

COVENANT IN GALATIANS 3:15-18:

A COMPARATIVE STUDY

IN THE PAULINE AND JEWISH

COVENANT CONCEPTS

By

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## ABSTRACT

The present thesis investigates Paul's understanding of covenant in Gal 3:15-18 and relates it to covenantal thought in Judaism.

The Biblical covenant is commonly thought of as a contract with the result that the law is not seen as a covenant in itself but only as part of a covenant. This covenantal view of the law is seen as the specific OT and Jewish view and forms the background against which Paul's treatment of the law is studied. The contractual view of covenant and the resultant way of relating Paul's treatment of the law to Jewish thought is challenged.

The problem of defining Paul's covenant concept is approached from a study of Gal 3:15. The attempts to interpret this text as a description of some institution of the Greco-Roman world are found deficient. A fresh attempt is made to understand this text as referring to the OT covenant.

It is argued that diathēkē means "an enactment" or "ordinance." This claim counters the common notion that the specific idea in this term is that of one-sidedness in an arrangement, a nuance absent from the Hebraic term bē'it. By understanding the OT covenant as an enactment, Paul works with the definition of covenant reflected in the OT and universally held in Judaism. There is therefore no disparity between Paul and Judaism in definition of covenant, as is often assumed.

Since covenant is an enactment, law itself is a covenant rather than being part of a covenant. This notion lies behind the singular covenant motif seen in the literature from Qumran. The sectaries saw only one covenant between God and his people, of which the various covenant formulations of the OT are only renewals. The one covenant is identified with the law. Other Jewish sources surveyed reflect the same theology of

covenant.

Paul also understands the law as a covenant but denies the singular covenant motif. In Gal 3:17-18 he treats the Abrahamic and Mosaic covenant formulations as separate and mutually exclusive covenants. By breaking with the singular covenant motif, Paul finds himself outside the pale of Jewish covenantal thought. Paul's break with the Jewish understanding of law lies thus in his interpretation of the OT covenant formulations.



## TABLE OF CONTENTS

	PAGE
ABSTRACT .....	ii
TABLE OF CONTENTS .....	iv
ABBREVIATIONS .....	vii
CHAPTER	
1. A STUDY IN PAUL'S COVENANT CONCEPT .....	1
A. A Definitional and Analytical Study of Paul's Covenant Concept .....	1
B. The Contemporary Context for the Present Study .....	4
i. Schoeps: Paul's "Fundamental Misunderstanding" .....	4
ii. Sanders: Covenantal Nomism .....	8
iii. Gaston: Law Without Covenant .....	11
C. The Prevailing Understanding of Covenant .....	13
D. Questions Raised for a Study of Paul's Covenant Concept .....	15
2. THE INSTITUTION OF GALATIANS 3:15 .....	19
A. Contract or Testamentary Disposition? .....	19
B. A Last Will and Gal 3:15 .....	22
i. A Last Will and Irrevocability .....	22
ii. The Death of the Testator and Gal 3:15,17 .....	25
C. Adoption <u>Inter Vivos</u> and Gal 3:15 .....	29
D. <u>Mattēnat Barî'</u> and Gal 3:15 .....	32
E. The Bearing of <u>Klēronomia</u> on the Meaning of <u>Diathēkē</u> .....	38
F. <u>Diathēkē</u> as Contract .....	41
G. <u>Diathēkē</u> and the Old Testament <u>Bērît</u> .....	44

3.	GALATIANS 3:15 AND THE OLD TESTAMENT <u>BĚŘĪT</u> .....	46
A.	Gal 3:15 Re-examined .....	46
i.	The Structure of Gal 3:15-18 .....	46
ii.	The Meaning of <u>Kata Anthrōpon Legō</u> .....	48
iii.	What is Said <u>Kata Anthrōpon</u> in Gal 3:15 .....	51
B.	<u>Diathēkē</u> as Old Testament <u>BĚŘĪt</u> .....	58
C.	Paul's Technical Vocabulary .....	63
4.	THE MEANING OF <u>DIATHĒKĒ</u> .....	68
A.	The Broader Usage of <u>Diathēkē</u> Apart from Hellenistic Judaism and Christianity .....	69
B.	The Broader Usage of <u>Diathēkē</u> in the LXX and Apocrypha .....	74
C.	<u>Diathēkē</u> as Ordinance .....	79
5.	<u>BĚŘĪT</u> AS ORDINANCE .....	84
A.	The LXX Rendering of <u>BĚŘĪt</u> .....	84
B.	<u>BĚŘĪt</u> as Ordinance in Hebrew and Aramaic Sources .....	86
C.	<u>BĚŘĪt</u> as Ordinance in the Old Testament .....	88
D.	Covenant as Ordinance .....	99
6.	<u>BĚŘĪT</u> AMONG THE QUMRAN SECTARIES .....	101
A.	Covenant, Torah and Community .....	101
B.	Covenant, Torah and Promise .....	106
C.	The Interrelatedness of Promise and Law in Covenant .....	107
D.	Torah as the One Perpetually Renewed Covenant .....	110
E.	Torah and God's Covenant Faithfulness .....	113
F.	Torah and the Promissory Aspect of Covenant .....	114
G.	<u>BĚŘĪt</u> as <u>Diathēkē</u> at Qumran .....	116

7.	THE UNITARY VIEW OF COVENANT IN JUDAISM .....	117
A.	Plurality of Covenants in Jewish Literature .....	117
B.	The Singular Covenant Motif in Jubilees .....	122
C.	The Primacy of Torah .....	125
8.	PAUL'S BREAK WITH THE JEWISH UNDERSTANDING OF COVENANT .....	128
A.	Gal 3:15-18 and the Singular Covenant Motif .....	128
B.	Promise and Law as Antithetical in Their Effects .....	131
C.	Promise and Law as Mutually Exclusive Categories .....	138
D.	Paul's Fundamental Departure from Judaism .....	141
9.	CONCLUSIONS FOR THE STUDY OF COVENANT IN PAUL .....	142
A.	The Results of the Present Study of Paul's Understanding of Covenant .....	142
B.	Understanding Covenant .....	144
C.	Paul's Point of Departure from Judaism .....	149
D.	The Finality of Paul's Break with Judaism .....	153
E.	Final Reflections .....	155
	BIBLIOGRAPHY .....	162

## ABBREVIATIONS

ANE	Ancient Near East
BAGD	W. Bauer, W. F. Arndt, F. W. Gingrich and F. W. Danker, <u>Greek-English Lexicon of the New Testament and Other Early Christian Literature.</u>
BDB	F. Brown, S. R. Driver, and C. A. Briggs, <u>Hebrew and English Lexicon of the Old Testament.</u>
BDF	F. Blass, A. Debrunner and R. W. Funk, <u>A Greek Grammar of the New Testament.</u>
<u>Bib</u>	<u>Biblica.</u>
<u>EncBib</u>	T. K. Cheyne and J. Sutherland Black (eds.), <u>Encyclopaedia Biblica.</u>
<u>Exp</u>	<u>The Expositor.</u>
<u>ExpTim</u>	<u>Expository Times.</u>
<u>HR</u>	<u>History of Religions.</u>
<u>IDB</u>	G. A. Buttrick et al., (eds.), <u>Interpreter's Dictionary of the Bible.</u>
<u>JB</u>	<u>Jerusalem Bible.</u>
<u>JBL</u>	<u>Journal of Biblical Literature.</u>
<u>JTS</u>	<u>Journal of Theological Studies.</u>
LSJ	Liddell-Scott-Jones, <u>Greek-English Lexicon.</u>
MM	J. H. Moulton and G. Milligan, <u>The Vocabulary of the Greek New Testament Illustrated from the Papyri and Other Non-Literary Sources.</u>
Moul-T	J. H. Moulton and N. Turner, <u>A Grammar of New Testament Greek.</u>
MT	Masoretic Text.
NASB	New American Standard Bible.
NIV	New International Version.
<u>NovT</u>	<u>Novum Testamentum.</u>
NT	New Testament.

<u>NTS</u>	<u>New Testament Studies.</u>
OT	Old Testament.
RSV	Revised Standard Version.
<u>SR</u>	<u>Studies in Religion/Sciences religieuses.</u>
Str-B	H. Strack and P. Billerbeck, <u>Kommentar zum Neuen Testament aus Talmud in Midrash.</u>
<u>TDNT</u>	G. Kittle and G. Friedrich (eds.), <u>Theological Dictionary of the New Testament.</u>
<u>TDOT</u>	G. J. Botterweck and H. Ringgren (eds.), <u>Theological Dictionary of the Old Testament.</u>
<u>TWOT</u>	R. L. Harris, G. L. Archer and B. K. Waltke (eds.), <u>Theological Wordbook of the Old Testament.</u>
<u>WTJ</u>	<u>Westminster Theological Journal.</u>
<u>ZAW</u>	<u>Zeitschrift fuer die alttestamentliche Wissenschaft.</u>
<u>ZNW</u>	<u>Zeitschrift fuer die neutestamentliche Wissenschaft.</u>

## CHAPTER 1

## A STUDY IN PAUL'S COVENANT CONCEPT

## A. A Definitional and Analytical Study of Paul's Covenant Concept

The relationship between Pauline and Jewish thought has received new critical attention in the 20th Century due to the fresh attempt in Western scholarship to study Judaism from its own sources and for its own sake.<sup>1</sup> The particularly sore point in this relationship is the Pauline treatment of the law. Torah is at the heart of Judaism. But a critique of nomos or law is at the heart of Paul's gospel. If Paul does not direct his critique of nomos against the Jewish Torah, he has at least been largely understood to do so. Thus at least for Western scholarship, the Pauline understanding of law is the most pressing issue in relating Paul to Judaism.

The way the Pauline critique of law relates to Judaism has been variously understood. However, the idea of covenant has been consistently seen as of critical importance in this comparative study. The emphasis on covenant in understanding law has come from the Jewish side of the comparison. In the idea of covenant, scholars have seen the important

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<sup>1</sup>For a review of the general treatment of Judaism in New Testament scholarship with its tendency to characterize Judaism from its own perspective and a call for a proper critical study of Judaism, see E. P. Sanders, Paul and Palestinian Judaism: A Comparison of Patterns of Religion, (London: SCM, 1977) 33-59. On Paul and Judaism in Pauline scholarship, see pp. 1-12. Pioneering works in attempting to bring a Judaic interpretation of Judaism to bear on New Testament scholarship are: C. G. Montefiore, Judaism and St. Paul: Two Essays (London: Max Goschen, 1914); G. F. Moore, Judaism in the First Centuries of the Christian Era: The Age of the Tannaim (Cambridge, Mass.: Harvard University, 1927-30) 3 vols.; W. D. Davies, Paul and Rabbinic Judaism (London: SPCK, 1948); and H. J. Schoeps, Paul: The Theology of the Apostle in the Light of Jewish Religious History (Philadelphia: Westminster, 1961).

category in Judaism that frees Torah from the negative and legalistic elements in the nomos that Paul criticizes. As might be expected, this has raised some critical questions about the Pauline critique of law. Did Paul fail to grasp the idea of covenant so central in Judaism? Or did Paul simply reject the Jewish idea of covenant? Or is the nomos of Paul's critique not the Torah of Judaism? Such questions about Paul and the Jewish covenant concept address the very heart of Pauline thought.

Unfortunately, the discussion has largely been carried on without a sufficient effort given to defining the covenant concept in either Paul or Judaism. The neglect of so basic a task has left the discussion somewhat vulnerable, not only to a lack of precision and clarity, but also to a faulty analysis of the relationship between Paul and Judaism on this point. An attempt to fulfil this critical task is made in this thesis.

That there is a disparity between the concept of covenant in Paul's critique of nomos and in the Jewish view of Torah is clear. While Judaism embraces Torah not only as a covenant but also in unity with the patriarchal covenant of promise, Paul relegates nomos to a negative role and isolates the patriarchal covenant from it. The temptation is simply to point to some fundamental disparity in understanding or subject on the part of Paul. Either he misunderstands the Jewish idea of covenant or he is not speaking of the Torah of Judaism. The matter, however, is not that simple. A distinction must be made between the definition of covenant worked with and the theology of covenant worked out. The definition of covenant concerns the nature of covenant as an institution. The theology of covenant concerns the interpretation of the divine covenant formulations of the OT. The real disparity between Paul and Judaism lies in the latter area.

Paul's covenant term is diathēkē, by which he understands the OT bē'it.

Definitionally, he understands this category as a binding act, enactment or ordinance. Paul shares this definition of covenant with all Judaism. There is no disparity between Paul and Judaism on the definition of the covenant concept.

Paul radically breaks with Judaism, however, in the area of theology of covenant. Judaism has a unitary view of covenant. The major covenant formulations of the OT are seen as re-enactments of one covenant. Accordingly, the promissory and legislative aspects of covenant are inseparably united. What Judaism thus holds together, Paul sets apart. Promise and law are seen as mutually exclusive and the Abrahamic and Mosaic covenant formulations as separate enactments.

While the difference between the Pauline and Jewish view of covenant is radical, the basic agreement on the nature of the covenantal institution must not be lost to view. This is of critical importance for determining precisely where and why Paul departs from the Jewish understanding of covenant.

The claim that Paul understands diathēkē simply as the OT bērît must be principally tested against Gal 3:15, which is universally understood as referring to a legal institution of the Greco-Roman world rather than the OT bērît. The paragraph containing this text, Gal 3:15-18, is also of critical importance for relating Paul's understanding of covenant to that of Judaism. It reflects both Paul's basic agreement with Judaism on the nature of the institution of covenant and his radical break from Judaism over the theology of covenant. Therefore, this thesis will treat principally the covenant concept in this passage.



## B. The Contemporary Context for the Present Study

The relationship between Paul's critique of the law and the Jewish understanding of covenant has been worked out variously by different scholars. The positions of three 20th Century scholars will be summarized to provide a contemporary context for the definitional and analytical task of this thesis.

### i. Schoeps: Paul's "Fundamental Misunderstanding"

Schoeps closes his chapter on "Paul's Teaching About the Law" in his work on Paul with a section entitled, "Paul's Fundamental Misapprehension."<sup>2</sup> This title, which refers to Paul's notion of covenant, reflects a fundamental frustration that Schoeps finds in Paul's teaching about the law.

Schoeps is able to find Rabbinic presuppositions in the major elements of Paul's teaching about the law. He sees the key to Paul's doctrine of the cessation of the law in Christ in the Jewish belief that the law would no longer be in effect in the Messianic era.<sup>3</sup> Paul, however, does not leave the matter of the cessation of the law with this Jewish idea. He takes other Jewish ideas, such as the evil impulse and the unfulfilability of the law, and pushes them to completely non-Jewish conclusions.

Under the title, "Further Jewish Counter-Positions," Schoeps shows how the Jewish doctrines of repentance and of power over the evil impulse

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<sup>2</sup>Schoeps, Paul, 213.

<sup>3</sup>Ibid., 171.

counter Paul's radical conclusions on the negative side of the law.<sup>4</sup> Thus Judaism always concludes with an affirmation of the law and the responsibility to obey it. Paul, however, in his treatment of the law seems to ignore these doctrines and concludes with the displacement of the law. Schoeps depicts Paul's motive in this as follows:

[His] Messianic dogmatism induced him to assemble all those features of the law which indicated that it would be cancelled in the Messianic age. Every criterion suggesting the law was inadequate for salvation was emphasized in order to disperse with the old covenant for intrinsic reasons...<sup>5</sup>

But for Schoeps, the real problem with Paul's view of the law does not lie in his Messianic dogmatism and eclectic use of Jewish ideas. The problem still remains how Paul could make such an eclectic and non-Jewish use of these ideas. Schoeps find the solution to this problem in the notion of covenant. In covenant Schoeps sees the decisive category in the Jewish understanding of the law which he finds lacking in Paul. Paul's failure to grasp the covenantal view of the law lies behind his treatment of the law.

In answer to the question whether "... Paul rightly understood the law as the saving principle of the old covenant," Schoeps says, "I think that we must answer this question in the negative."<sup>6</sup> He then explains,

Paul did not perceive...that in the Biblical view the law is integral to the covenant; in modern terms was the constitutive act by which the Sinai covenant was ratified...In the first place it was given in order to bind the Israelite people to its covenant God as His peculiar possession ('m sglh). The maintenance of this ordinance, the proving of this constitutive act, is required of every member of the people in order that the covenant might be really embodied in Israelite life at all times and in all places.<sup>7</sup>

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<sup>4</sup>Ibid., 193-200.

<sup>5</sup>Ibid., 201.

<sup>6</sup>Ibid., 213.

<sup>7</sup>Ibid.

In contrast to this Biblical view,

...when Paul speaks of the Jewish nomos he implies a twofold curtailment...in the first place he has reduced the Torah, which means for the Jews both law and teaching, to the ethical (and ritual) law; secondly, he has wrested and isolated the law from the controlling context of God's covenant with Israel.<sup>8</sup>

For Schoeps, the Sinai covenant is more than the law. It "precedes the law"<sup>9</sup> and is the "context" of the law<sup>10</sup>. The key to his understanding of covenant or bērît is "reciprocity." He affirms that "...the Sinaitic berith is a sacred legal act of reciprocity, in the contraction of which both partners stand on one platform and speak on equal terms, recognizing each other (Deut. 26:17-18)."<sup>11</sup> The covenant is a foedus aequum.<sup>12</sup> The people of Israel are confoederati and between Israel and God "...exists a genuine relationship of contract--expressed in a Roman legal formula, a mutua obligatio--which is indissoluble and unredeemable."<sup>13</sup> It is a "covenantal league".<sup>14</sup>

The law's function in this covenantal relationship was to "bind the Israelite people to its covenant God as His peculiar possession,"<sup>15</sup> and maintenance of it is required that "the covenant might be really embodied in

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<sup>8</sup>Ibid., 213.

<sup>9</sup>Ibid., 196.

<sup>10</sup>Ibid., 213.

<sup>11</sup>Ibid., 214.

<sup>12</sup>Ibid.

<sup>13</sup>Ibid., 215.

<sup>14</sup>Ibid.

<sup>15</sup>Ibid., 213.

Israelite life."<sup>16</sup> Without the relational context of covenant, law is reduced to a legalistic function.

Thus for Schoeps the concept of covenant supplies the law with the positive dimension that is so radically lacking in Paul's treatment of law. He traces the development toward the Pauline view to the dropping out of the contractual idea in Hellenistic Judaism. He sees this clearly in the LXX which translates bĕrît with diathēkē. Concerning this translation he remarks, "The voluntary pact involving mutual obligations has become an authoritative legal disposition rather like a testamentary decision familiar to Greek civil law, from which the profane use of the term derives."<sup>17</sup> Further, Paul "...is entirely dependent on LXX usage, and understands diathēkē as a one-sided declaration of the will of God, an arrangement which God has made and authorized."<sup>18</sup>

Schoeps concludes,

Because Paul had lost all understanding of the character of the Hebraic berith as a partnership involving mutual obligations, he failed to grasp the inner meaning of the Mosaic law, namely, that it is an instrument by which the covenant is realized. Hence the Pauline theology of law and justification begins with the fateful misunderstanding in consequence of which he tears asunder covenant and law, and then represents Christ as the end of the law."<sup>19</sup>

Thus for Schoeps, Paul's entire teaching on the law rests on a fundamental misapprehension concerning the covenantal nature of law, which in turn rests on a faulty definition of covenant.

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<sup>16</sup>Ibid., 213.

<sup>17</sup>Ibid., 216.

<sup>18</sup>Ibid.

<sup>19</sup>Ibid., 218.

## ii Sanders: Covenantal Nomism

Sanders agrees with Schoeps that covenant is the essential category by which the Jewish view of the law must be understood and the failure to see law in the context of covenant is the cause for a faulty legalistic view of Judaism. In Paul and Palestinian Judaism, he presents an extensive treatment of the role of law in Post-biblical Judaism. In this respect, Sanders' treatment is a great advance on Schoeps. Schoeps deals with Paul's "Fundamental Misapprehension" in a little less than six pages. He seeks to prove his covenantal view of law in Judaism simply by pointing out canonical and noncanonical Jewish texts which identify or intimately relate law and covenant. With Sanders it is different. He does not treat the OT. But he extensively treats three groups of literature from which the view of 1st Century Judaism can be derived: Tannaitic literature, the Dead Sea Scrolls and the Apocrypha and Pseudepigrapha. Sanders finds a uniform pattern of religion throughout this literature, with the (possible) exception of 4 Ezra, which he calls "covenantal nomism." Sanders writes, "Briefly put, covenantal nomism is the view that one's place in God's plan is established on the basis of the covenant and that the covenant requires as the proper response of man his obedience to its commandments, while providing means of atonement for transgression."<sup>20</sup>

Stating it more fully, Sanders writes,

The 'pattern' or 'structure' of covenantal nomism is this: (1) God has chosen Israel and (2) given the law. The law implies both (3) God's promise to maintain the election and (4) the requirement to obey. (5) God rewards obedience and punishes transgression. (6) The law provides for means of atonement, and atonement results in (7) maintenance or re-establishment of the covenantal

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<sup>20</sup>Sanders, Paul and Palestinian Judaism, 75.

relationship. (8) All those who are maintained in the covenant by obedience, atonement and God's mercy belong to the group which will be saved. An important interpretation of the first and last points is that election and ultimately salvation are considered to be by God's mercy rather than human achievement.<sup>21</sup>

This last point is Sanders' thesis. Palestinian Judaism is not a religion of legalistic works-righteousness or of weighing merits against demerits. Obedience to the law is not primarily with a view to "salvation." Rather than such a forward look, obedience has primarily a backward look to the covenant. The covenant causes directly both salvation and the responsibility to obedience. So one is "saved" by virtue of the covenant and not by his "works." One "works" to maintain his position in the covenant by virtue of which position he is saved. So, the immediate import of obedience is maintenance in the covenant and not salvation. Thus, in discussing zākāh and tsadaq in Tannaitic literature, Sanders writes,

The universally held view was rather this: those who accept the covenant, which carries with it God's promise of salvation, accept also the obligation to obey the commandments by God in connection with the covenant. One who accepts the covenant and remains within it is 'righteous', and that title applies to him both as one who obeys God and as one who has a 'share in the world to come', but the former does not earn the latter.<sup>22</sup>

Covenant expresses the whole relationship between God and His people. Salvation is a result of this relationship given graciously to Israel. Obedience to the law is only Israel's way of maintaining that relationship. Rather than perfect obedience, the essential requirements are to maintain the covenant in obedience and, in the case of failure, to avail oneself of the means of atonement.

According to Sanders, it is not Paul but Western Biblical Scholarship

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<sup>21</sup>Ibid., 422.

<sup>22</sup>Ibid., 204.

that has misunderstood Judaism,<sup>23</sup> and to this scholarship he wishes to administer a corrective. He believes that Paul understood covenantal nomism in Judaism and made that the object of his attack. He writes:

Paul seems to ignore (and by implication deny) the grace of God toward Israel as evidenced by the election and the covenant. But this is neither because of ignorance of the significance of the covenant within Jewish thought nor because of the demise of the covenant conception in late Judaism. Paul in fact explicitly denies that the Jewish covenant can be effective for salvation, thus consciously denying the basis of Judaism.<sup>24</sup>

After listing examples of this, like the denial of the intrinsic value of circumcision, the denial that those who keep the covenant through works receive the promises, and the claim that the covenantal promises apply to Christians and not to Abraham's descendants, he states:

It is not first of all against the means of being properly religious which are appropriate to Judaism that Paul polemicizes ('by works of law'), but against the prior fundamentals of Judaism: the election, the covenant and the law; and it is because these are wrong that the means appropriated to 'righteousness according to the law' (Torah observance and repentance) are held to be wrong or are not mentioned. In short, this is what Paul finds wrong in Judaism: it is not Christianity.<sup>25</sup>

Thus, "...the basis for Paul's polemic against the law, and consequently against doing the law, was his exclusivist soteriology."<sup>26</sup>

Sanders sees possible elements of covenantal nomism in Paul<sup>27</sup> but

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<sup>23</sup>Ibid., 33f.

<sup>24</sup>Ibid., 551.

<sup>25</sup>Ibid., 551-2.

<sup>26</sup>Ibid., 550.

<sup>27</sup>Ibid., 513.

denies that covenantal nomism is a major thrust in his thought.<sup>28</sup> He sees in Paul participationist theology rather than covenantal nomism.<sup>29</sup>

### iii Gaston: Law Without Covenant

Lloyd Gaston has taken a different approach to the problem of how Paul's treatment of the law relates to the Jewish covenantal view of law or "covenantal nomism." Rather than seeing any fundamental misapprehension in Paul (Schoeps) or seeing Paul as rejecting covenantal nomism (Sanders), Gaston sees Paul as critiquing law without covenant, as the Gentiles have it. So the nomos that Paul critiques is not the Torah of Judaism. Paul leaves this Torah intact.

Gaston keeps Schoeps' charge of "Fundamental Misapprehension" in mind in his work on Paul and the law. He makes reference to this "fundamental misapprehension" in each of the first five of the ten essays published in a book entitled, Paul and the Torah.<sup>30</sup> Gaston hypothetically agrees with Schoeps. In his "Introduction" he writes,

If, on the one hand, one were to assume that Paul's statements about the Torah were intended to be directed against the understanding of Judaism, then...the conclusion would have to be

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<sup>28</sup>Ibid., 513-4. Sanders (Ibid., 511f) sees in Davies' (Paul and Rabbinic Judaism) interpretation of Paul's theology the pattern of religion of covenant nomism. Sanders, however, denies that this is the case.

<sup>29</sup>M. D. Hooker ("Paul and 'Covenantal Nomism'," Paul and Paulinism: Essays in Honour of C. K. Barrett, eds., M. D. Hooker and S. G. Wilson [London: SPCK, 1982] 47-56) argues that Sanders goes too far in setting Pauline theology off from covenantal nomism. While agreeing with Sanders that Paul's theology is participationist rather than nomistic, she argues that the pattern of religion represented by covenantal nomism is present in Paul's thought as well.

<sup>30</sup>Lloyd Gaston, Paul and the Torah (Vancouver: University of British Columbia, 1987) 19,46,61,79,81,82.



that in this respect at least Paul was simply wrong. This has often been the position of those who know early Judaism best. For example, in his well-written study of Pauline theology from a Jewish perspective H. J. Schoeps has to entitle the conclusion of his chapter on Paul's teaching about the law "Paul's Fundamental Misapprehension." If Paul does not perceive the relation between covenant and commandment, then he does not understand anything at all about Torah, and nothing he says about it should be taken seriously. Indeed, even to say "fundamental" misapprehension may be to give Paul too much credit. Much more likely is the view...that Paul is simply inconsistent and confused. Before coming to such a conclusion, however, it might be advisable to try a different starting point...I shall assume that Paul understood "covenantal nomism" very well indeed and that, he is to be interpreted within the context of early Judaism....<sup>31</sup>

Gaston comes to Paul with the assumption that Schoeps' and Sanders' understanding of the Jewish view of the law is Paul's. He differs with Schoeps, however, by starting "...from the premise that Paul knew at least as much about "covenantal nomism" and Jewish "soteriology" as does E. P. Sanders."<sup>32</sup>

While Gaston denies from the outset Schoeps' criticism of Paul, he agrees that most of what Paul says about the law is as Schoeps has concluded--without any connection with covenant. Gaston accounts for this by the view, which he sees in early Judaism,<sup>33</sup> that while law was given within the context of covenant to Israel it was imposed on Gentiles without the context of covenant. So, contrary to the situation of Israel, Gentiles are not "saved" as a result of being in the covenant but have to work out a legalistic works-righteousness, and they are not in covenant with God but under the administration of angels who punish transgression.<sup>34</sup>

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<sup>31</sup>Ibid., 4.

<sup>32</sup>Ibid., 65.

<sup>33</sup>Ibid., 24-28.

<sup>34</sup>Ibid., 28.

Gaston's view on law and covenant fits in with a two-covenant theory which he believes Paul held.<sup>35</sup> According to this theory God has two covenants: the Sinai covenant with the Jews and a covenant in Christ with the Gentiles. Torah is not a covenant for the Gentiles and the covenant in Christ is not for Jews. Christ is exclusively for Gentiles. In fact, Gaston denies that Paul sees Jesus as the Messiah for the Jews.

### C. The Prevailing Understanding of Covenant

Though the three scholars just reviewed differ quite substantially on how the Pauline critique of the law relates to Judaism, they share a common set of assumptions about the Jewish or "correct" understanding of covenant and law. Covenant is understood as a relational category, which theologically represents the total relationship between God and his people. Law by itself is understood in a legalistic sense as a mere demand, an inflexible rule. Law, however, is freed from its legalistic character by being subsumed under covenant. The noncovenantal view of law results in the legalistic character of Paul's (Schoeps) or scholarship's (Sanders) view of the Judaism or of the law for Gentiles (Gaston).

The "correct" view of covenant is not a discovery of recent scholarship. It is almost universally assumed in scholarship, both by the apologists and critics of Judaism. Sanders, who seeks to correct a pervasive tendency in NT scholarship, notes:

In Christian scholarship there has generally been the conviction--all but universally held--that there was a degeneration of the biblical view in post-biblical Judaism. The once noble idea of the covenant as offered by God's grace and of obedience as the

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<sup>35</sup>Ibid., 79.

consequence of that gracious gift degenerated into the idea of petty legalism, according to which one had to earn the mercy of God by minute observance of irrelevant ordinances.<sup>36</sup>

Thus, the scholarship that Sanders is trying to correct has the "correct" view of covenant also but is only wrong in not seeing that view in Post-biblical Judaism.

The prevailing understanding of covenant is the result of the triumph of the tradition of translation of bĕrît introduced by Aquila in the 2nd Century AD. The earliest tradition of translation of the Hebrew covenant term is represented by the LXX which translates bĕrît with diathēkē. This tradition dominates the literature of Hellenistic Judaism and early Christianity. It passed into the Occident through the Vetus Latina which, being a translation of the LXX, renders diathēkē with testamentum.

Aquila, by rendering bĕrît with sunthēkē, introduced a new tradition of translation. As will be seen later, while diathēkē and sunthēkē could overlap in their usage, the two terms represent clearly distinct concepts. Diathēkē means ordinance or enactment whereas sunthēkē has the special meaning of agreement or contract. Aquila was followed within Judaism by Symmachus.

Aquila's rendering of bĕrît was introduced into the Occident through Jerome. He affirmed that bĕrît did not mean testamentum but rather foedus or pactum.<sup>37</sup> This tradition triumphed over the older one represented by the LXX and Vetus Latina as seen in all modern translations. It is represented by the English "covenant," a term stemming from the Latin convenir, "to agree," the German Bund and the French alliance.

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<sup>36</sup>Sanders, Paul and Palestinian Judaism, 419.

<sup>37</sup>Ernst Kutsch, Neues Testament - Neuer Bund? Eine Fehluebersetzung wird korrigiert (Neukirchen-Vluyn: Neukirchener Verlag, 1978) 1.

#### D. Questions Raised for a Study of Paul's Covenant Concept

The triumph of Aquila over the LXX has alienated biblical scholars somewhat from the NT use of diathēkē. Often the NT use of diathēkē only gets theological justification. It is admitted that sunthēkē is the more accurate term for bērīt and then argued that diathēkē is theologically more appropriate since the pact in mind is rather one sided. For example, Burton affirms that bērīt "uniformly signifies 'covenant,' 'compact'" and then suggests that sunthēkē "the ordinary Greek word for 'compact'...was probably felt to be inappropriate to express the thought of the Hebrew bērīt, [which was] commonly used not for a compact between two parties of substantially the same rank, but for a relationship between God and man graciously created by God, and only accepted by man".<sup>38</sup>

Schoeps rejects any attempt to justify the use of diathēkē in the LXX and NT.<sup>39</sup> For him, the specific idea in sunthēkē, which is not brought out in diathēkē, alone accurately expresses the idea in bērīt. Having located in the idea of sunthēkē the decisive element in Jewish thought that frees the law from the legalistic character of the law Paul criticizes, he traces the faulty view of law that he sees in Paul to the use of diathēkē. Thus Schoeps brings into the foreground the question concerning the definition of the biblical covenant concept raised by the divergent traditions of

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<sup>38</sup>Ernest De Witt Burton, A Critical and Exegetical Commentary on the Epistle to the Galatians (New York: Charles Scribner's Sons, 1920) 497-498). Calvin (The Epistles of Paul the Apostle to the Galatians, Ephesians, Philippians and Colossians [Edinburgh: Oliver and Boyd, 1965] 56-57) simply defines diatheke as suntheke though he concedes that this is not the usual way diatheke was used. This approach at reconciling the two traditions of translation is not common.

<sup>39</sup>Schoeps, Paul, 217.

translations of bĕrît.

The question concerning the definition of the covenant concept also concerns the formulation of the problem of covenant for Pauline studies. Each of the three scholars reviewed above come to Paul with the understanding of law and covenant expressed by Sanders' formula, covenantal nomism. For each, the question is how Paul relates to the understanding of covenant in question. This understanding of covenant, however, is based on the particular definition of the covenant concept represented by Aquila's sunthēkē. If this definition is faulty, then the problem of covenant for Pauline studies must be reformulated.

In accordance with his concern with different "patterns of religion," Sanders does not focus his attention, as Schoeps does, on Paul's treatment of the elements of Judaism. He sees in Judaism the pattern of religion that he calls covenantal nomism and in Paul a participationist theology. The two paradigms hardly compare. Thus, while he shares Schoeps' view of covenant, he does not share his critique of Paul. According to Sanders, Paul rejects Judaism because it is a pattern of religion that is different from his own. This means that Judaism is critiqued from without and the question of Paul's treatment of the elements of Judaism is minimized. Accordingly, Sanders writes concerning Paul's treatment of the law:

The law is good, even doing the law is good, but salvation is only by Christ; therefore the entire system represented by the law is worthless for salvation. It is the change of 'entire systems' which makes it unnecessary for him to speak about repentance or the grace of God shown in the giving of the covenant... Paul was not trying accurately to represent Judaism on its own terms, nor need we suppose that he was ignorant on essential points. He simply saw the old dispensation as worthless in comparison with the new.<sup>40</sup>

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<sup>40</sup> Sanders, Paul and Palestinian Judaism, 550-551.

Thus Sanders sees Paul taking a rather sweeping approach in criticizing Judaism.

The different approaches to explaining Paul's critique of the law represented by Schoeps and Sanders raise the question whether Paul's critique of law is based on an understanding of elements within Judaism, such as covenant, or on a perspective wholly different from and thus without Judaism. Does Paul reject law on internal or on external grounds? This question raises the need to pin-point Paul's point of departure from Judaism.

Gaston short-cuts the problem of how the law of Paul's critique relates to Judaism itself by making it a law for Gentiles only. Consequently, Paul's critique does not affect the law within Judaism, which, according to Gaston, Paul understands in terms of covenantal nomism. For the present study, Gaston's thesis raises the question whether Paul's thought allows for covenantal nomism or for the specific Jewish understanding of covenant.

The questions raised are intimately related and will be answered through the present definitional and analytical study of Paul's covenant concept. The demonstration that Paul works with the definition of covenant universally held in Judaism leads the study to determine where and how Paul's thought departs from Judaism. This, in turn, will enable us to determine if there is any room in Paul's thought for covenantal nomism.

A final word on the use of "covenant" in the present study is necessary. The use of "covenant" for the biblical category in question stands solidly within the translation tradition initiated by Aquila. This thesis, however, argues in favour of the translation tradition of the LXX and so concludes that the idea in "covenant," i.e., agreement, does not accurately represent the biblical category. However, since the term

covenant is so deeply entrenched in biblical and theological studies and vocabulary, it will be retained.

## CHAPTER 2

## THE INSTITUTION OF GALATIANS 3:15

## A. Contract or Testamentary Disposition?

Galatians 3:15 offers a particular promise for defining Paul's covenant concept. It is the only text in which Paul does not simply employ diathēkē, his covenant term, within a discussion but actually points something out about the institution. Concerning a diathēkē, he says that oudeis athetei ē epidiatassetai. In fact, in Gal 3:15 Paul even steps out of the theological context of the discussion to make his point about the nature of a diathēkē as signalled by his formula, kata anthrōpon legō.

Unfortunately, in spite of the promise that these features of Gal 3:15 hold out for defining diathēkē, scholarship has not been able to come to a satisfactory explanation of this text. Which institution Paul has in mind still remains a question that has not been satisfactorily answered.

There is universal agreement in scholarship concerning the role of this text in Paul's argument. In Gal 3:15, it is agreed, Paul draws an analogy of the divine diathēkē from human experience, which he uses as a premise for his argument concerning the relationship between the promise and law in v 17. That Paul is drawing on human practice for his argument is taken from his introductory formula, kata anthrōpon legō, which is interpreted as "I draw an illustration from common human practice."<sup>1</sup> Also, anthropou diathēkē is taken in the sense of a diathēkē such as human make. Accordingly, Paul is made implicitly to reason that what is true of a human diathēkē is also

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<sup>1</sup>Burton, Galatians, 178.



true of a divine diathēkē, or perhaps, that if it is true of a human diathēkē, how much more is it true of a divine one.<sup>2</sup>

Agreeing on these points of interpretation of Gal 3:15, scholars are left with the task of determining which legal institution of the Greco-Roman world of the 1st Century Paul has in mind. The discussion has centered around two basic types of institutions: a testamentary disposition<sup>3</sup> or a contract.

Until the impact of the discovery of the papyri made itself felt in New Testament scholarship at the turn of the century, scholars working with the agreed upon assumptions about the basic meaning of Gal 3:15 could easily argue that Paul had a contract in mind. The papyrological evidence, however, made a decisive difference. Ramsay states the implication of this evidence for the common interpretation:

...Paul says that he is speaking "after the manner of men," III 15. He therefore is employing the word in the sense in which it was commonly used as part of the ordinary life of the cities of the East. What this sense was there can be no doubt. The word is often found in the inscriptions, and always in the same sense<sup>4</sup> which it bears in the classical Greek writers, Will or Testament.

As will be seen later, Ramsay overstates the case when he says that diathēkē always has the sense of testament or will in the classical Greek writers. He is correct, however, as to the usage of the word in the later evidence

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<sup>2</sup>So Martin Luther, Commentary on Galatians (Grand Rapids: Kregel, 1979) 178f., and John Calvin, The Epistles of Paul the Apostle to the Galatians, etc., 56, and most other commentators.

<sup>3</sup>By "testamentary disposition" is meant any disposition made in contemplation of death. This includes more than a last will as the ensuing discussion shows.

<sup>4</sup>W. M. Ramsay, A Historical Commentary on St. Paul's Epistle to the Galatians (London: Hodder and Stoughton, 1900) 350.

offered by the inscriptions and papyri.<sup>5</sup>

Deissmann expresses sentiments similar to Ramsay. He, however, goes further and extends the conclusion drawn from the papyrological evidence to every occurrence of diathēkē. He writes:

Now as the new texts help us generally to reconstruct Hellenistic family law and the law of inheritance, so in particular our knowledge of Hellenistic wills has been wonderfully increased by a number of originals on stone or papyrus. There is ample material to back me in the statement that no one in the Mediterranean world in the first century A.D. would have thought of finding in the word diathēkē the idea of "covenant." St. Paul would not, and in fact did not. To St. Paul the word meant what it meant in his Greek Old Testament, "a unilateral enactment," in particular "a will or testament."<sup>6</sup>

Ramsay, who wrote at the time the evidence of the papyri and inscriptions was beginning to make itself felt on New Testament scholarship (1900), could list a whole battery of "excellent scholars" who interpreted diathēkē in Gal 3:15 as covenant or Bund (Calvin, Beza, Flatt, Higenfeld, Meyer, Lightfoot) or in the more general sense of determination, Willensverfuegung or Bestimmung (Zoeckler, Phillippi, Lipsius, Hofmann, Schott, Winer).<sup>7</sup> Betz, however, writing much later, can claim the vast majority of scholars in support of rendering diathēkē with testament and notes only one dissenting voice in the 20th Century, Burton.<sup>8</sup>

The triumphant interpretation, however, is afflicted with one critical problem that threatens to unsettle it. Bammel declares the triumph of the

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<sup>5</sup>Moulton and Milligan write, "In papyri and inscrr. the word means testament, will, with absolute unanimity..." MM 148.

<sup>6</sup>Adolf Deissmann, Light from the Ancient East (London: Hodder and Stoughton, 1911) 341. See also Deissmann, Paul: A Study in Social and Religious History (London: Hodder and Stoughton, 1912) 152.

<sup>7</sup>Ramsay, Historical Commentary on Galatians, 349.

<sup>8</sup>Hans Dieter Betz, Galatians (Philadelphia: Fortress, 1979) 155 n. 17.

interpretation of Gal 3:15 which sees in it the institution of a testament as follows: "Es hat lange Zeit gebraucht, bis sich diese Erkenntnis durchsetzte und eigentlich erst das reiche Vergleichsmaterial, das in den letzten achtzig Jahren zugeflossen ist...hat die Bedeutung Testament sichergestellt." But he immediately continues: "Umso weniger hat sich Klarheit darueber ergeben, von welchem Rechte her Paulus denkt und argumentiert."<sup>9</sup> The search for a specific testamentary institution that meets the requirements of Paul's argument in Gal 3:15,17 has failed.

#### B. A Last Will and Gal 3:15

The contention that Gal 3:15 refers to a last will encounters two difficulties: 1) the revocability of a will, and 2) the inseparable link between a will and the notion of the death of the testator.

##### i. A Last Will and Irrevocability

If diathēkē in Gal 3:15 refers to a will and if Paul is drawing an analogy from common human practice, then the question concerning which legal institution Paul has in mind must be answered. The given institution must first of all match Paul's statement concerning a diathēkē that oudeis athetei ē epidiatassetai, i.e., it must be irrevocable. The testamentary disposition must be irrevocable.

The earliest attempt at precisely identifying the legal institution

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<sup>9</sup>E. Bammel, "Gottes DIATHĒKĒ (Gal. III. 15-17.) und das juedische Rechtsdenken," NTS 6 (1958/59) 313.

behind Gal 3:15 looked to Roman jurisprudence.<sup>10</sup> The problem with the Roman will is that it was very vulnerable and thus does not meet the requirements of Gal 3:15.<sup>11</sup>

Hellenistic jurisprudence is a natural alternate sphere of legal practice to look to. Eger argues at length that Paul has a Hellenistic will in mind.<sup>12</sup> He relates the oudeis athetei ē epidiatassetai in Gal 3:15 to the penalty clause (Strafklausel) found in Hellenistic wills. This clause establishes the punishment for any one who does contrary to the will. It also appears before the statement he diathēkē kuria which Eger relates to Paul's kekurōmenē diathēkē in Gal 3:15.<sup>13</sup> The diathemenos, the one making the will, however, is exempted from the penalty clause. He retains the right to metadiatithesthai and akuroun while he lives.<sup>14</sup> This means that the oudeis of Gal 3:15 would not include God who makes the diathēkē.

This exemption of God from the restrictions on the diathēkē would be fatal to Paul's argument and thus weakens Eger's case. One could respond to Paul that God himself annulled or replaced the promise when he gave the law. Paul's opponents might have argued that the law, if not a dimension of the

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<sup>10</sup> eg., Max Conrat, "Das Erbrecht im Galaterbrief (3,15-4,7)," ZNW 5 (1904) 204-227. Bammel (NTS 6 [1958/59] 313) notes the earlier studies: W. E. Ball, The Contemporary Review, 60 (1881), 286f.; and A. Halmel, Ueber roemisches Recht im Galaterbrief (1895).

<sup>11</sup> For a critique of the Roman will as the institution behind Gal 3:15, see Ramsay, Historical Commentary on Galatians, 351-352.

<sup>12</sup> Otto Eger, "Rechtswörter und Rechtsbilder in den paulinischen Briefen," ZNW 18 (1917/18) 84-108.

<sup>13</sup> Ibid., 90.

<sup>14</sup> Ibid., 92.

promise itself,<sup>15</sup> was added to the promise by God. If Paul would retort that this would invalidate (akuroun) the diathēkē (v 17), they could respond that God, who is exempt from any restrictions on the diathēkē, could do this.

Schmiedel seeks to evade this difficulty by appealing to Gal 3:19 as evidence that Paul did not regard the law as coming from God but from angels. He writes:

When it is said (3:15) that 'no man maketh void or addeth to' a man's testament, the testator himself is not to be regarded as included in the proposition. He himself might perhaps have it in his power to change it. Only, this possibility does not come into account in the case under consideration. For in the apostle's view it is not God but the angels who are regarded as the authors of the Mosaic law, which announces a change of the divine purpose --compared to a testament--given in the promise to Abraham. Of the angels he assumes that their action was on their own responsibility, not at the command of God.<sup>16</sup>

Schmiedel's appeal to v 19 is both grammatically and theologically dubious. When Paul speaks of the establishing of the diathēkē by God in v 17, he uses hupo with the passive. When speaking of the ordaining of the law by angels, however, he uses dia with the passive. The passive plus hupo in the expression kekurōmenēn hypo tou theou (v 17) refers to an originating agency. The passive plus dia, however, refers to instrumentality.<sup>17</sup> Burton notes, "di' aggelōn does not describe the law as proceeding from angels, but only as being given by their instrumentality...."<sup>18</sup> This much is clear from the use of the different prepositions: the angelic role in v 19 is not the

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<sup>15</sup>This was the Jewish view. See chapter 6, "Bērît Among the Qumran Sectaries," pp 101-116 below.

<sup>16</sup>W. J. Woodhouse and P. W. Schmiedel, "Galatia," EncBib 2. 1611.

<sup>17</sup>A. T. Robertson, A Grammar of the Greek New Testament in the Light of Historical Research (Nashville: Broadman, 1934) 820.

<sup>18</sup>Burton, Galatians, 503.

same as the divine role in v 17 which would not be the case if, like God, the angels made a diathēkē.<sup>19</sup>

Schmiedel's thesis is also in conflict with Paul's theology. If it is true, as Schmiedel states in the quotation given above, that the angels giving the law are the third intruding party, then the law is not only disassociated from God, but also against the promises of God. Paul, however, denies in Gal 3:21 that the law is kata tōn epaggeliōn tou theou.

Even if Schmiedel's interpretation of the role of angels in the giving of the law in Gal 3:19 were correct, excluding God from the oudeis of v 15 nevertheless greatly weakens Paul's argument. Paul's argument would still be vulnerable to the suggestion that God may have revoked or changed the diathēkē. For Paul, however, the irrevocability of the diathēkē in vv 15,17 has an absolute character that makes the diathēkē irrevocable in principle, even for God.

## ii. The Death of the Testator and Gal 3:15,17

Luther, who saw a last will in Gal 3:15,17, incorporated the idea of the death of the testator into his exposition of the text. Commenting on v 17, he states:

For when a man maketh his last will, bequeathing his lands and goods to his heirs, and thereupon dieth, his last will is confirmed and ratified by the death of the testator, so that nothing may now be added to it, or taken from it, according to all law and equity. Now, if a man's will is kept with so great

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<sup>19</sup>By diatageis, Paul seems to have the implementation of the law in the world rather than the source of the law in mind. This is suggested by the fact that the mediator, along with the angels, is the agent of the passive. The mediator's role is clearly instrumental. J. B. Lightfoot (The Epistle of St. Paul to the Galatians [Grand Rapids: Zondervan, 1957] 145) renders diatageis di' aggelōn with "administered by the medium of angels."

fidelity, how much more ought the last will of God to be faithfully kept, which He promised and gave unto Abraham and his seed after him? For when Christ died, then was it confirmed in Him, and after His death the writing of His last will was opened.... This was the last will and testament of God, the great testator, confirmed by the death of Christ...."<sup>20</sup>

Luther's language clearly echoes the language of Heb 9:16-17. Yet, he does not refer to this text as a source or confirmation of his interpretation. No doubt, for Luther the idea of a will taking effect only upon the death of a testator was commonplace and so needed no biblical support. This idea was also commonplace in the 1st Century.

An examination of Gal 3:15,17 shows, however, that the idea of the death of God as testator is incongruous with the thought of the passage. Burton rightly observes, "It is against the theory that diathēkē in 3:17 is a will that it is expressly said to have been made by God. For a will becomes effective only on the death of the maker of it." He then adds that it is "difficult to suppose that the incongruous element of the death of God should either be involved in the argument of vv. 15-17 or, though implied in the language, be ignored in silence when the will is directly called God's."<sup>21</sup>

Luther's idea that the death of Christ is the death of the testator, while probably borrowed from Heb 9:16-17, is entirely foreign to Gal 3:15-17. Throughout the entire section in which the theme of inheritance occurs (Gal 3:15-4:7), Paul does not even mention the death of Christ. He only alludes to this once in the reference to Christ's coming "to redeem those under the law" (4:5).

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<sup>20</sup>Luther, Galatians, 180-181.

<sup>21</sup>Burton, Galatians, 502. See also John J. Hughes, "Hebrews IX 15ff. and Galatians III 15ff.: A Study in Covenant Practice and Procedure," NovT 21 (1979) 72.

Paul refers to the death of Christ in 3:13. While the death of Christ occurred that "the blessing of Abraham might come to the Gentiles" (v 14), which no doubt is the inheritance of v 18, it does not function to ratify a will. Rather, it removes the curse of the law so that the blessing might come. Furthermore, in Galatians 3, rather than being the testator, Christ himself is the seed or the heir (v 16,29).

According to Luther's interpretation, the diathēkē would only have been irrevocable and unalterable after Christ's death. Thus, its irrevocability could only be urged against Paul's opponents since Christ had already died. But this is not what Paul does. Rather, he urges the covenant's irrevocability in view of the law given at Sinai, long before Christ died. The prokekurōmenē of v 17 clearly suggests that the diathēkē went into irrevocable effect as soon as it was made, as soon as the promise was spoken.

The incongruity between Paul's use of prokuroun and the idea of a will is pointed out by Behm, who also sees a will in Gal 3:15. Commenting on Paul's use of prokuroun, he writes, "The image and thought are here very contradictory, for whereas a human will comes into effect only with the death of the testator, the will and testament of God...is put into effect as soon as it is drawn up, and from this point on it is exclusively and incontrovertibly valid...."<sup>22</sup>

Luther's attempt to incorporate the idea of the death of the testator into the meaning of Gal 3:15,17 fails under a scrutiny of the text. It is not surprising that this aspect of his interpretation of the text has not found acceptance in scholarly interpretation.

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<sup>22</sup>TDNT 3. 1100.



The incongruity of the notion of death with the idea of a living God means that God can only be seen as making a testament by suppressing the notion of the death of the testator.<sup>23</sup> This notion, however, is difficult to suppress since the death of the testator is essential to the concept of a testament. Not only was the irrevocability of a testament dependent on the death of the testator, the very notion of a testamentary disposition was inseparably linked with death.

The practice of will-making arose in Ancient Greece out of the concern for a successor for the man who did not have a natural heir. The primary role of the heir was not to take over a man's property but to keep the oikos and its cult alive. Initially, this need was met simply by adoption. A man who had no sons would adopt a son during his lifetime. This adopted son would leave the oikos of his father to join and then eventually take over the adopter's oikos.

The next step in the development of the laws of inheritance was taken by Solon, in the first half of the 6th Century B.C., by "permitting a man without sons to adopt a son by will, so that the adoption took effect only after his death."<sup>24</sup> MacDowell notes that this innovation gave "the wishes of the individual, as expressed in a written document, precedence over the rights of other members of the family."<sup>25</sup>

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<sup>23</sup>Eger (ZNW 18 [1917/18] 96) makes the strange suggestion that Paul has the testament of one who is about to die in mind. This enables him to affirm that God, the testator, is exempt from the oudeis and yet maintain that Paul envisions no possibility of God changing the diathēkē. But Paul certainly did not envision God as a dying testator. Eger's attempt to both have a will in Gal 3:15 and maintain the diathēkē's irrevocability fails.

<sup>24</sup>Douglas M. MacDowell, The Law in Classical Athens (London: Thames and Hudson, 1978) 100.

<sup>25</sup>Ibid.

In the 6th Century, the idea of the oikos still dominated laws of inheritance and so also the use of the will. By the time of Paul, however, the will was independent of such concerns for succession. Nevertheless, death was always the critical event that both occasioned and brought into effect the will.

### C. Adoption Inter Vivos and Gal 3:15

Ramsay, seeing the incongruity of the last will with Gal 3:15, sought to explain this text in light of the Greek practice of adoption inter vivos.<sup>26</sup> He writes concerning Gal 3:15:

We are confronted with a legal idea that the duly executed Will cannot be revoked by a subsequent act of the testator.

Such irrevocability was a characteristic feature of Greek law, according to which an heir outside the family must be adopted into the family; and the adoption was the will making...The appointment of an heir was the adoption of a son, and was final and irrevocable. The testator, after adopting his heir, could not subsequently take away from him his share in the inheritance or impose new conditions on his succession."<sup>27</sup>

Ramsay is correct on the irrevocable nature of adoption in ancient Greek law. His case that this institution applies to Gal 3:15, however, falls apart on historical grounds.

Ramsay assumes that there was one type of Greek will which was for adoption and was irrevocable over against the Roman will which was a private

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<sup>26</sup>Ramsay, Historical Commentary on Galatians, 349-356. Deissmann (Paul, 152) argues the same thesis. For a systematic criticism of Ramsay's argument, see P. W. Schmiedel's discussion on "Inheritance, etc." in the article, "Galatia," EncBib, 2. 1608-1610. For a sympathetic treatment of Ramsay's thesis, see W. M. Calder, "Adoption and Inheritance in Galatia," JTS 31 (1930) 372-374. Calder, while taking up Ramsay's cause, only argues that Hellenistic legal practice is in mind in Gal 3:15.

<sup>27</sup>Ramsay, Historical Commentary on Galatians, 351.

document and revocable.<sup>28</sup> This assumption, however, is incorrect and ignores the historical development evident in the Greek practice of will-making.

The Greek practice of will-making went through the following stages of development: adoption inter vivos, testamentary adoption, wills adopting sons and making bequests to others, and wills entirely divorced from adoption.<sup>29</sup> Thus the Greek will became divorced from the idea of adoption. This divorce occurred quite early. Norton notes that by the 3rd Century B.C. the Greek will "came to be entirely divorced from the idea of adoption that had given it birth."<sup>30</sup> Eger writes, "Meines Wissens ist aus der Zeit des Paulus und auch aus erheblich frueherer Zeit kein Beleg fuer testamentarische Adoption aus dem hellensitischen Rechtsgebiet bekannt."<sup>31</sup>

Not only does Ramsay neglect the historical development in Greek practice of will-making and thus applies a classical practice to a 1st Century situation, he also confuses the two categories of adoption inter vivos and adoption by will.

There were three methods of adoption in the Classical period: inter vivos, by will and posthumously.<sup>32</sup> As already noticed, the purpose of adoption was to keep a man's oikos and its ancestral rites alive. To ensure the continuance of the man's distinct oikos and guard against neglect of its

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<sup>28</sup>Ibid., 366.

<sup>29</sup>Hughes, NovT, 21 (1979) 84 and F. O. Norton, A Lexicographical and Historical Study of DIATHĒKĒ from the Earliest Times to the End of the Classical Period (Chicago: University of Chicago, 1908) 69.

<sup>30</sup>Norton, A Lexicographical and Historical Study of DIATHĒKĒ, 71.

<sup>31</sup>Eger, ZNW 18 (1917/18) 95.

<sup>32</sup>A. R. W. Harrison, The Law of Athens: The Family and Property (2 vols.; Oxford: Clarendon, 1968) 1. 83.

cult, the adoptee had to give up his place in his natural father's oikos to take over the adopter's oikos. In the case of adoption inter vivos this exchange took place during the adopter's life-time. Since the adoption meant that the adoptee gave up his membership in his natural oikos, quite obviously the adopter could not revoke the adoption. In fact, by its nature, adoption inter vivos was a contract and so was not subject to the arbitrary will of the adopter.<sup>33</sup> The adopter was restricted by the adoption.

Adoption by will only took effect after the death of the adopter. It was not a contract.<sup>34</sup> In fact, the adoptee did not even necessarily know of his adoption before the adopter's death. Also, the will for adoption could be revoked at any time by the adopter. So, adoption by will entails the same difficulties in explaining Gal 3:15 as what Ramsay calls the Roman will, "a private and revocable document."

Posthumous adoption is hardly relevant to the discussion since it was adoption without any involvement of the deceased.

Norton summarizes the relevant information as follows:

We have seen that the adoption from which the Geek will was derived was a legal contract which could not be revoked without the consent of both parties to it. This...has given rise to the idea that it (a will) was also a contract, and consequently irrevocable. But...since even in its rudimentary stage of testamentary adoption the eispoiēsis was not completed by the will itself, it was not a contract in the eyes of the law, and consequently, while adoption inter vivos was irrevocable except by the consent of both parties, testamentary adoption could be revoked at the pleasure of the testator.<sup>35</sup>

Ramsay made the mistake that Norton points out: he applied the principles

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<sup>33</sup>Ibid., 89.

<sup>34</sup>Ibid., 90.

<sup>35</sup>Norton, A Lexicographical and Historical Study of DIATHĒKĒ, p. 63.

of adoption inter vivos to adoption by will. But of equal seriousness is the mistake of reading a practice from the earliest stage of the development of will making into a situation that comes from the period of its latest development in which the earlier practice was long obsolete.

D. The Mattēnat Barī<sup>36</sup> and Gal 3:15

Another attempt to explain Gal 3:15 in terms of testamentary practice was made by Bammel.<sup>36</sup> After giving a brief sketch and critique of the various attempts to explain Gal 3:15 in light of Roman and Hellenistic practices, he turns to Jewish legal practice for the basis of this text. He rightly dismisses the legal instrument (Rechtsinstrument) of dēyâtîqî. Not only is the term a loan word, but the notion and practice of the institution was taken over from the Hellenistic will.<sup>37</sup> Bammel also notes that the term dēyâtîqî only appears in post-New Testament writings and that the extent of its usage in earlier times is uncertain. More significant for him is the fact that the use of the dēyâtîqî was limited to the mortally ill.<sup>38</sup> This aspect of the dēyâtîqî is particularly incongruous with the divine diathēkē. For the healthy, another institution was available, the mattēnat barī<sup>39</sup>. Bammel finds in this institution "die einzige echte Sachparallele im juedischen Bereich" to Gal 3:15.<sup>39</sup>

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<sup>36</sup>Bammel, NTS 6 (1958/59) 313-319.

<sup>37</sup>See also Reuven Yaron, Gifts in Contemplation of Death in Jewish and Roman Law (Oxford: University Press, 1960) 19.

<sup>38</sup>See also Ibid., 25.

<sup>39</sup>Bammel, NTS 6 (1958/59) 315. Among commentators, Bammel is followed by Franz Mussner, Der Galaterbrief (Freiburg: Herder KG, 1974) 237.

Bammel points out the specific feature of the mattēnat barî' as follows:

(1) Der Gegenstand des Rechtsgeschaefts geht sofort in den Besitz des so Begabten ueber, der Verfuegende behaelt sich nur des Nutzniessungsrecht bis zu seinem Tode vor; (2) die Verfuegung kann--im Unterschiede zur dyytyqy--unter keinen Umstaenden widerrufen oder abgeaendert werden; (3) es handelt sich um die Verfuegung eines Gesunden, der Gedanke an den Tod bleibt, soweit dies bei einem solchen Akte ueberhaupt moeglich ist, im Hintergrund.<sup>40</sup>

Such an institution has clear advantages over the Hellenistic diathēkē, and even more so over the Jewish dēyâtîqî', in explaining Gal 3:15. As already seen, the status of a diathēkē depended on the death of the one who made it. The link with death was even stronger in the case of the dēyâtîqî'. Not only could it only be made by the mortally ill, the dēyâtîqî' was cancelled upon the recovery of the man who made it.<sup>41</sup>

In contrast to the dēyâtîqî', the mattēnat barî' was not tied to the idea of death. The term mattēnat barî' means "the gift of one who is in (good) health,"<sup>42</sup> and the gift could not be made by a sick man at the point of death. Furthermore, the gift went into effect immediately. Ownership passed from donor to donee while the donor still lived. However, the donor maintained usufruct until his death. But the right to usufruct made no difference to the gift's irrevocable status. From a juristic point of view, the mattēnat barî' was a gift and so could not be recalled.<sup>43</sup>

From these features of the mattēnat barî', Bammel's claim to have found an "echte Sachparallele im juedischen Bereich" receives an obvious warrant.

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<sup>40</sup>Bammel, NTS 6 (1958/59) 315.

<sup>41</sup>Yaron, Gifts in Contemplation of Death, 48.

<sup>42</sup>Ibid., 1 n. 1.

<sup>43</sup>Ibid., 49f.

However, as with Ramsay's attempt to explain Gal 3:15 in light of the Greek practice of adoption inter vivos, Bammel's case falls apart on historical grounds.<sup>44</sup>

The historical evidence indicates that the institution which Bammel describes did not exist in the 1st Century. Bammel cites Nahum the Mede, a judge in Jerusalem prior to its destruction in A.D. 70, as the earliest Rabbinical example of the use of the mattēnat barî'. Tos. B. B. 9. 1 says:

R. Nathan says: Nahum the Mede was one of the judges of civil law. He said: whoever assigns his goods to the name of his friend, one does not compel him (the donee) to return it; but if he so stipulates beforehand he is compelled.<sup>45</sup>

It is not certain what kind of disposition Nahum had in mind. If, as Bammel suggests, he had a mattēnat barî' in mind, then a revocable mattēnat barî' was possible by stipulation. This interpretation of Nahum's statement, however, encounters the difficulty that "a revocable mattēnath barî' was introduced only in the late Middle Ages" which used the formula, "from today, if I do not revoke till my death."<sup>46</sup> This historical consideration means that if Nahum did indeed have a mattēnat barî' in mind, he was neither expressing a generally accepted view nor was his opinion widely accepted. Another possibility is that he was talking about the mattēnat šekhiv mera' or the děyâtîqî'. Yaron observes, "Whatever the correct interpretation may be, we should remember that this was the opinion of a single Tanna. There is reason to assume that his view was not followed; it was the fate of most of the opinions of Nahum the Mede to be rejected by

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<sup>44</sup>For a critique of many details of Bammel's case, see Hughes, NovT 21 (1979) 72-76.

<sup>45</sup>Cited from Yaron, Gifts in Contemplation of Death, 53-54.

<sup>46</sup>Ibid., 53.

his colleagues."<sup>47</sup>

The mattēnat barî<sup>47</sup> was introduced into Judaism from Egypt. In Ptolemaic Egypt, two kinds of dispositions in contemplation of death stood side by side: the diathēkē and the meta tēn teleutēn. The former was of Greek origin and had the features of the Hellenistic will already discussed. The latter was native to Egypt<sup>48</sup> and quite distinct from the diathēkē. Concerning it Yaron says, "Ownership is immediately transferred to the donee and the disposition is not revocable. It is characterized by the use of the formula meta tēn teleutēn; this implies that usufruct remains with the donor."<sup>49</sup>

In the Egyptian practice of these two institutions, no distinction was made on the basis of the health of the one making the disposition. The same situation is reflected in early Tannaitic law which is "primarily concerned with types of disposition, dēyâtîqî and mattānā, rather than with the health of the donor."<sup>50</sup> At a later stage, Yaron points out, the Tannaim "built up their own scheme of dispositions in contemplation of death. What they did was to assign a true function to the main difference between the meta tēn teleutēn gift and the diathēkē: they laid down that the one in good health should be able to dispose in contemplation of death by way of

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<sup>47</sup>Ibid., 54.

<sup>48</sup>Yaron (Ibid., 47) reasons, "While there are great differences between the meta tēn teleutēn gift and the diathēkē, nevertheless their functions are basically the same: both are dispositions in contemplation of death. Especially there is no reason for assuming that only one in good health could make a meta tēn teleutēn gift, or only a sick man a diathēkē. The existence side by side of the two institutions is to be understood against the historical background we have mentioned: one is native, the other imported."

<sup>49</sup>Ibid., 46.

<sup>50</sup>Ibid., 47.



irrevocable gift, with or without retention of usufruct, while a sick man should dispose by means of a děyâthîqî.<sup>51</sup>

This development of Jewish law on gifts in contemplation of death is critical for assessing Bammel's hypothesis. The development took time and did not reach the stage from which Bammel draws his evidence until the 3rd Century. Yaron states, "Dispositions in contemplation of death came into Jewish law at a rather late stage. Their rules were evolved in the course of the Tannaitic period and reached their final form in the time of the early Amoraim, in the first half of the third century."<sup>52</sup>

One might respond in defense of Bammel's general thesis that a disposition that was not dependent on the death of the donor was already present in Ptolemaic Egypt and so may have been known by Paul. This suggestion brings up a terminological problem. Could Paul have called a meta tēn teleutēn a diathēkē? The Egyptian papyri use diathēkē with absolute unanimity for last will. The meta tēn teleutēn is not called diathēkē but dosis and suggraphē doseōs. Interestingly, dosis corresponds exactly to mattānā.<sup>53</sup>

While diathēkē and the meta tēn teleutēn gift are clearly distinct dispositions, some assimilation did take place. In Egypt, the latter assimilated to the former. The betraying feature of this assimilation, though, is that the meta tēn teleutēn gift became revocable.<sup>54</sup> This assimilation would strip the gift of that feature that Bammel needs to

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<sup>51</sup>Ibid.

<sup>52</sup>Ibid., 33.

<sup>53</sup>Ibid., 26.

<sup>54</sup>Ibid., 47.

defend his case--irrevocability of the disposition. In Jewish legal parlance the assimilation went the other way. Děyâtîqî was designated in terms of mattānā in being called mattēnat šekhiv mera, the gift of one who is lying ill.<sup>55</sup> But, and this is of importance to the present discussion, mattēnat barî never assimilated to děyâtîqî.

Since diathēkē was the technical term for will, Paul could not use it for a specific type of mattānā or dosis without misleading his audience. But more decisive against Bammel's thesis is the consideration that if indeed Paul is speaking in terms of common human practice, he could not, without some explanation, be referring to an Egyptian custom, not to speak of an undeveloped Jewish version of that custom. If kata anthrōpon legō means that Paul is drawing from common human practice, the institution in mind must either be of a universal character or be proven to be common in Galatia. The mattēnat barî qualifies for neither.

Since no testamentary institution can be found that meets the requirements of the institution of Gal 3:15,17, the claim that Paul is treating covenant as a testamentary disposition is greatly undermined. If one still insists on this interpretation, it would have to be concluded that Paul is simply taking legal terms from the area of testamentary disposition and using them without paying any particular attention to the imagery involved.<sup>56</sup> This, however, amounts to saying that Paul is only using legal

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<sup>55</sup>Ibid., 20,48.

<sup>56</sup>So basically Oepke, Der Brief des Paulus an die Galater, (Berlin: Evangelische Verlagsanstalt, 1973) p. 111. He thinks that Paul has Hellenistic practice in mind but that "Paulus argumentiert aber nun keineswegs von Besonderheiten des hellenistischen Rechts aus (s. u.), sondern legt mehr oder weniger allgemeingeltige Sätze zugrunde." Similarly, Behm (TDNT 2. 129) writes concerning Paul's use of diathēkē in Gal 3:15, "No regard is paid to the fact that in the case of God's testament the presuppositions of this validity (prokekurōmenēn) are very different

terminology without arguing from a specific testamentary institution.

#### E. The Bearing of klēronomia on the Meaning of Diathēkē

For the claim that Paul has a testamentary disposition in mind in Gal 3:15, appeal is not only made to the use of diathēkē, the Greek term for will, but also to the notion of inheritance, klēronomia, in Galatians 3 and 4 (klēronomia, Gal 3:18, and klēronomos, 3:29-4:7).<sup>57</sup>

In nonbiblical Greek, the word group klēronomia, klēronomos and klēronomeō is used almost unanimously in the sense of inheritance and the related ideas of heir and to inherit.<sup>58</sup> In the LXX and NT, however, the usual idea associated with inheritance, acquiring someone's property upon his death, is wholly absent from most instances in which the terms are used. The Hebrew terms translated by this word group have as their principal sense the idea of possession.<sup>59</sup>

The use of klēros as a synonym for klēronomia in the LXX indicates how

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from that of a human will, i.e., the death of the testator. This metaphor of the testament seems to have been worked out by Paul quite spontaneously in accordance with his penchant for legal images." The focus on legal terminology rather than imagery is a step in the right direction as will be shown later (pp. 63-67 below). This move, however, involves an abandonment of the central thesis of these scholars: that Paul has a Hellenistic will in mind.

<sup>57</sup>For this argument, see Heinrich Schlier, Der Brief an die Galater (Goettingen: Vandenhoeck & Ruprecht, 1962) 142.

<sup>58</sup>LSJ klēronomeō; TDNT 3. 768; MM 346-347. Foerster (TDNT 3. 768) notes four instances in which the terms are used in the sense of what is possessed, acquired or gotten. LSJ only cites the LXX for this broader sense.

<sup>59</sup>The major terms are nahālāh: possession, property or inheritance; nāhal: to get or take as a possession; and yāraś: to take possession of or inherit. Foerster (TDNT 3. 769,777) gives an analysis of the klērom- word group in the LXX and the Hebrew terms translated by them.

the translators understood klēronomia.<sup>60</sup> Klēros means "lot" and then what is gotten by lot or "allotment." The link between klēros and klēronomia as inheritance is obvious. An inheritance is what is allotted to someone. However, the specific idea of property handed down to succeeding generations is not present in klēros. Klēros, the broader term, no doubt, stands behind klēronomia rather than the other way around. So, the translators of the LXX used klēronomia with its broader root idea, lot.

The broader sense of klēronomia and the related terms in the LXX is made abundantly clear by its usage of these terms.<sup>61</sup> Israel is said to have possessed the land (klēronomein tēn gēn, Gen 15:7,8; Lev 20:24; etc.). The verb, klēronomein, is used for taking possession of something either justly or unjustly (1 Kgs 20:15f.; Hos 9:6). The noun is similarly used in the sense of possession. The land is the klēronomia of Israel, but also of the Lord (Jer 2:7). Israel is God's klēronomia (Deut 32:9; etc.). But God is also the klēronomia of Israel (Jer 10:16; 28:19) and the Levites (Num 18:20; Josh 13:14; Ezek 44:28). In all of these instances, the idea of "inheritance" is absent. The idea is simply that of klēros, which both Israel and Levi are to God (Deut 9:29; 10:9; Sir 45:22). Another synonym in the LXX for klēronomia is meris, a part or portion, which term is used in parallelism with klēronomia in many of the texts cited above (see also Sir 45:22). From this it is clear that klēronomia in the LXX means possession, allotment (i.e., klēros) or portion (i.e., meris).

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<sup>60</sup>See TDNT 3. 759-760.

<sup>61</sup>For an analysis of the use of this word group in the LXX and NT, see B. F. Westcott, The Epistle to the Hebrews (Grand Rapids: Wm. B. Eerdmans Publishing Co., 1980) 167-169 and Gustaf Dalman, The Words of Jesus Considered in the Light of Post-Biblical Jewish Writings and the Aramaic Language (Edinburgh: T. & T. Clark, 1920) 125-127.

The klēronomia word group is used in the NT in much the same way as in the LXX. Klēronomia and klēronomos are used in the narrow sense of inheritance and heir only in five texts (Matt 21:38; Mark 12:7; Luke 12:13; 20:14; Gal 4:1). Otherwise, the word group is used in the broader sense of receiving or possessing something: the kingdom (Matt 5:5; 25:34; 1 Cor 6:9,10; 15:50; Gal 5:21), eternal life (Matt 19:29; Mark 10:17), salvation (Heb 1:14; 1 Pet 1:4), a promise (Heb 6:12), a blessing (Heb 12:17; 1 Pet 3:9), the grace of life (1 Pet 3:7) and a name (Heb 1:4). In these instances, the notion of "inheritance" which is related to the idea of testamentary disposition of what is passed on by a dying person is clearly absent. The notion of inheritance, however, has the idea of receiving a possession or a portion in common with this broader usage.

Since the notions associated with a last will, death, succession and passing on of property, are not central to the meaning of the klēronomia word group in the LXX and NT, there is no warrant for appealing to the use of klēronomia in Gal 3:18 in support of understanding diathēkē in v 15,17 as a will.

A close look at Paul's use of klēronomia and diathēkē further suggests that one must not read diathēkē in light of any idea about klēronomia. In Galatians 3, he introduces diathēkē only to make the point that the promise is irrevocable. He discusses what was promised, i.e., the blessing (v 14) or the klēronomia (v 17b-18), only in terms of promise and not in terms of diathēkē, as is clear from v 18.

In Paul's mind, klēronomia and diathēkē are not intimately related concepts. Hence, in Rom 4:13-14 Paul can discuss the klēronomia without any reference to diathēkē. Also, in Gal 4:1f., where he clearly uses the imagery of inheritance, Paul makes no reference to diathēkē. In fact, the

idea of testamentary disposition has no place in the imagery of Gal 4:1f. The heir is already owner of all as an infant. Nothing is conferred by a testament. The natural ties of sonship rather than testamentary disposition provide the mechanism for the transfer of ownership. Finally, for Paul the law, too, is a diathēkē and it too is related to the klēronomia (Gal 3:18; Rom: 13-14). While Paul denies that the klēronomia is through the law, this denial has nothing to do with the absence of the notion of a will in the law. His opponents, who argued that the klēronomia was through the law, certainly did not see the law as a will.

For Paul, the klēronomia is not what is willed to someone but simply what is possessed. Hence, the klēronomos is kurios pantōn--owner of all. In understanding klēronomia and klēronomos this way, Paul is moving within a well established circle of thought and usage as witnessed by the LXX and the rest of the NT.<sup>62</sup>

#### F. Diathēkē as Contract

The failure to find a testamentary disposition that can meet the requirements of the institution of Gal 3:15 forces the discussion on this text to look elsewhere. Some scholars have found the suitable alternative in the contract. This alternative position is taken by Calvin who, commenting on the phrase, "though it be a man's covenant," writes:

This is an argument from the less to the greater. Human contracts are regarded as binding; how much more what God has established? Moreover, where the Latin version reads testamentum, Paul's Greek word is diathēkē. By this the Greeks mean more often 'testament',

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<sup>62</sup>On the claim that the primary idea in klēronomia is possession rather than succession or passing on by testamentary disposition, see Dalman, Words of Jesus, p. 125-127.

though also sometimes any sort of contract...here I prefer to take it simply for the covenant God made. For the simile from which the apostle argues would not apply so strictly to a testament as to a covenant. Therefore let us proceed on the assumption that the apostle reasons from human agreements to that solemn covenant which God made with Abraham. If human bargains are so firm that they must not be added to, how much more must this covenant remain inviolable.<sup>63</sup>

Unfortunately, Calvin does not state why "the simile from which the apostle argues would not apply so strictly to a testament as to a covenant." Perhaps it is that he understands the bĕrît of the OT as a covenant or contract. Whether the OT bĕrît was a contract will be discussed later. There is, however, another reason why a contract applies more strictly to Paul's simile. A contract was less volatile than a will. Since a contract is entered by the consent of all parties involved, it can not be revoked at any person's wish. This fact has already been seen in the case of adoption inter vivos, which was a contract. The contract can only be revoked upon the consent of both parties involved. Hence, Burton reasons:

The diathēkē of v 15 must be a contract, not a will, for of the diathēkē here spoken of it is said oudeis athetei ē epidiatassetai, and this is true of an agreement, which once made can not be modified (except, of course, by mutual agreement of the parties to it, an exception too obvious to receive mention), but is not true of a will.<sup>64</sup>

Burton does not explore the implications of the "too obvious" exception for Paul's argument in Gal 3:15-18. Could God and Abraham or the seed agree to revoke the contract? Paul certainly would not entertain the thought. A contract is not as easily revoked as a will since no one party has plenary

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<sup>63</sup>John Calvin, The Epistles of Paul the Apostle to the Galatians, etc., 56-57. The following commentators take a similar position: J. B. Lightfoot, Heinrich Meyer, John Eadie and Ernest De Witt Burton. More recently John J. Hughes, ("Hebrews IX 15ff. and Galatians III 15ff.: A Study in Covenant Practice and Procedure," NovT 21 [1979] 27-96) argued that diathēkē in Gal 3:15 means contract.

<sup>64</sup>Burton, Galatians, 502.

power over it. But it is nonetheless revocable.

There is nothing in Paul's usage of diathēkē to suggest that he sees a diathēkē as a contract. The diathēkē is either a promise or law, and neither is really a contract. One could reply that the diathēkē is a somewhat imbalanced contract. But to the extent that contracts became imbalanced they became vulnerable to the will of the powerful party, at least in the Greek world.<sup>65</sup>

A final consideration against understanding diathēkē in Gal 3:15 as a contract is that if by saying kata anthrōpon legō Paul is drawing the attention of his audience to common human practice, as Burton believes, he would not use diathēkē, a word used unanimously for testament in the papyri, when he actually has a sunthēkē in mind. Burton seeks to get around this problem by reasoning:

The assumption...that the Galatians, being Gentiles, must have understood diathēkē in the common Greek sense, ignores the fact, of capital importance for the interpretation of Gal 3:15ff., that throughout chaps. 3 and 4 Paul is replying to the arguments of his judaizing opponents, and is in large part using their terms in the sense which their use of them had made familiar to the Galatians.<sup>66</sup>

Burton is raising an important point that must be borne in mind. The discussion takes place within a certain context which could determine both the denotation and connotation of words. However, if kata anthrōpon legō means, as Burton affirms, that Paul is leaving the theological context of the discussion to go into the "secular" world of common human experience,

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<sup>65</sup>Concerning the treaties or sumbolai of Ancient Greece, Sir Frank Adcock and D. J. Mosley (Diplomacy in Ancient Greece [London: Thames and Hudson, 1975] 186) write; "The test of whether the parties to an agreement were bound and obligated equally depended often not so much on the terms stated as on the attitudes of the parties, their relative power and the way in which the arrangements worked in practice."

<sup>66</sup>Burton, Galatians, 503-504.



then any particular meaning that the special theological context of the discussion would impart to a term would be also left. The Judaizers may have taught the Galatians to understand a theological diathēkē as a contract; but it is unlikely that they would have taught them to understand the diathēkē of the secular world as a sunthēkē.

#### G. Diathēkē and the Old Testament Bērît

The interpretation that the diathēkē of Gal 3:15,17 is a contract is based on the assumption that the OT bērît, which is clearly in view in this passage, is also a contract.<sup>67</sup> In view of this, it is not surprising that the only examples Hughes gives of a "contract" of which it can be said that oudeis athetei ē epidiatassetai are OT bērîtôt.

In the OT bērît, Hughes clearly finds an institution that meets the requirements of the institution of Gal 3:15 as well as the requirements of the context of Paul's discussion--the divine covenant. He reasons:

If Paul does not have the legal model of either a Greek, Roman or Egyptian diathēkē in mind, if he does not argue for either testamentary disposition inter vivos or the similar mtnt bry'; just what legal model does he employ? The answer, of course, is that Paul is employing the O.T. legal model of the 'covenant' which itself was in certain important aspects patterned after the international treaties prevalent in the ANE in the second and

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<sup>67</sup>The line of reasoning goes somewhat as follows: bērît is a contract or treaty; the LXX translates it with diathēkē and so for the translators of the LXX diathēkē must have meant contract. That they did not misunderstand the OT bērît is evident from an analysis of diathēkē which shows that this term is used in the same way that bērît is used in the MT. Furthermore, since the NT uses diathēkē in the same way as the LXX does, the term must have the same meaning there as bērît does in the OT. So, diathēkē in the NT means contract. Since Paul in Gal 3:15 is drawing an illustration from common human experience for what is essentially a contract, he must be referring to a contract of the Greco-Roman world. So basically J. B. Lightfoot, Heinrich Meyer and Burton in their commentaries on Galatians. Hughes, NovT 21 (1979) 66f. argues similarly.

first millennia B.C. Once such a treaty had been made no one (not even the great suzerain who imposed the treaty on his vassal) altered the stipulations of the treaty for the treaty was considered to be under the sanction of the deities who witnessed it. These guardian deities were expected to play an avenging role both in keeping the treaty document sacrosanct and in punishing those who transgressed the terms of the treaty."<sup>68</sup>

Hughes goes on to give examples of the irrevocable nature of OT bĕrîtôt. Of special note is the bĕrît that Israel under Joshua made with the Gibeonites. Israel the powerful party could not revoke the bĕrît.

There is, however, a glaring problem with Hughes' attempt to explain Gal 3:15 in light of the OT bĕrît and the treaties of the ANE. Could Paul have such an institution in mind if by kata anthrōpon legō he means that he is drawing an illustration from common human practice, as Hughes assumes?<sup>69</sup> The only contact Paul and his audience had with the ANE was through the OT. The OT bĕrît, however, was by no means common human practice in Paul's day. But neither was the Greek sunthēkē equivalent to the sacrosanct bĕrît.

In the OT bĕrît, we have found an institution that meets the demands of the institution of Gal 3:15. But Paul can only have this institution in mind if the common interpretation of kata anthrōpon legō is incorrect. So the discussion must shift from an examination of possible institutions to a re-examination of the basic sense of Gal 3:15.

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<sup>68</sup>Ibid., 76-77.

<sup>69</sup>Ibid., 70 n. 150.

## CHAPTER 3

GALATIANS 3:15 AND THE OLD TESTAMENT BĚŘÎT

## A. Gal 3:15 Re-examined

## i. The Structure of Gal 3:15-18.

The re-examination of Gal 3:15 must begin with a fresh look at the structure of Gal 3:15-18. While there is no particular debate concerning the structure of this passage, it does throw considerable light on the role of Gal 3:15 in Paul's argument and thus is of paramount importance in interpreting this verse. This passage can be analyzed as follows:

- A1 kata anthrōpon legō (v 15)
- B1 homōs anthrōpou kekurōmenēn diathēkēn
- C1 a) oudeis  
b) athetei ē epidiatassetai
- D1 tō de Abraam errethēsan hai epaggeliai kai tō  
spermati autou (v 16)
- A2 touto de legō (v 17)
- B2 diathēkēn prokekurōmenēn hupo tou theou
- C2 a) ho meta...gegonōs nomos ouk  
b) akuroi
- D2 eis to katargesai tēn epaggelian (and v 18)

This analysis shows that Gal 3:15-18 consists of two parallel sections, vv 15-16 and 17-18, containing a parallel series of four propositions. The parallelism is made obvious by matching terms and concepts as follows:

- A1 & 2: legō/legō

B1 & 2: kekurōmenēn diathēkēn/diathēkēn prokekurōmenēn

C1 & 2: a) oudeis/ho...nomos ouk

b) athetei ē epidiatassetai/akuroi<sup>1</sup>

D1 & 2: epaggeliai/epaggelian

The parallelism between vv 15-16 and vv 17-18 suggests that the latter is directly based on the former. There is, however, an important shift from the first to the second section. In vv 15-16 Paul is speaking of the diathēkē and promise only. In vv 17-18 he brings nomos back into the discussion. The movement of his thought is indicated by touto de legō (v 17). In vv 15-16 he states the facts about the diathēkē and the promise, which he applies in vv 17-18 to the issue in question: how the law relates to what was covenanted and promised. Thus, in vv 15-16 Paul is stating his premises and in vv 17-18 he is drawing his desired conclusions.

In vv 15-16 Paul states two premises: 1) that a diathēkē is irrevocable, and 2) that the sole seed of promise is Christ. Paul does not leave these premises as mere assertions but seeks to substantiate them. To substantiate the first premise, he speaks kata anthrōpon. To establish the second, he appeals to a grammatical subtlety in the Abrahamic text cited. Thus, one may say, he speaks kata tas graphas.

Paul's attempt at substantiating his two premises in vv 15-16 has proven to be the most problematic point in the exegesis of these verses. His argument in v 16 from the use of the singular spermati in the Abrahamic text has often struck his interpreters as an undue straining of the

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<sup>1</sup>Athetei e epidiatassetai refers to two ways a covenant can be invalidated (akouron). So, akuroi in v 17 takes in both expressions in v 15. For more on this point, see pp. 65-66 below.

language.<sup>2</sup> If Paul has a testamentary disposition in mind in v 15, one must also conclude that he is unduly stretching the status of such an institution. In fact, if Paul is describing the testamentary institution in v 15, it must be concluded that he was wrong and that he misrepresented "man" in speaking kata anthrōpon. This conclusion can only be avoided if the universal assumption that Paul is describing common human practice when speaking kata anthrōpon is abandoned.

## ii The Meaning of Kata Anthrōpon Legō

It is universally assumed in scholarship that by kata anthrōpon legō Paul is indicating that he is drawing an illustration from common human experience. A close examination of the expression itself and what is said kata anthrōpon, however, suggests another possibility.

Burton, commenting on the phrase, kata anthrōpon, in Gal 3:15 expresses the common understanding of this expression as follows: "The regular meaning of the phrase after a verb is 'as men do,' the specific point of resemblance being indicated in the context. Here this general meaning naturally becomes, 'I speak as men do about their affairs' (cf. 1 Cor. 9:8), i.e., 'I draw an illustration from common human practice.'" Having adduced 1 Cor 9:8 as a parallel, he must go on to qualify, "A reference to human authority such as is suggested in 1 Cor 9:8 is improbable here, both because there is no suggestion of it in the context and because the depreciation of the value of the argument which such a reference would imply is uncalled for

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<sup>2</sup>On Gal 3:16, see p. 129 below.

and without value for the apostle's purpose."<sup>3</sup>

Burton's need to qualify the parallel he adduces between Gal 3:15 and 1 Cor 9:8 points to a weakness in his interpretation of kata anthrōpon legō in Gal 3:15. Apart from Gal 3:15, Paul speaks kata anthrōpon only twice (Rom 3:5; 1 Cor 9:8), and the idea of "illustration" is wholly absent in the one and only secondarily present in the other instance. The notion of "human authority," which Burton sees in 1 Cor 9:8 but denies in Gal 3:15, approaches the specific idea in speaking kata anthrōpon. The human authority is in the way human beings naturally think, or more particularly in human judgement or reasoning. This is what Paul expresses when he speaks kata anthrōpon.

Burton correctly points out that the phrase, kata anthrōpon, has a merely qualitative significance, the preposition signifying "according to," "agreeably to," "according to the will or thought of," or "after the manner of."<sup>4</sup> In Gal 1:11 the phrase is used by Paul to signify what is merely human in either authority, origin, content or character in contrast to what is divine or of Christ. Accordingly, to speak kata anthrōpon is to say what is qualitatively and characteristically human. In other words, it is to speak about something in the way human beings normally speak about it.

In Rom 3:5 the full expression kata anthrōpon legō is used to qualify as human the reasoning expressed in the question, "Is God who inflicts wrath unrighteous?" Paul vehemently rejects the suggestion in the question with a mē genoito (v 6). Thus by kata anthrōpon legō, Paul is indicating that he is merely appropriating human reasoning, though he does not agree with it,

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<sup>3</sup>Burton, Galatians, 178.

<sup>4</sup>Ibid., 37.

for the sake of discussion. That concerning which he speaks kata anthrōpon is the subject in mind in the context: the righteousness of God. Speaking kata anthrōpon, therefore, means expressing human reasoning on a given subject. Furthermore, in all instances where Paul speaks in such a way the subject concerns a divine or religious truth.

In 1 Cor 9:8 the essentially equivalent expression kata anthrōpon tauta lalō is used. The role of this expression in Paul's discussion, however, is slightly different from its use in Rom 3:5. Paul is using what is said kata anthrōpon to strengthen his case rather than to express a suggestion that he rejects. Nevertheless, in each case Paul is appropriating human thought or judgement on the subject under discussion.

The tauta in the expression of 1 Cor 9:8 refers to the three statements of v 7. These statements do in fact constitute illustrations or examples from the human realm supporting Paul's position that the laborer deserves to make a living from his labors. That, however, is not Paul's specific point in speaking kata anthrōpon.

Paul's complete statement in 1 Cor 9:8 is the following question: mē kata anthrōpon tauta lalo ē kai ho nomos tauta ou legei? Thus, speaking kata anthrōpon is distinguished from the voice of the law (ho nomos legei). In citing the law in v 9, Paul also, as is the case in what he says kata anthrōpon, chooses a case that applies to this-worldly matters. He cites the law's requirement that the ox must be allowed to eat what it is threshing. Hence, the specific idea in speaking kata anthrōpon cannot be in the use of this-worldly examples. The difference between what is said kata anthrōpon and what the law says is one of source, the law being of God, and

authority, the law having greater authority.<sup>5</sup>

The expression kata anthrōpon simply qualifies an idea or statement as being characteristically human. Perspective rather than the kind of statement made is the determining factor. One should not be misled by Paul's use of examples in 1 Cor 9:8 into shifting the weight of kata anthrōpon from the point of view to the use of examples. The examples express human judgment or reasoning on the principle in question: that the worker is entitled to make a living from his labors.<sup>6</sup>

In summary, to speak kata anthrōpon is simply to express human reasoning or judgement about the issue in question.

### iii What is Said Kata Anthrōpon in Gal 3:15

If kata anthrōpon legō in Gal 3:15 is taken to mean that Paul is signaling the use of an illustration from the human realm, the exegesis of this text is burdened with the search for a common institution of the Greco-Roman world that meets the requirements of this text. The failure to find such an institution weighs in favour of an interpretation of the expression kata anthrōpon legō that frees the exegesis of Gal 3:15 from this burden. The interpretation of kata anthrōpon legō argued for thus far accomplishes this task.

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<sup>5</sup>So also A. Robertson and A. Plummer, A Critical and Exegetical Commentary on the First Epistle of St. Paul to the Corinthians, 2nd. ed., (Edinburgh: T & T Clark, 1978) 183.

<sup>6</sup>Paul's use of rhetorical questions in 1 Cor 9:8 may also indicate that he is primarily interested in the human judgement reflected in the "examples." By using these questions, Paul is highlighting the universality, reasonableness and common sense of the principle involved rather than simply stating an example.



If by speaking kata anthrōpon Paul is simply expressing human judgment on the issue in question, then Paul need not have a specific institution of the Greco-Roman world in mind. The context concerns the Abrahamic promise which is understood both by Paul and his audience as a diathēkē.<sup>7</sup> Hence, the subject of Paul's speaking kata anthrōpon, the diathēkē of Gal 3:15, is the type of institution we have in the Abrahamic covenant, i.e., an OT bērît. In Gal 3:15 Paul is appealing to human judgement to substantiate his point that an institution such as the Abrahamic covenant is absolutely irrevocable.

Interpreting the diathēkē of Gal 3:15 as an OT covenant makes the best sense of the text. The text has homōs, which is an adversative conjunction with the sense of "nevertheless," "all the same" or "yet."<sup>8</sup> This conjunction indicates an exception, contrariety or implied antithesis. It appears three times in the current text of the NT. In John 12:42 it stands in its natural position before the second member of the implied antithesis and clearly has its usual meaning. In the two Pauline examples (1 Cor 14:7 and Gal 3:15), however, homōs is not in its natural place but rather stands before the first member of the antithesis. Such a trajectory of homōs has parallels in Greek literature and does not constitute a serious problem.<sup>9</sup>

Based on the contention that these texts contain a comparison rather than an antithesis or exception, it has been suggested that the text of 1 Cor 9:8 and Gal 3:15 should have homōs (with the circumflex), which means "likewise" or "equally," instead of the adversative, homōs, of the existing

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<sup>7</sup>On further grounds for understanding diathēkē in Gal 3:15 as the OT bērît, see pp. 57-63 below.

<sup>8</sup>BAGD homōs.

<sup>9</sup>Burton, Galatians, 178.

text.<sup>10</sup> Indeed, if Paul is simply stating an example in Gal 3:15, the homōs of the current text is odd and homōs would be a welcome emendation since it at least expresses Paul's idea. However, the emendation itself encounters several difficulties.

One problem for this changed reading of the text is that occurrences of homōs are extremely rare in Koine sources.<sup>11</sup> This consideration, however, only reduces the probability of the correctness of the emended reading. A more serious objection is that, as already seen, the idea of comparison is not the point of speaking kata anthrōpon. Finally, a contrariety or exception can be seen in these texts, especially in Gal 3:15.

The changed reading, homōs, makes good sense in 1 Cor 14:7 since this verse can be taken as a comparison to v 6. However, the conjunction may be adversative and indicate a contrariety or exception within v 7 between to apsucha phōnen didonta... and ean diastolēn tois phthoggois mē dō.<sup>12</sup> Distinction of sound is the necessary exception to general lifeless sounds if such sounds are to be intelligible. In fact, the notion of an exception would have to be assumed in the text even in the absence of an adversative conjunction. Hence, the homōs of the current text has in its favour the fact that it supplies the logical sense of the text.

The situation in Gal 3:15 is less ambiguous. What precedes v 15 cannot be taken as part of a comparison. Meyer correctly notes, "There is therefore all the less reason for writing homōs, in like manner, which would

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<sup>10</sup> Joachim Jeremias, "OMŌS (1 Cor 14,7; Gal 3,15)," ZNW 52 (1961) 128-128. Jeremias is followed by Rudolf Keydell, "OMŌS," ZNW 54 (1963) 145-146. So also BDF 234 and BAGD homōs. This reading is followed by the JB and NIV.

<sup>11</sup> Moul-T 3. 337; Jeremias, ZNW 52 (1962) 127; Keydell, ZNW 54 (1963) 145; and MM 450.

<sup>12</sup> See Burton, Galatians, 178.

be unsuitable since that which is to be illustrated by the comparison only follows (at ver. 17)."<sup>13</sup> In fact, if Paul has a comparison in mind, he never completes it. One cannot argue from the parallelism between v 15 and v 17 shown above that v 17 completes the comparison. As pointed out above, v 17 is an affirmation derived from v 15, and thus it cannot be taken as the second member of a comparison begun in v 15.

A contrariety can be seen in what Paul says kata anthrōpon in Gal 3:15. There is no meaningful contrariety between kata anthrōpon legō and what follows homōs<sup>14</sup> (which suggests that we have a trajectory of homōs as mentioned above). But there is a meaningful contrariety between anthrōpou and oudeis athetei ē epidiatassetai. It does not take much imagination to see that what is "of man" is naturally vulnerable and so oudeis athetei ē epidiatassetai marks an exception to what is expected in an anthrōpou kekurōmenēn diathēkēn.

Burton recognizes the implied antithesis in Gal 3:15 but wrongly places kekurōmenēn diathēkēn into the second member of the antithesis with oudeis athetei, etc. Thus he reads, "though it be man's, yet a covenant once established no one annuls or adds to."<sup>15</sup> The parallelism in the structure of Gal 3:15-18 shown above, however, indicates otherwise. This analysis shows that homōs anthrōpou kekurōmenēn diathēkēn in v 15 corresponds to diathēkēn prokekurōmenēn hupo tou theou in v 17 and the second member of the contrariety in v 15, oudeis athetei ē epidiatassetai, is parallel to ho meta...gegonōs nomos ouk akuroi in v 17. As hupo theou in

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<sup>13</sup>Heinrich A. W. Meyer, Critical and Exegetical Hand-Book to the Epistle to the Galatians (New York: Funk & Wagnall's Co., 1892) 120.

<sup>14</sup>On this reading of Gal 3:15, see Burton, Galatians, 178.

<sup>15</sup>Ibid.

v 17 belongs to diathēkēn prokekurōmenēn so anthrōpou in v 15 belongs to the first member of the statement.

The parallelism between vv 15 and 17 should not obscure the difference between anthrōpou (v 15) and hupo tou theou (v 17). The preposition of agent, hupo, relates theou to prokekurōmenēn. This preposition is lacking in v 15. Hence, the genitive, anthrōpou, qualifies the noun, diathēkēn, rather than specifying the agent of the passive participle, kekurōmenēn. So, the idea in v 15 is not a diathēkē ratified by man but a diathēkē from the human realm. Paul emphasizes the humanness of the diathēkē in v 15 due to speaking kata anthrōpon. In v 17, however, Paul emphasizes the divine ratification of the diathēkē, probably having the ratification ceremony of Genesis 15 in mind.<sup>16</sup>

In view of these observations on the structure of the text, what Paul says kata anthrōpon in Gal 3:15 may be rendered as follows: Though a ratified covenant<sup>17</sup> is a human one,<sup>18</sup> no one annuls or replaces<sup>19</sup> it. This rendering is a bit awkward. Paul's statement may be better expressed with the paraphrase, "even a human covenant cannot be annulled or replaced."

The intent of Paul's statement is clear. The context concerns the Abrahamic covenant, which is a divine one. In Gal 3:15 Paul seeks to establish the absolute nature of covenant itself by appealing to human

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<sup>16</sup>On the possible influence of Genesis 15 on Gal 3:15-18, see discussion on pp. 58-62 below.

<sup>17</sup>"Covenant" is simply used as a naturalized theological term without suggesting that the basic idea in this English term, agreement, is the idea in diathēkē. The meaning of diathēkē and bērit and the basic idea in the biblical covenant will be discussed in chapters 5 and 6.

<sup>18</sup>This construction in English is used to translate the emphatic anthrōpou.

<sup>19</sup>On this translation of epidiatassetai, see pp. 66-67 below.

judgement on the status of such an institution. Thus Paul must speak of a human covenant. So, in effect, Paul is reasoning that the institution which we have in the divine, Abrahamic covenant is irrevocable even when it is human. Thus the absolute nature of the institution is made clear and established.

This interpretation of Gal 3:15 has certain advantages. It agrees with the idea in the expression kata anthrōpon legō ascertained in the present study. Rather than indicating a comparison or illustration, as would be the case if the text read homōs, this expression indicates a specimen of human reasoning or judgement on a concern given in the context. Homōs as an adversative conjunction indicates such a statement. Furthermore, this rendering of Gal 3:15 makes the text complete in itself which the emended reading does not do.

As already shown, the proposed interpretation also explains the anthrōpou in Gal 3:15. If Paul were simply stating an example, then after kata anthrōpon legō the anthrōpou would be redundant. However, in an adversative statement the anthrōpou is not only meaningful but also necessary. It bears the weight of the contrariety suggested by homōs, which role agrees with its emphatic position.

The question still remains how Paul could speak kata anthrōpon about an OT bērît. The bērît was a common institution of the ANE which was sacrosanct and irrevocable. The diathēkē of the Greco-Roman world certainly was not such an institution. However, two considerations caution us in drawing conclusions from this fact. First, the bērît was akin to the oath as a sacrosanct institution and this kind of institution would not have been unknown or, at least, inconceivable to people in the 1st Century AD. Second, as will be argued shortly, diathēkē as a translation term is best

understood in Galatians 3 in terms of the OT concept behind it, i.e., as bĕrît. If this is the case, then diathĕkē spoken of kata anthrōpon simply refers to any institution like the OT covenant which is absolutely binding. One example of such an institution is the oath. The 1st Century person could evaluate such an institution and Paul could speak kata anthrōpon about it. But even if the OT covenant could not be linked with any institution in the Greco-Roman world, human judgement on the OT covenant could still be invited as long as the institution was understood.

A parallel situation may be found in our use of the word covenant. The term "covenant" simply means "an agreement" or "compact." In secular usage, this term can be used for any agreement or contract and does not imply irrevocability. In its Biblical and theological usage, however, this term acquires particular nuances and a special referent. It refers specifically to the Biblical covenant and takes on the meaning of a solemnly binding act of an absolute and sacrosanct nature. While Western Society does not formally have such an institution, we understand it and even have approximations of it with the result that a theologian may still speak kata anthrōpon about it.

The crux of the present thesis is simply that within the context of Galatians 3 diathĕkē is best understood as a translation term and thus in terms of the OT bĕrît. The plausibility of this claim will be explored next.

## B. Diathēkē as Old Testament Bērît.

The most natural meaning of a given term must be determined from the semantic and conceptual sphere of the discussion in which that term appears. The discussion in Galatians 3 is carried on within a theological context and is based heavily on OT texts. Hence, the immediate semantic and conceptual background of the discussion is the tradition of translation of OT terms and concepts into Greek represented by the LXX. Recourse must first be taken to this tradition of translation to determine the meaning of key terms in Galatians.

The previous discussion on the meaning of klēronomia has shown how a Greek term, by being used for a particular category in the Hebrew scriptures, could within the tradition determined by that translation acquire its own specialized sense and usage, though not unrelated to the sense of the word in its secular usage. As a result, it can be misleading to turn to Greek sources outside of that tradition of thought to determine the meaning and usage of terms within that tradition. This precaution is of particular importance for religious technical terms which as labels for theological categories can be simply defined from their theological usage and thus become relatively isolated from their secular usage.

Diathēkē like klēronomia is clearly an example of such a theological term. Being a translation-term of bērît in the LXX, this Greek term would become defined by its OT and theological usage. If diathēkē acquired its own sense within Hellenistic Judaism and Christianity, both of which are governed by the LXX, it follows that the papyrological evidence for the meaning of that term in its theological setting can be misleading. The diathēkē of the LXX rather than of the papyri is nearest at hand in the

sphere of ideas in Galatians 3.

The conceptual background of Galatians 3 is much narrower than the tradition of thought determined by the LXX. Besides the immediate theological concerns of the discussion, Galatians 3 concerns the interpretation of the Abrahamic tradition which contains Paul's major categories: righteousness, faith, blessing, Gentiles, covenant, promise and seed. The Abrahamic tradition is a mine for Paul's thought. But Paul's thought in Galatians 3 seems to be dominated principally by one chapter in the Abrahamic cycle--Genesis 15.<sup>20</sup> Not only is Paul's first OT citation from Genesis 15 (Gal 3:6); his motifs in Gal 3:15-18 are concentrated in this chapter.

Paul calls what is promised to the seed the klēronomia in Gal 3:18. This noun and klēronomos do not appear in the LXX text of Abrahamic passages. Only the verb klēronomeō is used. Of its seven occurrences in the Abrahamic cycle, five are found in Genesis 15: three times of Abraham's heir (vv 3-4) and twice of Abraham as the one who would receive the promised land (vv 7-8). The Pauline sense of klēronomia is specifically that of these two latter occurrences--possessing what is promised. Outside Genesis 15, klēronomeō is used in Gen 21:10, which text Paul quotes in Gal 4:30. This text has no direct relevance for Paul's argument in Gal 3:18. The verb occurs once more in Gen 22:17 where the seed is said to possess (klēronomein) the gates of its enemies. Clearly Paul's mention of the klēronomia in Gal 3:18 harks back to Genesis 15, where the first promise of

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<sup>20</sup>Betz (Galatians, 156) sees Genesis 17 as the primary text behind Gal 3:15-18. He affirms that Gen 17:1-11 of the LXX has all terms coordinated. This text contains the most occurrences of diathēkē in the Abrahamic cycle. But besides diathēkē, it only contains sperma of Paul's terms in Gal 3:15-18. Schlier, Der Brief an die Galater, 144f., and Mussner, Der Galaterbrief, 237f. take the same position.



possession is made.

Paul's reasoning about diathēkē in Gal 3:15 and his use of prokekuroun in v 17 also hark back to Genesis 15. In this chapter we have the only covenant ratification ceremony in the Abrahamic cycle answering to Paul's idea of a covenant ratified by God.<sup>21</sup> The purpose of this ceremony, in which God goes through a self-curse ritual (vv 9-17), is made clear by the flow of the chapter. God first promises Abraham a seed to be his heir (vv 1-5), which promise Abraham believes (v 6). Then God promises Abraham the land (v 7). This time Abraham asks God for some assurance of the promise (v 8). Upon this request, God instructs Abraham to prepare for the ritual and undergoes it himself (vv 9-17). God alone goes through the ritual. In fact, Abraham is asleep while it is being performed. The meaning of this, most likely, did not escape Paul's notice: God alone is bound by this covenant. After the narrative of the covenant ceremony, the text declares that on that day God made a covenant with Abram and states the divine grant of the land to his seed (vv 18-21).

This narrative alone warrants the technical distinction that Paul makes between promise and covenant in Gal 3:15-18. The promise is the divine grant and the covenant is the formal aspect of that grant that makes it irrevocable. This technicality is indicated in Genesis 15. Abraham receives the promise but asks for a guarantee, which he receives in the covenant making ceremony. Covenant is a formal dimension added to the promise. Accordingly, Paul reasons from the fact of a covenant being

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<sup>21</sup>The Hebrew kārat bērit, used for making a covenant in the MT, and the Greek diathesthai diathēkēn in the LXX are only used in Gen 15:18 in the Abrahamic cycle for the covenant that God made with Abraham. These expressions are also used for a covenant Abraham made with Abimelek in Gen 21:27,32. In Gen 17:7 God establishes his covenant with Abraham (wahāqimōtī et-bēritī in MT and stēsō tēn diathēkēn mou in the LXX).

ratified to the indestructible character of the promise (Gal 3:17).

Genesis 15 also answers to prokekurōmenēn diathēkēn in Gal 3:17. It is the only Abrahamic text that gives a timetable up to the Exodus (linked with the giving of the law): 400 years of oppression and deliverance in the fourth generation. While Paul's figure, 430 years, is taken from Exod 12:40, it clearly echoes the timetable given in Genesis 15. More interestingly, Gen 15:18 states after the timetable is given that en tē hēmera ekeinē diatheto kurios tō Abram diathēkēn. This answers to Paul's affirmation that the diathēkē was ratified before the giving of the law and the implicit assumption that it was ratified as soon as it was given.

Finally, Paul's third major motif in Gal 3:15-18, the seed, is represented in Genesis 15. The full expression in Gal 3:16, kai tō spermati sou, occurs in Gen 13:15; 17:8; and 24:7. In Gen 15:18 we have tō spermati sou without the kai.

In Gal 3:16 Paul says that the promise was spoken to Abraham and to his seed. We find this in Genesis 15. In Gen 15:7 the promise is given to Abraham and in vv 13,18 it is given to his seed. Furthermore, the statement tō de Abraam errethēsan...kai tō spermati auto in Gal 3:16 echoes the language of these verses in Genesis 15: v 7, eipen de pros auton; v 13, kai errethē pros Abram; and v 18, legon tō spermati sou. While this evidence is incidental, it does tighten the connection between Genesis 15 and Gal 3:15-18.

There are two texts in the Abrahamic cycle in which God singles out a seed, answering to Paul's emphasis on one seed. One is Gen 21:10-12 which Paul refers to in Gal 4:30 and Rom 9:7. In these two instances, Paul uses this Genesis passage as a rejection text. According to this text, some of the physical descendants of Abraham are excluded from the seed. This

selection/exclusion motif in Gen 21:10-12 does not answer as strongly to the singular seed motif in Gal 3:16 as the other Genesis text in which God determines a seed by promise--Gen 15:1-5. In this text, Abraham complains that he has no seed and that consequently one of his slaves born in his house would be his heir. God, however, rejects this one as heir and asserts that one born from Abraham, his seed, would be his heir. In Genesis 15 we have the only promissory seed selection text.<sup>22</sup>

The clear links between Gal 3:15-18 and Genesis 15 show that Paul is not simply moving in the thought world of the LXX but more particularly in that of Genesis 15. As the bĕrît in Genesis is intimately linked with the idea of a self-curse and irrevocability, so the diathēkē in Gal 3:15,17 could quite naturally be thought of in terms of an oath or any sacrosanct institution.

Interestingly, Paul's argument from the irrevocability of the institution linked with the promise to the absolutely firm nature of the promise has a parallel in Heb 6:13-18. In this text the author of Hebrews bases the certainty of the promise to Abraham on the divine oath, one of the two pragmata ametatheta (v 18). He also appeals to the finality of the instrument in mind (horkos) among men (Heb 6:16). He, however, has an oath text (Gen 22:16-17) in mind and so speaks in terms of oath. Paul has a bĕrît "cutting" text in mind (Gen 15) and so speaks in terms of a kekurōmenē diathēkē.

The investigation into the possibility of understanding the diathēkē of Gal 3:15 simply as the OT bĕrît was stimulated by the failure to find an

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<sup>22</sup>Since the promise in Gen 15:4-5 refers to Isaac, Ishmael is excluded by it. So this text establishes the exclusion of Ishmael, one of Abraham's descendants, expressed in Gen 21:10-12.

institution of the Greco-Roman world that meets the requirements of this text. This investigation may best be concluded by reflecting on this failure again. If it is insisted that Paul is attempting to draw on the Hellenistic will, it must be concluded that Paul did not understand this institution. To account for Paul's misunderstanding, one would have to say that Paul had no immediate experience with or knowledge of the Hellenistic will. This would have led Paul to erroneously read the nature of the OT bĕrît into the Hellenistic will. Hence, Gal 3:15 would be seen as sufficiently describing the OT covenant but as failing to fit the Hellenistic will. This explanation of Paul's statement concerning the diathēkē of Gal 3:15 concedes the main point of the present thesis: that Paul is describing the OT covenant. This insight provides the primary basis for the present thesis.

### C. Paul's Technical Vocabulary

When Paul speaks kata anthrōpon in Gal 3:15, he is not only stating the human assessment of the type of institution represented by the diathēkē of the scriptures but is also speaking about that diathēkē as people normally speak about such institutions. In other words, he is applying common legal terms to the diathēkē in question.

The legal nature of kuroun, akuroun, athetein and epidiatassesthai has long been noted by scholars.<sup>23</sup> This legal language is clearly a result of speaking kata anthrōpon.

The discussion in Gal 3:15-18 swings between diathēkē and promise

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<sup>23</sup>Eger, ZNW 18 (1917/18) 88f.

(diathēkē in vv 15 & 17a and promise in vv 16 & 17b-18). Of these two, Paul only speaks kata anthrōpon of diathēkē. Accordingly, the legal terminology is used only with reference to diathēkē. Thus the promise is spoken (v 16) while the diathēkē is kekurōmenē. The strict use of the legal language for diathēkē is seen in particular in the switch of language in v 17 as Paul moves from diathēkē to promise.

In Gal 3:17 Paul is pointing out the impact that the law might have on the Abrahamic grant. He speaks about this grant both in terms of diathēkē and epaggelia, but he uses different terms for the impact that the law might have on each. In connection with the diathēkē he uses a legal term, akuroun, and in connection with the epaggelia he uses a nonlegal term, katargein. That akuroun is a special term for Paul is evident from the fact that it only occurs this one time in Paul's writings when he steps out of his normal way of thinking to speak kata anthrōpon concerning a given legal institution. Katargein, however, is a nonlegal term that Paul uses quite often.<sup>24</sup> This switch from legal to nonlegal language when switching from diathēkē to epaggelia shows that speaking kata anthrōpon about diathēkē alone caused Paul to use a special vocabulary. This in turn shows that in speaking kata anthrōpon about diathēkē he is speaking of the institution in legal terms.

Paul's legal vocabulary in Gal 3:15,17 has been used by scholars to confirm the claim that Paul is speaking of a will. In fact for some, in view of the failure to harmonize Gal 3:15,17 with the facts about a will, the legal language in the text is the only confirmation that Paul has a

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<sup>24</sup>TDNT 1. 452f; MM 331; in the papyri, katargein means to hinder or render inactive.

testament in mind.<sup>25</sup> The legal vocabulary used, however, is of a general nature and thus does not point decisively to a will.<sup>26</sup> It only shows that Paul views whatever diathēkē he has in mind as a legal institution.

Paul's principal legal category is kuroun, which appears in the kekurōmenē of v 15 and the prokekurōmenē and akuroun of v 17. This term, which was used of a broad range of legal actions, means to enforce, confirm, validate or determine.<sup>27</sup> In papyrological testamentary texts, the verb kuroun is not used.<sup>28</sup> The adjective kuria, however, is used to speak of the validity of a will,<sup>29</sup> and akuroun is used for revoking a will.<sup>30</sup> But again the legal use of the kuroun word group is not restricted to wills.<sup>31</sup>

Kuroun in Gal 3:15,17 refers to the legal status of an institution. Thus being kekurōmenē, a diathēkē has legal force. It is legally in force or enacted.

Akuroun in v 17 refers to the act of stripping a diathēkē of its legal force. The analysis of the text given previously<sup>32</sup> shows that akuroun in v 17 corresponds to and thus embraces the athetein and epidiatassesthai of v 15. Also, both akuroi in v 17 and athetei ē epidiatassetai in v 15 are in

<sup>25</sup>So for example, Eger, ZNW 18 (1917/18) 96; and Oepke, Galater, 111.

<sup>26</sup>See Hughes' discussion of these terms, NovT 21 (1979) pp. 67-70 nn. 142-149.

<sup>27</sup>LSJ kuroō, TDNT 3. 1098, BAGD kuroō.

<sup>28</sup>Hughes, NovT, 21 (1979) 68.

<sup>29</sup>Ibid., and Eger, ZNW 18 (1917/18) 90. On the use of kuria in papyriological testamentary texts and how this usage relates to Gal 3:15,17, see p. 23 above.

<sup>30</sup>Eger, ZNW 18 (1917/18) 92, and MM 20.

<sup>31</sup>TDNT 3. 1099-1100.

<sup>32</sup>See p. 47 above.

opposition to kekurōmenē. Thus, these two expressions represent two ways in which a diathēkē can be invalidated or stripped of its legal force.

Athetein means "to regard as nought," "to declare invalid," "to set aside" or "to annul."<sup>33</sup> In the papyri, this term is used of a variety of legal transactions.<sup>34</sup> As a way of invalidating a diathēkē, athetein refers to the act of merely cancelling it.

Epidiatassesthai does not appear outside of Gal 3:15.<sup>35</sup> The verb diatassein means to appoint, ordain, arrange or order. W. Judeich points out that diatassesthai, diataxis, diatagma and diatage display the special meaning of "determine by testamentary disposition."<sup>36</sup> But again the terms have a much broader usage.<sup>37</sup>

Epidiatassesthai in Gal 3:15 is usually taken to mean "to add a codicil to."<sup>38</sup> Thus, diatassesthai with the prefix epi has the idea of "to ordain onto." Max Conrat takes exception to this interpretation of this hapax legomenon. He feels that prosdiatassesthai, which term does appear with the sense of "to add to," would be a more appropriate term if Paul had meant what he is commonly interpreted as saying.<sup>39</sup>

Since epidiatassesthai refers to an act that would overthrow (akuroun) a diathēkē, one must agree with Conrat that, if epidiatassesthai means to

<sup>33</sup>TDNT 8. 158; BAGD atheteō.

<sup>34</sup>MM 12, and Hughes, NovT 21 (1979) 69 n. 146.

<sup>35</sup>Eger, ZNW 18 (1917/18) 92.

<sup>36</sup>W. Judeich, Altortuemer von Hierapolis, p. 110, cited by Deissmann, Light, 87 n. 5.

<sup>37</sup>MM 155; Hughes, NovT 21 (1979) 69 n. 147.

<sup>38</sup>BAGD epidiatassomai.

<sup>39</sup>Max Conrat, ZNW 15 (1904) 214.

make an addition to, the addition must be of quite an extraordinary nature to overthrow the diathēkē.<sup>40</sup> Conrat thus suggests that epidiatassesthai means rather "to replace." He writes, "Meines Erachtens ist das Wort epidiatassesthai vielmehr in dem Sinn einer erneuten Verfügung zu verstehen."<sup>41</sup> Thus diatassesthai with the prefix epi means "to ordain over."

If Conrat is correct, then Paul is saying that a diathēkē can be made invalid by being either annulled or replaced. While the first action merely involves stripping it of force or cancelling it, the second involves replacing it. Even if epidiatassesthai simply means "to add to," the act entailed would have to be seen as producing a new diathēkē which replaces the original since this act invalidates it.<sup>42</sup> Hence, "replace" captures the force, if not exactly the definition, of epidiatassesthai and is the preferred rendering of the term since "add to" is too weak an expression.

For Paul, covenant is of the genre of legal institutions. Unlike some legal institutions, such as a testament which can be revoked, however, covenant is absolute and irrevocable.

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<sup>40</sup>Ibid.

<sup>41</sup>Ibid., 215.

<sup>42</sup>Hughes (NovT 21 [1979] 70 n. 149) writes, "The sense of epidiatassetai in v. 15 seems to be that of a diathēkē in such a way as to substantially alter it. It does not seem to preclude any addition to a diathēkē since the law, the Mosaic covenant, was added (prostithēmi--v. 19) to the Abrahamic--though in such a way, as Paul argues, as not to substantially alter the Abrahamic principle of inheritance-through-promise." If this is the case, to translate epidiatassesthai with "to add to" is misleading.



## CHAPTER 4

THE MEANING OF DIATHĒKĒ

The discussion so far has focussed on the text of Gal 3:15 and the institution in question. Now the definition of the key term, diathĒkĒ, must be investigated. The principal concern for the present study is whether or not diathĒkĒ accurately represents bĕrît. This concerns both the meaning of diathĒkĒ, which is investigated in the present chapter, and bĕrît, which is treated in the next chapter.

DiathĒkĒ is usually understood as "disposition" or "disposal," which emphasizes the one-sidedness of the arrangement in question. Moulton and Milligan express this understanding as follows: "...diathĒkĒ is properly disposio, an "arrangement" made by one party with plenary power, which the other party may accept or reject, but cannot alter."<sup>1</sup> If this is the case, diathĒkĒ is not really a suitable term for bĕrît since the Hebrew term does not carry this nuance of one-sidedness.

Paul's use of diathĒkĒ in Gal 3:15,17, and particularly his legal terminology associated with diathĒkĒ, does not reflect the supposed nuance of one-sidedness. He characterizes diathĒkĒ with the term kuroun. Thus, a diathĒkĒ for him is principally a binding act or an enactment, which idea is quite independent of the idea of one-sidedness or disposal. The broader usage of diathĒkĒ in both secular Greek and Hellenistic Jewish literature reflects the same understanding.

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<sup>1</sup>MM 148. Similarly, Burton (Galatians, 496) describes a diathĒkĒ as follows: "An arrangement or agreement between two parties in which one accepts what the other proposes or stipulates; somewhat more one-sided than a sunthĒkĒ."

## A. The Broader Usage of Diathēkē Apart from Hellenistic Judaism and Christianity

Apart from the literature of Hellenistic Judaism and Christianity, diathēkē is predominantly used in the sense of testament or last will. The few instances, however, in which this term is used in a broader sense suggest that the basic idea in diathēkē is that of a binding act or order.

Closely related to the idea of a will, the term diathēkē sometimes is used for a philosophical testament in the sense of the legacy of a sage.<sup>2</sup> Behm suggests, "This derives from the legal usage; it is assumed that the last orders, sayings or admonitions of such a man are binding."<sup>3</sup> Behm's derivation of this usage from the terms used for a will is not necessarily correct, as will be seen shortly. However, the meaning he assigns to diathēkē in this usage is most certainly correct. The last orders of a sage are a diathēkē because they are binding.<sup>4</sup>

Removed from the idea of a will is the somewhat problematic reference to diathēkai in Dinarch 1:9: to sunedrion ... ho phulattei tas aporrētous diathēkas en hais ta tēs poleōs sotēria keitai (the Areopagus ... who keeps the secret diathēkai, in which are the salvation of the city).<sup>5</sup> If diathēkē means disposal, the diathēkai may refer to "the mystic deposits on which the common weal depended, probably oracles."<sup>6</sup> However, diathēkai may simply

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<sup>2</sup>For references see TDNT 2. 124.

<sup>3</sup>TDNT 2. 124-125; and Kutsch, Neues Testament - Neuer Bund?, 52.

<sup>4</sup>This is the sense of diathēkē in the pseudepigraphic Testaments of the Twelve Patriarchs. See p. 82 below.

<sup>5</sup>The Greek text is cited from TDNT 2. 125.

<sup>6</sup>LSJ diathēkē.

mean, as Behm suggests, sacred decrees or statutes on which the welfare of the state depended.<sup>7</sup>

According to Sextus Empiricus, Adversus Mathematicos, vii, 136, Democritus used diathēkē for "bodily constitution" (kata sōmatos diathēkēn). According to this usage, diathēkē is used as a synonym of diathesis (placing in order, arrangement).<sup>8</sup> This usage of diathēkē significantly departs from the idea of disposal. The bodily constitution is fixed. But it has no connotation of one-sidedness.

Aristophanes in Aves 440 uses diathēkē in a way that is commonly understood as treaty, contract or sunthēkē. The line reads, ēn mē diathōntai g' hoide diathēkēn emoi hēnper ho pithēkos tē gunaiki dietheto.<sup>9</sup> Peisthetairos, in coming to terms with the birds, will not put his arms down unless the birds make a diathēkē with him (not to hurt him) like the ape made with his wife. If this diathēkē is a contract, then as scholars have often noted, it is rather one-sided. Behm remarks, "This is a treaty between two parties, but binding only on the one according to the terms fixed by the other."<sup>10</sup> Strictly speaking, diathēkē in this text is not a contract. It is only a commitment on the part of one party not to hurt the other. It is a guarantee or a binding commitment to certain action.<sup>11</sup> Behm's inclusion of "the terms fixed by the other" in the meaning of

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<sup>7</sup>TDNT 2. 125.

<sup>8</sup>TDNT 2. 124; and LSJ diathēkē. See Kutsch, Neues Testament - Neuer Bund? 53 for difficulties with this line.

<sup>9</sup>Cited from TDNT 2. 124.

<sup>10</sup>TDNT 2. 125. See also Kutsch, Neues Testament - Neuer Bund? 54.

<sup>11</sup>For a full discussion of this text, see Kutsch, Neues Testament - Neuer Bund? 53-55.

diathēkē in this text is unwarranted. This diathēkē cannot even be seen as a stipulation since only the birds make it.

Diathēkē approaches the idea of contract more clearly in Isaeus 6:27 which states, kai grapsas diathēkēn, eph' hois eisēgagē ton paida, katatithetai meta toutōn Puthodōro.<sup>12</sup> Burton translates this as follows: "And having written out an agreement (diathēkē) by which he introduced the boy (into his phratría), he deposited it, with their concurrence, with Pythodorus."<sup>13</sup> In this text, diathēkē clearly is not a will. But Kutsch does not think it is a contract as Burton suggests. He notices, "Die diathēkē, die Euktemon niederschrieb, enthaelt die Bedingungen, unter denen er den Knaben in seine Fratrie einfuehrte; weder gilt sie erst fuer den Fall seines Todes noch tritt eine andere Person als '(Vertrags-) Partner' auf. Vielmehr steht auch hier diathēkē im Sinne der einseitigen 'Anordnung,' 'Verfuegung.'"<sup>14</sup> It is true that there is no contracting partner. Yet as Kutsch himself admits, the diathēkē contained the stipulations or conditions (Bedingungen) upon which he introduced the boy. Thus, though the diathēkē is an "order" or "disposal" and in this sense is closely linked to the idea of a will, it not radically distinct from a contract even though the demands are one-sided.

The connection between diathēkē and contract is made clear in Isaeus 4:12, where diathēkē, meaning a will, is classed among sumbolaia, agreements or contracts.<sup>15</sup>

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<sup>12</sup>Cited from Burton, Galatians, 496.

<sup>13</sup>Ibid., 496.

<sup>14</sup>Kutsch, Neues Testament - Neuer Bund?, 55.

<sup>15</sup>Burton, Galatians, 497.

The common denominator in the various usages of diathēkē in Greek literature is in the idea of something that is binding: an order or binding arrangement. As Behm notes, the last sayings of a sage are a diathēkē because they are binding. As a binding act, a diathēkē can be a guarantee (Aristophanes, Aves 440) or a stipulation (Isaeus 6:27) and thus be classed with contracts (Isaeus 4:12). Even the use of diathēkē for bodily constitution by Democritus comes under the idea of a binding arrangement. The bodily constitution is fixed and thus in a sense binding. Since the central idea of diathēkē in its various uses is that of an order or arrangement, the diathēkai in Dinarch 1:9 are most likely decrees or statutes, as Behm suggests, rather than deposits.

The use of diathēkē for a will does not deviate from the term's general sense of a binding act. Since a will represents an act of disposal, the idea of disposal does sufficiently express the idea in a testament. But from this it does not follow that the meaning of diathēkē as a term for a will is that of disposal. The concept of a binding act equally, though from a different perspective, represents the testamentary act. Which nuance of the testamentary act the Greeks saw in their term for testament, diathēkē, must be determined from the term's broader usage. The use of diathēkē by Democritus noted above is decisive in this case. In the idea of bodily constitution, the notion of disposal is wholly absent.

That the nontechnical sense of diathēkē remained in its technical use is suggested by the peculiar use of the plural with reference to a will. The plural diathēkai was used for both the single provisions of a will without designating the will as a whole, as well as for the sum total of the provisions of a will, so that the plural is equivalent to "will" or to the

singular, diathēkē.<sup>16</sup> Thus, each provision or ordinance is a diathēkē.

Another source of confirmation that the Greeks understood a testament as an ordinance, the nontechnical sense of diathēkē, comes from the use of the diatassō word group for testamentary disposition noticed above.<sup>17</sup> This word group has its basic sense in the idea of to ordain and then what is ordained. Hence, a testament was seen primarily as an ordinance rather than as a disposal.

In view of this, it is questionable whether the use of diathēkē for the last sayings of a sage was derived from the legal use of the term, as Behm suggests.<sup>18</sup> The idea of a binding statement or order which is native to the nontechnical use of the term is sufficient to explain this usage.

The papyrological evidence suggests that the legal use of diathēkē completely monopolized the word by at least the 1st Century AD.<sup>19</sup> The fact that the broader meaning of diathēkē was carried over into Judaism, however, checks any hasty conclusions derived from the papyri. The loan words dēyâtîqî or dî'âtîqî<sup>20</sup> found in Rabbinic writings were used both in the narrower sense of "last will" and in the broader sense of "ordinance."<sup>21</sup> Since Judaism borrowed the legal institution of a will from the Greco-Roman

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<sup>16</sup> Ibid., 496.

<sup>17</sup> See p. 66 above. See also MM 155.

<sup>18</sup> See p. 69 above.

<sup>19</sup> MM 148.

<sup>20</sup> Marcus Jastrow, A Dictionary of the Targumim, The Talmud Babli and Yerushalmi, and the Midrashic Literature (New York/Berlin: Verlag Choneb, 1926) 294.

<sup>21</sup> TDNT 2. 125; Str-B 3. 545-549; and Yaron, Gifts in Contemplation of Death, 19-20.

world, it is not surprising that the technical term for will would also be borrowed. What is of special significance for the meaning of diathēkē, however, is that the broader meaning of diathēkē was also adopted. After citing a few examples of the use of the term in this more general sense, Behm argues, "Since there is nothing to suggest that the Jews themselves gave a new sense to the term, one can only conclude that they were adopting a common Greek sense."<sup>22</sup>

Since the will was taken over into Judaism later, i.e., probably after the 1st Century, the loan words may also be late.<sup>23</sup> Hence, its broader meaning is most likely indicative of the continuation of the broader usage of diathēkē on into the 1st and 2nd Centuries.<sup>24</sup> In fact, if a testament was primarily seen as an ordinance, the technical term itself would have kept the basic, broader sense of the word alive.

#### B. The Broader Usage of Diathēkē in the LXX and Apocrypha

In a few instances in the LXX and Apocrypha, diathēkē and sunthēkē approach each other in meaning. The meaning of diathēkē reflected in this latitude of usage corroborates what has been seen thus far: that diathēkē is primarily a binding act.

Two Hebrew terms translated with diathēkē in the LXX suggest that this term was used in the sense that approaches the idea of contract. The first is in Ezekiel 16:29 where diathēkē is given for the Hebrew taznut (harlotry,

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<sup>22</sup>TDNT 2. 125; see also Str-B 3. 545.

<sup>23</sup>On the adoption of the will by Judaism, see pp. 35f. above.

<sup>24</sup>Contra Moulton and Milligan (MM 148) who suggest that the will ultimately monopolized the term, diathēkē.

fornication). Harlotry is a common metaphor in the Old Testament for any illicit or corrupt union and is especially used for Israel's going after other gods. This is harlotry because Israel is joined to YHWH as if by wedlock and idolatry thus is an illicit union.

The Hebrew text in question reads, "You also multiplied your harlotry with the land of merchants, Chaldea...." A similar statement is said of Israel's relation with Assyria in the previous verse (v. 28) where it says, "You played the harlot (tiznî) with the sons of Assyria." The LXX renders tiznî with exeporneusas but uses diathēkē for the substantive of the same root, znh, in v 29.

The use of diathēkē in v 29 is probably due to the language of commerce in the Hebrew Text. The LXX translates the Hebrew "you multiplied your harlotry with the land of merchants, Chaldea" with "you multiplied your diathēkai with the land of the Chaldeans." Perhaps the translators understood harlotry in relation to a commercial group as making diathēkai. At any rate, diathēkē is used here, quite clearly, in the sense of "covenant" or "treaty" or, perhaps more accurately, in the sense of a commercial or political arrangement.<sup>25</sup>

The second time diathēkē is used in translation to express the idea of a relationship is in Zech 11:14 of the Alexandrian Text. The Hebrew reads, "to break the brotherhood ('aḥāwāh) between Judah and Israel." The Alexandrian Text renders the term 'aḥāwāh with diathēkē. This statement is an interpretation of the breaking of a staff, which in Hebrew is called hāḥōblīm, cords or bands (from hābal, to bind or pledge), which can also be

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<sup>25</sup>Concerning the use of diathēkē in Ezekiel 16:29, Cooke (A Critical and Exegetical Commentary on the Book of Ezekiel [Edinburgh: T & T Clark, 1951] 171) correctly remarks, "...the translation is wrong, but the allusion is rightly understood."



used for a measured portion or territory. The LXX renders this term with schoinisma, from schoinos, a reed, fence or land-measure.

The Vatican and Syrian versions of the LXX continue the idea of territory in hāhōblīm and schoinisma and translate ʾahāwāh with tēn kataschesin, possession. The Alexandrian Text, by rendering ʾahāwāh with diathēkē seems to let the idea of cords or bands in hāhōblīm and the idea of brotherhood dictate the translation. If this is so, diathēkē is understood in the sense of a covenant, bond or binding arrangement that ties Judah and Israel together.

The association of diathēkē with sunthēkē is made explicit in Isaiah 28:15. The Hebrew lines in question read:

kî ʾāmartem kārātnū bēʾrīt ʾet-māwet  
wē ʾim-šēʾōl ʾāšīnū hōzeh

The LXX uses sunthēkē to translate the noun hōzeh, which comes from the verb hāzāh, to see, and as a noun normally means "seer" but in this case probably "vision." So the second line in Hebrew reads, "and with šēʾōl (the realm of the departed dead, hades in LXX) we have made a vision," i.e. by necromancy.<sup>26</sup>

How the LXX came to translate hōzeh by sunthēkē may be explained by the parallelism involved in this poetic text. The preceding line reads, "Because you have said, 'We have made (lit., cut) a bēʾrīt (diathēkē in LXX) with death.'" Death and šēʾōl are parallel concepts, and so bēʾrīt and hōzeh are also taken as parallel concepts.

The parallel in Hebrew is that the vision with šēʾōl gives security as does the bēʾrīt with death. The LXX, however, makes the parallel more obvious in rendering hōzeh with sunthēkē while, as usual, rendering bēʾrīt

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<sup>26</sup>BDB 302.

with diathēkē. This translation is so attractive for its clarity that even modern commentators<sup>27</sup> and translations<sup>28</sup> follow the LXX here.

Diathēkē and sunthēkē also approach each other in meaning in the Wisdom of Solomon and 1 Maccabees.

Sunthēkē is used only twice in Wisdom. In 1:16 sunthēkē is used of a treaty which the ungodly (asebeis) made with death (thanatos). The same verse says that these sought to make death their friend (philos), reinforcing the relational idea of the sunthēkē. In this case, sunthēkē is used in the usual sense of a treaty. The use of this term in Wis 12:21, however, is odd. It is the only place in the Apocrypha where it is used (in the plural) in the sense of bērît. The line in question reads, hōn tois patrasin horkous kai sunthēkas edōkas agathōn huposcheseōn (whose fathers you gave oaths and covenants of good promises). The same author uses the plural of diathēkē in an identical manner in chapter 18:22, where he speaks of the horkous paterōn kai diathēkas.<sup>29</sup> Moreover, the fact that the author has sunthēkai agathōn huposcheseōn (covenants of good promises) in 12:21 shows that sunthēkē is used in the sense of diathēkē. Diathēkē would be a more exact term for promise. The use of horkoi suggests the same.

The use of sunthēkē in Wis 12:21 shows again that diathēkē and sunthēkē were not radically distinct concepts. Further, it shows that it was not simply the case that diathēkē could be used in the sense of sunthēkē but

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<sup>27</sup>For a survey of the interpretation of hōzeh in this text see Hans Wilderberger, Jesaja 28-39 (Neukirchen-Vluyn: Neukirchener Verlag, 1982) 1064-1065.

<sup>28</sup>So RSV, NASB, JB and NIV.

<sup>29</sup>Roetzel ("Diathēkē in Romans 9,4," Bib 51 [1970] 381f.) persuasively argues that the diathēkai in 18:22 are promises to the fathers who lived at the time of the Exodus. This makes the parallel with the sunthēkai of 12:21 more striking since they are sunthēkai agathōn huposcheseōn.

that sunthēkē could also be used in the sense of diathēkē.

1 Maccabees 1:11 and 11:9 gives further evidence for the contention that diathēkē and sunthēkē could approximate each other in meaning. In the former passage where we read diathōmetha diathēkē meta tōn ethnōn tōn kuklō hēmōn, diathēkē is almost certainly used in the sense of sunthēkē. In the latter passage where we read sunthōmetha pros heautous diathēkēn. Normally, and as would be expected, the verb diatithesthai goes with diathēkē. The use of suntithesthai for the act of making a diathēkē clearly shows that diathēkē could be a treaty or pact.

Remarking on the three passages, 1 Maccabees 1:11; 11:9 and Wisdom 12:21, Kutsch suggests, "Diese drei Belege zeigen, dass im 1. vorchristlichen Jahrhundert sich die Begriffe diathēkē und sunthēkē jeweils am Rande ihres Bedeutungsfeldes überschneiden konnten; wenn auch nur in ganz seltenen Fällen, konnten beide Wörter doch gelegentlich die Bedeutung des anderen annehmen."<sup>30</sup> The observation that the two terms cross over into each other's range of meaning only at the edges of their definitional fields is important. The vast majority of occurrences of both terms shows that they represent quite distinct notions.<sup>31</sup> However, a small

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<sup>30</sup>Kutsch, Neues Testament - Neuer Bund?, 71.

<sup>31</sup>In Philo and Josephus, the usage of diathēkē narrows down. Philo never uses diathēkē in the sense of covenant, treaty or contract. For this he uses sunthēkē. However, he maintains the broader sense of the term. For him diathēkē does not exclusively mean "last will" (TDNT 2. 128; Burton, Galatians, 498-499). Josephus uses diathēkē exclusively in the sense of will. For a treaty between nations or agreements between people, he uses sunthēkē, and for making an agreement, suntithesthai. Burton (Galatians, 499) observes, "The absence of diathēkē in the sense of "covenant" is apparently to be explained by his failure ever to speak of the covenant of God with his people, though it is also significant of his feeling that diathēkē was not the suitable word in his day and circle of thought for an agreement between equals that in referring to agreements of this character which in the LXX are called diathēkai he uniformly employs some other form of expression."

proportion of occurrences shows that any fixed polarization of the terms is unwarranted.

### C. Diathēkē as Ordinance

Sunthēkē, being derived from suntithēmi, clearly emphasizes the two-sidedness of an arrangement. But, from this it does not logically follow that diathēkē is a one-sided arrangement. Much of the discussion on sunthēkē and diathēkē seems to be afflicted with this logical fallacy.<sup>32</sup> The fact that diathēkē and sunthēkē can approximate each other in meaning

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The pattern reflected in Philo and Josephus is instructive. Firstly, in their works diathēkē and sunthēkē are distinct notions that do not readily approximate each other. While the distinction is not as consolidated in the LXX and Apocrypha, it is nonetheless clearly evident there also. This prevents any attempt to see the two terms in Jewish literature as synonyms. It also militates against the thesis that the translators of the LXX understood bērît as a contract. Had this been the case they would no doubt have used sunthēkē for bērît.

<sup>32</sup>Hence the use of diathēkē in the LXX is justified on the grounds that the divine bērît was rather one-sided though it is conceded that bērît means contract. The LXX use of diathēkē only gets theological justification. Annie Jaubert (La Notion d'alliance dans le Judaïsme aux Abords de l'ère Chrétienne [Paris: Editions du Seuil, 1963] 312) states this theological justification more fully than usual as follows: "En fait le terme hébreu bērît pouvait être appliqué au traité de vassalité imposé par un supérieur à un inférieur. Il est probable pourtant que c'est la densité théologique du mot qui a influé sur sa traduction. Bērît en hébreu s'était comme spécialisé pour exprimer l'alliance de Dieu avec son peuple. Dans la bērît hébraïque nous avons distingué l'alliance-contrat et l'alliance-promesse, mais dans l'un et l'autre cas c'était Dieu qui prenait l'initiative et Israël ne pouvait ni refuser d'adhérer au contrat ni éluder les obligations liées aux promesses de Yahvé...Israël était choisi parmi les peuples, mais il n'était pas en son pouvoir de se dérober à l'élection. C'est cet aspect souverain de l'initiative divine qui semble avoir frappé les traducteurs des Septante et leur avoir suggéré l'emploi de diathēkē. L'alliance divine, c'était la "disposition" de salut que Dieu avait établie pour son peuple, dans l'absolute liberté de ses décisions. La traduction diathēkē est par elle-même une interprétation; elle engage d'emblée une doctrine religieuse de l'Alliance. (Emphasis is added).

exposes this fallacy. If a diathēkē can be a sunthēkē and vice-versa, then the difference between the two must not be in the one-sidedness or two-sidedness of the arrangement. Rather than being the polar opposite of sunthēkē, diathēkē must capture an essential component of sunthēkē.

The essential idea in diathēkē that captures the idea behind sunthēkē is that of a binding act or enactment. A diathēkē commits parties to a certain ordered, stipulated or promised action. Thus the idea of an order or a binding arrangement seen as the common denominator in the Greek usage of the term is also the definition of diathēkē that the translators of the LXX and the authors of 1 Maccabees and the Wisdom of Solomon worked with.

Expressing the idea of a binding act, diathēkē can have a range of usages. It can be used for decree, disposition, order, ordinance, statute, guarantee, or arrangement. As ordinance or arrangement, a diathēkē can function as a sunthēkē. The two terms, however, are not synonymous. Sunthēkē is limited to a mutual arrangement whereas diathēkē is not.

That the primary idea in diathēkē in the LXX is that of ordinance or something that is established is not simply suggested by the fact that diathēkē can approach the meaning of sunthēkē but also by the Hebrew terms other than bērît that it is used for.

The term translated most frequently with diathēkē, i.e., other than bērît, is the term ʿēdūt (testimony) which is used in the Old Testament as a parallel concept of bērît. This translation of ʿēdūt is used in reference to the ark, i.e., the ark of the testimony, which is a synonym for the ark of the covenant (e.g. Ex. 31:7).

The other instances where diathēkē translates a Hebrew term other than bērît, though not numerous, are more telling as to how the translators understood the term. In Deut 9:5 diathēkē is used for dābār (word) which is

used in the sense of an oath (the word sworn). The text in question clearly shows that dābār is used for the běřît which God made with the patriarchs. Furthermore, běřît and oath are very closely related concepts.

It is difficult to determine whether in the LXX of 2 Chr 25:4 we have a translation of the MT. For the Hebrew kakkātûb battôrāh bēsēper mōsēh (as it is written in the Law in the book of Moses), the LXX has kata tēn diathēkēn tou nomou Kuriou, kathos gegraptai (according to the diathēkē of the law of the Lord, as it is written). Kata tēn diathēkēn may be the equivalent of kakkātûb in which case diathēkē would be "the writing" or "what is written." If it is not, the intention of the translators is clear. The writings or the book of Moses are the diathēkē. Similarly in the Syriac text of Daniel 9:13, diathēkē is used for tôrāh (law of Moses), which is rendered in the Alexandrian and Vatican Text with nomos.

The use of diathēkē for dābār (word=oath), kātûb (writing) and tôrāh (law) suggests that this term had the general sense of ordinance. The range of ideas expressed by it includes both oath and law. The common element in oath and law is not a disposal by one party but a binding act. Both oath and law bind parties to obligations. Further, a diathēkē can bind either the divine (oath) or human party (law). As such, a diathēkē is an ordinance that binds any party related to it.

Ecclesiasticus uses diathēkē consistently in the sense of ordinance. While diathēkē translates běřît five times, it translates hōq (statute) ten times and huqqāh (ditto) once.<sup>33</sup> Diathēkē is associated with law,

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<sup>33</sup>These statistics are taken from Hatch and Redpath, Concordance of LXX. Roetzel (Bib 51 [1970] 380) gives slightly different statistics based on Israel Levi's edition of the text (The Hebrew Text of the Book of Ecclesiasticus [Leiden: E. J. Brill, 1951]) as follows: diathēkē is used for hōq ten times, for běřît three times and for 'ôt once.

judgments, commandments and oath (24:23; 28:7; 41:19; 42:2; 44:20; 45:5). The term is used for the decree or ordinance of death (4:12,17),<sup>34</sup> for God's decree in his works (16:22) and for the decree or sentence of judgment (38:33; cp. 45:17).

In 2 Maccabees 7:36 the martyr dies under (hupo) the diathēkē of everlasting life in contrast to the wicked one who dies under God's judgment. This use of diathēkē agrees with the use in Ecclesiasticus. It is a decree, ordinance or ordainment.

The use of diathēkē for the last sayings of a patriarch in the pseudepigraphic Testaments of the Twelve Patriarchs<sup>35</sup> does not really depart from its usage ascertained thus far. The primary idea in the diathēkai is not that they are the last words but rather that the words are commanded (T. Reub. 1:1) or decreed (T. Zeb. 1:1 and T. Naph. 1:1). This much is clear; diathēkē is not used in its narrow technical sense evidenced in the papyri, i.e., a last will.

Diathēkē as ordinance or as that which is established and binding rather than as a one-sided disposal alone agrees with the institution described in Gal 3:15,17. The notion of one-sidedness carries implications that are incongruous with Paul's description of the divine diathēkē in this text. Because a last will is the exercise of one's own rights over one's own goods, it was not binding over the one who makes it; and it is this aspect of a will that causes the greatest difficulty for understanding diathēkē in Gal 3:15 as a will. The argument in Gal 3:15,17 presupposes

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<sup>34</sup>For the use of diathēkē in this way, see W. O. E. Oesterley, Ecclesiasticus (Cambridge: University Press, 1912) 99.

<sup>35</sup>T. Reub. 1:1, T. Zeb. 1:1, T. Naph. 1:1, T. Gad 1:1, T. Ash. 1:1, T. Jos. 1:1.

that God himself is bound by the diathēkē. In fact, Paul introduces diathēkē into the discussion to draw out the irrevocability of the promise. Therefore, the institution in question is not a mere expression of the authoritative will of the one who makes it. Rather, it is objective to all parties concerned. Hence, in its basic sense, diathēkē is simply a binding act or an ordinance.



## CHAPTER 5

BĚŘÎT AS ORDINANCE

By rendering bĚŘÎT with diathĕkē, understood as a binding act or ordinance, Hellenistic Judaism expressed the central idea that Post-biblical Judaism universally understood in the institution of covenant. Greek, Aramaic and Hebrew sources corroborate this meaning of bĚŘÎT.

A. The LXX Rendering of BĚŘÎT

The translators of the LXX clearly understood bĚŘÎT as ordinance. Of the 286 occurrences of bĚŘÎT in the MT, 270 are translated with diathĕkē, which term meant ordinance for the translators. That bĚŘÎT meant ordinance for them is also evident from their translation of bĚŘÎT with terms other than diathĕkē. BĚŘÎT is translated with marturia, testimonies (Deut. 9:15; 2 Kgs 17:15), which reminds one of the fact that diathĕkē was used for the Hebrew ʿēdūt (testimony). Also bĚŘÎT is translated entolē (1 Kgs 11:11). In this latter case bĚŘÎT is clearly understood as ordinance.

The translation of bĚŘÎT in Gen 14:13 may suggest that bĚŘÎT is used in the sense of a treaty. A close examination of the translation in question, however, reveals that again bĚŘÎT is understood as ordinance or binding act. In this text the expression ba'ālē bĚŘÎT (possessors of a bĚŘÎT) is rendered sunōmotai (confederates, from sunomnumi: to swear together and thus to join in a league). Here the idea of covenant or treaty comes through. However, the idea of league expressed in the prefix sun really translates "possessors of" in the expression "possessors of a bĚŘÎT." The idea of bĚŘÎT is

expressed by omnumi (to swear). To possess a běřît is to come under an oath. Thus a běřît is a binding commitment or ordinance.

Sunthēkē, a word that expresses the idea of covenant in its strict sense is used four times in the LXX. Only in one doubtful case is it used for běřît. Otherwise, it is used twice to express the idea of treaty<sup>1</sup> and once as a parallel to diathēkē.<sup>2</sup>

Since diathēkē could be used for a sunthēkē and, as will be seen, an OT běřît could functionally be a sunthēkē, it is amazing that sunthēkē is only used in one doubtful instance for běřît in the Alexandrian Text of 2 Kgs 17:15 (or 4 Kgs 17:15). Since Codex A is taken from Origin's Hexapla, Kutsch speculates that this rendering of běřît here stems from Aquila.<sup>3</sup> This conjecture may receive support from the fact that the other texts of the LXX only give one word (marturia) for three terms in the MT (statutes, covenant and warnings). This translation is poor and perhaps a fuller translation from Aquila, which now appears in the fuller translation of Codex A, was simply transposed into this text. Hence, the use of sunthēkē in this text cannot be given much weight.

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<sup>1</sup>In Isaiah 30:1 the LXX renders the Hebrew phrase linsōk massēkah, lit., to pour a libation, with epoiēsate...sunthēkas, to make a compact. In Greek the plural spondai, libations, was a term for treaty since treaties were concluded with libations (LSJ spondē). In this case, the LXX gives a correct rendering of the Hebrew idiom. The LXX uses sunthēkē to give a similar idiomatic translation in Daniel 11:6. There the phrase tou poiēsai sunthēkas, which clearly refers to a political alliance or treaty, translates the Hebrew phrase la'āsôt mēšārīm, to make an equitable arrangement (mēšārīm, from yāšār, to be smooth, straight, right). Thus, sunthēkē is understood as an agreement or treaty in the strict sense of the word.

<sup>2</sup>For this last instance, see p. 76 above.

<sup>3</sup>Kutsch, Neues Testament - Neuer Bund?, 50.

## B. Bĕrît as Ordinance in Hebrew and Aramaic Sources

The unanimity in concept with which the LXX renders bĕrît reflects a unanimity of understanding throughout Judaism. In understanding bĕrît as ordinance, there seems to have been no difference between the LXX and Hellenistic Judaism on the one hand and the Hebrew and Aramaic speaking Jewish communities on the other.

Kutsch notes that the bĕrît of Exod 19:5 was understood by some rabbis as follows: Rabbi Elieser--the Sabbath-bĕrît (bryt šbt), and Rabbi Akiba--the bĕrît of circumcision and idolatry (bryt mylh w' bwdh zrh). While one could, in view of Gen 17:9-14, talk of a "covenant" (Bund) of circumcision, one could not legitimately talk of a Sabbath covenant (Bund) and surely not of an idolatry covenant. Kutsch concludes that these Rabbis understood by bĕrît a commandment--the commandment of the Sabbath, of circumcision or against idolatry.<sup>4</sup> Strack and Billerbeck quote Rabbinic material which emphasize the bĕrît-nature of the commandments.<sup>5</sup> One quotation reads: "48 Buendnisse (brytw) hat es bei jedem einzelnen Gebot gegeben" (= 48 covenants (bĕrîtôt) were given with each single commandment). Furthermore, R. Simeon (150 A.D.) affirms "dass 576 Bundschliessungen wegen jedes Wortes in der Tora stattgefunden haetten" (that 576 covenants occur because of every word in the Torah). Thus in the thinking of these Rabbis, bĕrît is identified with commandment. Similarly, Roetzel argues that the plural bĕrîtôt was used as a synonym for ordinances, decrees or commandments.<sup>6</sup>

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<sup>4</sup>Ibid., 23-24.

<sup>5</sup>Str-B 3. 262.

<sup>6</sup>C. Roetzel, Bib 51 (1970) 379.

The Targums confirm that běřît was understood as ordinance by their rendering of běřît. With a few exceptions, the Targums translate běřît with qěyām. This term is related to the verb qûm which means, in its various forms, arise, stand, set up, establish or appoint. The basic meaning of the noun qěyām is that which is firm, established or fixed, and the word is used in Daniel 6:7,15 for a statute established by the king.<sup>7</sup> In the Targums, qěyām also has the same semantic range as běřît. It is used for the Hebrew terms šěbû'ā, oath (Num. 30:3; Dt. 7:8), nedār, vow (Gen.28:20, 31:13), and hōq, statute (Ex. 18:16,20; Ps. 99:7).<sup>8</sup> Běřît is also translated with the Aramaic term for instruction or law ('orayētā').

Ecclesiasticus clearly treats běřît and hōq (statute) as synonyms. Not only are běřît (five times) and hōq (ten times) both translated with diathēkē, in 45:5 and 15 the two terms are used interchangeably. Whereas hōq is used for the everlasting covenant made with Aaron in 45:5, běřît is used for the same covenant in v 15.

The qěyām of the Targums and hōq of Ecclesiasticus as equivalents of běřît confirm the contention that the covenant was understood primarily as ordinance or something that was binding. Thus the Hebrew and Aramaic literature of Post-biblical Judaism reflect the same definition of the covenant concept found in the Hellenistic literature.

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<sup>7</sup>Roetzel (*Ibid.*, 380) argues that the plural qěyāmāyā' means statutes or ordinances in the Targums. He gives the following Targumic quotation on Ex. 18,15f., "Because the people come to me to inquire of God; when they have a dispute, they come to me and I decide between a man and his neighbor, and I make them know the covenants (qěyāmāyā') of God and his decisions."

<sup>8</sup>Kutsch, Neues Testament - Neuer Bund?, 26-27.

### C. Bērîṭ as Ordinance in the Old Testament

While Schoeps traces Paul's 'fundamental misunderstanding' of the Jewish view of the law to his use of diathēkē and thus to Paul's source for this term, LXX and Hellenistic Judaism, he also suspects that Palestinian Judaism failed to clearly grasp the meaning of bērîṭ in the OT.<sup>9</sup> This turns the discussion to the definition of bērîṭ in the OT.

A full review of that discussion is beyond the scope of the present study. The case for understanding the bērîṭ of the OT as ordinance will, however, be presented.

The problem with defining bērîṭ begins with the etymological difficulties of the word. Among the various etymologies proposed, the one that links bērîṭ to the Akkadian birītu, "clasp," "fetter," "bond," has the most scholarly support.<sup>10</sup> The idea of "bond" is associated by scholars with the idea of treaty as a bond between parties. Weinfeld appeals to the Akkadian and Hittite terms for treaty, riksu and iṣhiul respectively, which both mean "bond." He links these terms with the Greek terms for covenant, sunthēkē, harmonia (Iliad 22: 255), sunthēsia (ii. 339), and sunēmosumē (22: 261) which also express the idea of binding or putting together. He also appeals to Arabic (ʿaqd), Latin (vinculum fidei, contractus) and German (Bund) terms which use the concept of a bond for a treaty.<sup>11</sup> However, even though the idea of "bond" in birītu links the term with the idea of contract or the Greek term sunthēkē, it does not necessarily follow that the basic

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<sup>9</sup>Schoeps (Paul, 213) writes, "...in consequence of the post-Biblical inadequacy of normative doctrine even in the schools of Palestine, there hardly existed clear ideas about the relation of Torah and Berith...."

<sup>10</sup>TDOT 2. 255; TDNT 2. 108.

<sup>11</sup>TDOT 2. 255.

idea in birītu is that of contract or agreement. The idea of "fetter" or "bond" may simply imply a binding of obligations. The notion of "imposition," "liability," or "obligation" may be foremost.

A related etymology derives bērît from the Akkadian birīt, which means "between" or "among" and corresponds to the Hebrew preposition ben which occurs in connection with bērît in the phrase bērît...ben...ûbhen, "a covenant between X and Y." Weinfeld assesses this derivation as follows: "This equation is based on the assumption that the prep. birīt has been developed into an adverb and then into a noun, an assumption that cannot be accepted without reservations. The main difficulty, however, is the coupling of berith, "between," with the overlapping prep. ben, which results in a tautology."<sup>12</sup>

Another derivation, which sheds a different light on bērît, derives it from the Akkadian word burru which means "to establish a legal situation by testimony with an oath."<sup>13</sup> Other attempts at deriving bērît have been made,<sup>14</sup> but require more explaining and so are more dubious than those mentioned.

The derivations mentioned point to two possibilities of understanding bērît: either as a contract or agreement binding two parties or simply as establishing an obligation on one or more parties. The two understandings are not mutually exclusive. The idea of a contract implies that of "imposition," "obligation" or a "legal situation." However, the reverse is not necessarily true. The question here is whether the idea of agreement

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<sup>12</sup>Ibid., 254.

<sup>13</sup>TWOT 1. 128.

<sup>14</sup>See discussions by Quell in TDNT 2. 107-109, and by Weinfeld in TDOT 2. 253-255.

between parties or of obligation is the foremost idea in bĕrît. This must be decided by the use of bĕrît and the terms it is related to or associated with.

The definition of bĕrît must be distilled from the OT itself. In seeking to define bĕrît from its OT usage, however, the variety of bĕrît types must be taken into consideration. McCarthy rightly gives this cautionary note:

A certain amount of current investigation of covenant sometimes seems to treat covenant as a univocal concept throughout the O.T.; wherever a covenant is mentioned, it is assumed to have had certain characteristics which pertain to one form of covenant. However, it is simply a fact that there are many different forms of covenant and these different forms imply different meanings.<sup>15</sup>

The failure of any given form of bĕrît to take in the features of all the different bĕrîtôt, however, does not exclude an underlying conceptual unity in all bĕrît types. While different forms may in themselves imply different meanings, bĕrît certainly has a basic meaning that is applicable to all the forms of bĕrît.

The one idea that binds all OT covenants together is not "agreement" or "contract."<sup>16</sup> A contract is only one kind of bĕrît. Rather, the unifying

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<sup>15</sup>Dennis J. McCarthy, Old Testament Covenant: A Survey of Current Opinions, (Oxford: Basil Blackwell, 1972) 4.

<sup>16</sup>Mendenhall ("Covenant," IDB 1. 716f.) categorizes the bĕrîtôt of the OT according to covenant-type or form as follows: 1) Suzerainty (I Sam 11:1; Ezek 17:12-14; Hos 12:1; Job 41:4), 2) Parity (Gen 31:44-50; 21:25-32; 26:27-31; Josh 9:3-22; I Sam 18:3; I Kgs 5:12; 15:19), 3) Patron (Noahic, Abrahamic and Davidic covenants), and 4) Promissory (2 Kgs 11:4-12,17; 23:3; Jer 34:8; Neh 10:28-29). Only the first two can be called a treaty. The treaty status of the patron and promissory bĕrît is not at all clear. The patron bĕrît is simply a guarantee or promise by the superior. In the ANE, this bĕrît-type is the equivalent of the Royal Grant in which a king grants some favour to an inferior. These were not treaties. The promissory covenant does not even involve a relationship. It is simply a commitment to certain action. For example, in 2 Kgs 23:3 the king and the people make a covenant to keep the law which was rediscovered in the temple. Jer 34:8 tells of a covenant made during the siege to release all slaves,

idea in all OT bĕrîtôt is that of a binding act, an enactment or ordinance.

E. Kutsch has been able to conceptually unify the bĕrîtôt of the OT in the idea of Verpflichtung or the imposition of obligation.<sup>17</sup> He sees three types of bĕrît in the Old Testament. The first involves imposing obligations on oneself (Selbstverpflichtung), the second imposing obligations on others (Fremdverpflichtung) and the third mutually imposed obligations (gegenseitige Verpflichtung).<sup>18</sup>

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which was conveniently revoked after the siege. Clearly, we do not have a "treaty" in these instances.

<sup>17</sup>Ernst Kutsch, Neues Testament - Neuer Bund?, 5-26. Martin Buber (Moses: the Revelation and the Covenant [New York: Harper & Brothers, 1946] 103-104) also argues that "The original meaning of berith is not "contract" or "agreement"; that is, no conditions were originally stipulated therein, nor did any require to be stipulated" (p. 103). For Buber this is even the case in a covenant that is an "alliance between two people who stand to some degree on the same level." He sees an example of this type of covenant in the covenant made by David and Jonathan in 1 Sam 18:3 and 23:18. Buber claims that this is a covenant of brotherhood by which two parties become brothers. The duties that this relationship implies need not be stated since they were obvious. Hence, "any detailed agreement is superfluous." The idea in this covenant is not contract but entering a relationship. Buber understands God's covenant with Israel on the analogy of the covenant that David made with the elders of the Northern tribes in 2 Sam 5:3. "Here, too," he argues, "no special agreement is necessary, and indeed there is no room for any such thing. The relation of overlordship and service, into which the two partners enter, is the decisive factor. Engagements, concessions, constitutional limitations of power may be added, yet the covenant is founded not on them but on the basic fact of rule and service." He classifies this kind of bĕrît as the "Royal Covenant." The Book of the Covenant, according to him, "has the character not of an agreement but of a royal proclamation," and the people's response as simply a pledge of obedience (Ex 24:7ff.). So covenant is not an agreement but an instrument creating and imposing commitment for a relationship. On Buber's relational emphasis, see the following footnote (n. 18).

<sup>18</sup>The specific way Kutsch approaches the problem of defining bĕrît has been formulated for him by the German language. As "covenant" is the common term for bĕrît in English, "Bund" is the common term in German. Both terms represent the same tradition of translation but have a slightly different emphasis. The term "covenant" emphasizes the idea of agreement which binds parties together and thus is synonymous with "contract" or "treaty." The German term Bund, however, emphasizes the relationship formed by such an agreement. Thus, its English equivalents, strictly speaking, are alliance,



Kutsch sees an example of a bĕrît that involves obligating oneself (Selbstverpflichtung) in the bĕrît that the Israelites made with the Gibeonites in Joshua 9. He denies that this bĕrît is a parity treaty and observes, "Ein "Bundschluss"--dass die Gibeoniten etwa "Bundesgenossen" oder gar "Kampfgenossen" der Israeliten wurden--ist heir nicht gemeint."<sup>19</sup> Accordingly, Kutsch differs with the usual interpretation on Josh 9:15, which reads, "And Joshua made peace with them and made a bĕrît with them, to let them live; and the leaders swore an oath to them."

Kutsch does not see the idea of treaty in the phrase "made peace with them." Based on other Old Testament passages like 2 Sam 10:19 (parallel passage 2 Chr 19:19) and especially Deut 20:10-11 and Egyptian Texts,<sup>20</sup> Kutsch interprets the phrase as meaning that the Gibeonites were made subservient to the Israelites. This is implied in their request, "We are your servants; now then, make a bĕrît with us" (v. 11) and in their reduction to servanthood when it was discovered that they were within the territory Israel was to conquer (v. 16-27). As servants, they were not covenant partners.

To Kutsch's observations it may be added that making peace was not part

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league, coalition or confederacy. The German equivalent for covenant, contract or treaty is Vertrag. Kutsch is arguing against translating bĕrît with Bund which he defines as "ein gegenseitiges Verhältnis von Personen oder Personengruppen, in das diese freiwillig eintreten und in dem die gegenseitigen oder gemeinsamen Rechte und Pflichten verbindlich festgelegt sind" (Neues Testament - Neuer Bund?, 1). Thus bĕrît would be a mutual relationship of parties, voluntarily entered into, in which mutual or agreed upon rights and obligations are bindingly set forth. While Bund puts the emphasis on the relationship entered by agreement and covenant on the agreement forming a relationship, the common idea of agreement between parties is the issue in question. The basic question is whether bĕrît is fundamentally a relational or an obligatory concept.

<sup>19</sup>Kutsch, Neues Testament - Neuer Bund?, 11.

<sup>20</sup>Ibid.

of the běřît. In the texts Kutsch refers to, in which peace is made with someone, no mention of a běřît is made. The běřît concerns another issue. The text quoted above states its content: "to let them live." Peace is only the result of such a běřît. The text also states that the běřît-making process simply consisted of an oath sworn in regard to the Gibeonites by Israel alone. So, in this běřît two parties were not entering into a relationship but one party was making a guarantee to another. This observation is supported by the Gibeonites' goal, which was to have their lives saved. That was their objective in securing this běřît, as indicated by the content of the covenant and the obligation Israel took on. Hence, Kutsch rightly observes, "běřît bezeichnet aber eindeutig nicht das Verhaeltnis--dass damit Unterwerfung und Lebensgewaehrung umfasst waeren--, sondern allein die Garantie des Lebens, ausgesprochen von Josua zugunsten (lahaem!) der Gibeoniten. Das Heisst aber: běřît bedeutet heir nicht "Bund" sondern die "Zusage," die "Selbstverpflichtung," die Verpflichtung, die Josua fuer sich und die Israeliten uebernimmt."<sup>21</sup> Thus, if Kutsch is correct, the phrase wāyyikrōt lāhem běřît usually rendered, "and they made (lit. cut) a covenant with (le: lit. to) them," means, "they made a pledge or guarantee to them."

In another kind of běřît, instead of Selbstverpflichtung, we have Fremdverpflichtung or the imposition of obligation by one, a superior, upon another, an inferior.<sup>22</sup> This kind of běřît is usually called a suzerainty treaty, of which we have a secular example in Ezek 17:12-21. King Nebuchadnezzar, the superior or suzerain, after having taken the king of

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<sup>21</sup>Ibid., 12.

<sup>22</sup>Ibid., 13-18.

Judah captive, installed Zedekiah as his vassal. The text states, "And he took one of the royal family and made a bĕrît with him, putting him under oath (lit. and caused him to enter into an oath)" (v. 13). The purpose of the bĕrît that Nebuchadnezzar made with Zedekiah, the vassal, is given in verse 14: "that the kingdom might be in subjection, not exalting itself, but keeping his (i.e., Nebuchadnezzar's) bĕrît, and that it might continue."

In answer to the question how bĕrît in this text is to be understood, Kutsch observes that Zedekiah, being made king by Nebuchadnezzar, did not enter into the relationship willingly and that the text throughout speaks only of Zedekiah's obligations and not of Nebuchadnezzar's, not even of a promise on his part. Kutsch concludes from this that the word bĕrît itself does not denote a relationship entered upon by agreement between Nebuchadnezzar and Zedekiah.<sup>23</sup>

Kutsch observes further that the word bĕrît is linked with the word ʾālāh (oath) throughout the text (v. 13,16,18,17), which has parallels in Ancient Near Eastern "covenant" terminology.<sup>24</sup> Kutsch concludes, "Der 'Fluch,' in den Nebukadnezar den Zedekia hat 'eintreten lassen'...ist nichts anderes als der Eid der Vasallen in altorientalischen Suzeränitätsverträgen. Und das parallele bĕrît entspricht...den Vasallenbestimmungen. bĕrît bezeichnet hier also wie jene Termini (nicht 'Bund,' sondern) einseitig die Bestimmung, die Verpflichtung, die der Grosskönig dem Vasallen auferlegt (und deren Einhaltung dieser durch einen Eid uebernimmt)."<sup>25</sup> Thus, instead of a "treaty" in which two parties enter into

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<sup>23</sup>Ibid., 13-14.

<sup>24</sup>Ibid., 14-15.

<sup>25</sup>Ibid., 16.

a relationship we have simply one party imposing an obligation on the other. "Fuer Ez. 17;13,16,18,19 ergibt sich, dass hier běřît nicht 'Bund' bedeuten kann, sondern die 'Verpflichtung' im Sinne der Verpflichtung eines anderen, der Fremdverpflichtung meint."<sup>26</sup> Once again, běřît reduces to the imposition of obligation.

In 1 Kgs 5:12 and Gen 31:44,52 we have another situation. Here we do not have one subject of the běřît imposing an obligation upon himself, as in the case of Joshua, or upon another as in the case of Nebuchadnezzar, but we have two subjects, i.e., both parties making běřît. 1 Kgs 5:12 says of Solomon and Hiram, "and the two of them made a běřît," and in Gen 31:44 Laban says to Jacob "let us make a běřît, you and I."

In these two texts, we have what might be called parity treaties. The context of both passages shows that both parties have taken on obligations in relation to each other. Commenting on the běřît in 1 Kgs 5, however, Kutsch states,

Die Gegenseitigkeit von "Verpflichtung"...koennte fuer běřît auch an die Bedeutung "Abkommen," "Vertag" denken lassen; und derartige Belege sind wohl in spaeterer Zeit der Anlass dazu gewesen, běřît als "Bund" o.a. zu verstehen. Nur ist nicht zu uebersehen: Nicht dies, dass zwei Partner einander "verbunden" sind, ist das entscheidende Moment bei běřît--dass dieses "Bund" bedeuten wuerde--,sondern dies, dass man gegenseitig verpflichtet ist oder gemeinsam dieselbe Verpflichtung uebernommen hat."<sup>27</sup>

In this quote Kutsch acknowledges the connection between this type of běřît (i.e., mutual obligation) and Bund or treaty (Vertag). However, he returns to the idea that the basic idea in běřît is the taking on of obligations, in this case by both parties.

Especially in reference to this last case, one may wonder whether a

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<sup>26</sup>Ibid., 17.

<sup>27</sup>Ibid., 21.

radical distinction between bĕrît and treaty can be maintained. If bĕrît is not equal to treaty in terms of meaning, bĕrît often functions as a treaty. Functionally the two categories can be the same, even if not definitionally. Perhaps one could even argue that bĕrît in all cases analyzed fits the general category of treaty in that they concern the obligations governing the relationships between two parties (Israel and the Gibeonites, Nebuchadnezzar and Zedekiah, and Solomon and Hiram) even if the obligations are only imposed on one party. However, only the last case can be considered a proper treaty in that it alone involves mutuality and agreement between two parties. Kutsch has rightly pointed out that the common denominator throughout and the essential element in each case is not "agreement" but imposition of obligation.

Biblical Hebrew has no separate term for the idea of a treaty and so uses bĕrît for this notion since functionally a treaty is a form of bĕrît in that it concerns imposition of obligation. However, not every bĕrît is a treaty. This is especially true of those instances in which a bĕrît is made without reference to a partner or other party.

Such bĕrîtôt are found in 2 Kgs 23:3, 2 Chr 15:12 and Jer 34:10 where the bĕrît consists in merely making a binding commitment to a certain action. One further text which requires such an understanding of bĕrît is Job 31:1 in which Job says, "I have made a bĕrît with (le: lit. to) my eyes; How then can I gaze at a virgin?" Job hardly made a treaty with his eyes. Rather, he imposed a restriction on them.

The basic idea in bĕrît is, on the one hand, that of a binding pledge, guarantee, promise, commitment and, on the other hand, that of command or stipulation. The basic thrust of bĕrît is that of guaranteeing, assuring or securing action either toward (promise) or from (command) another. Thus

Quell may be right in detecting the basic motive behind making a běřît in the Ancient World in the establishment of a legal institution to regulate relationships and behaviour between parties where a natural bond like the blood-bond did not exist. Thus a běřît was designed to provide legal guarantee and security where this was not provided by some natural tie.<sup>28</sup> This makes běřît an enactment.

The divine běřîtôt in the OT reflect the same meaning and function as the secular examples already considered. The Noachic, Abrahamic and Davidic covenants are of the kind that Kutsch designates as Selbstverpflichtung. Only God is bound by the běřît. Furthermore, the běřît does not "create" a relationship. It is only a guarantee or ratified promise within a relationship that has already been established. So, the běřît with Noah and the new world is made after Noah is already in the new world (Gen 6:18, note the use of the imperfect, i.e., future tense, and 9:9f). Likewise, the Abrahamic běřît is made after the promise was given. In fact it was made upon a request for some guarantee (Gen 15:8). The Davidic běřît was also made, not to set the house of David up, but to establish it to perpetuity or to guarantee its continuation (2 Sam 7; 23:5; Ps 89).

The narrative of the making of the běřît with Abraham in Genesis 15 is instructive for this type of běřît. Abraham is told to divide the animals to prepare for a běřît-making rite, which rite is also referred to in Jer 34:18. The meaning of the rite seems clear. The běřît-making party passes through the animals as a form of self-curse or oath. Interestingly, however, in both Genesis 15 and Jeremiah 34 only the party making the

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<sup>28</sup>Quell argues for this thesis at length in TDNT 2. 111-118. cp., Buber's treatment of covenant in Moses, pp. 103-104, outlined on p. 91 n. 17 above.

promise passes through. In fact, in Genesis 15, Abraham, the human party, is asleep during the ceremony. This removes any idea of a treaty. The bĕrît is a ratified promise.

The other divine bĕrît is the Mosaic covenant made at Sinai (Exod 19f). This bĕrît takes the form of the suzerainty treaty in which God is the suzerain and Israel is the vassal. However, Exod 19:5-6 makes clear that the bĕrît is that which God demands of Israel. God said that Israel would have a special relationship with himself if they obey his voice and keep his bĕrît. Kutsch correctly observes, "In Parallele zu 'meine Stimme hoeren (= meiner Stimme gehorchen)' kann 'meine bĕrît bewahren' nur die Einhaltung von Jahwes 'Verpflichtung,' 'Gebot' bedeuten."<sup>29</sup>

As in the Noachic, Abrahamic and Davidic covenants, the relationship with God entailed in the bĕrît is not created by the bĕrît. Rather, it is only secured. God has already brought Israel to himself (Exod 19:4). The covenant only provides for the securing of that relationship by means of stipulating the necessary conduct on the part of Israel.

Definitionally, the divine bĕrît is a binding act. Functionally, it serves to secure certain action or conduct from either party in the pre-existing divine-human relationship. Hence, the thrust of a bĕrît is to create a legal situation. Bĕrît is an enactment.

The basic insight of this discussion is confirmed by Weinfeld. He writes, "The original meaning of the Heb. berith (as well as of Akk. riksu

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<sup>29</sup>Ibid., 23. Kutsch (Ibid.) also shows that bĕrît cannot refer to the relationship (Bund) between God and Israel since according to Ex. 19:5, bĕrît is the precondition for the relationship and not the relationship itself. He states, "Wenn das Bewahren von Jahwes bĕrît die Vorbedingung fuer das (neue) Verhaeltnis zwischen Jahwe und dem Volk Israel ist, dann kann hier mit der bĕrît nicht ebendieses Verhaeltnis selbts gemeint sein." This point is more pertinent to the specific concept of Bund than to that of covenant.

and Hitt. išhiul) is not 'agreement or settlement between two parties,' as is commonly argued. Berith implies first and foremost the notion of 'imposition,' 'liability,' or 'obligation,' ....<sup>30</sup> This fundamental notion comes through often in the Old Testament. Weinfeld observes, "...berith is commanded...(Ps. 111:9; Jgs. 2:20) which certainly cannot be said about a mutual agreement...berith is synonymous with law and commandment (cf., e.g., Dt. 4:13; 33:9; Isa. 24:5; Ps. 50:16; 103:18), and the covenant of Sinai in Ex. 24 is in its essence an imposition of laws and obligations upon the people (vv. 3-8)."<sup>31</sup> He goes on to notice a parallel in the use of the Akk. riksu and Hitt. išhiul: "the formulas riksu irkus in Akkadian and išhiul išhiya in Hittite occur in connection with a set of commandments imposed by the king on his officials, his soldiers or citizens, as well as his vassals" (cp. 2 Kgs 11:4).<sup>32</sup> Furthermore, bērît is closely linked with oath (Gen 21:22f.; 26:29f.; Deut 29:9f.; Josh 9:15-20; 2 Kgs 11:4; Ezek 16:8; 17:13f.), a link which is paralleled in the Akkadian of the second millennium B.C. and in the Neo-Assyrian Period.<sup>33</sup>

#### D. Covenant as Ordinance

The OT bērît, as a binding act or enactment, is the basis for the universal understanding of covenant as ordinance in Post-biblical Judaism. This idea of ordinance takes in both aspects of covenant: promise and law.

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<sup>30</sup>TDOT 2. 255.

<sup>31</sup>Ibid., 255.

<sup>32</sup>Ibid., 255.

<sup>33</sup>Ibid., 256.



As promise, covenant is a guarantee, and as law it is an order or commandment.

The integration of both law and promise in the idea of ordinance is made explicit in Jubilees. Jubilees 30:21 equates covenant and ordinance with command. Jubilees 15, however, equates them with promise. In 15:4 God says to Abraham, "And I will make my covenant between me and you and I will make you increase very much." In 15:6, however, God says, "Behold, my ordinance is with you and you will be the father of many nations." In 15:9 the covenant of promise is called an "eternal ordinance" and in 15:15 circumcision is said to be a "sign of the eternal ordinance" between God and Abraham.

In promise God ordains what will be with regard to the recipients of his covenant, and in command he ordains what they must do or be.

In Galatians, law and promise also share a formal unity in the idea of ordinance. That Paul understood covenant as ordinance is made clear from his use of epidiatassesthai in Gal 3:15 for the act of replacing a covenant. While Paul does not call the law a diathēkē in Galatians 3, he does treat it as a covenant. The act of epidiatassesthai in v 15 refers to the potential impact of the law on the promissory covenant in v 17. Also, he says in v 19 that the law was diatageis, ordained. Thus, the law also has a covenantal character. It too is a diathēkē as stated in Gal 4:24. While law and promise are mutually exclusive for Paul, the two are formally the same as enactments, as ordinances.

## CHAPTER 6

BĒRÎT AMONG THE QUMRAN SECTARIES

Two aspects of the theology of covenant at Qumran might suggest on the surface that covenant among the sectaries was seen as a contract. First, the idea of covenant is closely linked with the idea of community so that the two categories at times appear to be synonymous. Second, promise and commandment are seen as inseparable dimensions of covenant so that it appears that covenant expresses the idea of mutuality in a contract. A close examination of the evidence, however, shows that Qumran saw only one covenant which was Torah and thus shared the definition of covenant universally witnessed in Judaism: ordinance.

The definition of bĒrîṭ at Qumran must be distilled from its theology. This fact calls for a separate chapter to deal with bĒrîṭ among the sectaries. Since this treatment will lead the investigation into the area of the theology of covenant, this chapter also forms a transition to the next concern of this thesis: Paul's departure from Judaism.

#### A. Covenant, Torah and Community

In the Dead Sea Scrolls, bĒrîṭ is closely connected with the community. This has led scholars to assume that bĒrîṭ is used in the sense of compact or relationship. Driver understands bĒrîṭ at Qumran "... as a pact or agreement between God and the society at Qumran...."<sup>1</sup> Ringgren, writing about the idea of community at Qumran, affirms, "This fellowship is often

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<sup>1</sup>G. R. Driver, The Judean Scrolls: The Problem and a Solution (Oxford: Basil Blackwell, 1965) 518.

called a covenant (bĕrît). To "enter into the covenant" means the same thing as to become a member of the order...."<sup>2</sup> However, while entering the covenant at Qumran amounts to the same thing as entering the community, covenant and community represent clearly distinct notions.

The Manual of Discipline connects covenant and community most clearly, which, no doubt, is due to its focus on community discipline. The following expressions are used for the idea of becoming or being part of the community: to pass or go into ('br bĕ) the covenant (1:16,25), to come into (bw' bĕ) the covenant (5:8,20), to bring into (bw' [in hiph.] bĕ) the covenant (1:7-8; 6:14-15), and to be reckoned in (hšb bĕ) the covenant (5:11). The link between covenant and community is also expressed in "a covenant of eternal community" (3:11,12) and "a community of an eternal covenant" (5:5).

While these expressions clearly suggest an intimate link between covenant and community, which is essential to the notion of covenant at Qumran as will be seen, covenant and community are not synonymous. Throughout the Manual, the covenant in mind is simply Torah.<sup>3</sup>

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<sup>2</sup>Helmer Ringgren, The Faith of Qumran: Theology of the Dead Sea Scrolls (Philadelphia: Fortress, 1963) 128. Ringgren, however, does not miss the notion of obligation in covenant. In pp. 201-202 he writes, "Becoming a member of the community is called 'entering the covenant' (1QS i.18, etc.). This presupposes willingness (forms of the verb NDB) to do God's statutes (1QS i.7) and to offer 'his knowledge, his strength and his wealth to God's congregation' (1QS i.11f.). Hence it is a question of a real covenant which puts one under obligation and not only a designation for the community as such." While in this passage Ringgren captures the sense of covenant, he fails to make this sense its primary meaning. In fact, as will be shown, covenant is never used as a designation for the community. Covenant always has its basic sense of ordinance or enactment at Qumran. Its close link with "community" must be explained from the theology of covenant and not from a faulty definition of the term.

<sup>3</sup>Yigael Yadin (The Temple Scroll: The Hidden Law of the Dead Sea Sect [London: Weidenfeld and Nicolson]) argues that the Temple Scroll which contains both material in the Pentateuch (the known Torah) and supplementary

The covenant entered is God's covenant (1:8; 2:25; 5:8; 5:11,20,21; 10:10). The human being entering that covenant is by no means a contracting partner with God. Further, entering this covenant means primarily to commit oneself to fulfilling the Mosaic law. This is brought out clearly in 5:7b-10 which reads:

Everyone who approaches the council of the community shall enter the covenant of God in the sight of all who offer themselves; and he shall take upon his soul with a binding oath to return to the Law of Moses, according to all that he commanded, with all his heart and all his soul, and to all that has been revealed from it to the sons of Zadok, the priests who keep the covenant and who seek out his will, according to the majority of the men of their covenant who offer themselves in community to his truth and to walk according to his will.<sup>4</sup>

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material was an additional Torah at Qumran. He finds several lines of evidence for this hypothesis. In the Temple Scroll, God speaks in the first person. Yadin observes concerning this, "The clear aim of the author is to dispel any doubt that it is God himself who is uttering not only the known injunctions in the Pentateuch (the Torah), even when they are presented in reported speech, but also the supplementary text that appears in the scroll." He goes on, "In most cases he [God] is addressing someone in the second person, and this is especially true in the section where the Lord commands the building of the Temple. The style there is very similar to that in Exodus, where the Lord speaks to Moses directly and instructs him to build the tabernacle. It may be assumed, therefore, that in the scroll, too, the person addressed is Moses" (p.66). He also finds evidence that the Temple Scroll was seen as scripture in its use of the tetragrammaton (p. 68). In biblical quotations at Qumran, the tetragrammaton is written in the Old Hebrew script of the First Temple period. In biblical books, however, the same square script as in the rest of the book is used. The same is found in the Temple Scroll. Yadin finds references to this Scroll in the Book of Hagu, a fundamental book in the community (CD 10:4-6; 13:2-3; 14; 6-7; 1QS 11:2; 15:5; 17:5; The Messianic Rule 1:6-8), in the mentions of a second 'Torah' (Peshar on Ps 37:32 and on Hos 5:8), and in the reference to the sealed Book of the Law (CD 5:1-5) which David had not read and which was hidden until Zadok arose (pp. 225-228). Ben Zion Wacholder, (The Dawn of Qumran: The Sectarian Torah and the Teacher of Righteousness [Cincinnati: Hebrew Union College, 1983]) goes further than Yadin and argues that this text, which he calls "11Q Torah," "arrogates to itself not merely equality to the traditional Pentateuch, but superiority to the Mosaic Law" (p. 33). Thus Torah at Qumran, while seen as the Mosaic law, was, most likely, not simply the Pentateuch as known today.

<sup>4</sup>Translations of 1QS are taken from A. R. C. Leaney, The Rule of Qumran and its Meaning (London: SCM, 1966).

This passage shows, first, that to enter into the covenant of God is to return to the law of Moses.<sup>5</sup> The same is suggested in those passages that make keeping the law or the truth the purpose of entering the covenant (1:8,16; 5:20; 6:14,15). Secondly, this passage says that the Zadokite priests keep the covenant, which refers to their role as guardians and interpreters of the law. Thus, to enter the covenant is not only to return the law of Moses but also "to all that has been revealed from it to the sons of Zadok." That the priest's role in relation to the covenant concerns his handling of the law is made clear in a fragment containing the blessing of the Priests (1QSb 3:22-25):

Words of blessing. The Master shall bless the sons of Zadok the priests, whom God has chosen to confirm his covenant forever, and to inquire into all His precepts in the midst of His people, and to instruct them as He commanded; who have established [His covenant] on truth and watched over all His laws with righteousness and walked according to the way of His choice.<sup>6</sup>

The identity between the covenant and the Torah is also suggested by parallelisms such as in 1QS 5:20 which reads "...vanity are all that do not acknowledge his covenant and all who spurn his word he shall destroy." God's word is his covenant. Similarly 10:10 puts "his statutes" into parallelism with "the covenant of God".<sup>7</sup> But more significantly, in this text coming into God's covenant is a daily act. The text reads:

With the coming-in of day and night I will come into the covenant of God and at the going-out of evening and at morning I will recite his statutes.

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<sup>5</sup>Cf. the oath of the covenant to return to the law of Moses in CD 15:1-16:2.

<sup>6</sup>The translation is taken from G. Vermes, The Dead Sea Scrolls in English (Middlesex: Penguin, 1962) 207. On the priest's role and interpretations of law see Leaney, The Rule of Qumran and its Meaning, 165.

<sup>7</sup>Cf. 1QM 10:10 which describes God's chosen as "a people of men holy through the covenant taught the statutes."

Thus the idea of entering or coming to the covenant is not primarily that of entering the community but of coming into the commitment of Torah.

The community dimension of bĕrît in the Manual of Discipline lies in the fact that the law, its true interpretation and practice are given to the community and are to be carried out in community. This is brought out clearly in 5:20b-22.

When a man enters the covenant to act according to all these statutes, to be united with the community of holiness, they shall examine in community his spirit as between a man and his neighbor, according to his intelligence and his deeds in the law interpreted according to the sons of Aaron who devote themselves in community to restore his covenant and to heed all his statutes which he has commanded men to practice, according to the majority of Israel who devote themselves to return in community to his covenant.

Concerning the backsliders, 5:5-6 says "unclean, unclean shall he be all the days of his rejection of the precepts of God with his refusal to discipline himself in the community of his counsel." Thus, the backslider rejects the practice of law in community.

Finally, the purpose of each one in the group is to "lay a foundation of truth for Israel to make a community of an eternal covenant (5:5).

In summary, in the Manual of Discipline the community's covenant is equivalent to its Torah. This covenant is given to the community and can only be realized in the community. Also, the community is based on this covenant. To enter that covenant means to enter into the commitment imposed by the law which in turn means to enter the community of the covenant since that commitment is one of doing Torah in community.

## B. Covenant, Torah and Promise

The Damascus Document reflects a similar but broader and more complex view of covenant.<sup>8</sup> The connection between law and covenant is made clear in 20:25, which says concerning the apostates, "But as for all those of the members of the covenant who have broken out of the boundary of the Law: when the glory of God will appear unto Israel they shall be cut off from the midst of the camp...."<sup>9</sup> From this quotation it is clear that the members of the covenant are those who are within the boundaries of the law. In the same vein, 1:20 puts covenant and ordinance (hōq) into parallelism: the faithless "caused others to transgress the covenant and to break the ordinance (hōq)."

The Damascus Document, however, presents a more complete view of covenant than the Manual of Discipline, which, no doubt, is also assumed in the latter. It speaks of a pre-Mosaic covenant with the patriarchs (3:4; 20:25), a New Covenant (6:19; 8:21; 20:12), a covenant of repentance (8:4) and the covenant to return to the law of Moses (15:9). This array of covenants, however, does not contradict the conclusion drawn from the Manual of Discipline that the Qumran sectaries only saw one covenant between God and his people. The various covenants only are re-enactments or renewals of one basic covenant which is Torah.

The belief that all covenants are essentially the same assumes that

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<sup>8</sup>For expressions of entering into covenant, see CD 1:2; 2:2; 6:12; 8:4; 12:11 and that the covenant is God's, 1:7; 3:11,13; 15:12; 7:5; 8:2; 13:14; 14:2).

<sup>9</sup>Cf. the expression in 20:13, to have a "share in the house of the Law". The translations of CD are taken from Chaim Rabin, The Zadokite Documents (Oxford: Clarendon, 1958).

divine promise and law, both of which are linked with covenant in the OT, are merged into the one covenant that the sectaries had in mind. Hence, the writings from Qumran do not make a distinction between a promissory covenant with Abraham and a legislative covenant with Israel through Moses. Promise and commandment are essential to any covenant. These two dimensions of covenant may at first sight suggest that covenant was understood as a contract at Qumran. Again, however, a careful examination of covenant in the Damascus Document shows that covenant is simply Torah, with the promissory dimension of covenant being simply the blessing of Torah.

### C. The Interrelatedness of Promise and Law in Covenant

The interrelatedness of promise and law is seen in the section in the Damascus Document on the covenant that God made with the patriarchs. Speaking about the "stubbornness" of heart (2:17) through which the watchers of heaven fell (2:18-21) and through which the sons of Noah and their families went astray (3:1), the author says:

Abraham did not walk in it, and he was recorded as a friend, through keeping the commandments of God and not choosing the desire of his own spirit. And he handed it down to Isaac and to Jacob; and they kept it and were written down as friends of God and His covenanters for eternity (3:2-4).

This text contains an ambiguity in that it does not specify the object of msr, i.e., what Abraham handed down to Isaac and Jacob.<sup>10</sup> The idea, however, is quite clear. The parallel between Abraham keeping the commandments of God and being recorded as a friend and Isaac and Jacob keeping [it] and being written down as friends of God makes it clear that

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<sup>10</sup>Rabin (*The Zadokite Documents*, 10 n. 3:1) suggests that "the object of msr is the correct interpretation of the law, as Aboth 1.1."



what Abraham handed down and what Isaac and Jacob kept were the commandments of God.

As a result of keeping the commandments, Isaac and Jacob became ba'ālê bĕrît lě'ôlām, possessors of a covenant forever. The expression ba'ālê bĕrît lě'ôlām contains the promissory element of the covenant. It means that the covenant that God established with the patriarchs will be established with their posterity.<sup>11</sup> Thus the basic promise of the covenant presupposes the keeping of the commandments.

The meaning of the promise of an eternal covenant for the posterity of the patriarchs is brought out in the expression "God/he remembered the covenant of the forefathers" (1:4; 6:2; 8:18). In the opening lines of the Damascus Document (1:3-5a), which contain this expression, we read:

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<sup>11</sup>In Ecclesiasticus, not only are the covenants, explicitly called eternal covenants (diathēkai aionos), passed on to posterity but every divine covenant is passed on perpetually with the posterity of the one with whom it was made. In 44:18, God makes diathēkai aionos with Noah not to blot out all flesh with a flood. The perpetuity of the diathēkai is obvious. In 45:7, Aaron receives a diathēke aionos which confers on him the priesthood. The priesthood thus passes on to his descendants perpetually (ta ekgona autou dia pantos, v 13). Verse 15 states that the anointing by Moses egenēthē auto eis diathēkēn aionos kai tō spermati autou en hēmerais ouranou. En hēmerais ouranou defines aionos or 'ôlām; forever means as long as creation lasts. Phinehas was also given a covenant (vv 23-24). Though it is not called an eternal covenant, this covenant gave to him and his descendants the dignity of priesthood forever (eis tous aionas, v 24). Verse 25 says that a covenant was established with David and that the heritage of the king is only from son to son (klēronomia basileōs huiou ex huiou monou) and compares it to the heritage of Aaron which is for his offspring. This verse states clearly that a covenant passes on to posterity. But, again, the covenant is not said to be eternal. The obvious assumption is that a divine covenant with a party passes on to his posterity forever. The covenant of eternal priesthood is mentioned in IQSb 3:26 (bĕrît kĕhūnnat 'ôlām).

For a comprehensive study of 'ôlām, see Ernst Jenni, "Das Wort 'ôlām im Alten Testament," ZAW 64 (1952) 196-248; 65 (1953) 1-35. Concerning 'ôlām at Qumran, he says, "Als spaete Texte erweisen sie sich durch die teilweise haefufige Verwendung der Pluralform und durch die festgepraegte Bedeutung "Ewigkeit," die allen goettlichen und eschatologischen Groessen praediziert" (64 [1952] 247).

For when they sinned in that they forsook Him, He hid his face from Israel and from His sanctuary and gave them to the sword. But when He remembered the covenant of the forefathers, He caused a remnant to remain of Israel and gave them not up to be consumed.

God remembers his covenant by sparing a portion of the seed of the fathers from annihilation. Only if a seed continues forever can the bĕrît 'ôlām be established. But the bĕrît 'ôlām requires more than the survival of the seed. The granting of a bĕrît 'ôlām to the fathers means that the covenant would be perpetually established with their seed.

Since the covenant is Torah, the promise of perpetuity means that Torah will be perpetually established with the posterity of the fathers. This aspect of the covenant with the fathers is made clear in 6:2-5, which reads:

But God remembered the covenant of the forefathers, and He raised from Aaron men of understanding and from Israel men of wisdom, and He caused them to hear and they digged the well...The well is the Law. And those that digged it are they that turned from impiety of Israel.

God remembers his covenant by reviving the law among the remnant.

The preservation of a Torah-keeping community is of critical importance for the preservation of a remnant. The fate of the majority of Israel is due to their forsaking God's law. Thus God causes "the curses of the covenant to cleave to them, thus delivering them to the sword that shall execute the vengeance of the covenant" (1:17-18). The covenant itself ensures the annihilation of the unfaithful. Hence, the remnant can only be spared if it keeps the covenant, Torah.

#### D. Torah as the One Perpetually Renewed Covenant

The principal reason for the Torah revival motif is that the covenant is Torah and so covenant renewal is Torah renewal. This is brought out in CD 3:10-16.

The succession of commandment keeping from Abraham to Jacob (3:2-4) was broken by the sons of Jacob who went astray and were punished accordingly (3:4). Their sons in Egypt sinned flagrantly against the commandments and were cut off in the wilderness (3:5-10). But the covenant was renewed with a surviving remnant. 3:10-16 reads:

Through it [stubbornness of heart] the first members of the covenant became culpable, and they were given over to the sword, because they forsook the covenant of God and chose their own desire and went about after the stubbornness of their hearts by doing each man his desire. But with them that held fast to the commandments of God who were left over of them, God established His covenant with Israel even until eternity, by revealing to them hidden things concerning which all Israel had gone astray. His sabbaths and His glorious appointed times, His righteous testimonies and His true ways and the requirements of His desire, which man shall do and live thereby...."

The covenant that God established after the first members of the covenant apostatized is the same as the covenant he made with Isaac and Jacob. First, both times the covenant is made with those that keep the commandments. Second, both times the covenant is established for eternity. It has already been pointed out that the expression l'ê'ôlām in connection with the covenant made with the fathers in 3:4 indicates that the covenant would be established with the seed of the fathers. The renewed covenant which is established 'ad 'ôlām is thus also established eternally with the remnant community throughout its successive generations.

To understand the renewal of the perpetuity of covenant, the community aspect of the covenant seen in the Manual of Discipline must be recalled.

The covenant is given to the community and can only be realized in that community. All Israelites who are not part of that one community are outside the covenant. To enter the covenant they must enter the remnant community with whom the covenant was renewed. This remnant community is given the covenant forever. That means it will only be perpetuated in that community and with its successive generations. So, the re-established covenant with the community is identical with that established with Isaac and Jacob in that it too has the promise of perpetuity.

The covenant established with the remnant is clearly the establishment of Torah among them. Thus "God established His covenant with Israel even until eternity, by revealing to them" the laws "which man shall do and live thereby." Since this re-established covenant is identical to the one made with the fathers, it follows that the covenant with the fathers was also Torah.

The correspondence between the covenant made with the fathers and with the remnant is completed by the clear implication that patriarchs themselves, like the remnant, only had a pre-existing covenant renewed with them that was handed down to them in the commandments they kept.

That covenant is implied in the commandments of 3:2-4 is suggested by the fact that covenant is not mentioned with reference to Abraham. As in Jubilees, Abraham is not the principal figure with reference to covenant. Rather, Jacob is emphasized.<sup>12</sup> Also, the idea prominent in Jubilees, that the covenant began with Noah and was renewed with Abraham, Isaac and Jacob,

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<sup>12</sup>On the prominence of Jacob in Jubilees, see John C. Enders, Biblical Interpretation in the Book of Jubilees, The Catholic Biblical Quarterly Monograph Series 18 (Washington, DC: The Catholic Biblical Association of America, 1987) 18-19; Michel Testuz, Les Idées Religieuses du Livre des Jubilés (Geneve: Librairie E. Droz, 1960) 72-73; and Annie Jaubert, La Notion d'Alliance, 99-100.

is clearly assumed in the Damascus Document.

A clear succession is presented. CD 3:1 mentions that the sons of Noah went astray. That implies that Noah kept the commandments. Immediately after stating that the sons of Noah were cut off, the text presents Abraham as one who kept the commandments (3:2). He handed the commandments down to Isaac and Jacob and as a result of keeping them they were made possessors of a covenant forever (3:3-4). The sons of Jacob strayed and were punished (3:4). Their sons, however, apostasized and were cut off (3:6-10), thus meeting the fate of Noah's sons.

While the expression "to be cut off" means to be annihilated, it is especially used for those who break the covenant. The use of this expression for both the sons of Noah and the Israelites in the wilderness clearly suggests that the former, like the latter, broke the covenant. This in turn suggests that Noah is thought of in terms of covenant.

Thus 3:1-10 presents the sequence of Noah and an apostasy among his children followed by the patriarchs and an apostasy among their children. This pattern suggests that the covenant given to Isaac and Jacob was only a renewal of covenant. The covenant in the commandments was handed down to them by Abraham and then renewed with them by God as a result of their obedience.

Neither in the case of Isaac and Jacob nor of the remnant is a covenant initiated. Each party stands within a tradition of covenant, handed down in the commandments, and as a result of keeping the commandments has the covenant established with them forever. That means that, unlike the apostates, they and their seed will not be cut off and will have the covenant renewed. This latter point means that their seed will also have the law and as a result of keeping it will have the covenant established

with them forever.

#### E. Torah and God's Covenant Faithfulness

The intimate link between keeping the commandments and covenant renewal even bears on the Document's idea of God's covenant faithfulness as its interpretation of Deut 9:5 shows. The text in question is 8:14-18 which reads:

And as for that which Moses said to Israel: Not for thy righteousness, or for the uprightness of thy heart, dost thou go in to possess the nations, but because He loved thy fathers and because He would keep the oath--thus is the case with those that turned (from impiety) of Israel, who forsook the way of the people: owing to God's love for the forefathers, who bore witness against the people for His sake, He loves them that come after them, for theirs is the covenant of the fathers.

At a glance this passage seems to be contradictory. The quotation from Deut 9:5 emphasizes that God does not act on behalf of the people because of their uprightness (keeping the commandments) but simply out of love for the fathers and faithfulness to his oath. The author of the Damascus Document, however, applies the text to those who return to the law and are faithful. He is led to this interpretation by his conviction that the covenant is Torah and only belongs to those who are faithful "for theirs is the covenant of the fathers."

God's faithfulness to his oath is seen in that God renews the covenant with the faithful remnant. He renews his covenant with them because he is committed by oath to do so. But since covenant is Torah, the covenant can only be given to those who keep Torah. Any idea that God would fulfil the covenant with those that do not keep the commandments is excluded.

The basis of the divine commitment to renew the covenant with

succeeding generations is God's love of the fathers and his oath to them. Both of these are based on the fathers' keeping of the commandments. In 3:2-4 God reckons Abraham, Isaac and Jacob his friends ('ōhābîm, cf. 'āhab in 8:15) because they keep the commandments and Isaac and Jacob are made possessors of the covenant forever (cf. oath in 8:15) for the same reason. Hence, as the oath or the promissory aspect of the covenant is based on the keeping of commandments, so it is only fulfilled for those who keep the commandments, for the covenant as Torah only belongs to such.

#### F. Torah and the Promissory Aspect of Covenant

The fact that the promise of having an eternal covenant is only and always given to those that keep the covenant (i.e., the commandments) suggests that the promissory aspect of covenant is the same as the blessing attached to the law. This suggestion is confirmed by the other aspect of the covenant promise: deliverance.

The party that has the covenant does not only have the promise of perpetuity but also of divine favour and deliverance. God keeps the covenant by sparing the faithful from annihilation (1:4), by keeping them alive (7:5-6) and by saving "them from all the snares of the pit" (14:2). War Scroll 18:7-8 says, "Thou hast many a time opened for us the gates of deliverances for the sake of thy covenant."<sup>13</sup> This deliverance which is pledged by God in the covenant is nothing more than the blessing for keeping the law. The opposite of this salvation are the curses and vengeance of the

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<sup>13</sup>Cited from Yigael Yadin, The Scroll of the War of the Sons of Light Against the Sons of Darkness (Oxford: University Press, 1962).

covenant visited on those that forsake the law (1:18; 8:1; 15:33).

The identification of the promise in the covenant and the blessing in Torah enables us to see the complete identity of covenant with Torah. In the covenant, the promise is given on basis of fulfilling the commandments of the covenant. The same arrangement can be expressed in terms of Torah. Torah is a set of commandments with promises or blessings attached to it. The promise in either case includes both a divine commitment to the salvation of the immediate community and the perpetuation of the covenant with their succeeding generations, i.e., the promise of covenant renewal with the seed of the faithful.

Furthermore, the identification of Torah and covenant means that promise and commandment can not be separated. At the most, they can only be distinguished. Divine commandment implies divine promise and vice versa. But this does not mean that Torah is an abstract universal law that anyone can keep and thereby be in the covenant of God. The community dimension of covenant and Torah forbid this conclusion. God gave the Torah only to Israel and within Israel only to the remnant community. That community alone is in the covenant and alone has the true interpretation and practice of the law. For this reason the covenant community is of paramount importance.

The only allusion to a universal aspect of the law in the Damascus Document is in the reference to the straying of the sons of Noah and their families (3:1). As already seen, the idea of covenant is implicitly connected with Noah. His sons, however, were cut off as a result of their straying and the covenant was only renewed with Abraham. He alone kept the commandments and handed them down to his offspring. So the entire Gentile world is outside the covenant and Torah, and not being of the offspring of



Jacob with whom the covenant was renewed they have no access to the covenant.

G. Bērît as Diathēkē at Qumran

The merging of promise and law in covenant gives bērît a seemingly contractual character. The promise represents the divine and the law the human commitment. Two factors, however, prevent the conclusion that in the bērît at Qumran we have a contract or a sunthēkē rather than a diathēkē. First, if it is a question of whether at Qumran we have a one-sided or a mutual arrangement, the features of the bērît in question decide in favour of the former. God gives both the promise and the law which as an inseparable unit constitute an ordinance. Second, the essential feature in bērît that unifies both promise and law is not mutual imposition of stipulations or sharing of commitments but an ordinance that binds all parties in relation to it, both human and divine. At Qumran, bērît is diathēkē in the sense of ordinance as implied by its complete identity with Torah.

## CHAPTER 7

## THE UNITARY VIEW OF COVENANT IN JUDAISM

The investigation into the covenant concept at Qumran has disclosed a unitary view of covenant. By "unitary view of covenant" is meant the view that the various divine covenant formulations of the OT represent one covenant and that law and promise, the two covenanted elements, form an indissoluble unity. This means that there is not a multiplicity of covenants that God made with his people. Rather, there is only a renewal or a re-enactment of one basic covenant. Also, in accordance with the Jewish emphasis on Torah, that one covenant is essentially Torah.

However sectarian the views at Qumran were, the view of covenant seen there is representative of Judaism at large. This fact makes the community at Qumran thoroughly Jewish. Several strands of evidence of the unitary view of covenant in Judaism will be briefly presented.

#### A. Plurality of Covenants in Jewish Literature

Calvin Roetzel in an article on the meaning of the plural diathēkai in Rom 9:4 has made an interesting and important study of the use of the plural of the covenant terms, bērîtôt, gēyāmāyā' and diathēkai, in Jewish literature.<sup>1</sup> He notes that "almost unanimously commentators have interpreted the plural noun, diathēkai, in Rom 9:4 as a reference to the different covenants which Yahweh established with the patriarchs--Abraham,

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<sup>1</sup>Calvin Roetzel, "Diathēkē in Romans 9,4" Bib 51 (1970) 377-390.

Isaac, Jacob, Moses, etc."<sup>2</sup> Roetzel, however, takes exception to this interpretation. Rather than reading Paul against a Christian background with its tendency "to juxtapose the "new" and "old" covenants, or to regard the covenant in Christ as the last and greatest in a series of covenants," he prefers "to read Paul against his first-century Jewish background."<sup>3</sup> To do this, he studies the use of the plural for covenant terms in Hebrew, Aramaic and Hellenistic literature.

Roetzel argues persuasively that in post-biblical Jewish literature the plural of the covenant terms is consistently used in a way other than for multiple covenants that God established with the people. He shows that bērîtôt "in both Soṭah and Yebamoth bērîtôt is a synonym for ordinances, decrees, or commandments."<sup>4</sup> In a different vein, bērîtôt is used in Berakoth 48b-49a for the number of times the word bērît appears in certain texts.<sup>5</sup>

In the Targums, the Aramaic covenant term in plural is also used as a synonym for commandments or ordinances. Roetzel notes,

Qēyāma (sing.) in the Aramaic, denotes God's covenant with Abraham in Gn 15,18, but in Gn 26,5 the plural form stands as a synonym for statutes or laws. "Abraham" the Targum says, "obeyed my word (mymry), my statutes (pqwdy), my covenants (qēyāma), and my laws (·wryty)". The appearance of the Aramaic qymy (pl.), for the Hebrew hqwty (statutes) bracketed by references to "laws" and

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<sup>2</sup>Ibid., 377.

<sup>3</sup>Ibid.

<sup>4</sup>Roetzel (Ibid., 379) writes, "In discussing circumcision Yebamoth notes that it "stands in a different category for concerning it thirteen covenants (bērîtôt) were made". On the other hand, the Rabbis note in their discussion of the Decalogue, in Soṭah 37b, that "there were forty-eight covenants (bērîtôt) in connection with each commandment". In each of these instances the plural form denotes ordinances or decrees, not multiple covenants or agreements with the patriarchs." Cf. discussion on p. 86 above.

<sup>5</sup>Ibid., 379.

"statutes" suggests that covenants (pl.) in the mind of the writers was synonymous with both.<sup>6</sup>

Roetzel finds the same pattern in the Apocrypha. The plural, diathēkai, is used in the sense of statutes, ordinances, decrees, promises or oaths, but it is never used for multiple covenants between God and his people. In Sir 45:17, diathēkai means statutes and in 44:18 it means promises or oaths. Roetzel states, "It is significant, moreover, that with absolute consistency the author refuses to use diathēkai to refer to God's relationship with the different figures in Israel's history."<sup>7</sup>

The plural, diathēkai, is used only once in the Wisdom of Solomon in 18:22. The text says concerning Aaron,

He conquered the wrath not by strength of body, and not by force of arms, but by his word he subdued the punisher, appealing to the oaths and covenants (diathēkas) given to our fathers.<sup>8</sup>

Roetzel links the reference to the "fathers" with 18:6 which concerns the generation of the exodus.<sup>9</sup> Thus the plural is not used for the various covenant formulations with the patriarchs, Abraham, Isaac and Jacob but for promises given to the exodus generation. This much is clear: "covenants" is simply a parallel expression to "oaths." Consequently, the plural does not refer to the various divine covenant formulations of the OT but to certain promises that Aaron could appeal to, whether made with the exodus generation or not.<sup>10</sup>

Roetzel's skill in arguing his thesis is seen in his treatment of

<sup>6</sup>Ibid.

<sup>7</sup>Ibid., 381.

<sup>8</sup>Quotations of Apocrypha are taken from the RSV (1965/77).

<sup>9</sup>Ibid., 381.

<sup>10</sup>Cf. the use of sunthēkai in Wis 12:21 discussed on p. 77 above.

2 Macc 8:15 which reads kai ei mē di autous, alla dia tas pros tous pateras autōn diathēkas. The RSV renders this text, "if not for their own sake, yet for the sake of the covenants made with their fathers." Roetzel, however, argues,

The translator supplies "made" which is absent from the Greek text to gain fluency. The understanding of this passage, however, depends on how one translates pros with the accusative--that is, whether one renders it "with" (as in the RSV) or "to". If the preferred reading "to" is taken and the text is rendered literally we have, "if not for their own sake, yet for the sake of the covenants to their fathers". In this case, "covenants" apparently means "promises" or possibly "decrees". That being the case, it seems much more natural to read, "covenants (i.e., promises or decrees) (given) to their fathers".<sup>11</sup>

Roetzel finds a confirmation of his interpretation of 2 Macc 8:15 in the "clear reference to one covenant which God made with the patriarchs" in 1:2.<sup>12</sup>

Roetzel's work suffers from one deficiency. While he has successfully defined the covenant terms in the plural as decree or ordinance, he fails to apply this sense to the covenant terms in the singular. He persists in understanding the covenant terms in the singular, used for the one covenant that embraces the various covenant formulations of the OT, as meaning agreement,<sup>13</sup> relationship<sup>14</sup> or union.<sup>15</sup> The disparity in definitions makes the difference between the singular and plural of the covenant terms more pronounced than if the terms in both their singular and plural forms have the same meaning. This, however, does not affect Roetzel's basic thesis:

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<sup>11</sup>Ibid., 382.

<sup>12</sup>Ibid.

<sup>13</sup>Ibid., 379.

<sup>14</sup>Ibid., 381.

<sup>15</sup>Ibid., 383.

that the prevailing use of the plural in the sense of commandments or promises in Hebrew, Aramaic and Hellenistic Jewish literature shows that the various covenant formulations between God and his people were not seen as multiple covenants.

Roetzel sees the same understanding reflected in the OT. No case can be argued from the use of the plural of the covenant term since the plural bĕrîtôt does not appear in the MT. Accordingly, diathēkai in the LXX is never used "to denote multiple covenants which God made with Israel at different times." He does not think, however, that this is a mere historical accident. Rather, he follows Annie Jaubert<sup>16</sup> who argues "that the numerous covenant formulations in the Old Testament are hardly new covenants but copies of the one covenant which God made with Israel. The covenant with Moses, for example, is not different from but a continuation of God's covenant with Abraham (Ex 3,6)."<sup>17</sup>

A study of the theology of covenant in the OT and a thorough assessment of Jaubert's and Roetzel's thesis is outside the scope of the present study.<sup>18</sup> As will be seen shortly, Paul would disagree with Jaubert and Roetzel. Their thesis, however, is in agreement with Post-biblical Judaism where, as Roetzel has shown, the consistent use of the plural in a sense other than the multiplicity of covenants that God made in the OT betrays a clear theological conviction: the singularity of God's covenant with his

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<sup>16</sup>Annie Jaubert, La Notion d'alliance, 27f.

<sup>17</sup>Ibid., 378.

<sup>18</sup> The expression "the covenant with the fathers" certainly does not include the divine covenant with Phinehas or David. It clearly embraces the various covenant formulations made with Abraham, Isaac and Jacob. Whether it ever unites the covenant with the patriarchs and that made with Israel at Sinai remains to be proven.

people. The view of covenant found at Qumran in the previous chapter clearly supports Roetzel's thesis.

#### B. The Singular Covenant Motif in Jubilees

Perhaps the clearest expression of the conviction that God only has one covenant with his people comes from Jubilees. Unlike the Damascus Document, which first mentions covenant with reference to the patriarchs, Jubilees begins its treatment of God's covenant with Noah. But more important, it makes the Noachic covenant the prototype of all covenants.

The Noachic covenant includes both promise and commandment. God made a covenant with Noah "so that there might not be floodwaters which would destroy the earth" (Jub 6:4).<sup>19</sup> The covenant, however, does not only consist of a promise, but also of the covenant commandment not to eat blood (6:7). Noah establishes this prohibition as a perpetual covenant in verse 10 which reads: "And Noah and his sons swore that they would not eat any blood which was in any flesh. And he made a covenant before the LORD God forever in all of the generations of the earth in that month." This covenant was renewed by Moses on the mountain with the children of Israel in the same month (v 11).

The identity of the Noachic covenant with the covenant established with Israel is clearly brought out in 6:17-19, which deals with the feast of

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<sup>19</sup>O. S. Wintermute's translation of Jubilees in The Old Testament Pseudepigrapha, ed., James H. Charlesworth (2 vols.; New York: Doubleday & Company, 1985) 2. 52-142, is used.

Shebuot (oaths)<sup>20</sup>. The text reads:

Therefore, it is ordained and written in the heavenly tablets that they should observe the feast of Shebuot in this month, once per year, in order to renew the covenant in all (respects), year by year. And all of this feast was celebrated in heaven from the day of creation until the days of Noah, twenty-six jubilees and five weeks of years. And Noah and his children kept it for seven jubilees and one week of years until the day of the death of Noah. And from the day of the death of Noah, his sons corrupted it until the days of Abraham, and they ate blood. But Abraham alone kept it. And Isaac and Jacob and his sons kept it until your days, but in your days the children of Israel forgot it until you renewed it for them on this mountain.

The feast of Shebuot is identified with the covenant. Not only is it a covenant renewal feast, its history is the history of the covenant. The first to celebrate it on earth was Noah who first received the covenant. The feast was corrupted by all the descendants of Noah until Abraham who alone kept it.<sup>21</sup> This clearly parallels the fact that the covenant was only renewed with Abraham. This feast was kept, and so the covenant renewed, by

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<sup>20</sup>Wintermute (*Ibid.*, 67 n. f.) explains concerning "Shebuot" in Jubilees that while the Ethiopic word means "weeks," the Hebrew word behind it undoubtedly had a double meaning of weeks and oaths. "In an unpointed Heb. text the consonants šb'wt could be translated either "weeks" or "oaths." The MT vocalizes the absolute form of the word for "weeks" as šābu'ot and the word for "oaths" as šēbu'ōt, but "weeks" also appears as šēbu'ōt in the construct." He goes on to observe, "The feast referred to by the Eth. word is, of course, better known by the name of Pentecost or weeks, but both of these names are supposedly derived from the number of days (or weeks) which separate that feast from the offering of Omer (Lev 23:9-17). Since the book of Jub, which is particularly sensitive to chronology, does not identify this feast in relation to the passing of seven weeks, S. Zeitlin (*The Book of Jubilees: Its Character and Significance* [Philadelphia, 1939]) made the following observation: "I venture to say that even the name Shabuot in the Book of Jubilees has not the connotation of 'weeks,' but means 'oaths'" (p.6)." This conjecture is in line with the purpose of the feast. As a feast of oaths it is a covenant renewal feast.

<sup>21</sup>Jub 14:20 also connects the Abrahamic covenant with the Noachic. Chapter 14 retells the story of Genesis 15. Verse 20, which concludes the narrative on the covenant making ceremony says, "And on that day we made a covenant with Abram just as we had made a covenant in that month with Noah. And Abram renewed the feast and the ordinance for himself forever."



Isaac and Jacob and his sons.<sup>22</sup> Hence, the covenant is only for Israel. The Israelites in Moses' day forgot the feast and so it, with the covenant, was renewed on the mountain. From the feast renewal theme in this text it is clear that the various covenant formulations from Noah to Moses are not multiple covenants but renewals of one covenant.<sup>23</sup>

The unity of all covenants in Jubilees is also seen in the way important covenant events are synchronized as J. C. Enders points out:

In Jubilees all of the individual covenants collapse into a single covenantal relationship, which began with Noah's covenant with God in Jub. 6:1-21. In order to re-establish this covenant as the prototype for all others, the author concentrated all major covenant celebrations on the same day of the year. Thus, on 11/15 the Jewish community of this author should celebrate the following events: the covenant with Abraham (14:1-20); the changing of Abram's and Sarai's names and the institution of circumcision (15:1-34); the birth of Isaac (16:13) and his weaning (17:1); Abraham's farewell address and death (Jubilees 22); the covenant between Jacob and Laban (29:7-8); and Jacob's celebration of the Well of the Oaths (44:1,4). After a period of desuetude, Moses renewed the celebration of Shabuot on this date at Mt. Sinai (6:19).<sup>24</sup>

Though Jubilees is a sectarian work, the singular covenant motif clearly expressed in it is common throughout Judaism. While not as clearly expressed in the literature from Qumran, this motif is certainly present there as well.<sup>25</sup> Also, the fact that the plural of the covenant term was consistently used throughout Judaism in a sense other than that of multiple

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<sup>22</sup>On the renewal of covenant with Jacob, see Jub 22:15,30.

<sup>23</sup>On the renewal of covenant from Noah to Moses, see Michel Testuz, Les Idées Religieuses du Livre des Jubilés, 62-69.

<sup>24</sup>Enders, Biblical Interpretation in the Book of Jubilees, 227.

<sup>25</sup>On the relationship between Jubilees and the literature from Qumran, see VanderKam, Textual and Historical Studies in the Book of Jubilees (Missoula: Scholars, 1977) 255-285 and Michel Testuz, Les Idées Religieuses du Livre des Jubilés, 179-195. The Damascus Document in 16:3 mentions Jubilees, and fragments of Jubilees were found at Qumran.

covenants that God made with his people witnesses to the universality of this motif in Post-biblical Judaism.

### C. The Primacy of Torah

Enders perceptively notes concerning the collapse of all individual covenants into one covenant in Jubilees, "The significance of this theologoumenon is critical for the book of Jubilees; even the people of Noah's generation were fully observant 'Mosaists,' since they shared in the fullness of the covenant relationship between God and Israel. There never was a time, therefore, when Israel's ancestors did not observe the customs and laws revealed at Sinai."<sup>26</sup>

The conviction that the patriarchs kept the law was also seen in the Damascus Document. The patriarchs kept the commandments and as a result had the covenant established as a bērît 'ôlām with them. In the same vein, Jub 24:11 has God saying to Isaac that he would give to his seed the covenanted blessings "because your father obeyed me and observed my restrictions and my commandments and my laws and my ordinances and my covenant."

The conviction that the patriarchs were fully observant Mosaists was not merely a sectarian trait. Betz notes that "according to the normative Jewish tradition, Abraham kept the Torah, even though it was given only much later. How he could do so is explained in various ways: he knew the Torah 'out of himself,' or from secret writing, or through a special revelation from God." Betz gives as an example R. Shimeon, Gen. Rab. 61 (38b) who said concerning Abraham, "A father did not teach him, and a teacher he did not

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<sup>26</sup>Enders, Biblical Interpretation in the Book of Jubilees, 227.

have. Wherefrom did he learn the Torah?" Betz adds, "Shimeon explains by reference to Ps 16:7: God used the kidneys to teach Abraham the Torah."<sup>27</sup> In a different vein, Jub 21:10 has Abraham saying after giving instructions on sacrificial meat, "Because thus I have found written in the books of my forefathers and in the words of Enoch and in the words of Noah." 2 Baruch 57:2 says concerning the time of the patriarchs, "For at that time the unwritten law was in force among them, and the works of the commandments were accomplished at that time."<sup>28</sup> Despite the diversity of explanations as to how Abraham knew the law, these quotations reflect a clear consensus that Abraham kept the law.

The reason for this tendency to read the Mosaic law into the lives of the patriarchs lies in the identity of Torah and covenant seen in the previous chapter on covenant at Qumran. This identity is rooted in the singular covenant motif exemplified in Jubilees. If the giving of the law at Sinai was merely a renewal of the covenant with the patriarchs, then that covenant must be Torah. The singular covenant motif, in turn, is rooted in the unitary view of covenant that promise and commandment or law constitute an indissoluble unity.

In the unity between promise and law seen thus far, law is predominant. The promissory aspect of the covenant is only established with those who keep the commandments. As we have seen, promise is, in fact, a dimension of law. The primacy of law is given clear expression in 2 Macc 2:17f. which reads: "God has saved his whole people and gave us all the inheritance, the kingship, the priesthood, and the consecration, as he had promised by the

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<sup>27</sup>Betz, Galatians, 158.

<sup>28</sup>The translation is that of A. F. J. Klijn in The Old Testament Pseudepigrapha, ed., J. H. Charlesworth, 615-652.

law (katos epēggeilato dia tou nomou).<sup>1</sup> Thus, through the law the promises are given to Israel. This conviction concerning the primacy of Torah is clearly behind the persistent tendency to read the law of Sinai into the lives of the patriarchs. Covenant and divine promise without Torah is inconceivable in Judaism.

The singular covenant motif, the unitary view of the OT covenant formulations and the primacy of Torah are not simply theories of covenant worked out in Judaism but constitute a basic orientation, a hermeneutical framework or a presuppositional basis for the Jewish approach to the OT divine covenant formulations. This fact alone accounts for the pervasiveness of the conviction that there is no covenant without Torah.

What naturally fits together in Judaism, promise and law, is sundered into mutually exclusive entities in Paul. Not only does Paul conceive of promise without law and insist on the primacy of the former; for him promise and law can not be united into a single covenant. Here lies Paul's fundamental break with Judaism, i.e., in the area of covenant concept.

## CHAPTER 8

## PAUL'S BREAK WITH THE JEWISH UNDERSTANDING OF COVENANT

While Paul works with the definition of covenant or the understanding of the nature of the covenantal institution held universally in Judaism, he radically breaks with Judaism on the question of the theology of covenant. As universal as the idea that a covenant is a binding act was in Judaism, so universal also was the conviction that the covenant formulations of the OT and the legislative and promissory covenantal elements form an indissoluble unity. In parting with this conviction, Paul makes a radical break with Judaism and finds himself outside of its pale. As a result, any agreement between Paul and Judaism is at best partial and fragmentary.

A. Gal 3:15-18 and the Singular Covenant Motif

The examination of the nature of the diathēkē in Gal 3:15,17 has shown the fundamental definitional unity between Paul and Judaism. An examination of the whole paragraph, Gal 3:15-18, however, demonstrates with equal force the radical break Paul makes with the Jewish interpretation of the patriarchal and Sinaitic covenant formulations.

Paul interprets the temporal distance between the Abrahamic and Mosaic enactments in a way that Judaism does not. The fact that the law came after the covenant established with Abraham (Gal 3:17) means for Paul that the law is a different enactment and thus has no bearing on the previously ratified promise. In Judaism this fact would only mean that the law was a re-enactment of the Abrahamic covenant with his seed at Sinai.

The covenant renewal motif, so strong in Jewish thought, is not

necessarily absent from Paul's thought. In Gal 3:16, he says that the promises, which constitute the covenant, were given to Abraham and to his seed which is Christ, who is separated from Abraham by two millennia. Thus while Paul does not use the language of covenant renewal, he works with the idea that the covenant is passed on to or established with future posterity.<sup>1</sup> The fact that Paul does not speak of a new covenant in Christ in Galatians 3 but wholly subsumes Christ under Abraham may also suggest the covenant renewal motif.

It is possible that Paul does not see the law as a re-enactment of the Abrahamic covenant because he comes to the question of the covenant with the presupposition that Christ is the one and only seed.<sup>2</sup> For Paul, the Abrahamic covenant entails the justification of the Gentiles through faith (Gal 3:8) and the blessing of Abraham comes to the Gentiles in Christ

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<sup>1</sup>The idea in Gal 3:16 that the covenant is re-established with a singular seed may be present in the Damascus Document. As seen above, pp. 107f., the covenant is renewed only with the faithful posterity or remnant. This remnant is a solidarity and as a single community alone has the covenant. So, for any Israelite to be in the renewed covenant, he must join this community. No other covenant community could spring up. This idea, held at Qumran, only corresponds to Paul's emphasis on the singularity of the seed, if by the one seed Paul means a collective rather than an individual identity. According to this interpretation of the one seed, Christ in the phrase hos estin Christos is understood as a representative and collective personality. Christ as a collective identity is connected with the theme of unity and the seed of Abraham in Gal 3:28-29. The view that Paul has a collective unity in mind in Gal 3:16 is argued by Lightfoot, Galatians, 142-143. For a discussion on difficulties in interpreting this text, see Burton's article "Spermati and Spermasin," Galatians, 505-510.

<sup>2</sup>Paul's christological interpretation of the OT, no doubt, governs his interpretation of the singular spermati in Gal 3:16. Burton (Galatians, 182) aptly writes, "It is not probable, indeed, that the apostle derived the meaning of the promise from the use of the singular spermati. He is well aware of the collective sense of the word sperma in the Gen. passage (see v. 29 and Rom. 4: 13-18). He doubtless arrived at his thought, not by exegesis of scripture, but from an interpretation of history, and then availed himself of the singular noun to express his thought briefly." Sanders (Paul and Palestinian Judaism, 550f.) even thinks that Paul's entire interpretation of the law is christologically determined.

(v 14). So, Paul only sees the fulfillment of the promise in what transpires in Christ. Thus Christ rather than the law represents the re-enactment of the covenant.

While Paul's christological reading of the OT no doubt influenced his interpretation of covenant, he presents a more radical reason for disassociating the Abrahamic and Mosaic covenants.

In Gal 3:17 Paul states that the law does not invalidate the covenant previously ratified by God. In so far as this statement is based on the nature of a covenant as stated in v 15, Judaism is in agreement with it. The singular covenant motif in Judaism is based on the notion that a covenant is irrevocable or that oudeis athetei ē epidiatassetai (Gal 3:15). Because a covenant cannot be annulled or replaced, the divine covenant is a bē'rît 'ôlām, and, as was seen in the Damascus Document, God's covenant faithfulness necessitates that the covenant be perpetually renewed. Accordingly, the giving of the law at Sinai was seen simply as a renewal, and by no means an invalidation, of the covenant with Abraham.

When Paul, however, on the basis of v 15 affirms that the law does not invalidate the covenant, he is not stating a fact agreeable to Judaism. Rather, he is making an inference totally disagreeable to Judaism: that the law, if not separated from it, would invalidate the Abrahamic covenant. The law would do this by nullifying the promise (eis to katargēsai tēn epaggelion). Paul explains this phrase in v 18 as signalled by gar. The concern in Gal 3:18 is hē klēronomia which, as has already been shown, means "possession."<sup>3</sup> The klēronomia is what is promised and thus is the blessing

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<sup>3</sup>See pp. 38f. above.

of Abraham.<sup>4</sup> In relation to the klēronomia, Paul sees the promise and the law as mutually exclusive so that ei ek nomou hē klēronomia, ouketi ex epaggelias. Thus, the unity of promise and law essential for the singular covenant motif is shattered.

#### B. Promise and Law as Antithetical in Their Effects

A similar antithesis between promise and law to that suggested in Gal 3:18 is found in Rom 4:13-15. The promise to Abraham and his seed to be to klēronomon kosmou is not dia nomou (v 13). The reason is that ei gar hoi ek nomou klēronomoi, kekenotai hē pistis kai katērgetai hē epaggelia (v 14). This explanation clearly echoes Gal 3:17 which states that the law would invalidate the covenant by nullifying (katargeō) the promise.

In Rom 4:15 Paul states how the law would nullify the promise: ho gar nomos orgēn katērgazetai; hou de ouk estin nomos oude parabasis. The law

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<sup>4</sup>Burton (Galatians, 185), commenting on v 18, writes, "The previous reference to the diathēkē and the epaggelia make it clear that hē klēronomia--note the restrictive article--refers to the possession promised in the covenant (Gen. 13:15; 15:7; 17:8; cf. Rom. 4:13,14), which was with Abraham and his seed. This promised possession, while consisting materially in the promised land, was the expression of God's favour and blessing (cf., e.g., 2 Chron. 6:27; Ps. Sol. 7:2; 9:2; 14:3, hoti hē meris kai hē klēronomia tou theou estin Israel, 17:26), and the term easily becomes in the Christian vocabulary a designation of the blessing of God which they shall obtain who through faith become acceptable to God (see Acts 20:32; 1 Cor. 6:9,10; 15:50; Gal. 5:21; Eph. 5:5; Col. 3:24), of which blessing the Spirit, as the initial gift of the new life (v. 2) is the earnest (2 Cor. 1:22; 5:5; Eph. 1:13, 14; 4:30), and so the fulfillment of the promise. Such a spiritualised conception in general doubtless underlies the apostle's use of it here. Cf. Rom. 4:14 and the suggestion of v. 14 above, that he thought of the promise to Abraham as a promise of the Spirit." Burton adds, however, "But for the purposes of his argument at this point, the content of the klēronomia is not emphasised."



threatens to nullify the promise by working wrath (orgē).<sup>5</sup> In contrast to the effect of the law is the law-free state which is without transgression (parabasis). Hence, the law's function in working wrath is identified with its role in producing transgression.

Transgression (parabasis) is linked with law for Paul. Besides Rom 4:15, parabasis is used in Romans in 2:23 and 5:14. In the former passage, the Jew who boasts in the law is involved in the transgression of the law (hē parabasis tou nomou). Though the connection between parabasis and law is not as direct in the Rom 5:14, it is nonetheless there. Only between Adam and Moses did people not sin epi to homoiōmati tēs parabaseōs Adam. That means that after Moses, i.e., the giving of the law, people sinned in the likeness of Adam's transgression. So, Adam's sin was sin under law and thus transgression.

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<sup>5</sup>This interpretation of Rom 4:14-15 is the most natural. The gar of v 15 introduces an explanation of v 14, i.e., why, if those of the law were heirs, faith would be made void and the promise nullified. This interpretation is taken by the following commentators in their commentaries on Romans: Meyer, Schmidt, Schlier, Kaesemann, Cranfield and Murray. The text has also been interpreted differently. C. K. Barrett (A Commentary on the Epistle to the Romans [New York: Harper & Brothers, 1975] 94-95) represents the major alternative interpretation. He argues that in v 14 Paul is appealing to the proper meanings of pistis and epaggelia to justify what he said in the previous verse. A promise is not a legal contract of payment but is within the sphere of gift or grace. Becoming heir by keeping the law, however, is contractual. Thus Barrett understands Paul as saying, "If then it should be true that the way to be an heir (in the terms of the promise) is to keep the law, we can only conclude that the terms "faith" and "promise" have lost their meanings" (p. 95). Barrett reads v 4 into this text. With this interpretation of v 14, Barrett must make v 15 a second argument, added parenthetically, that interrupts the connection between vv 14 and 16. Luther, Hodge, Sanday and Headlam, and Nygren interpret the text similarly in their commentaries. The primary difficulty with this interpretation is its awkwardness. According to it, the gar of v 15 does not refer to what immediately precedes but to v 13. Thus the flow of the passage is interrupted. This interpretation also brings to the text the idea that law on the one hand and faith and promise on the other are definitionally contrary. There is no warrant to read v 4 into the text as Barrett does. And since Paul points out what is the problem with the law in v 15, there is no need to introduce the notion of definitional conflict.

The difference that the law makes for sin is stated in Rom 5:13 as follows: achri gar nomou hamartia en en kosmō, harmatia de ouk ellogeitai me ontos nomou. Romans 4:15 states that where there is no law there is no transgression. Romans 5:13 makes the parallel statement that where there is no law sin is not reckoned. Transgression is sin that is reckoned, and the law produces transgression by pointing out sin. Thus the law gives sin the character of violation and so introduces wrath.

As producing wrath and transgression, the law is antithetical to promise as to its effect in Rom 4:14-15. This theme of the law's ill effect is also present in Galatians 3.

The only explicit connection between Galatians 3 and Rom 4:15 is the statement concerning the law in v 19: tōn parabaseōn charin prosetethē. The text does not make clear whether charin means "because of," i.e., because of existing transgressions, or "for the sake of," i.e., to produce transgressions. However, the intimate link between law and transgression in Romans and the role of law in producing transgressions in Rom 4:15 strongly suggests the latter.<sup>6</sup>

Galatians 3:10 is another parallel to Rom 4:15. In this text, Paul uses Deut 27:26 to show that all those who are of the works of the law are under a curse. The citation pronounces a curse on those who do not continue in the things written in the law to do them. Most scholars follow Calvin who suggests that this text substantiates the affirmation that those of the works of the law are cursed for Paul because no one actually keeps the

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<sup>6</sup>The only other occurrence of parabasis in the Pauline corpus, besides those already mentioned, is in 1 Tim 2:14. Eve's transgression was clearly the violation of a commandment and so is linked with law as Adam's transgression is in Rom 5:14.

entire law without breaking it.<sup>7</sup> This interpretation, however, encounters two problems. First, it must import into the argument an entire proposition: that no one keeps the whole law perfectly.<sup>8</sup> Second, while Paul would agree that no one keeps the law without ever breaking it (Rom 3:23), Paul never uses the unfulfilability of the law as a grounds for rejecting the law as a means for justification. The law is not simply a failing attempt to secure the blessing. In fact, it was never given as a means for securing the inheritance (Gal 3:18) or imparting life (Gal 3:21).<sup>9</sup>

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<sup>7</sup>Calvin, Galatians etc., 53.

<sup>8</sup>Scholars have sought to establish this missing premise on the basis of the presence of pas (everyone) and pasi (all) in the text, which do not appear in the MT. However, since Paul is quoting the LXX here, the presence of these words may simply be incidental. J. B. Lightfoot (Galatians, 138) notes that the "all" (pas) is found in the Peshito and the "every" (pasi) in the Samaritan Pentateuch. Jerome states that he saw the kol in the Samaritan text and accused the Jews of wilfully deleting it lest they too should be under a curse. Eadie (A Commentary on the Greek Text of the Epistle of Paul to the Galatians [Grand Rapids: Baker, 1979] 242) perceptively remarks that "...the motive he ascribes to them is somewhat puerile...for the omission does not change the sense, and the verse is a summary conclusion of all the Ebal curses recorded in the previous paragraph." The "every" is not necessary in the Hebrew text since the 'āšer indicates that each and every violator is cursed. For that matter, neither is pas necessary in the Greek. The pas is simply a matter of emphasis and not a change of meaning. The "all" (pasi) may seem to be more significant in that without it the curse pronouncement may not have such an absolute tone. But again, it is a matter of connotation and emphasis rather than of meaning since 'et-dibrē hattôrāh-hazzō't refers to all of the words of the law in question.

<sup>9</sup>Quite an array of interpretations have been given of Gal 3:10. Martin Noth in an essay entitled, "For all who rely on the works of the law are under a curse," in The Laws in the Pentateuch and Other Studies (Edinburgh: Oliver and Boyd, 1966), argues that since the blessing was not given by the law but through the oath to the patriarchs, the law only added a curse. As such, the law only brings a curse into the existence of all under it, which he takes to be the force of Gal 3:10. E. Edwards (Christ, a Curse, and the Cross: An Interpretative Study of Galatians 3:13 [Michigan: University Microfilms, 1972] 209f.) picks up Noth's suggestion and develops it further. She argues that hupo kataran refers to a conditional curse that the law puts people under. Since Christ became an actual curse vicariously (Gal 3:17), the curse must be actual. Luther in his commentary on Galatians, followed

For Paul the law actively produces its negative effect as seen in Rom 4:14-15. This is also the case in Gal 3:10. The curse does not simply come after breaking the law. Rather, as being blessed or justified is definitive of those who are of faith (v 9), so being under a curse is definitive of those who are of the works of the law (v 10).

The curse pronouncement is connected with the preceding verse in two ways. Firstly, the particle gar points to a logical connection with what precedes it. Secondly, v 10a is parallel in structure to v 9. Verse 9 reads, hōste hoi ek pisteōs eulogountai sun tō pistō Abraam; and v 10 reads, hosoi gar ex ergōn nomou hupo kataran eisin. Each clause begins with an identification of those who are in a particular class: hoi ek pisteōs and hosoi ex ergōn nomou. These two classes are antithetical pairs in Paul's thought (cf. Gal 2:16; 3:2). Paul predicates to those of each class a phrase that depicts their situation. The first are eulogountai sun tō pistō Abraam and the second are hupo kataran. Again Paul uses an antithetical pair: blessing and curse.

This parallelism indicates that v 9 brought v 10a to Paul's mind. He was thinking in terms of opposites. Then to support this curse pronouncement Paul quotes Deut 27:26 in accordance with his method of

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by R. Bring (*Christus und das Gesetz* [Leiden: E. J. Brill, 1969] 115-125) and D. P. Fuller ("Paul and 'The Works of the Law'," *WTJ* 38 [1975/76] 32-33), argues that the works of the law are legalistic works while the "doing" required by the law are faith-works. Hence, those of the works of the law do not fulfill the law and so are cursed. This interpretation strains the language of Deut 27:26. H. Schlier (*Der Brief an die Galater*, 132) suggests that the emphasis in Paul's citation rests on poiēsai. Thus the curse is not primarily given because the law is not quantitatively fulfilled but because something must be done. Doing itself is cursed. Schlier must turn to Romans 7 to support his thesis. The fact that the idea must be imported into the text is sufficient to dismiss this interpretation. Lloyd Gaston (*Paul and Torah*, 75) argues that the curse is only on Gentiles since they have law without covenant. A response to Gaston's theory will emerge out of the ensuing discussion and will be given in the concluding chapter.

arguing from proof-texts. In Gen 18:18 Paul finds a blessing pronouncement: "All nations shall be blessed in you." In Deut 27:26 he finds a corresponding curse pronouncement: "Cursed is everyone...." These two scripture statements yield for Paul the basis for his own statements in vv 9 and 10a.

The polar correspondence of these two texts suggests that Paul's interest in Deut 27:26 was not in some accidental feature of the curse such as a curse following the event of transgression. Rather, his interest in the text is in the connection it makes between law and curse. Sanders points out "...that Deut 27:26 is the only passage in the LXX in which nomos is connected with 'curse'." He goes on to say, "There are passages which say that one who does not keep the commandments (entolai: see e.g. Deut 28:15) will be cursed, but that does not suit Paul's argument. He wants a passage which says that the nomos brings a curse, and he cites the only one which does."<sup>10</sup>

The opposites with which Paul is working with, pistis/erga nomou and eulogia/kataran, reflect a polar logic that explains the gar in v 10a. The curse pronouncement is a negative proof of the conclusion drawn in v 9. The claim that it is those of faith who are blessed with Abraham, and only those, is supported by the fact that those who are of the works of the law, the alternative, are under a curse. Paul's polar logic also indicates that the curse is inherent in being of the works of the law. It is an essential rather than accidental feature.

The reason why the law curses all who are of the works of the law must be sought in the context of Gal 3:10 rather than in a missing premise. The

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<sup>10</sup>E. P. Sanders, Paul, the Law, and the Jewish People (Philadelphia: Fortress, 1983) 21.

curse is in direct contrast to the blessing (v 9) which is justification (v 8). The justification in question is not the vindication of a sinless person (cf. the justification of God in Rom 3:4). Rather, it is the soteriological justification of the sinner. Those ex ergon nomou in Gal 3:10 are those who seek this justification from the law. In this context, they are Gentiles. When a sinner comes to the law, instead of justifying him, the law automatically curses him because of its built-in curse.<sup>11</sup> Hence the absurdity of seeking justification from the law. The idea that explains the verse is the subject of discussion--justification.

The argument in Gal 3:10 is parallel to the one in Rom 4:14-15. The curse of the law and the wrath it produces are invoked to show that its effect is the exact opposite of what was promised. Thus in these two passages, Paul argues against the law as a means of inheriting the klēronomia or Abrahamic blessing by appealing to its opposite effect.

Paul's choice of "wrath" in Rom 4:15 and of "curse" in Gal 3:10 are clearly determined by the respective contexts. In Rom 4:15, Paul uses "wrath" because that term is thematic in the first five chapters of Romans.<sup>12</sup> As already seen, the choice of "curse" in Gal 3:10 is determined by his polar logic and proof-texting. Thus any semantic barrier to seeing Rom 4:15 and Gal 3:10 as parallel passages is removed.

Thus for Paul the law is adverse to the promise since it inevitably, by its very nature, produces wrath and transgression or brings people under a curse. Consequently, if the law is related to the promised possession (klēronomia), it nullifies the promise of that possession since it

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<sup>11</sup>Cf. Gal 2:15,17 where Gentiles are categorically judged sinners and are on a par with the Jewish apostate.

<sup>12</sup>Orgē appears in Rom 1:18; 2:5,8; 3:5; 4:15; 5:9.

inevitably brings the opposite of that possession. So if the law were added as a means (condition) to obtaining the possession of the covenanted promise, it would indeed invalidate (akuroi) the covenant so as to nullify (eis to katargēsai) the promise (Gal 3:17).

### C. Promise and Law as Mutually Exclusive Categories

The antithesis between justification and wrath or blessing and curse is not the only antithesis between promise and law. There is also the antithesis between grace and earning or believing and doing. This contrast is clearly stated in Rom 4:4: tō de ergazomenō ho misthos ou logizetai kata charin alla kata opheilema. What one works for is considered his due, but what one does not work for, i.e., he simply believes (v 5: tō de mē ergazomenō pisteuonti de), is considered a gift or grace (charis).

The antithesis between grace and earning or faith and doing is present in Galatians 3, at least in v 12. The text says, ho de nomos ouk estin ek pisteōs, all' ho poiēsas auta zēsetai en autois. Life, which is treated as that which was promised and as an equivalent of righteousness in v 21, must, under the law, be achieved by doing according to the law and thus must be earned. As such, the law is not of faith.

Commentators, taking their clue from Paul's use of charizo, have generally seen the same motif in Gal 3:18. After having stated his argument, ei gar ek nomou hē klēronomia, ouketi ex epaggelia, Paul affirms, tō de Abraam di' epaggelias kecharistai ho theos.

Commenting on this latter statement, Calvin writes, "And he immediately adds that God gave it to Abraham, not by requiring some sort of reciprocal compensation, but by free promise. For if you take it as conditional, the

word gave would be utterly inapplicable."<sup>13</sup> In a similar vein, Burton writes, "kecharistai emphasises the gracious, uncommercial, character of the grant, and the perfect tense marks the grant as one still in force, thus recalling the argument of vv. 15-17."<sup>14</sup> Hence, charizō, to freely give, is understood as expressing the nature of promise to which law is antithetical. A possession received ek nomou is not given freely as is the case when it is received ex epaggelias.

If this interpretation of Gal 3:18 is correct, then this text is not exactly parallel to Rom 4:14-15. In the latter, the law nullifies the promise by its adverse effect. In the former, the law nullifies the promise by its contrary nature: requirement instead of gift.

The fact that Gal 3:19 contains the notion in Rom 4:15, that the law produces transgressions, does not mean that the antithesis in Gal 3:18 is the same as in Rom 4:14-15 since Gal 3:15-19 is a complete unit in itself so that a new thought could easily be introduced in v 19.<sup>15</sup> More significantly, however, the structure of the argument in Gal 3:18 is different from that in Rom 4:14. Romans 4:14 says that if those of the law

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<sup>13</sup>Calvin, Galatians, etc., 60.

<sup>14</sup>Burton, Galatians, 186. Luther, Lightfoot, Oepke, Ebeling, Mussner and Betz follow the same line of interpretation. F. F. Bruce (The Epistle of Paul to the Galatians [Exeter: Paternoster, 1982] 174) gives the following unusual explanation of 3:18: "If the inheritance of Abraham's descendants were based on law--more specifically, the Mosaic law--then it would belong to the people of the law (cf. v 10, hosoi...ex ergōn nomou eisin), i.e. the Jewish nation. But if it is based on the promise made to Abraham, generations before the giving of the law, then the law cannot affect it. It belongs to the people of faith (cf. v 7, hoi ek pisteōs) who, whether of Jewish or Gentile birth, are the true children of Abraham." Nowhere in Galatians is it a question of whether the klēronomia is for Jews only or for all the children of Abraham by faith. Also, the expression hosoi...ex ergōn nomou eisin certainly does not refer to the Jewish nation. Rather, it simply refers to those who seek justification from the law.

<sup>15</sup>See analysis of Gal 3:15-18 on p. 46 above.



are heirs, faith is made void and the promise nullified. This is so because what faith believes and the promise holds out will not happen since the law brings the opposite. Galatians 3:18, however, contains a different argument. It says that if the inheritance is of the law, it cannot be of promise. In other words, it must be one or the other. It cannot be both. Such an argument hypothetically contemplates the possibility of obtaining the inheritance by law and only argues that if it were by law, it cannot be by promise. Hence, Paul resolves the either/or situation by stating that God gave it (i.e., the klēronomia) to Abraham by promise. So the fact that the klēronomia was given by promise rather than that the law's effect is opposite to what is promised is what decides in favour of the promise and against the law. Law and promise thus represent mutually exclusive paradigms of salvation in Gal 3:18.

That Paul has paradigms of salvation in mind in Gal 3:18 is also suggested by the absence of the articles. When Paul has the specific promise(s) in mind, he uses the article (vv 16, 17). Clearly, in v 18b, tō de Abraam di' epaggelias kecharistai ho theos, the absence of the article puts the emphasis on the nature of promise as opposed to what is promised. The same is true of v 18a, ei gar ek nomou...ouketi ex epaggelias. Rom 4:14, which does not argue from the nature of a promise, only mentions the promise with the article.

Paul sees a two-fold antithesis between the law and the promise. The law nullifies the promise by its opposite effect (Rom 4:14-15, cf. Gal 3:9-10). But it also nullifies (katargeō) the promise by contradicting the very nature of promise (Gal 3:17-18). This latter situation makes the antithesis between law and promise absolute. Not only by the law's effect, but by its contrary nature is the law incompatible with the promise.

The two antitheses are intimately related. As we have seen, the law produces transgression and wrath by pointing out sin. It does this by demanding righteousness. Also, it curses those who do not continue in what is written in the law to do. So again, the law's adverse effect is based on its requirement to do and continue. The fundamental problem with the law is in the paradigm of salvation it represents.

#### D. Paul's Fundamental Departure from Judaism

In Judaism covenant was Torah and promise was inseparable from law. Paul's idea of a promise wholly free from law is outside of the pale of Jewish thought and his argument that promise and law are mutually exclusive an affront to it. This departure from Judaism is so fundamental that there can be no real unity between Paul and Judaism. Any conceptual unity between them must inevitably be partial and fragmented since in Paul the heart of Jewish thought is rejected.

## CHAPTER 9

## CONCLUSIONS FOR THE STUDY OF COVENANT IN PAUL

## A. The Results of the Present Study of Paul's Understanding of Covenant

The present investigation has disclosed both a fundamental unity and disunity in the covenant concepts of Paul and Judaism. The unity lies in their definition of covenant. The disunity lies in their interpretations of the patriarchal and Sinaitic covenant formulations. Both Paul's agreement and break with the Jewish understanding of covenant receive clear expression in Gal 3:15-18.

In Gal 3:15,17 Paul sees covenant primarily as an irrevocable enactment. While he has the OT covenant specifically in mind, he uses Hellenistic legal terminology for it due to speaking kata anthrōpon. This does not mean that he sees covenant in light of any particular legal institution of the Greco-Roman world. The legal terminology he uses for covenant is of a general nature and does not warrant any specific conclusions concerning the institution he has in mind. In speaking kata anthrōpon, he is simply contemplating the institution of the OT covenant from a juristic perspective to establish the absolute nature of such an enactment. However, the idea of the OT covenant as a sacrosanct and irrevocable institution was not necessarily foreign to people of the 1st Century AD. Thus Paul could easily invoke human judgement to establish the absolute nature of covenant since all who understood the institution would acknowledge this.

Paul's covenant term is diathēkē. In understanding diathēkē simply as an enactment, Paul is using the term in its basic sense. While diathēkē is

a technical term for last will, which institution has the nuance of disposition or one-sided arrangement, the idea of one-sidedness is not the primary sense of the term. The few times diathēkē appears in secular Greek usage with a sense other than "last will" clearly show that the primary idea in this term is that of binding or fixing. The broader usage of diathēkē in the LXX and Apocrypha corroborates this conclusion. The use of diathēkē for a last will does not argue against this contention since a last will can be understood simply as a binding act.

A survey of Greek, Aramaic and Hebrew sources of the Jewish understanding of covenant shows that it is understood precisely in the sense of diathēkē established in this study: a binding act, enactment or ordinance. Hence, contrary to the majority opinion, there is complete unanimity in the understanding of the nature of the covenantal institution within the various groups in Judaism and between Paul and Judaism.

Judaism also holds firmly to the irrevocable nature of covenant explicated by Paul in Gal 3:15,17. Paul and Judaism, however, use this idea for radically different ends. In Judaism the absolute nature of covenant is taken to mean that the various covenant formulations between God and his people are not different covenants but simply renewals of one basic covenant. Paul, however, uses this idea to isolate and insulate the Abrahamic enactment from the Sinaitic law. Though christological interests are, no doubt, behind this move on the part of Paul, in Gal 3:18 he bases the separation of the two covenant formulations on the mutual exclusiveness of their respective characters, promise and law. Thus Paul breaks up the unity at the heart of Judaism and makes the singular covenant motif impossible. In this move lies Paul's break with Judaism.

The bearing of the present study on the contemporary discussion of the

Pauline and Jewish views of covenant represented by the work of the three scholars outlined in chapter one will now be discussed.

## B. Understanding Covenant

The three positions outlined in chapter one share a common starting point in the Jewish or "correct" view of covenant. This view of covenant receives its clearest, and perhaps already classical, formulation in Sanders' "covenantal nomism." This formula sees covenant as the framework in which law operates (i.e., nomism is covenantal). Thus the law is not a covenant in itself but is only part of a covenant that embraces it. This alignment of covenant and law assumes that covenant is a relational category, a contract, rather than simply an ordinance or binding act. In itself, law is not a contract. At the most, law can only be part of a contract. It can only be a stipulation of a contract. This understanding of covenant is challenged by the present study.

The contractual understanding of covenant lies behind Schoeps' criticism of Paul. Schoeps' complains that Paul "wrested and isolated the law from the controlling context of God's covenant with Israel."<sup>1</sup> Paul could only wrest the law from the context of covenant if covenant is a contract. However, if covenant is simply an enactment, then Schoeps' criticism dissipates. Rather than divorcing covenant and law, Paul collapses the two so that law cannot be seen as "within" the context of covenant.

Sanders does not follow Schoeps' criticism of Paul. According to

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<sup>1</sup>Schoeps, Paul, 213.

Sanders, Paul's break with Judaism is not based on a particular understanding of covenant. Consequently, while the present study argues against Sanders' definition of covenant, it leaves Sanders' interpretation of Paul's relationship to Judaism intact. In fact, Sanders' contention that Paul correctly understood Judaism and consciously rejected it is sustained by the present thesis. However, the present study calls into question Sanders' formula, "covenantal nomism," for the Jewish understanding of covenant which he sees Paul rejecting.

In light of the present study "covenantal nomism" is tautological. Since covenant is a binding act or an enactment and thus law is a covenant in itself, the adjective "covenantal" does not meaningfully qualify "nomism." The idea of an enactment or covenant is implicit in the idea of law and nomism.

In the singular covenant motif in Judaism, the tautological nature of "covenantal nomism" extends into the theological level. Not only is the law by definition a covenant, but also the one covenant that is repeatedly renewed is the law. Hence, in Judaism we have a complete identity between covenant and law.

In Pauline thought, covenant and law are more clearly distinguished than in Judaism due to Paul's rejection of the singular covenant motif and thus the identification of covenant and law. He sees the Abrahamic covenant as being without law. However, even working with Paul's system of thought, "covenantal nomism" is a questionable formulation. For Paul, the only covenant that the law is related to is the Sinaitic one which simply is the law.

The tautological nature of "covenantal nomism" raises the question as to the background and ultimate source of this formulation. Unfortunately,

in his otherwise excellent work on Paul and Palestinian Judaism, Sanders does not carry on an investigation into the definition of "covenant." He simply assumes that the universally accepted definition of covenant within his tradition of scholarship is that held by 1st Century Judaism. Hence, a review of "covenantal nomism" is a review of the prevailing understanding of covenant and law.

The formula "covenantal nomism" has a point of contact with Paul in its understanding of nomos. Since Paul divorces law from promise, law has a negative and legalistic sense. This bare and legal sense of law is entailed in "nomism." The adjective "covenantal," however, is not taken from Paul. Neither, as already noticed, is it taken from the prevailing understanding of covenant in 1st Century Judaism. However, it can be traced to a Jewish root.

The understanding of covenant as a contract assumed in covenantal nomism has its roots in Aquila's use of sunthēkē for bērît in the 2nd Century. Though Aquila was a Jew, one can only say with reservations that the adjective "covenantal" is derived from Judaism since the specific idea in sunthēkē does not represent the central notion in the Jewish covenant concept.

One can only speculate as to why Aquila used sunthēkē for bērît. The reason given by Schoeps that Aquila and Symmachus were more strongly rooted in the Rabbinic tradition than the translators of the LXX carries little weight.<sup>2</sup> He gives no proof for his assertion. Perhaps it is simply based on his assumption that sunthēkē is the more exact translation of bērît. Moreover, the present study has shown a unanimous consensus throughout

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<sup>2</sup>Ibid, 217.

Judaism, with the exception of Aquila and Symmachus, that covenant was understood as a diathēkē. Whether Aquila's change in terminology from diathēkē in the LXX to sunthēkē has anything to do with the Jewish rejection of the LXX as a Christian Bible is uncertain. If a Christian interpretation of "covenant" was urged against Judaism, the change in terms may be understandable. There may also be some basis for rendering bērît with sunthēkē in the Jewish theology of covenant. In the singular covenant motif, promise and law, which represent divine and human commitments respectively, were united into an indissoluble unit. Perhaps Aquila sought to highlight this aspect of the Jewish understanding of covenant.

The adjective, "covenantal," in "covenantal nomism" may thus be considered to be derived from Judaism if it is taken only to represent the inclusive understanding of covenant in Judaism, which embraces promise and law. But the idea of law as bare regulation is not Jewish. The Damascus Document shows how the promise in the covenant is the blessing attached to Torah. The idea of law without promise is Pauline. Hence, the formula, "covenantal nomism," is at best a theological hybrid. It draws on the inclusive understanding of the divine covenant in Judaism and on the exclusive idea of law in Paul. The formula, however, belongs to neither Judaism nor to Paul. It is a cross between two systems of thought and thus fails to represent either system of thought properly.

Despite any theological justification Aquila may have for translating bērît with sunthēkē, the translation is both wrong and misleading. By making bērît a contract instead of an ordinance, this translation has obscured the identity of law and covenant. This, in turn, has obscured the singular covenant motif which was suggested as a possible basis for Aquila's use of sunthēkē. This motif requires the notion that Torah itself is a



covenant. The identity between Torah and covenant leads to the specific Jewish notion that Torah is the one renewed covenant which the idea of covenant as contract obscures.

The idea that covenant is a contract has also led to a faulty formulation of the problem of covenant for Pauline studies inasmuch as it has raised the question how Paul relates to the covenantal view of law. Strictly speaking, Paul did not have a covenantal view of law since for him the law itself is a covenant. But this fact does not warrant any conclusions about Paul's relationship to Judaism since, formally, Judaism held the same position. Hence, the claims that Paul misunderstood (Schoeps), rejected (Sanders) or accepted (Gaston) the covenantal view of the law are all erroneous.

Using Pauline categories, one might suggest "promissory nomism" for the Jewish view of law against which the Pauline treatment of law must be understood. In Judaism, rather than law being seen in the controlling context of covenant, it is seen as inseparably united with promise. The formula, promissory nomism, has the advantage over covenantal nomism in not being tautological. But it has the disadvantage of formulating the Jewish position from the perspective of the Pauline dichotomy between promise and law. Also, this formulation omits the category of covenant, the basic term for the divine enactments in question.

The real conflict between the Pauline and Jewish views of the law is over the interpretation of the covenant formulations of the OT. Promise and law are the concern of these formulations. The Jewish position is best summarized in the singular covenant motif. This motif unites the patriarchal and Sinaitic covenant formulations into one basic covenant. Thus, it also unites promise and law, the two covenanted elements, into an

indissoluble unity. It is this unitary view of the OT covenant formulations that is lacking in Paul's understanding of the law. Thus, the debate between Paul and Judaism concerns whether or not the Sinaitic covenant formulation is a re-enactment of the patriarchal covenant.

Formulating the problem of covenant for Pauline studies in terms of the singular covenant motif has several advantages. First, it represents the Jewish orientation toward the divine covenant formulations of the OT. Second, it entails the issues of law and promise and their relationship with each other, which are at stake in Paul's critique of the law. Third, it represents the fundamental break between Paul and Judaism in their respective interpretations of the OT covenant formulations.

#### C. Paul's Point of Departure from Judaism

While Schoeps and Sanders agree that Paul radically departs from the Jewish understanding of the law, they disagree on the grounds of Paul's break with Judaism. Schoeps sets out to understand Paul against the background of rabbinic presuppositions. He finds the key to Paul's treatment of the law particularly in "the fact that for a Jew the problem of the abolition of the law could only be solved by the law itself, i.e., by drawing out from scripture the "true meaning of the law"."<sup>3</sup> In keeping with this hermeneutical presupposition, Schoeps sees Paul breaking with Judaism on internal grounds, on Paul's understanding of elements within Judaism itself.

Schoeps' discovery of Paul's radically non-Jewish use of rabbinic

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<sup>3</sup>Ibid, 170.

presuppositions and the law leads him to look at Paul in the light of the basis of Judaism, the idea of covenant. Here Schoeps finds Paul's fundamental misunderstanding that lies behind his peculiar use of the law against itself.

Sanders approaches Paul from a different perspective. Rather than seeking to interpret Paul in light of Jewish presuppositions, he approaches Paul with the interest of comparing "patterns of religion." Accordingly, Sanders looks to the Pauline pattern of religion to find the basis for Paul's treatment of the law. Consequently, Sanders finds Paul breaking with Judaism on grounds wholly external to Judaism, i.e., christology and his own Christian soteriology.

Sanders' approach to Paul is in keeping with his basic concern in Paul and Palestinian Judaism. The target of his apologia for Judaism is Western scholarship which has persistently interpreted Judaism from its own rather than Jewish presuppositions and sources. Sanders is very sensitive to the distortions that result from such an approach. He correctly emphasizes that proof-texting for one's characterization of the religion in question only masks the biased characterization. As a corrective to such a distorting approach, he proposes a comparative study of the patterns of religion. This means determining the pattern of each religion, interpreting the texts and elements of each religion in light of its own pattern instead of notions drawn from outside that religion, and then comparing the patterns.<sup>4</sup> Sanders' approach thus calls for a moratorium on the approach represented by Schoeps. It also leads to emphasizing the grounds within Paul's pattern of religion (foreign to Judaism) that led to his break with Judaism.

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<sup>4</sup>For an evaluation of the success of Sanders' undertaking, see Jacob Neussner, "Comparing Judaisms," HR 18. 2 (Nov, 1978) 177-191.

Sanders' approach to comparing Paul and Judaism minimizes the impact of the erroneous notion that law is rightly understood as a part of covenant on his interpretation of Paul. Schoeps' approach maximizes it. The important question raised by the two approaches, however, is whether Paul's break with Judaism rests on grounds internal or external to Judaism.

The present study has shown that on the meaning of covenant, Paul is in agreement with Judaism. He is working with the definition of covenant universally accepted in the Judaism of his time. The "fundamental misunderstanding" is with Schoeps rather than with Paul. Yet, Schoeps was not altogether wrong in pointing to the covenant concept as the critical issue. He simply went astray in tracing the disparity between Paul and Judaism to differing definitions of covenant.

By separating the patriarchal and Sinaitic covenant formulations and by making promise and law mutually exclusive concepts, Paul radically breaks with the Jewish understanding of covenant. But in this case also, as Schoeps notes in other instances, Paul uses basic Jewish notions to argue for non-Jewish conclusions.

Paul shares with Judaism the notions that covenant is the basic soteriological category, that covenant is a binding and irrevocable act and that it is renewed with the seed. But from these notions he draws the totally non-Jewish conclusion that the Abrahamic enactment is both isolated and insulated from the law.

The cause for this turn against Judaism in Paul's thought is of critical concern for Pauline studies. Sanders traces Paul's radical break with Judaism to his christological presuppositions. Thus, Paul is seen as rejecting Judaism simply because it is not Christianity. The clash between Paul and Judaism, concentrated on the question of law, is simply a clash

between two patterns of religion.

The christological basis for Paul's critique of the law can hardly be denied. Paul received a revelation of Christ (Gal 1:16) in view of which he saw all he had achieved in Judaism, especially via the law, as loss and dross (Phil 3:4-11). These biographical facts establish the priority of christology in his thought. But from this, it does not follow that Paul simply rejected Judaism and its view of the law because it was of a different "pattern of religion" than what he found in Christ. Paul does criticize the law from the law.

Paul's rejection of the Jewish view of covenant by re-interpreting the covenantal formulations of the Pentateuch is clearly established in his dichotomizing of promise and law in Gal 3:18. Paul is drawing from the very nature of the enactments to arrive at his non-Jewish conclusions about the law. Through this hermeneutical move, Paul shatters the unity at the basis of Judaism.

As a result of Paul's separating promise and law, any agreement between Paul and Judaism is at best partial and fragmentary. Paul can, and largely does, use Jewish notions. But having rejected the unitary view of covenant, he cannot arrive at a Jewish synthesis. By shattering the unity between law and promise, Paul has destroyed the Jewish integrating point.

If Paul begins with a christological and external basis in his critique of the law, he ends with a hermeneutical and internal basis for rejecting the law. All this has nothing to do with the basic understanding of covenant as an institution, as Schoeps supposes. It simply has to do with the interpretation of the covenant formulations of the Torah. Here lies Paul's point of departure from Judaism.

#### D. The Finality of Paul's Break with Judaism

The discussion thus far has assumed with Schoeps and Sanders that Paul's treatment of the law represents a break with Judaism. This assumption is challenged by Gaston who argues that the nomos of Paul's critique is not the Torah of Judaism. Hence, Paul's treatment of the law would leave Judaism intact. Gaston's thesis represents a major alternative to the traditional and commonly accepted interpretation of Paul. The bearing of the present study on this thesis will briefly be considered.

Gaston comes to the problem of Paul and Judaism with the assumption that the view of covenant put forth by Schoeps and Sanders is correct. The previously given critique of this interpretation of covenant thus strikes at the basis of his thesis. Like Schoeps, Gaston basis his interpretation of Paul directly on the idea of a covenantal view of the law. Schoeps finds in the absence of this notion in Paul's critique of the law the real problem underlying his treatment of the law. Gaston agrees with Schoeps that the idea of "covenant" is absent from the law of Paul's critique. He, however, interprets this absence as meaning that Paul is not criticizing Torah in Judaism, i.e., law in the context of covenant, but law as the Gentiles have it, i.e., law without covenant. Gaston also affirms that Paul accepts covenantal nomism for Jews.

The findings of the present study seriously challenge Gaston's thesis. Since covenant is simply an enactment, the law itself is a covenant and both the ideas of law without covenant and law in the context of covenant are fallacious. Furthermore, in Jewish thought law is not simply covenant by definition but there is no covenant without law. This complete identification of covenant and law in Judaism means that a critique of law

is a critique of covenant.

As a result of working with the idea of covenantal nomism which represents neither Pauline nor Jewish thought, Gaston's thesis is erroneous. His position, however, can be reformulated in terms of the singular covenant motif. It might be argued that for Jews Paul understood the Mosaic law as the renewal of the patriarchal covenant, and, for Gentiles, law as separate from promise. As a result, Torah would form a unit with promise as far as the Jews are concerned. Such a thesis encounters difficulties in both Paul and Judaism. From a Pauline perspective, it encounters the problem that promise and law are mutually exclusive. From a Jewish perspective, it encounters the difficulty that there is no law-free promise.

So far only the conceptual side of Gaston's work has been treated. Gaston also argues from specific texts. A review of the exegetical aspect of his thesis is beyond the scope of the present study. Some considerations on the exegetical basis of his work, however, may be pointed out here.

Gaston does not have any Jewish or Pauline texts that explicitly teach his thesis. His thesis must be inferred from the texts. But here lies the principal difficulty with the textual basis for his theory. Inference can easily amount to nothing more than reading an idea into the text. Since Gaston reads the Pauline and Jewish texts in light of covenantal nomism, an idea foreign to both Pauline and Jewish thought, one must be suspicious of his exegesis from the outset. Nevertheless, a thorough treatment of his work requires a painstaking review of his interpretation of the texts he uses to see if the texts can possibly be understood to represent his theory.

The present study only affords a limited critique of Gaston's thesis. This much is clear, however: if the present thesis is correct, Gaston's thesis is untenable. The dichotomy which Paul sets up between promise and

law shatters the unifying idea in Jewish thought found in the singular covenant motif. As a result, Paul's break with Judaism is final. By parting with the singular covenant motif, Paul finds himself outside of the pale of Jewish thought.

#### E. Final Reflections

I will close the present study with some reflections on its definitional task and with a suggestion concerning the further questions for Pauline studies it raises.

I embarked on the research for this thesis sensing a need for a fresh investigation into the meaning of covenant for Pauline studies. Having completed the thesis, I am convinced of the need for such a study. In retrospect, I clearly see that Pauline scholarship on the question of covenant has been greatly impaired and even handicapped by the lack of definitional ground work. Some of the causes for this, which also constitute the principal barriers that stand in the way of fresh definitional work, will be considered.

There is an almost complete scholarly consensus that the Biblical covenant is properly a sunthēkē rather than a diathēkē. This consensus is reflected in the absence of a serious attempt to define covenant in the work of the three scholars reviewed in chapter one. Sanders makes no attempt at defining covenant in Jewish and Pauline thought. He simply speaks about covenant. Gaston assumes the work of Sanders and likewise fails to define covenant. Schoeps makes a brief and sketchy attempt at defining covenant.<sup>5</sup>

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<sup>5</sup>Schoeps, Paul, pp. 214-215.



He cites a few OT references which show that law and covenant are closely related. These texts actually confirm the results of the present study that the law is a covenant. This idea, however, is missed by Schoeps who holds that covenant is a contract and that law is only a part of covenant. Furthermore, in arguing that bērîṭ is properly sunthēkē, Schoeps does not have to enter into a discussion with a counter-position. Schoeps' contention is simply universally assumed. A few dissenting voices have been raised,<sup>6</sup> but they have not received serious attention.

The lack of definitional work on covenant is due to the complete triumph of the tradition of translation and understanding of covenant introduced by Aquila. This tradition has formed the translation terms, the theological vocabulary and the conceptual framework of Western scholarship. It has been so pervasive that it represents an almost universal consensus that receives no serious challenge.

Overcoming the linguistic and conceptual consensus has proven to be the most difficult task of the present study. This has meant at times parting entirely with current scholarship to strike out on my own. This was particularly the case in determining the meaning of bērîṭ in the DSS. All the translations and works on the DSS simply assume the bērîṭ is a contract. Hence, there was very little, if any, scholarly direction and support that I could obtain for my thesis. However, the attempt at freshly redefining bērîṭ in the DSS proved fruitful.

I began to study the texts of Qumran in an experimental fashion to see if bērîṭ could be understood as an enactment or ordinance. I soon realized that it was necessary to study the theology of covenant in the texts rather

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<sup>6</sup>eg., Kutsch, Neues Testament - Neuer Bund?

than just isolated texts containing the term bĕrît. This study confirmed the hypothesis with which I set out to study the DSS and resulted in a new understanding of the idea of covenant at Qumran. The same understanding of covenant was discovered in Jubilees and was corroborated by the other Jewish evidence surveyed in the process of writing this thesis.

The fresh insights on the idea of covenant in Judaism led to a new understanding of Paul's relationship with Judaism. However, the fresh insights also led me to part with the prevailing scholarly interpretation of both Paul and Judaism. As a result, I have struck out on a new and untried path.

The definitional task of this study also had to deal with distortions in the understanding of diathēkē. The discussion on the translation of bĕrît in the LXX and NT has largely assumed that the specific idea in diathēkē is that of the one-sidedness of an arrangement. This assumption has contributed to the conviction that diathēkē is not the appropriate term for berit since the nuance of one-sidedness is clearly absent from bĕrît.

The emphasis on the notion of one-sidedness in diathēkē may in part be due to Aquila's alternative rendering of bĕrît. In much scholarly work, sunthēkē is simply not treated as an alternative rendering but as the polar opposite to diathēkē. The emphasis on two-sidedness in sunthēkē seems to have determined the understanding of diathēkē in biblical studies. Even Kutsch's work, which contributed significantly toward the present thesis, is afflicted with the assumption that diathēkē is the polar opposite of sunthēkē.

The use of diathēkē for a last will also contributed to the sense of disparity between this term and bĕrît. We understand the testamentary institution in terms of the testator's act of disposal. Hence, the one-

sidedness of the arrangement is emphasized. But the idea of one-sidedness expresses only one aspect of the institution in question. Another is the notion of a binding act irrespective of "one-sidedness." A study of the usage of diathēkē shows that this latter idea is the specific nuance of diathēkē by which the testamentary act was understood. Scholarship, however, largely failed to see this due to reading into the Greek term for a last will our specific understanding of that instrument.

The distortions of the meanings of bērit and diathēkē point to a serious problem that can afflict scholarship in any area. Certain assumptions in a given area can so dominate scholarship that it can no longer see beyond them. A universal consensus leaves the assumptions unchallenged and even unnoticed. Moreover, all the terms in questions can be subconsciously defined in terms of the assumptions which results in the assumptions being built into our vocabulary, the very building blocks of our thought. These dangers continually call us back to the most basic, the definitional, task which must be carried on with a healthy skepticism and self-critical attitude.

Critical definitional work does not only require breaking through preconceived notions about the meaning of terms but also demands a sensitivity to the factors determining the development of terms. Unfortunately, scholarship has not always been sensitive to these factors. The impact that the adoption of diathēkē into a particular tradition of translation and theological discussion has on the meaning and further development of that term has been almost entirely overlooked in scholarship. This consideration, however, greatly qualifies the evidence from outside the given tradition of translation and thought for the meaning of important translation and theological terms. For the present study, this concerns the

weight given to papyrological evidence for the meaning of diathēkē in the NT. But despite this cautionary note, the present study has shown that the Biblical use of terms such as klēronomia and diathēkē is not incompatible with the secular usage of these terms. In fact, the Biblical usage preserves the broader and non-technical sense of the terms that are obscured in the terms' secular usage as known through extant sources.

In view of the factors that influence our own understanding and the historical development of terms, the definitional task is a difficult one. However, it is also important and fruitful. The present study has shown how an altered understanding of covenant can radically restructure one's interpretation of Judaism and Paul and how the latter relates to the former. Furthermore, faulty definitions invariably contribute to a scholarly muddle and can set what may be otherwise good scholarship on a faulty basis and thus impair a scholar's entire work.

The changed understanding of covenant proposed in the present study introduces new questions. The troublesome issue about a covenantal and non-covenantal view of the law vanishes. The principal question for a comparative study of the Pauline and Jewish understandings of covenant now concerns the different interpretations of the OT covenant formulations. The changed understanding also leads to fresh historical problems. It raises the question as to the development of Paul's radically non-Jewish position on the OT covenant formulations. One source for answers will, no doubt, be his own christology and soteriology. But non-Pauline sources must also be explored for possible parallels and antecedents to his position. I will close this study with a suggestion about the immediate precursor to Paul's radical break with the unitary view of covenant in Judaism.

To my knowledge, no other NT writing separates promise and law as Paul

does. This separation seems to be genuinely Pauline. The break with the singular covenant motif, however, is reflected in the teaching about the new covenant in Hebrews. The author of Hebrews argues that the new covenant is a better covenant (8:6), that it replaces (instead of renews) the old one (8:7,13), and that it is based on a better sacrifice as a result of which it outstrips the former (9:23). In Hebrews, the new covenant that is based on a superior sacrifice, the death of Christ, is qualitatively different from the old one. Hebrews also argues that a change of priesthood entails a change of law (7:12). This idea of a new covenant replacing the old is non-Jewish. The Damascus Document speaks of a new covenant. But this covenant is only a renewal of the one and only covenant the sectaries envisioned. In this regard, Hebrews breaks with the Jewish understanding of covenant.

The idea of a new covenant based on the blood of Christ is present in the eucharistic formula, which Paul received from the Lord (1 Cor 11:23-25). The author of Hebrews only draws out the conclusion that the change in priesthood and sacrifice entailed in the idea of a new covenant in Christ's blood involves a change rather than a renewal of covenant. The belief in the death of Jesus Christ as the basis of a new covenant and salvation, which clearly antedates Paul, inevitably led to the idea that the Mosaic covenant was replaced. In pre-Pauline Christianity, however, a dichotomy between promise and law was not made. But Paul's separating of the two may represent a natural development. From the conviction that Christ and not the law was the fulfillment of the promise, a two-fold development would lead to Paul's position. First, Christ would be linked directly with the promise and the law be subordinated in the soteriology of the church. Second, the antithesis involved in the idea that the new covenant in Christ replaced the old Mosaic covenant could easily be transferred to the

relationship between the Mosaic law and the promise that Christ fulfilled. Thus while Paul's radical separation of promise and law has no antecedents, the separation nevertheless has roots in early Christian christology and soteriology. The pre-Pauline church's belief in a new covenant in the blood of Jesus Christ forms a logical transition from the Jewish to the Pauline interpretations of the OT covenant formulations.

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