DICTIONARY of Daily Life

IN BIBLICAL & POST-BIBLICAL ANTIQUITY

Complete in One Volume

A-Z

Edwin M. Yamauchi & Marvin R. Wilson

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LAWS & CRIMES

In modern countries the definition and prosecution of criminal activity is dependent upon key documents such as national constitutions and statutes. Throughout antiquity, law codes were also utilized. However, the striking difference from today was the role a divine judge played in the dispensing of justice through an earthly ruler.

The primary concern of rulers in antiquity was to maintain a just society. The laws of ancient communities shared some basic similarities, but also exhibited variations from one another.

B. THE NEW TESTAMENT

In the NT, the Greek word *nomos*, "law," has various meanings. Paul's expression "under the law" commonly refers to the Sinai administration of Moses (Gal 3:17, 19, 23; 4:4–5; Rom 5:13, 20) and the binding nature of Mosaic institutions (1 Cor 9:20). Furthermore, Paul often uses the term "law" in reference to the entire OT (e.g., Rom 2:17–27; 3:19), as does Jesus (Matt 5:18; Luke 16:17; John 8:17; 10:34; 15:25). Jesus uses the expression "the Law of Moses" to refer to the Pentateuch, in distinction to the other parts of the OT, "the Prophets" and "the Psalms" (Luke 24:44), yet at other times in the NT "the Law" is coupled with only "the Prophets" to refer to the entire OT (Matt 5:17; 7:12; 11:13; 22:40; Luke 16:16; Acts 13:15; Rom 3:21). "Law" commonly designates the expression of God's will (e.g., Rom 4:15; 7:2–22) and Christians' obligation to live in obedience to the law ("under [or in] the law," Gk. *ennomos*) of Christ (1 Cor 9:21). The various NT renderings

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of the word *nomos* are woven together with a common principle: love for God manifests itself in a sincere desire to fulfill his will through obedience (Rom 7:22). The various meanings with which the NT writers use the term *nomos* also suggest that they, especially Paul, came to understand the term in a new way because of what had transpired with the coming of the Messiah. F. F. Bruce notes that upon a re-examination of the law, Paul came to realize that "the age of the law . . . had never been intended to be more than a parenthesis, had reached its goal and been superseded" (Bruce, 190). A zeal to adhere to the law and rabbinic teaching pitted the Sanhedrin against Christ when he stood before Pilate. It was this same zeal for the law that temporarily blinded Paul from seeing Christ (cf. 2 Cor 3:14–15).

Christ brings together the summaries of the OT law found in Lev 19:18 and Deut 6:4–5 when he notes that the two greatest commandments are to love God and to love one's neighbor (Matt 22:34–40||Mark 12:28–31||Luke 10:25–28). However, commitment to the first of these commandments (which has traditionally been understood to summarize the first table of the Decalogue) should take precedence over the latter in cases where the two are at odds, as Jesus observes, for example, when he calls his disciples to follow him immediately instead of returning to their parents (Matt 8:21–22; cf. Gen 22:1–2). The same emphasis on placing the highest priority on one's duty to God is found in Jesus's statement "Give back to Caesar what is Caesar's and to God what is God's" (Mark 12:17). This response is concerned more with worshipping God as opposed to Caesar—pictured on the denarius coin—than with the paying of taxes. Jesus admonishes the Pharisees to rethink their view of the Sabbath, which they have made in their own image (Mark 2:27–28). When he exhorts the Pharisees to love their enemies, he extends the scope of the sixth commandment, which prohibits murder, by challenging rabbinic teachings implied in "what was said to the people long ago" (Matt 5:21–44; cf. Job 31:29; Ps 35:12; Prov 24:17). Jesus's comments on the seventh commandment also represent his effort to intensify the law as it was intended, not to overturn it (Matt 27–28; see Gerstner). When Christ tells the rich young ruler how to fulfill the law (Matt 19:16–22||Mark 10:17–22||Luke 18:18–23), he endorses the law's value and applies it in an ethically demanding way.

According to the NT, Christ fulfilled the promises of the law by being condemned and dying under its curse, and by rising from the dead (cf. Deut 21:23 and Gal 3:6–14). The events at Pentecost described in Acts 2, which was an occasion for celebrating the Mosaic law, seem to accent Jesus's statements that he intended to fulfill rather than to destroy the law. (The occasion also appeared to fulfill Joel 2:28–32.) Furthermore, the response to criminal activity takes on a more redemptive tone in the NT than it had in the OT, for example, in Jesus's forgiveness of his accusers and even his executioners.

According to Paul, there is a continued religious obligation to civil authority during the NT era (Rom 13:1–7; see also 1 Pet 2:13–14). Due to humankind's sinful nature, the civil judicial system is needed to maintain an orderly and peaceful society (cf. Acts 25:10–12, 1 Tim 2:1–2; see James). Throughout Luke and Acts, we find the believers' situational responses to the civil laws of their day, with a few instances of disobedience against the Sanhedrin at the beginning of Acts (cf. 4:13–22; 5:20–32, esp. vs. 29); such passages demonstrate that God's law and humanity's law can sometimes be at odds.

As in the OT, the idea of covenant is important in the NT. The Greek word for covenant, *diathēkē*, occurs in the accounts of the Last Supper. When Jesus initiates the rite of communion, he is offering his blood as a new covenant, or new testament (cf. Matt 26:26–29||Mark 14:22–25||Luke 22:15–20; 1 Cor 11:23–25). This new covenant is sealed with his blood, that of the covenantal, paschal (Passover) lamb, and is symbolized through a covenantal meal, communion (cf. Exod 24:8–11). Thus, Christ's sacrifice on the cross becomes the fulcrum of a new covenant—one that removes the curse of the Sinai covenant while fulfilling the promissory Davidic covenant. The majority of first-century Jews did not accept this new covenant and remained in, as E. P. Sanders termed it, "covenantal nomism," i.e., living under the "law" within the OT covenants. Sanders's work *Paul and Palestinian Judaism* was an awakening of sorts for modern scholarship on this subject. It gave rise to a renewed appreciation of Paul's writings within the context of first-century Judaisms. Following Sanders, many have called into question former interpretations of Paul's understanding of Jewish law and covenants.

For Paul, the issue was essentially how Jewish law was to be understood within the framework of his new mission to the Gentiles. Must Gentiles practice Jewish law prior to receiving the covenant promises that were initially given to the Hebrews in the OT? To this end, must Gentiles fulfill the law and, if so, how? Do Gentiles practice the "works of the law" (Gk. *erga nomou*) in order to be in the Lord's grace (cf. Rom 3:20, 28; 4:2; Gal 2:16; 3:2, 5, 10, 12)? For many first-century Jews, including Paul before his dramatic encounter with Jesus on the Damascus Road (Acts 9), the works of the law were covenantal signs that distinguished observant Jews from Gentiles. In general, the phrase "the works of the law" referred in Paul's day not to the entire Mosaic law, but rather to these covenantal markers (e.g., circumcision, Jewish dietary laws, etc.). These markers set the Jews apart from the rest of the (pagan) world. However, Paul saw Gentiles as recipients of the promises of the OT covenants by their involvement in the new covenant (Eph 2:11–22), which Jesus inaugurated by his death and resurrection; in his view, Gentiles have access to covenantal promises not through a strict

adherence to the works of the law, but by having faith in the person and work of the Jewish Messiah, Jesus. This is not to say that Paul disregarded the law of his religion. On the contrary, Paul (much like Jesus before him) respected and elevated the law by saying that it is fulfilled by practicing "the law of love" (cf. Rom 13:10), or "the law of Christ" (1 Cor 9:21; Gal 6:2). Truly, Gentiles are invited to become partakers of the covenants given to the Jews by participating in Jesus's new covenant (cf. Dunn; Wright).

C. THE GRECO-ROMAN WORLD

Rome

With the expulsion of the last Etruscan king, the Romans established a Republic, in 509 BC, headed by two annually elected consuls. The Early Republic saw the struggle between the orders: the patricians, who at first held all the power and knew all the oral laws, and the mass of plebeians. At the instigation of the plebeians, who demanded written laws, a delegation was sent to Athens to study Solon's laws. After the commission returned, they drew up the first ten sections in 451 BC and then the final two in 450 BC. These sections were bronzed in 449 BC and came to be known as Twelve Tables of Law (*Duodecim Tabulae*). The Twelve Tables were the most important piece of legislation of the Republican era, and they served as a foundation for later Roman legal systems. Livy (d. AD 17) notes that among many stacks of laws, the Twelve Tables remained "the fount of all public and private jurisprudence" (*Rom. Hist.* 3.34.6). Cicero (d. 43 BC) makes an even greater contrast, placing the Twelve Tables' importance above that of all the libraries (*De or.* 1.44.195). Schoolboys memorized the tables.

The first two tables comprise instructions for the legal proceedings of the courts. Tables 3 through 8 cover debt, the rights a father had over his family, inheritance and possession law, and more. Table 9 discusses public law, and Table 10 sacred law, while the last two tables have supplemental material. Examples of some of the laws are as follows: "Quickly kill . . . a dreadfully deformed child" (Table 4; Lewis and Reinhold, 110); "No person shall practice usury at a rate more than one twelfth" (Table 8; Lewis and Reinhold, 113); "A dead man shall not be buried or burned within the city" (Table 10; Lewis and Reinhold, 114).

The most influential political body was the senate, which was composed of the wealthiest citizens. The senate could discuss but could not pass laws (*leges*). Proletarians were given the right of having ten tribunes to represent them. These could listen outside of the senate and object to a proposed law by shouting *veto*, "I forbid." The tribunes' power was limited, however, by the fact that their objections had to be unanimous.

Laws were passed in assemblies (*comitia*), and the fulcrum of power passed in time between them. It transitioned from the *comitia centuriata* (ca. 450 BC), representing wider society but composed mainly of the landowners who were soldiers, to the non-military *comitia tributa*, which was open to all citizens and incorporated new tribes, to (by the late Republic) the plebian assembly, or *concilium plebis* ("assembly of common citizens"). In the Roman Republic, citizens voted not as individuals but in blocks. The people were represented at first in the *comitia centuriata*, by 193 electoral divisions, or centuries (each with one hundred men), with one vote per division. The *comitia centuriata* was dominated by its top two levels, which carried ninety-eight of the 193 votes, the *equites* (esteemed equestrian order, akin to cavalry or, later, knights) and Class 1 (of five classes). Originally, votes were based on property (land), and, eventually, by collective wealth. Slaves who were freed were made citizens with the right to vote. However, their political impact was limited because they were enrolled in the four urban tribes of the *comitia tributa*, which were vastly outnumbered by the thirty-one rural tribes controlled by the wealthy.

The *comitia centuriata*'s main functions were to elect the higher magistrates from among the Senate's nominees, to hear appeals from exiled citizens, and to give official approval for wars to the consuls. By 287 BC, the *concilium plebis* became the chief lawmaking body, with the power to pass laws for all of the people (the origin of English "plebiscite"), including the wealthy.

Among the most important laws passed during the Republic were: the *lex Canuleia* (445 BC), which allowed intermarriage between patricians and plebeians; the Licinian-Sextian law (367 BC), which stipulated that one of the two consuls had to be a plebeian; and the *lex Hortensia* (287 BC), which made plebiscites (i.e., laws passed by the plebeian assembly) binding.

During the Republican era, and to a lesser degree during the Empire period, Rome observed a "personality principle" whereby each person lived according to the law of his or her town. This was a common practice of the city-states in antiquity and became particularly successful for Rome in the light of *clientela*, a system that provided protection of foreigners (*clientes*) under patrons. The former received some favor, such as land, and the latter received political support, for example, in the form of votes in the *comitia*.

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Sulla (d. 78 BC) established *quaestiones perpetuae*, permanent criminal courts. Until the passing of the *lex Aurelia* (70 BC), only senators could serve on these courts. The law extended this to two other groups beyond the senators, the *equites* and the *Tribuni Aerarii* (taken from the landed citizenry). While individual votes remained private, those of these three groups became public (Dio Cassius, *Hist. Rom.* 38.8). After the *lex Aurelia* was passed, juries had seventy-five jurors, twenty-five senators, twenty-five equestrians, and twenty-five other persons of lesser rank. Advocates (or lawyers) such as Cicero brought charges against corrupt governors such as the notorious Veres, who had even crucified a Roman citizen in Sicily.

The laws were named after the "gentile" (clan) name (or middle name, in most English listings). Often, a description followed, as in the case of the *lex Pompeia parricidiis* (55 BC). Similar to other laws within the five major *Pompeia* laws, this one includes candid guidelines for addressing parricide, the murder of a close relative. The convicted was to be whipped and then sewn into a leather bag with animals and a viper and thrown into water.

It was common within the Republic's law for there to be subcategories within an offense. For example, the classification of thieves included *effractores* (apartment burglars), *sacculariі* (purse snatchers), and *expilatores* (those who ransacked villas). And the punishment mirrored the type of violation. For example, punishment for those who robbed at night, *effractores nocturne,* included a beating and forced labor in the mines.

The main judicial officers were the *praetores*. The *praetor urbanus* dealt with citizens and the *praetor peregrinus* dealt with non-citizens. The *aediles*, who were in charge of public facilities such as the markets, issued edicts regulating commerce. The emperors issued *decreta* ("edicts") when acting as judges, and *rescripta*, responses to queries. They also issued *mandata* ("commands") to their officials. All of these would become precedents for Roman law.

In 18–17 BC, legislation was introduced by Augustus to encourage a higher moral standard among the Roman elite. The legislation also aimed at increasing the Roman population by encouraging citizens to marry and have children. Under the Papian law (AD 9), Augustus penalized men who were not married by the age of twenty-five and women who were not wed by the age of twenty, by limiting the right of inheritance. He also made adultery a public crime.

The importance of Roman citizenship and civil obedience for the sake of Roman political and economic stability persisted throughout the imperial era (Tellegen-Couperus). This civil obedience became the responsibility of the Roman provincial governor, who held the right of *coercitio*, a forced obedience to his own decrees. This could be used against any person.

While the governors held *imperium* ("authority" or "the right to give orders"), the emperor held *imperium maius* ("greater authority"), which meant that he could overrule his governors. With few exceptions and assuming no veto by the emperor, the proconsuls and procurator-governors became the final legal authority during NT times. A *praefectus* (of non-senatorial rank) held direct control of their areas of responsibility, for example, over urban sections (*praefectus urbi*) or the praetorian guard (*praefectus praetorio*, the highest civilian position). Dated criminal cases in Rome shed light on events that influenced legal matters in Israel. For example, Pontius Pilate was a protégé of Sejanus, Tiberius's regent ruler, whose downfall in AD 31, attested in the criminal records, accentuated Pilate's concern over the Jewish uprisings at Jesus's trial (Suet. *Tib.* 54.2). This has caused some scholars to favor AD 33, rather than 30, as the year Jesus died, since, with the loss of his patron, Pilate's position would have been weaker at this time.

Although lawyers could assist a defendant in a civil matter, Jesus chose to defend himself on the "personality principle" by detailing his adherence to the Decalogue, the law of his people (John 7:19; 8:49; 9:16; 10:33; see Honoré; Freeman). The chief priests and elders served as the *delatores* ("accusers") in the *bema* of Pilate. This case was conducted from his tribunal (*pro tribunali*) and handled without a jury, through personal jurisdiction (*cognitio*). When Jesus made no valid defense, the decision to declare him guilty was a legally tenable act according to Roman law (cf. Webb).

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D. THE JEWISH WORLD

The Jews were well known for their obedience to the law; Josephus claims that among the Jews was no "evasion of punishment by excuses" because they knew their own law so well (*Ag. Ap.* 2.178). Josephus describes one Jewish sect as being "convinced that God alone is their leader and master" (*Ant.* 18.23). According to Philo, the Jews were willing to die for the law (Philo, *Legat.* 213–215).

Ben Sira represents wisdom as synonymous with God's law, "the book of the covenant of the Most High God, the Law which Moses commanded us" (Sir 24:23), and Philo saw the Jewish law as stable and "immortal," unlike the flexible laws of other nations (*Mos.* 2.14–16). The most striking characteristic of Jewish law is that it governed all aspects of life (cf. Jos. *Ag. Ap.* 2.170–171). According to Philo, Jews believed that the laws (Gk. *nomoi*) are not merely ancestral customs, as Gentiles considered them to be, but rather "oracles vouchsafed by God" (*Legat.* 210).

The Jewish Festival of Weeks celebrates the giving of the Law at Sinai. Philo records that the Festival of Weeks was a popular national celebration (*Spec.* 1.183).

Prior to the disastrous revolts against the Romans in AD 66–74 and 132–135, there had been several competing Jewish sects that were distinguished, in part, by their interpretations of the law. The Sadducees were wealthy and controlled the high priesthood, but the destruction of the temple in AD 70 led to their demise. The Pharisees provided the basis of rabbinic Judaism. Their academies moved out of Jerusalem to the coastal city of Jamnia (Javneh) and then to Galilee. Around AD 200, Judah ha-Nasi (the Prince) edited the oral discussions of the rabbis, including Hillel and Shammai, on the task of "building a hedge" around the 613 laws of the OT, creating a compilation known as the Mishnah. The Jerusalem Talmud and Babylonian Talmud consist of the Mishnah and later discussions about the Mishnah referred to as the Gemara.

The members of the Qumran community were even more strict and devoted to the law than the Pharisees. One of their most important texts, which some scholars have referred to as "A Sectarian Manifesto" (4QMMT), is the only extant Jewish text containing the Pauline phrase "works of the law" (see Abegg).

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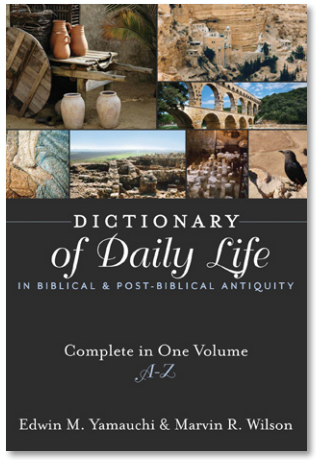

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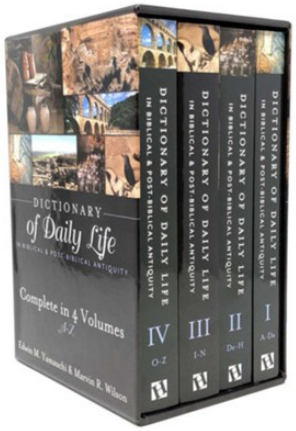

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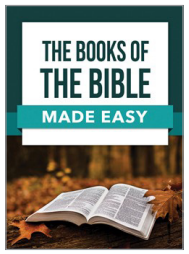

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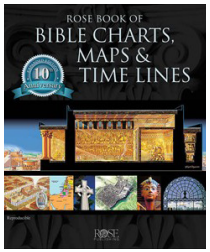

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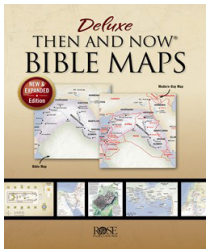

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