemned by the people of Israel" (McCane's emphasis). Nevertheless, McCane concurs that Jesus was buried in shame. The prominence of Yohanan's family is indicated by the fact that another ossuary from this tomb was inscribed "Simon, the builder of the temple," apparently someone who had participated in the reconstruction of the temple under Herod; see Tzaferis, "Crucifixion — the Archaeological Evidence," 47, 50; Brown, *The Death of the Messiah*, 21210.

172. Crossan, *Who Killed Jesus*, 168; Crossan, *The Historical Jesus*, 391.

173. See Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, 202; see also Brown, *The Death of the Messiah*, 21210, although on 1243 he presents the opposite conclusion. According to Josephus, *Ant.* 4.202, blasphemers who were stoned and then hanged were "buried in an ignominious and obscure manner." However, Jesus was not condemned by the Sanhedrin for violating Jewish law and was not executed by stoning. Therefore, it is erroneous to apply this passage to Jesus' execution and burial. On the other hand, this halakhah would have applied to James, who was apparently executed by stoning for violating Jewish law and therefore would have been ineligible for burial in a rock-cut family tomb (see the discussion of James's burial below).

174. According to tractate *Semahot* 2:6, "For those executed by the [Jewish] court, no [mourning] rites whatsoever should be observed." For a discussion, see Berkowitz, *Execution and Invention*, 133-34, 136.

175. Crossan, *The Historical Jesus*, 391.

176. For the intact repository at Keref Hinnom, see Barkay, "The Divine Name Found in Jerusalem."

177. As Crossan, *Who Killed Jesus*, 169, notes.

178. Tzaferis, "Crucifixion — the Archaeological Evidence," 50 (my emphasis). In their reexamination of this skeleton, Zias and Sekeles, "The Crucified Man from Giv'at Hariv," 24, found no evidence for amputation but confirmed that the nail could not be removed from the heel bone because it was bent: "Once the body was removed from the cross, albeit with some difficulty in removing the right leg, the condemned man's family would now find it impossible to remove the bent nail without completely destroying the heel bone" (27).

179. Tzaferis, "Crucifixion — the Archaeological Evidence," 49; see also Crossan, *Who Killed Jesus*, 135, for a description from the *Acts of Andrew*.

180. From Brown, *The Death of the Messiah*, 23319.

181. Of course, had Jesus' family owned a rock-cut tomb, it presumably would have been located near their home in Nazareth. But in light of what we know of Jesus' family and his background, there is no reason to assume they could afford a rock-cut tomb.

182. The Jewish concern that the deceased be buried on the same day is scripturally based (Deut 21:22; *m. Sanh.* 6:5; for a discussion, see Davies, *Death, Burial and Rebirth*, 102). This explains the haste to bury Jesus, since the onset of the Sabbath would have meant delay-burials when death occurs during a festival: "They do not hew out a tomb niche or tombs on the intermediate days of a festival. But they refashion tomb niches on the intermediate days of a festival. They dig a grave on the intermediate days of a festival, and make a coffin, and while the corpse is in the same courtyard, R. Judah prohibits, unless there were boards [al-ready sawn and made ready in advance]" (*m. Mo'ed Qat.* 1:6). The reference to rock-cut tombs with loculi suggests that this halakhah might have originated in the late Second Temple period. Notice also the description of graves dug into the ground.

183. Mark 15:43 describes Joseph as "a highly respected member of the council," apparently the Sanhedrin; see Brown, *The Death of the Messiah*, 21213-14, 1223.

184. For discussions, see Brown, *The Death of the Messiah*, 21244-46, 1252.

185. For discussions of the type of stone that sealed the tomb in which Jesus' body was placed, see Kloner, "Did a Rolling Stone Close Jesus' Tomb?"; Kloner and Zissu, *The Necropolis of Jerusalem*, 54-56, who note that circular rolling stones (as opposed to square or rectangular blocking stones) are rare in the Jerusalem necropolis. See also Brown, *The Death of the Messiah*, 21247-48.

186. For the suggestion that Joseph of Arimathea was not a follower of Jesus, see Brown, *The Death of the Messiah*, 21216-18, 1223-24, 1246. For the claim that he was a completely fictional character, see Crossan, *Who Killed Jesus*, 172-73, 176. See also Murphy-O'Connor, *Review of The Necropolis of Jerusalem*, 452-53.

187. Pace Brown, *The Death of the Messiah*, 21249-50.

188. Pace Kloner and Zissu, *The Necropolis of Jerusalem*, 122-23; Brown, *The Death of the Messiah*, 21249: "A distinguished member of the Sanhedrin, Joseph may have had access to tombs that served for those whom the Sanhedrin judged against. Into one of these tombs nearby the cross, then, the Marcan Joseph, acting quite consistently as a pious law-observant Jew, could have placed the corpse of Jesus."

189. See Rittmeyer and Rittmeyer, "Potter's Field or High Priest's Tomb?"

190. Brown, *The Death of the Messiah*, 2:1272; Evans, *Jesus and the Ossuaries*, 103; McCane, *Roll Back the Stone*, 103-4.
191. As noted also by Evans, *Jesus and the Ossuaries*, 15: "what the Gospels depict is consistent with what is known from archaeology and from literary and epigraphical sources."
192. For different possibilities, see Vermes, *The Resurrection*, 142-48.
193. Kloner, "A Tomb with Incised Ossuaries."
194. See Jacobovici and Pellegrino, *The Jesus Family Tomb*.
195. Kloner, "A Tomb with Incised Ossuaries," 7-19.
196. See Rahmani, *A Catalogue of Jewish Ossuaries*, 17.
197. See Rahmani, *A Catalogue of Jewish Ossuaries*, nos. 57, 18, 67.
198. See Rahmani, *A Catalogue of Jewish Ossuaries*, nos. 99, 139, 404. Literary sources (such as the Gospels, Flavius Josephus, etc.) often make the same distinctions between Jews and non-Jews (e.g., Galileans, Idumaeans, Mary Magdalene, Saul of Tarsus, Simon of Cyrene, etc.).
199. For a statement about the Talpiot tomb by Eric Meyers and Jodi Magness, see <http://dukeuniversity.edu/~talpiot-tomb-controversy-revisited.html>.
200. See Aviram, "Magdala," 399, who describes Magdala as "a small town in the early Hellenistic to Byzantine periods" whose inhabitants engaged mainly in fishing.
201. For a review of the evidence for the use of Greek in Galilee in Jesus' time, see Chancey, *Greek-Roman Culture and the Galilee of Jesus*, 122-65.
202. The Gospel accounts suggest that John the Baptist was also buried in a trench grave: "When his disciples heard about it, they came and took his body and laid it in a tomb (*en mnemeion*)" (Mark 6:29). That *mnemeion* refers to a trench grave seems to be indicated by Luke 11:44, where this is certainly its meaning: "For you are like unmarked graves, and people walk over them without realizing it." I owe this observation to Joan Taylor.
203. Joan Taylor observed (personal communication 01/08): "The point is that there was only one tomb remembered as the *mnemeion* or *taphos* where Jesus' body lay after it was brought down from the cross, the tomb of Joseph of Arimathea, and that is the one now in the Church of the Holy Sepulcher. Nothing in early Christian literature, or any sources fiercely opposed to Christianity, indicates that Jesus was buried anywhere else, when that would have been so useful to counter the resurrection stories. Matt 28:13-15 reports what people were saying about the disappearance of Jesus' body: 'His disciples came by night and stole him away.' But given all the polemic, you'd think someone in Jerusalem would notice if his bones went into another place nearby [such as the Talpiot tomb]. If Jesus' disciples stole him away, I agree they would have taken him much further afield, and put him anonymously in the ground, not in an ossuary with his name on it for anyone going into the tomb to see! Also, if Jesus' important family had a church-funded rock-cut tomb in Jerusalem it seems likely to me that it would have been remembered through the ages, rather than totally forgotten. Jerusalem was one rare place where there was some continuity of Christian tradition, because the Jewish church there — despite disruptions — survived and melded into the Gentile (orthodox) church, as it did also in Rome and Antioch."
204. I am not concerned with the question of whether James was related to Jesus by blood or not. For the sake of convenience I use the term "early Christian community" to describe the Jewish followers of Jesus in Jerusalem during the second and third quarters of the first century C.E., although of course they were a Jewish sect. For discussions of James's role

- in this community with references, see Painter, *Just James*, 3-5; Witherington, "The Story of James" 121.
205. See Evans, "Jesus and James," 246-47; Moo, *The Letter of James*, 16; Painter, *Just James*, 125; Witherington, "The Story of James," 112. Hegeppus (in Eusebius *Hist. eccl.* 2:23:4-18) relates that James was "holy from his birth; he drank no wine or intoxicating liquor and ate no animal food; no razor came near his head; he did not smear himself with oil, and he took no baths. He alone was permitted to enter the Holy Place, for his garments were not of wool but of linen. He used to enter the Sanctuary alone, and was often found on his knees beseeching forgiveness for the people, so that his knees grew hard like a camel's." Painter, *Just James*, 125, notes that other early (second-century) sources preserve the tradition of James' pious and ascetic lifestyle.
206. As Painter, *Just James*, 239, notes, "The vast majority of modern scholars question the authenticity of the letter, although its authorship by James is not without significant defenders." Witherington, "The Story of James," 144, 146, believes that James wrote the letter and dates it to around 52 C.E.; for a similar opinion, see Maynard-Reid, *Poverty and Wealth in James*, 7-8. For discussions of the arguments for and against James' authorship, see Edgar, *Has God Not Chosen the Poor?*, 11, 19-22, 223 (who believes it is likely a pseudonymous composition); Davids, "Palestinian Traditions in the Epistle of James," 33-57 (who notes on 34 that "the most one can demonstrate with a high level of probability is that the material in James appears to come from the environment in which James lived and functioned and thus could well stem from James"); Moo, *The Letter of James*, 9-22 (who favors authorship by James); Painter, *Just James*, 234-48 (who believes that the letter was written by a Greek-speaking, Diaspora Jew and that it was "intentionally attributed" to James). Even if the letter was not written by James, many scholars seem to agree that it accurately reflects his views on wealth; see, e.g., Painter, *Just James*, 13; Witherington, "The Story of James," 153, notes that James' wisdom is intended for the poor and oppressed versus the rich.
207. Painter, *Just James*, 249. For the theme of wealth and poverty in the Letter of James and the modest lifestyle of the early Christian community in Jerusalem, see Maynard-Reid, *Poverty and Wealth in James*; Edgar, *Has God Not Chosen the Poor*, 133; Moo, *The Letter of James*, 35-36.
208. See, e.g., Painter, *Just James*, 249: "The poverty of the early Jerusalem church is well attested by Paul and the author of Acts. . . . In Jerusalem the believers experimented with an early form of 'communism,' that is, of giving up the private ownership of land and resources to provide resources for all."
209. See Flusser, "The Social Message from Qumran," 109-11; Witherington, "The Story of James," 115, explicitly compares the early Christian community in Jerusalem with the Essenes. For the suggestion that the Essenes' negative attitude towards the accumulation of wealth and glorification of poverty influenced Jesus' movement, see Broschi, "Marimony and Poverty," 632-34; "What Jesus Learned from the Essenes," Eisenman, *James the Brother of Jesus*, 4; Flusser, *Judaism of the Second Temple Period*, 36-37, notes that the principle of property seems to have been adopted by the Jerusalem church only after Jesus' death.
210. For the question of whether the Sanhedrin actually carried out executions, see Vermes, *The Passion*, 17-27 (who answers in the affirmative); for biblog., see Berkowitz, *Excavation and Invention*, 220 n. 37. Berkowitz (4, 19-20) describes how the key Mishnaic passage (*Mak* 1:10) has been used for apologetic purposes in modern times. Shemesh, "The Dispute between the Pharisees and the Sadducees," 33, argues that this passage reflects a general ten-



dency on the part of the tannaim to limit the imposition of the death penalty, whereas (earlier) sectarian law extended it.

211. See Painter, *Just James*, 251, 264. Bauckham, "For What Offence Was James Put to Death?" 229, suggests that James was executed for blasphemy or for leading astray the town. Regev, *The Sadducees and Their Halakhah*, 127, proposes that the Pharisees opposed James's execution because they did not consider his offense (whatever it was) deserving of capital punishment.

212. For a discussion of this passage, see McLaren, "Ananus, James, and Earliest Christianity," who notes that this is only one of two episodes in which Josephus labels an individual (Ananus) as a Sadducee. Unlike Josephus's more controversial reference to Jesus (Ant. 18.63), most scholars do not believe this passage was added or substantially altered by later Christian copyists; see Bauckham, "For What Offence Was James Put to Death?" 198; Witherington, "The Story of James," 168.

213. For a different view, see Eliav, "The Tomb of James Brother of Jesus."

214. Hegešippus's description of the stoning is consistent with the method described in rabbinic literature, according to which the victim was thrown off a precipice and only stoned if he was still alive. Halperin, "Crucifixion, the Nalium Peshet, and Strangulation," 41, suggests that the rabbinic version is a more humane modification of the original process whereby the victim was pelted to death by stones (see also Berkowitz, *Execution and Invention*, 72). In support Halperin cites John 8:7: "Let anyone among you who is without sin be the first to throw a stone at her." However, Hegešippus's account and John's Gospel are separated only by about seventy-five years. Why would Hegešippus choose to describe stoning as the rabbi prescribed rather than as it was performed before 70 and as seems to be described by John ca. 100? Hegešippus's testimony suggests that the "rabbinic" method was practiced even before 70, perhaps alongside the "traditional" method.

215. Witherington, "The Story of James," 187, 188, who incorrectly (and misleadingly) translates the Greek word *stela* here as "inscribed stone" (my emphasis). Painter, *Just James*, 123, renders it more accurately as "headstone."

216. For discussions of these terms, see Rahmani, *A Catalogue of Jewish Ossuaries*, 3; Evans, *Jesus and the Ossuaries*, 11. Σοφος (*sofos*) occurs on an ossuary from Jericho; see Hachlili, "The Inscriptions," 142-44; "The Goliath Family in Jericho," 33, 55. For an ossuary inscribed twice with the Greek word *ostephagos*; see Avigad, "Jewish Rock-Cut Tombs in Jerusalem," 141. For an ossuary referred to in Palmyrene as *kyka* ("amphora" in the sense of "urn"), see Frey, *Corpus Inscriptionum Iudaeorum*, 250 no. 1222; Rahmani, *A Catalogue of Jewish Ossuaries*, 3. For ossuaries inscribed with the word "tomb" (probably referring to the ossuary), see Rahmani, *A Catalogue of Jewish Ossuaries*, 109 no. 123 (*Kibra*); 198 no. 561 (*topow*).

217. Even if the stela that Hegešippus mentions did not mark the authentic location of James's grave, his testimony indicates that Jerusalem's early Christian community preserved a tradition about the manner in which James had been buried. Jerome's testimony suggests that by the fourth century the stela was no longer visible; see Painter, *Just James*, 223; Eisenman, *James the Brother of Jesus*, 454-55.

218. According to Witherington, "The Story of Jesus," 101, Joseph would have passed the family trade of carpentry on to his sons: "While carpenters did not rank at the high end of the social structure of society, neither were they at the low end . . . even a woodworker

who simply built furniture might expect to make a living that could support the family." See also Crossan, *The Historical Jesus*, 29.

219. Assuming, of course, that the prohibition described in the Mishnah was in effect in the second half of the first century C.E. For the nature of James's offense, see McLaren, "Ananus, James, and Earliest Christianity," 17-18.

220. Painter, *Just James*, 140. I agree with McLaren, "Ananus, James, and Earliest Christianity," 17, that James likely was executed on a trumped-up charge, and that this episode should be understood within the context of political as well as religious rivalries.

221. See, e.g., Witherington, "The Story of James," 171: "The Jewish Christians who buried James evidently wanted to honor him in death, and they apparently expected some would come and visit the burial spot and see the inscription written on the side of the box." If the inscription on the "James ossuary" was authentic and referred to James the Just, we would expect his place of origin (Nazareth or Galilee) to be indicated, as on other ossuaries containing the remains of émigrés who settled or died in Jerusalem. As Rahmani, *A Catalogue of Jewish Ossuaries*, 17, noted, "In Jerusalem's tombs, the deceased's place of origin was a local tomb." For example, one ossuary from Nicanor's Tomb is inscribed "[these] bones of [the family] of Nicanor of Alexandria who made the gates. Nicanor, the Alexandrian" (see Frey, *Corpus Inscriptionum Iudaeorum*, 261-62 no. 1256). For other examples, see Rahmani, *A Catalogue of Jewish Ossuaries*, 17; Frey, *Corpus Inscriptionum Iudaeorum*, 273 no. 1283, which reads "Judah, son of Judah, of Bethel"; 273 no. 1284, which reads "Martha, wife of Alexander, of Capua"; 276 no. 1285, which reads "Joseph the Gallilean"; 314-15, nos. 1372-74 on which "of Scythopolis" is added after the names of the deceased.

222. See Painter, *Just James*, 52.

223. Goodman, *The Ruling Class of Judaea*, 67. For Rome, see Patterson, "Living and Dying in the City of Rome," 272-77, who notes, however, that "in many ways . . . the relationship could be better characterized as one of family ties than one of patronage" (273).

224. Goodman, *The Ruling Class of Judaea*, 64-67.

225. Goodman, *The Ruling Class of Judaea*, 65-66. For example, biblical law mandates that unharvested parts of fields and crops be left to the poor; see also Instone-Brewer, *Prayer and Agriculture*, 160-61.

226. For evidence of the custom of Jewish family burials, see Rubin, *The End of Life*, 140-42. Perhaps the injunction against transferring human remains represents a rabbinic response to the rise of the Christian cult of relics. For references in rabbinic literature to other practices that honor the dead, see Green, "Sweet Spices in the Tomb," 165-67.

227. In a paper presented at Princeton Seminary's Symposium on Afterlife and Burial Practices, Amos Kloner emphasized that Jerusalem's ancient rock-cut tombs were family tombs.

228. Goodman, *The Ruling Class of Judaea*, 68-69; Regev, "Family Structure in Jerusalem."

229. See Nager and Torgee, "Biological Characteristics of Jewish Burial."

230. From Stern, "Aspects of Jewish Society," 594.

231. See Reich, "Cataphas Name Inscribed on Bone Boxes"

232. Hachlili, "The Inscriptions," 153; "The Goliath Family in Jericho," 56-57, who notes that "family tombs containing ossuaries with inscriptions hold no more than three generations of a family, and even these are rare."



233. Hachlili, "The Inscriptions," 133-54; "The Goliath Family in Jericho," 57-58. She suggests that the tomb's occupants might have been a priestly family and notes the presence of a miqveh attached to the tomb. If a married woman died without children, she was buried with her father's family, not her husband's; see Rubin, *The End of Life*, 142.

234. Hachlili and Smith, "The Genealogy of the Goliath Family," 68.

235. See Rubin, *The End of Life*, 140-42.

236. See Hachlili, "The Inscriptions," 142-45; "The Goliath Family in Jericho," 33, for an inscribed ossuary that contained the remains of a freedman named Theodoros who belonged to the second generation of the family that owned the tomb.

237. One exception might be an inscription from Beth She'arim which mentions a tomb dedicated by Procopius to a freedwoman named Calliope; see Hezser, *Jewish Slavery in Antiquity*, 165. Jewish funerary inscriptions set up by slaveowners for their slaves are more common in the Diaspora, reflecting Roman influence; see Hezser, *Jewish Slavery in Antiquity*, 162-64.

238. Bertkowitz, *Execution and Invention*, 136, notes that the "practice of family burial is also reflected in rabbinic law." For the problem of the dating and provenience of the minor tractate *Semaiot*, see Green, "Sweet Spices in the Tomb," 158, including n. 30.

239. Hezser, *Jewish Slavery in Antiquity*, 158; see also Stern, "Aspects of Jewish Society," 624-30. For slavery among the Essenes, see Beali, *Josephus' Description of the Essenes*, 120-21.

240. From Guggenheimer, *The Jerusalem Talmud*, 238-39, who notes that this is the Galilean attitude, which contrasts with the Babylonian attitude as expressed by Rabbi Yose in the Babylonian Talmud. For a discussion of these passages, see Hezser, *Jewish Slavery in Antiquity*, 157-58, who notes that whereas R. Gamaliel is portrayed as the ideal master and Tevi is portrayed as a "disciple of sages" who is eager to learn Torah, R. Eliezer's behavior towards slaves represents the norm.

241. Zlotnick, *The Tractate "Mourning"*, 99. See also Hezser, *Jewish Slavery in Antiquity*, 158.

242. Although even at Beth She'arim the spaces in the catacombs were purchased by different families.

243. As suggested by Witherington, "The Story of James," 105, 170 (although on 170 he notes that "James was not likely buried in a graveyard specifically for Christians. He was buried with his fellow Jews").

244. As Instone-Brewer, *Prayer and Agriculture*, 51 notes, for Jews the need to bury one's close relatives overrides even the most important commandments; see also Sanders, *Judaism*, 72. For this reason, scholars have long puzzled over Jesus' command to one of his disciples: "Another of his disciples said to him, 'Lord, first let me go and bury my father.' But Jesus said to him, 'Follow me, and let the dead bury their own dead'" (Matt 8:21-22; Luke 9:59-60). For a discussion of this passage including references, see Kister, "I Leave the Dead to Bury Their Own Dead!"

245. Painter, *Just James*, 129. See also Baucham, "For What Offense Was James Put to Death?", 200, 206, who concludes that Hegesippus's testimony indicates that like Josephus, the Christian tradition about the stoning of James "had some access to historical fact" (206).

246. See Fleisher, "The Story Thus Far . . .," 64.

247. By the fourth and fifth centuries the figure of James had been marginalized in the Western church, whereas in Gnostic Christianity James enjoyed a prominent position; see Painter, *Just James*, 167, 178, 220, 271, 274. For the Nag Hammadi texts, see Robinson, *The*

*Nag Hammadi Library*. For the Byzantine Christian reuse of earlier tombs in Jerusalem, see Avni, "Christian Secondary Use of Jewish Burial Caves."

248. In other words, if the inscription is authentic (ancient), it must refer to one of the other twenty or so first-century C.E. Jews in Jerusalem who could have had this combination of names; see Lemaire, "Burial Box of James," 33.

249. Ossuaries were frequently placed inside loculi, sometimes alongside primary burials. For examples, see Vitto, "Burial Caves from the Second Temple Period," 68-71, figs. 3-11. See 114 for a rock-cut tomb with a burial chamber containing loculi and a second room that was used as a repository for ossuaries.

250. A possible exception to this scenario is suggested by *m. Sanh.* 6:5-6:6, which prescribes special burial grounds for those executed for transgressing Jewish law and allows their bones to be collected and reburied in family tombs after the flesh had decayed. Since we have no evidence that the Sanhedrin paid for and maintained rock-cut tombs for executed felons, the deceased presumably were inhumed in individual graves dug into the ground. Therefore, this passage presumably refers to cases where the deceased belonged to wealthy families with rock-cut tombs who dug up the remains after the flesh had decayed.

## Notes to Chapter 12

1. The editors of the Mishnah and other rabbinic documents sought to represent Yavneh as the end of sectarianism; see Hezser, *The Social Structure of the Rabbinic Movement*, 64. For the claim that Essenes should be identified among those whom the early rabbis condemned as *minim*, see Burns, "Essene Sectarianism and Social Differentiation." Burns makes an argument from silence: "But just as the absence of the title 'Christian' in rabbinic texts does not mean that Christians were absent from the social world of the early rabbis, the lack of explicit testimony to the Essenes does not mean that the sect had ceased to exist" (268).

2. Instone-Brewer, *Prayer and Agriculture*, 4; on 4-5 he notes that "the defining characteristic of Yavneh became inclusiveness rather than sectarian exclusiveness, which explains why those who continued after 70 CE to call themselves 'Pharisee' ('*Perushim*' in rabbinic literature) were regarded as sectarians."

3. For the relationship between the Pharisees and [later] rabbis, see Burns, "Essene Sectarianism and Social Differentiation," 255-56, including n. 18, who observes that the early rabbis assumed the "ideological platform" and "religious tenets" of Pharisaism. For the rabbinic view that the divine presence is everywhere and not just in the Jerusalem temple, see Bokser, "Ma'at and Blessings over Food," 567-68.

4. As Himmelfarb, *A Kingdom of Priests*, 175, puts it, "even if the pre-70 sects did not survive long in the post-temple era, it would not necessarily mean the end of sectarianism."

5. See Poirier, "Purity beyond the Temple," 264-65.

6. Cohen, "The Significance of Yavneh," 29, 45, 48; Instone-Brewer, *Prayer and Agriculture*, 5. Milgrom, "The Scriptural Foundations and Deviations," 89, remarks that although the Qumran sect and the rabbis both were heirs to the Bible's minimalist and maximalist traditions, "Qumran rejected the principle that the Bible's minimalist and Scripture: that even divergent interpretations can be the word of the living God."

7. Baumgarten, *The Flourishing of Jewish Sects*, 134-35, suggests that sectarian divisive-