

Jewish Burial Traditions and the Resurrection of Jesus

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Critical discussion of the Gospel resurrection narratives in my estimation suffers from a lack of adequate acquaintance with Jewish traditions of death and burial, especially with respect to the burial of executed persons or persons who in some way died dishonorable deaths. It sometimes suffers too from wrong inferences from archaeological evidence and historical records. In a controversial book published a decade ago, a scholar suggested that Jesus' body—in keeping with Roman practice—probably was not taken down from the cross and given customary Jewish burial. It was suggested that Jesus' corpse was either left hanging on the cross, or, at best, was cast into a ditch and covered with lime. In either case, his corpse was left exposed to birds and animals.¹ Jesus was not properly buried; the story of the empty tomb no more than theology and apologetic legend.

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

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

The Necessity of Burial in Jewish Thinking

In the Mediterranean world of late antiquity proper burial of the dead was regarded as sacred duty, especially so in the culture and religion of the Jewish people. The *first reason* for providing proper burial was for the sake of the dead themselves. The importance of care for the dead and their proper burial is well attested in Scripture, from the amount of attention given to the story of Abraham's purchase of a cave for the burial of Sarah (Gen 23:4–19), to the burial accounts of the patriarchs and monarchs of Israel. Of special interest is the story of Jacob's body taken to the land of Canaan, to be buried in a tomb that he had hewn (Gen 50:4–14). So also Joseph; though buried in Egypt, his bones are exhumed taken with the Israelites at the time of the exodus and are eventually buried in Canaan (Gen 50:22–26; Josh 24:32). The bones of the slain Saul and sons are buried in Jabesh (1 Sam 31:12–13). David later commends the men who did this (2 Sam 2:4–5: “May you be blessed by the Lord, because you showed this loyalty to Saul your lord, and buried him!”). Saul's bones are later taken to the land of Benjamin (2 Sam

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

21:12–14). Even the wicked and divinely judged are buried, too, such as those in the wilderness who were greedy for meat (Num 11:33–34), or individual criminals who are executed (Deut 21:22–23). Israel’s enemies, slain in battle, are buried (1 Kgs 11:15), including the eschatological enemy hosts of Gog (Ezek 39:11–16).

The great importance of proper burial provides the backdrop for the passages that speak of those who will *not be buried*, usually because of sin and divine judgment. Moses warns the Israelites that if they disobey the covenant, their enemies will slay them and their unburied bodies will be food for birds and animals (Deut 28:25–26). Generations later this judgment befell the families of the wicked kings Jeroboam (1 Kgs 14:11) and Ahab (1 Kgs 21:24). According to the prophetic warning, one from these families “who dies in the city the dogs shall eat; and any one who dies in the open country the birds of the air shall eat.” Jezebel herself is eaten by dogs and becomes “dung upon the fields” (1 Kgs 21:23; 2 Kgs 9:33–37); that is, she has been eaten and then defecated. There will be no marker that says, “This is Jezebel.”² Jeremiah warns his own generation with the same disturbing imagery: “And the dead bodies of this people will be food for the birds of the air, and for the beasts of the earth; and none will frighten them away . . . and they shall not be gathered or buried; they shall be as dung on the surface of the ground” (Jer 7:33; 8:2; cf. 14:16; 16:4; 20:6; 22:19; 25:33; cf. Ps 79:2–3; Ezek 29:5; Josephus, *J.W.* 1.30.5.594: “he would have her body torn to pieces by torments, and leave no part of it to be buried”).

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

Of all Tobit’s virtues, it is his burying the dead that is his greatest (1:18–20; 2:3–8; 4:3–4; 6:15; 14:10–13).³ Some of the persons whose bodies Tobit buries evidently had been executed by state authority, and not simply murdered: “And if Sennacherib the king put to death any who came fleeing from Judea, I buried [ἔθαψα] them secretly. . . . When the bodies were sought by the king, they were not found” (1:18).⁴ The dead man mentioned in 2:3, whom Tobit also buries, was also executed, either strangled (so the RSV) or “exposed,” in the sense of being publicly hanged (as Moore argues.)⁵ This

² J. S. Kennard Jr. (“The Burial of Jesus,” *JBL* 74 [1955] 227–38, here 237) is wrong to say “none would bury her.” In fact, Jehu ordered his men to bury her, only to find that she had been devoured by dogs (2 Kgs 9:34–35).

³ C. A. Moore, *Tobit* (AB 40A; New York: Doubleday, 1996) 120. “To bury someone is the most important ‘charitable act’ in Tobit.”

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

⁵ Moore, *Tobit*, 128. The Greek is ἐστραγγαλωμένος. Moore appeals to Esth 9:13 (הַלְּהָ / κρεμάννυμι), “where the ten sons of Haman, killed *the day before* (9:6–7), are then ‘hanged,’ i.e., exposed to public view.” Moore may be correct here. The verb used in

Jewish sense of obligation that Jews executed by gentile authorities must be buried, even at personal risk, is very significant for the present study.

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

Perhaps Philo gives the most eloquent expression to Jewish sensitivities on this question, in his imaginative recounting of Jacob's grief over the report that his son Joseph had been killed and devoured by wild animals. The patriarch laments: "Child, it is not your death that grieves me, but the manner of it. If you had been buried [ἐτάφης] in your own land, I should have been comforted and watched and nursed your sick-bed, exchanged the last farewells as you died, closed your eyes, wept over your body as it lay there, given it a costly funeral and left none of the customary rites undone" (*De Iosepho* 5 §22–23).

The imaginative dirge goes on to speak of the importance of proper burial: "And, indeed, if you had to die by violence or through premeditation, it would have been a lighter ill to me, slain as you would have been by human beings, who would have pitied their dead victim, gathered some dust and covered the corpse. And then if they had been the cruelest of men, what more could they have done but cast it out unburied and go their way, and then perhaps some passer-by would have stayed his steps, and, as he looked, felt pity for our common nature and deemed the custom of burial to be its due" (§25). Jacob concludes his lament by saying that he has experienced no greater tragedy, in that nothing of Joseph remains and that there is no possibility of burial (§26–27).

Concern with proper burial continues beyond the first century. For the Rabbis burial of the dead, according to George Foot Moore, "was regarded as a duty of the highest obligation."⁶ He cites *b. Meg.* 3b, where this duty (גמל מצודה) takes precedence in the study of the Law, the circumcision of one's son, or in the offering of the Passover lamb, and *Sipre Num.* §26 (on Num 6:6–8), where even a high priest or a Nazirite has the obligation to bury a "neglected corpse," since there is no one else to do it.

A *second reason* for burying the dead is to avoid defilement of the land of Israel. This requirement is grounded in the Mosaic law: "And if a man has committed a crime punishable by death and he is put to death, and you hang him on a tree, his body shall not remain all night upon the tree, but you shall bury him the same day, for a hanged man is accursed by God; you shall not defile your land which the Lord your God gives you for an inheritance" (Deut 21:22–23). It is also expressed in Ezekiel: "They will set apart men to pass through the land continually and bury those remaining upon the face of the land, so as to cleanse it . . . Thus shall they cleanse the land" (Ezek 39:14, 16).

This tradition remained current at the turn of the era, as seen in its elaboration in the *Temple Scroll*, where we read: "If a man is a traitor against his people and gives them up

4QTob^a ar (4Q196 frag. 3, line 1) is קנח, which means "strangle" and which appears also in the peshar on Nahum 2:12–13, in what is probably reference to Alexander Janneus' crucifixion of political opponents (cf. 4QpNah 3–4 i 4–7). In this case, however, the victims were hanged while still living.

⁶ G. F. Moore, *Judaism in the First Centuries of the Christian Era: The Age of the Tannaim* (3 vols., Cambridge: Harvard University Press, 1927–30) 1:71.

to a foreign nation, so doing evil to his people, *you are to hang him on a tree until dead*. On the testimony of two or three witnesses he will be put to death, and they themselves shall hang him on the tree. If a man is convicted of a capital crime and flees to the nations, cursing his people and the children of Israel, *you are to hang him, also, upon a tree until dead*. But you must not let their bodies remain on the tree overnight; you shall most certainly bury them that very day. Indeed, anyone hung on a tree is accursed of God and men, but you are not to defile the land that I am about to give you as an inheritance [Deut 21:22–23]” (11QT 64:7–13a = 4Q524 frag. 14, lines 2–4; with emphasis added). Whereas Deut 21:22–23 speaks of one put to death and then hanged, 11QTemple speaks of one hanged “until dead.” Most think crucifixion is in view (as also in 4QpNah 3–4 i 6–8). It is also important to note that this form of execution is linked to treason.⁷

We should observe too that the requirement to bury the executed person *the day of his death* is emphasized. In Deuteronomy it simply says, “you shall bury him the same day”; but the *Temple Scroll* adds “you must not let their bodies remain on the tree overnight.” The reason given for taking the bodies down and burying them the day (or evening) of death is to avoid defiling the land, for the executed person is “cursed of God.” This is probably the rationale that lies behind the concern regarding slain enemy soldiers.

In the fragmentary conclusion of the *War Scroll* we have reference to the fallen Kittim (i.e., Romans) and their allies. Their corpses lie on the field of battle, unburied. Priests, including the high priest, stand over the corpses and praise God. What is said is not preserved (1QM 19:9–14 = 4Q492 frag. 1 lines 8–13), but it is probable that the priests oversee burial of the corpses and cleansing of the land. The related 4Q285, which is also fragmentary, supports this interpretation. It seems to say that while Israel celebrates victory over the Kittim (with women beating timbrels and dancing, as in the great victories recounted in Scripture; cf. Exod 15:20; Judg 11:34; perhaps also 4QpIsa^c 25 iii 1–3), the high priest shall give orders for the disposal of the corpses, evidently to avoid corpse impurity (4Q285 frag. 7, lines 1–6, esp. lines 5–6; cf. frag. 10, lines 4–6: “and you shall eat [the spoil of your enemy . . . and they shall dig] graves for them [. . . and you shall cleanse yourselves from all] their corpses . . .”). This then explains the meaning in 1QM 7:2–3, which refers to the men who “strip the slain, plunder the spoil, cleanse the land . . .” Cleansing the land would include burying the corpses of the enemy.

In a section concerned with holiness, the *Temple Scroll* enjoins Israel: “‘for you are a people holy to the Lord your God’ [Deut 14:2]. ‘Thus you shall not defile your land’ [Num 35:34]. You are not to do as the nations do: they bury their dead everywhere, even

⁷ Y. Yadin, *The Temple Scroll* (3 vols., Jerusalem: Israel Exploration Society, 1977, 1983) 1:373–79; J. Maier, *The Temple Scroll: An Introduction, Translation and Commentary* (JSOTSup 34; Sheffield: JSOT Press, 1985) 132–34; G. J. Brooke, “The Temple Scroll and the New Testament,” in G. J. Brooke (ed.), *Temple Scroll Studies: Papers presented at the International Symposium on the Temple Scroll, Manchester, December 1987* (JSPSup 7; Sheffield: JSOT Press, 1989) 181–99, esp. 181–83. See also the dated but still helpful studies by J. M. Baumgarten, “Does *tlh* in the Temple Scroll Refer to Crucifixion?” *JBL* 91 (1972) 472–81; and J. A. Fitzmyer, “Crucifixion in Ancient Palestine, Qumran Literature, and the New Testament,” *CBQ* 40 (1978) 493–513; D. J. Halperin, “Crucifixion, the Nahum Peshet, and the Rabbinic Penalty of Strangulation,” *JJS* 32 (1981) 32–46.

inside their homes. Rather, you must set apart places in your land where you will bury your dead. For every four cities you must designate one burial ground” (11QT 48:10–14).⁸

Related material is found in 4Q251 frag. 18 (or frag. 13), which apparently expands legislation concerned with the discovery of the corpse of one slain out in the field (Deut 21:1–9). In Deuteronomy nothing is said of burial, but evidently that is a detail added by 4Q251: “[. . . if] a corpse [is found] lying in [a field . . . and they shall break the heifer’s neck there in the wad]i in return for the life [of the slain . . .] it is a substitution which is put to death for [the slain . . .] everyone who has no soul within him is dead, [he must be buried] in a g[rave . . .]” (lines 3–6). The last part is not found in Deuteronomy (or elsewhere in Hebrew Scripture).

The tradition is attested in the Mishnah, where in the discussion of the rules pertaining to execution, the sages teach that one hanged must not be left overnight, lest the command in Deut 21:22–23 be violated (*m. Sanh.* 6:4). The discussion continues, noting that the executed person was not buried in the “burying-place of his fathers,” but in one of the places reserved for the burial of criminals (*m. Sanh.* 6:5). And finally, the discussion concludes by recalling that after the flesh of the executed criminal had decomposed, his bones could then be gathered and taken to the family burial place, but no public lamentation was permitted (*m. Sanh.* 6:6).

What is important here is that even in the case of the executed criminal, proper burial was anticipated. Various restrictions may have applied, such as being forbidden burial in one’s family tomb—at least until the flesh had decomposed—or not being allowed to mourn publicly, but burial was to take place, in keeping with the scriptural command of Deut 21:22–23 and the Jewish customs that had grown up alongside it.

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

Burial and Non-Burial of Executed Criminals

The objection raised against the Gospels’ story of the burial of Jesus rests primarily in the observation that the victim of Roman crucifixion was normally not buried, but his corpse was left hanging on the cross, to be picked apart by birds and animals. That this is the normal Roman practice is not in dispute here. Martin Hengel has assembled most of the pertinent material.⁹ What is questioned is the assumption on the part of a few scholars

⁸ See the discussion in Yadin, *Temple Scroll*, 1:322–24.

⁹ M. Hengel, *Crucifixion* (London: SCM Press; Philadelphia: Fortress, 1977) 22–32. A few examples may be cited: “The vulture hurries from dead cattle and dogs and crosses to bring some of the carrion to her offspring” (*Satires* 14.77–78); “the carrion-birds will soon take care of” one’s “burial” (Suetonius, *Augustus* 13.1–2); “hanging on a cross to feed crows” (Horace, *Epistles* 1.16.48). On a second-century epitaph the deceased

that the hundreds, even thousands, of Jews crucified and left hanging on crosses, outside the walls of Jerusalem, during the siege of 69–70 C.E., are indicative of normal practice in Roman Palestine. Review of Josephus suggests, however, that leaving the bodies of the executed unburied was *exceptional, not typical*. It was, in fact, a departure from normal Roman practice in Jewish Palestine.

Jews who resisted Antiochus IV (167–164 B.C.E.) suffered crucifixion (*Ant.* 12.5.4 §255–256). We are not told that burial was denied, permitted, or delayed. We should probably assume that normal Jewish burial practice was not permitted. Two generations later the Hasmonean high priest Alexander Jannaeus crucified some 800 of his political opponents, who had allied themselves with Demetrius (*Ant.* 13.14.2 §380),¹⁰ which is probably what the Nahum peshar mentions (4QpNah 3–4 i 6–8).¹¹ In putting down the revolt following the death of Herod (4 B.C.E.), the Roman general Varus crucified 2000 rebels (*J.W.* 2.5.2 §75; *Ant.* 17.10.10 §295). Procurator Tiberius Alexander (46–48 C.E.) crucified the sons of the rebel Judas of Galilee (*Ant.* 20.5.2 §102). Sometime in 52 C.E. Quadratus crucified Samaritans and Jews involved in a disturbance during the administration of Cumanus (*J.W.* 2.12.6 §241; *Ant.* 20.6.2. §129). The procurator Felix (52–60 C.E.) crucified a large number of rebels (*J.W.* 2.13.2 §253). Because of an insult, procurator Florus (64–66 C.E.) flogged and crucified many in Jerusalem (*J.W.* 2.14.9 §306). During the siege of Jerusalem (69–70 C.E.) General Titus crucified Jewish captives and fugitives opposite the walls of the city, to demoralize the rebels (*J.W.* 5.6.5 §289; 5.11.1 §449).

Josephus does not make a point concerning the non-burial of these victims, perhaps because his readers would have assumed that they would receive no burial. The cases of non-burial that Josephus does mention all involve murder or execution at the hands of the Jewish rebels. Outraged over the indignity that the rebels practiced on the murdered priests, whose bodies were left unburied, Josephus remarks, “Jews are so careful about funeral rites that even malefactors who have been sentenced to crucifixion are taken down and buried before sunset” (*J.W.* 4.5.2 §317). Many times Josephus vilifies the rebels, who executed many of the Jewish nobility, by charging that burial of the dead was not permitted, nor even mourning (*J.W.* 4.5.3 §331; 4.6.1 §360; 4.6.3 §383; 5.12.3 §518; 5.13.1 §531).

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

declares that his murderer, a slave, was “crucified alive [ζωὸν ἀνεκρέμασαν] for the wild beasts and birds”; cf. S. R. Llewelyn (ed.), *New Documents Illustrating Early Christianity*, vol. 8 (Grand Rapids: Eerdmans, 1998) 1.

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

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

Peacetime administration in Palestine appears to have respected Jewish burial sensitivities. Indeed, both Philo and Josephus claim that Roman administration in fact did acquiesce to Jewish customs. In his appeal to Caesar, Philo draws attention to the Jews who “appealed to Pilate to redress the infringement of their traditions caused by the shields and not to disturb the customs which throughout all the preceding ages had been safeguarded without disturbance by kings and by emperors” (*De Legatione ad Gaium* 38 §300). A generation later Josephus asserts the same thing. The Romans, he says, do not require “their subjects to violate their national laws” (*Contra Apionem* 2.6 §73). Josephus adds that the Roman procurators who succeeded Agrippa I “by abstaining from all interference with the customs of the country kept the nation at peace” (*J.W.* 2.11.6 §220).

The actions of Herod Antipas, with respect to John the Baptist, are consistent with this policy. Although the Baptist is executed by the tetrarch, his disciples are nonetheless allowed to bury his body (Mark 6:14–29; Josephus, *Ant.* 18.5.2 §119).

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

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

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

The *Digesta* refers to requests to take down bodies of the crucified. Josephus himself makes this request of Titus (*Life* 75 §420–421). Of course, Roman crucifixion often did not permit burial, request or no request. Non-burial was part of the horror—and the deterrent—of crucifixion. But crucifixion—during peacetime—just outside the walls of Jerusalem was another matter. Burial would have been expected, even demanded.

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

The Gospel Narrative

The Gospels' portrait of the execution of Jesus is consistent with what we know of crucifixion. In fact, the entire juridical procedure, from Jesus' confrontation with ruling priests and other religious authorities in the temple precincts (Mark 11:15–12:44) to his seizure (14:43–50), interrogation (14:53–65), and eventual delivery to the Roman governor (15:1–5), with calls for his death (15:13–14), corresponds closely to the juridical procedure that overtook Jesus ben Ananias thirty years year, when four years before the outbreak of war he began prophesying the doom of Jerusalem and the temple (cf. Josephus, *J.W.* 6.5.3 §300–309).¹² There is also strong circumstantial evidence in support of Pilate's Passover Pardon, though this feature need not be pursued here.

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

According to Plautus, the condemned man carried his cross (the *patibulum*) through the city to the place of crucifixion (*Carbonaria* 2; *Miles gloriosus* 2.4.6–7 §359–360); so also Plutarch: “Every wrongdoer who goes to execution carries out his own cross [ἐκφέρει τὸν αὐτοῦ σταυρόν]” (*Moralia* 554A-B: “Concerning Things Avenged Slowly by the Deity” §9). Likewise, Jesus of Nazareth carried the *patibulum*, or at least tried to. Unable to carry the cross the distance, a bystander was compelled to assist him (Mark 15:21).

The discovery in 1968 of an ossuary (ossuary no. 4. In Tomb I, at Giv'at ha-Mivtar)¹³ of one Yehohanan, who had been crucified, provides archaeological evidence and illumination on how Jesus himself may have been crucified. The ossuary and its contents date to the late 20's C.E., that is, during the administration of Pilate.¹⁴ The remains of an

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

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

¹⁴ For literature, see N. Haas, “Anthropological Observations on the Skeletal Remains from Giv'at ha-Mivtar,” *IEJ* 20 (1970) 38–59; J. Naveh, “The Ossuary Inscriptions from

iron spike (11.5 cm in length) are plainly seen, piercing the right heel bone (or calcaneum). Those who took down the body of Yehohanan apparently were unable to remove the spike, with the result that a piece of wood (from an Olive tree) remained affixed to the spike. Later, the skeletal remains of the body—spike, fragment of wood, and all—were placed in the ossuary. Forensic examination of the rest of the skeletal remains supports the view that Yehohanan was crucified with arms apart, hung from a horizontal beam or tree branch. However, there is no evidence that his arms, or wrists, were nailed to this cross beam. The lack of nails or spikes in the hands or wrists is consistent with a reference in Pliny Sr., who refers to rope used in crucifixion (cf. *Nat. Hist.* 28.4).¹⁵ However, doubtless many victims of crucifixion did have their hands or wrists nailed to the beam. A third century C.E. author describes it this way: “Punished with limbs outstretched . . . they are fastened (and) nailed to the stake in the most bitter torment, evil food for birds of prey and grim picking for dogs” (*Apotelesmatica* 4.198–200).¹⁶ Yehohanan’s leg bones were broken, but there is disagreement over how and when they were broken (i.e., while still on the cross, or after being taken down).¹⁷ If Yehohanan’s legs were broken before death, we then know not only that he was taken down and buried (as indicated by the discovery of his remains in an ossuary), we also know that his death was intentionally hastened. This can only mean that his death was hastened, so that his corpse could be taken down from the cross before nightfall.

Also found in the tombs discovered at Giv‘at Ha-Mivtar were the remains of a woman who had been decapitated. Whether she was murdered, or executed, we do not

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

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

¹⁶ Cited by Hengel, *Crucifixion*, 9.

¹⁷ Møller-Christensen (“Skeletal Remains from Giv‘at ha-Mivtar,” 38) concludes that the breaks in the lower leg bones of Yehohanan, including the cut to the talus bone of the foot, “are due to *crurifragium*, intended to hasten the death of the victim.” Zias and Sekeles (“The Crucified Man,” 24–25) do not think the talus suffered such an injury. Indeed, the talus under question may actually belong to one of the other two individuals, whose skeletal remains had been placed in the ossuary. Zias and Sekeles also question the conclusion that Yehohanan’s leg bones were broken before death and decarnation. Because of the age and degraded condition of the skeletal materials, a measure of uncertain remains.

know. However, we may have the skeletal remains of another person who, like Yehohanan, was executed and whose remains eventually were placed in the family tomb. These remains were found in a cluster of tombs on Mount Scopus, north of Jerusalem.¹⁸ In Tomb C the skeletal remains of a woman (aged 50–60) give clear evidence of having been attacked. Her right elbow suffered a deep cut that severed the end of humerus. Because there is no sign of re-growth or infection, it is surmised that she died from the attack. In Tomb D, which contains the remains of persons related to those interred in Tomb C, were the remains of a man (aged 50), who had been decapitated.¹⁹ It is plausible to speculate that this man had been executed, quite possibly for having murdered the female relative in Tomb C. Joe Zias doubts that the man had been executed, because his neck had been struck twice. Being struck twice, he reasons, suggests “an act of violence rather than a judicial execution.”²⁰ Zias could be correct, but we should not assume that judicial beheadings were always neatly done. One only needs to be reminded of the several badly aimed strokes that finally took off the head of James, Duke of Monmouth, in 1685.²¹ Accordingly, the man in tomb D may well be another individual who suffered the death penalty—even if it took two strokes to finish the job—and whose skeletal remains, in due course, were placed in the family tomb.

There are other details in the Gospels’ accounts of Jesus’ execution that agree with Roman practices, such as mocking the victim (Mark 15:16–20; cf. Philo, *Flaccus* 6 §36–39; Plutarch, *Pomp.* 24.7–8), dividing up the victim’s property and clothing (Mark 15:24; cf. *Digest* 48.20.1; Tacitus, *Annals* 6.29: “people sentenced to death forfeited their property”), and placing a *titulus* on or near the cross (Mark 15:26; cf. Suetonius, *Caligula* 32.2; *Domitian* 10.1; Dio Cassius 54.3.6–7; 73.16.5; Eusebius, *Hist. Eccl.* 5.1.44).

But the place where the story differs from Roman tradition is in the burial of the executed Jesus and the two men, at the end of the very day of their death. The reason for this exception, as argued above, was due to their execution in close proximity of Jewish population, in this case, the city of Jerusalem. It seems to me highly improbable that the bodies of Jesus and the other men would be left hanging on the cross overnight—in contradiction of Deut 21:22–23—during peacetime and on the eve of the Passover holiday.

One thinks of Philo, who bitterly complains of Flaccus, Roman governor of Egypt. Philo regards the governor’s conduct as exceptional in not allowing the bodies of

¹⁸ The tomb was excavated in 1979 by Gershon Edelstein of Israel’s Department of Antiquities. The skeletal remains are discussed in J. Zias, “Anthropological Evidence of Interpersonal Violence in First-Century-A.D. Jerusalem,” *Current Anthropology* 24 (1983) 233–34.

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

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

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

crucifixion victims to be taken down and be buried on the eve of a holiday: “I have known cases when on the eve of a holiday of this kind, people who have been crucified have been taken down and their bodies delivered to their kinsfolk, because it was thought well to give them burial and allow them the ordinary rites . . . But Flaccus gave no orders to take down those who had died on the cross” (*Flaccus* 10 §83).

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

Pilate is accused of accepting bribes,²⁴ so it has been suggested that Joseph may have bribed the governor.²⁵ Perhaps. It is more likely that Pilate only required confirmation that the crucified men were indeed dead. Having their bodies taken down and out of public view for the Passover holiday would have been desirable.

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

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

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

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

²⁵ As I Kennard, Jr., “The Burial of Jesus,” 238. Kennard imaginatively suggests that the body of Jesus was indeed “stolen,” in the sense that having been bribed by Joseph, Pilate permitted the body to be removed from the criminal’s grave pit and be taken to a more honorable place of burial. The suggestion is clever, but rests too heavily on the Matthean embellishments of the burial narrative.

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

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

Carefully observing where Jesus is buried and then returning Sunday morning to confirm and even mark, for identification, his corpse, is in keeping with Jewish burial customs. After all, *m. Sanh.* 6:5–6 implies that bodies are still identifiable, long after decomposition of the flesh.²⁸ How was this done? We don't know, but evidently the Jewish people knew how to mark or in some way identify a corpse, so that it could be retrieved some time later. We should not allow our own ignorance of such customs, or our condescension, to lead us to discount such tradition as implausible.

Outside of the Gospel tradition is Paul's statement that Jesus "was buried [ἐτάφη]" (1 Cor 15:4). This is pre-Pauline tradition, which clearly implies an early belief that Jesus was indeed buried, in keeping with Jewish customs and that though he was crucified, his burial was permitted out of respect for Jewish sensitivities. Elsewhere Paul presupposes the burial of Jesus, when he speaks of being "buried with [συνετάφημεν] him" (Rom 6:4; cf. Col 2:12). Usage of forms of θάπτω can only refer to being properly buried, not left hanging on a cross or thrown into a ditch. To be left on the cross is to be unburied (ἄταφος).²⁹

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

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

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

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

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

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

³¹ Zias and Charlesworth, "Crucifixion," 283.

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

Fourth, the vast majority of the thousands of Jews crucified and left unburied in the first century, in the vicinity of Jerusalem, died during the rebellion of 66–70 C.E. They were not buried because Rome was at war with the Jewish people and had no wish to accommodate Jewish sensitivities, as Rome did during peacetime. It was during peacetime—indeed, during the administration of Pontius Pilate—that Yehohanan and Jesus of Nazareth were crucified. That both were buried, according to Jewish customs, should hardly occasion surprise. Jewish priestly authorities were expected to defend the purity of Jerusalem (or at least give the appearance of doing so), while Roman authorities acquiesced to Jewish customs and sensitivities.

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

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