

WOMEN WITNESSES TO THE RISEN LORD

by

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This article examines the witnessing of Jesus' resurrection specifically by women. Having women witnesses seems counterintuitive and counterproductive because in rabbinic law, as a rule, only two, free, Jewish men could be witnesses (*Shev.* 30a2;¹ John 8:18). Women were *the* paradigmatic category of persons who could *not* be witnesses.² Indeed, not only in Jewish society, in the ancient Mediterranean world in Greek and Roman society as well, whether in court

¹ Haim Hermann Cohn, "Witness," *EncJud* (2nd ed.), 21:115–16.

² David Daube, "Witnesses in Bible and Talmud," in *Talmudic Law*, in *The Collected Works of David Daube* (ed. Calum Carmichael; 4 vols; Berkeley: Robbins Collection, 1992–2009), 1:415–16 ("standard case of unfitness") (all citations to Daube are to *Collected Works*); Josephus, *Ant.* 4.8.15 (209) ("on account of the levity and boldness of their sex"); Idem, *C. Ap.* 2.24.201; Cohn, "Witnesses," *Shev.* 30a1–3 & n.2 (As a technical matter of rabbinic law, a woman never has the legal classification of a witness, merely occasionally her testimony is accepted as though she were); Judith Romney Wenger, *Chattel or Person? The Status of Women in the Mishnah* (New York/Oxford: Oxford University Press, 1988), 120–26; Robert Gordon Maccini, *Her Testimony is True: Women as Witnesses According to John* (Sheffield: Sheffield Academic Press, 1966), 63–97; Tal Ilan, *Jewish Women in Greco-Roman Palestine: An Inquiry into Image and Status* (Tubingen: Mohr, 1995), 163–66; Richard Bauckham, *Gospel Women: Studies of the Named Women in the Gospels* (Edinburgh: T&T Clark, 2002), 257–61. In Mesopotamian tradition, "the only legal capacity that a woman never had was to be a witness." M. Stol, "Women in Mesopotamia," *JESHO* 38:2 (1995):136, 140. Similarly, in Greek and Roman law of the time, with rare exception, women were not permitted as witnesses. Discussed in Elizabeth van Hout, "Gender and Authority of Oral Witnesses in Europe (800–1300)," *Transactions of the Royal Historical Society*, Sixth Series, 9 (1999): 201–20; James A. Brundage, "Juridical Space: Female Witnesses in Canon Law," *DOP* 52 (1998): 147–56. .

proceedings or informal reporting of events, women were conventionally regarded as light-minded,³ fickle, flighty, unsteady, changeable, lacking in self-control, and unreliable, while masculine acting men were regarded as of sound mind, rational, self-controlled, weighty, thoughtful, and reliable—a contrast between the *levitas* of women versus the *gravitas* of men.⁴ Sophocles says, “a woman’s oath, he writes on water (Frag. 649). *Varium et mutabile semper femina* (*Aen.* 4.569–70), brought forward as, *La donna e mobile, qual piuma al vento* (Riggoletto).

In 1 Cor 14:34–35 and 11:3–22, writing to a Roman audience (Corinth was a Roman colony), Paul relates that women are not to speak in church, but should be subordinate. If they want to learn they should ask their husbands at home.⁵

Thus, whether in a legal setting or informally, even were the testimony of women to be accepted, it would seem that women’s testimony would be suspect and considered vastly inferior to the testimony of men. That women were key

³ The Greeks had an expression, *gynaikorion ou*, for a light-headed, foolish woman. In Latin, the stereotype was of a superstitious old woman (*anus*, adj. *anilis*, *anilis superstitio*, *animi leves*) who lacks courage, moderation, and steadiness, with a feeble “light” or “weak” mind, who trembles, weeps, and worries consumed with fear and anxiety, a distinction between “manly minds” and “old-womanly fears.” Richard Gordon, “*Superstitio*, Superstition and Religious Repression in the Late Roman Republic and Principate (100 BCE–300 CE),” *Past and Present* (2008): 76–77; 87–91.

⁴ Gaius 1.190 (*levitas animi*, “frivolity of mind”); Jennifer Larson, “Paul’s Masculinity,” *JBL* 123:1 (2004): 91 & n. 18; Joshua Levinson, “An-Other Woman: Joseph and Potiphar’s Wife. Staging the Body Politic,” *JQR*, New Series 87:3/4 (1997):294; Aeschylus, *Agamemnon* 475–500. Women are easily swayed, literally, “women’s minds are light upon them.” *Kid.* 80b2 and n. 17; *Shab.* 33b3 & n. 26 (in this case, women are more likely to succumb under torture); 1 Cor. 11:3.

⁵ However, as observed by Origen, *Comm. Jo.* 10.5, Paul frequently couches his messages in the cultural milieu of those whom he addresses.

witnesses of Jesus' resurrection proved embarrassing. Celsus derided the claim of Jesus' resurrection saying, "Who saw this? A hysterical female."⁶

Having exclusively women as witnesses is doubly curious, because there was an exclusively male witness tradition as well. Thus, in Paul, Jesus appears first to Peter, and then to the twelve, and then to more than 500 brothers at once, and then to James and all the apostles (1 Cor 15:3–7).⁷ In the *Gospel of Peter* a great many exclusively male witnesses, both Jewish and Roman, are present at the moment of resurrection/ascension, and the women arrive after Jesus has gone. Hearing Jesus had risen, they depart, become frightened, and flee.

Nevertheless, in the gospel tradition as found in all four canonical gospels and the *Gospel of Peter*, women play prominent roles in the events of Jesus' resurrection. Claudia Setzer suggests that the tradition of women's involvement was so "early and firmly entrenched" that none of the canonical evangelists felt free to entirely eliminate it.⁸

OUTLINE OF THE PRESENTATION OF THE SCENE

The broad outlines of the story in the four canonical gospels are remarkably similar suggesting dependence upon common sources.⁹ On the first

⁶ Origen, *Cels.* 2.55; Claudia Setzer, "Excellent Women: Female Witness to the Resurrection," *JBL* 116:2 (1997): 261.

⁷ Compare Acts 13:30–31 in which during Sabbath services in a synagogue, Paul says the risen Jesus, "for many days was seen by those who came up with him from Galilee to Jerusalem, who are his witnesses to the people."

⁸ Setzer, "Excellent," 259, 268.

⁹ Richard Bauckham, "The Women at the Tomb: The Credibility of their Story" (Laing Lecture; available internet), 3 ("broadly common structure"); Idem, "The Gospel of John and the Synoptic Problem," in *New Studies in the Synoptic Problem: Oxford Conference, April 2008: Essays in Honor of Christopher M. Tuckett* (eds. Paul Foster, Andrew Gregory, John S. Kloppenborg, and J.

day Jesus dies, followed by the second day, which is the Sabbath on which no activity occurs or none is reported, and on the third-day, the first day of the week, Jesus rises from the dead. In all four gospels, the resurrection scene (1) begins at or around sunrise. (2) Women (or a woman) go to Jesus' tomb. (3) They (or she) find the stone removed, (4) meet an angel (or angels, or in Mark "a young man"), (5) and are either explicitly given instructions or messages by the angel(s) to report back to the disciples or they report back though uninstructed to do so.

In Mark 16:1, there are three women; in Luke 23:56–24:2, there are three named and others unnamed; in Matthew 28:1, two; in John 20:1, one. In Mark and Luke, the women go to bring spices to anoint the body, which is "seems contrary to older Jewish custom."¹⁰ In John 19:39, Jesus was already buried with spices, and no reason for the visit is given. Matthew makes no mention of spices; the women go to see the tomb (Matt 28:1).

The description of the angel (or angels) varies. In Matthew 28:2, it is an "angel of the Lord descended from heaven" whose appearance was like lightening and snow white. In Mark 16:5, it is a young man in white. In Luke 24:4, it is two

Verheyden; Leuven/Paris/Walpole: Peeters, 2011), 670–74, 685–87; D. Moody Smith, *John Among the Gospels* (Columbia: University of South Carolina Press, 2001), 19–31, 212–14, 230–36; Helmut Koester, *Ancient Christian Gospels: Their History and Development* (Philadelphia: Trinity Press: 1990), 231, 253; F. Lamar Cribbs, "St. Luke and the Johannine Tradition," *JBL* 90:4 (1971) 425, 446–47.

¹⁰ John L. Cheek, "The Historicity of the Markan Resurrection Narrative," *JBL* 27:3 (1959): 194. The bringing of spices for a corpse buried in a tomb for three days is bizarre and unnecessary. Carolyn Osiek, "The Women at the Tomb: What are They Doing There?", in *A Feminist Companion to Matthew* (eds. Amy-Jill Levine and Marianne Blichenstaff; Sheffield: Sheffield Academic Press, 2001), 207. It would be perfectly normal for women to visit the tomb without bringing spices, as occurs in Matthew and John.

men in dazzling garments (or in Luke 24:23 “angels”). In John 20:12, it is two angels in white.

In both Mark 16:7 and Matthew 28:10, the angel tells the women to go and tell the disciples to meet Jesus in Galilee.¹¹ The return to Galilee is unique to Mark and Matthew (Mark 16:7; Matt 28:10, 16; cf. John 21). It may have been unsafe for the Galileans to have a reunion in or near Jerusalem except indoors hiding, which might have been perceived as unseemly for the appearance of the risen Messiah. Or, perhaps it was a tradition born among Jesus’ original Galilean followers, who felt mistreated by Judean involvement in Jesus’ death.¹²

The results of the women’s witnessing differ. In Mark 16:8, the women flee, trembling and bewildered, telling no one for they were afraid. In Luke 24:11, the women relate what they had seen and heard, “but their words seemed as idle tales and were not believed.” In Matthew 28:10, 16, the women evidently do as they were instructed, and were believed because the disciples follow the instruction relayed to them by the women by going to Galilee where they meet Jesus. In John 20:18, the woman tells the disciples that she has seen Jesus and relates what he said to her.

¹¹ In Mark 16:6, the angel refers to “Jesus of Nazareth,” which is jarringly inconsistent with Mark’s “Son of David” motif and is omitted in Matthew 28:5. The title “Jesus of Nazareth” was used in Mark 14:67 by Peter’s hostile questioner. Only in John 19:19 is Jesus given that title atop the cross. Blind Bartimaeus heard “Jesus of Nazareth” but cried out, “Son of David” (Mark 10:47–48, 52).

¹² Daniel A. Smith, “Revisiting the Empty Tomb: The Post-Mortem Vindication of Jesus in Mark and Q,” *NT 45:2* (2003): 134 (suggests a pre-Markan source). Cf. Acts 13:31.

Mark ends abruptly and seems incomplete.¹³ The additions to Mark are not to be credited as part of the original text for among other reasons that they refer to material in Luke.¹⁴ But, remarkably, Matthew, Luke, and John all have a doublet form, the first part of which, the so-called empty tomb scene, they share in common with Mark.¹⁵ In Matthew, first, the women meet and are instructed by an angel; then, for a second episode, on their way back to tell the disciples what the angel had instructed them to say, the women meet and are given the same instruction again by Jesus.

In Luke, first, the women meet the angels followed by Peter running to the empty tomb, and then, for a second episode, in lieu of Matthew's doublet scene of the women meeting Jesus along the road back to the apostles, Luke has a different "on the road" scene of "two *adelphoi* walking in the country," on the "road to Emmaus." Thus, both Matthew and Luke have a second "on the road" scene in which for the first time Jesus is witnessed resurrected, but in Luke, Jesus appears (presumably) to two men (or at least, if not two men, to a man and a woman), instead of, as in Matthew, where Jesus appears to two women.

In John 20:2, finding the tomb empty, Mary Magdalene suspects a tomb robbery. The theme of a tomb robbery in John is an ironic echo of Matthew 28:13 in which the guards are bribed to say that Jesus' body was stolen by his disciples. In John, Peter and the beloved disciple run to the tomb to see for

¹³ It is not clear why Mark ends so abruptly and in a seeming *non sequitur*.

¹⁴ Adela Yarbo Collins, *Mark* (ed. Harold W. Attridge; Minneapolis: Fortress Press, 2007), 801–03, 807.

¹⁵ Cf. Dale C. Allison, *Resurrecting Jesus: The Earliest Christian Traditions and its Interpreters* (New York/London: T&T Clark, 2005), 300–03, 335.

themselves, which seems like a retelling of the story in Luke in which Peter runs to the tomb.

In Matthew 28:16–20, Luke 24:36–45, and John 20:19–23, Jesus appears to the disciples as a group. In Matthew it is at some unspecified time, but presumably much later than “the third-day” because the meeting is on a mountain in Galilee. In Luke and John, the meeting is on the third-day, but only calculated the conventional Greco-Roman way from sunrise to sunrise, rather than calculated the Jewish way from sundown to sundown.¹⁶ In John, Thomas is not present at the first group meeting, which results in a subsequent group meeting at which Thomas is present.

Matthew and John are usually considered the least alike among the canonical gospels.¹⁷ But, in their resurrection/appearance, women witness scenes, while superficially different, looking deeper, they are similar.¹⁸

In Matthew, (1) the women see Jesus, (2) grab hold of him, and (3) he tells them to tell my brothers¹⁹ to go (to Galilee). In John, (1) the woman sees Jesus,

¹⁶ Pliny, *NH* 2.77. On John habitually using Greco-Roman, not Jewish time, Norman Walker, “The Reckoning of Hours in the Fourth Gospel,” *NT* 4:1 (1960): 69–73.

¹⁷ C. H. Dodd, *Historical Tradition in the Fourth Gospel* (Cambridge: Cambridge University Press, 1965), 137, 147; James W. Barker, “John’s Use of Matthew” (Vanderbilt Dissertation, 2011) (online), 25–26 (Neirynack), 38, 41, 47, 130; Dale C. Allison, *Resurrecting Jesus: The Earliest Christian Traditions and its Interpreters* (New York/London: T&T Clark, 2005), 247 & n. 196.

¹⁸ Richard Bauckham, “The Women at the Tomb: The Credibility of their Story” (Laing Lecture; available internet), 3 (“broadly common structure”); Idem, “The Gospel of John and the Synoptic Problem,” in *New Studies in the Synoptic Problem: Oxford Conference, April 2008: Essays in Honor of Christopher M. Tuckett* (eds. Paul Foster, Andrew Gregory, John S. Kloppenborg, and J. Verheyden; Leuven/Paris/Walpole: Peeters, 2011), 670–74, 685–87; D. Moody Smith, *John Among the Gospels* (Columbia: University of South Carolina Press, 2001), 19–31, 212–14, 230–36.

(2) grabs hold of him, and (3) he tells her to tell his brothers that he is going (to the father). In both, women (or a woman) meet the angel (or angels) and then meet Jesus. Both have angels rather than “men” (in Mark and Luke). In both, the angel(s) and then Jesus repeat the same phrase—“do not be afraid” in Matthew, “why do you weep” in John. In both, the women/woman faithfully and convincingly report Jesus’ appearance and message.

Also, John 19:31–37 and Matthew 27:62–66; 28:11–15 (like *Peter*, but unlike Mark and Luke), have prominent guard or soldiers scenes dealing with Jesus’ corpse.²⁰ Matthew’s and John’s (and *Peter*’s) guard scenes begin with requests made of Pilate. In Matthew, John, and *Peter*, there are two requests (in Mark and Luke, one, by Joseph of Arimathea).

In both Matthew and John, testimony by or about the guards is central. And, both employ the same (for the gospels unusual) literary device of shifting from the narrator’s expositional telling of the unfolding story to an authorial, analytical, reflective, contemporary voice recounting later confirmations.²¹ Thus, in Matthew 28:15: (Due to the guards’ testimony) “*to this day* the story has circulated that his disciples stole Jesus’ body.” In John 19:35: (Testifying to what the guards/soldiers did) “one, who has seen, has borne witness, by true testimony,

¹⁹ The only time John uses “brothers”/brethren. Rudolf Schnackenburg, *The Gospel According to St. John* (3 vols.; New York: Crossroad, 1982), 3:319 (comes from a source which agrees with Matthew). Also used in 1 Cor 15:6.

²⁰ John uses “soldiers,” but Matthew 28:11–15 uses “guards” and “soldiers” interchangeably.

²¹ In literature, the author can be hidden or prominent; in John and Matthew, the voice is usually the narrator’s. R. Alan Culpepper, *Anatomy of the Fourth Gospel: A Study in Literary Design* (Philadelphia: Fortress Press, 1987), 13–50.

of his own personal knowledge.”²² Their use of the same literary trope in parallel stories suggests a shared ancestor.

WHY WOMEN, NOT MEN?

There are a number of different reasons for the prominent roles of women in the Passion narratives. In the first place, it is natural to find women “at the foot of the cross” as seen, for example, in Rizpah at the foot of the crosses of seven-of-the-sons-of-Saul in the premier crucifixion story in the Hebrew Bible (2 Sam 21:1–14), or the woman of Ephesus story in Petronius’ *Satyricon* 110.6–113.4. But, the Passion narratives of Mark and Matthew are driven as well by a prosaic Jewish reality that Judeans and Galileans spoke with different and readily recognizable accents. Galilean spoke a slow *Schwabische* drawl to Judeans’ elevated *Hochdeutsch*.²³

From a purely literary perspective, the gospel accounts of the Passion are weak because it would be more melodramatically suspenseful to have some of Jesus’ followers among the crowd before Pilate. But, for Jews from the region, people who knew the situation, having Galileans among the Passover crowd call

²² Adele Reinhartz, “The Johannine Community and its Jewish Neighbors: A Reappraisal,” in *What is John? Literary and Social Reading of the Fourth Gospel* (Fernando F. Segovia; Atlanta: Scholars Press, 1999), 133 (“extratextual referent”); Schnackenberg, *John*, 3:290 (“special weight,” “can only originate with the evangelist or the editor”), 290; Culpepper, *Anatomy*, 43–45. John 19:35 is related to 20:31 and is glossed in 1 John 5:6–8 confirming the testimonial theme. Raymond E. Brown, *The Gospel According to John (xiii–xxi): Introduction, Translation, and Notes* (Garden City: Doubleday, 1970), 950–52.

²³ *Eruvin* 53b–54a; Geza Vermes, *Jesus in his Jewish Context* (Minneapolis: Fortress Press, 2003), 85; Mary C. Boys, *Has God Only One Blessing: Judaism as a Source of Christian Self-Understanding* (Mahwah, New Jersey: Paulist Press, 2000), 314–15; Zev Vilnay, *Legends of Palestine* (Philadelphia: Jewish Publication Society Press, 2003), 405–406; Mark 14:70; Matt 26:73.

out before Pilate would be impossible because their dialect would instantly give them away. To be credible for a Jewish audience, in Mark and Matthew, Jesus' male followers have to disappear from the story, but women were innocuous and could continue to be present. Thus, in Mark 14:27–28 and Matthew 26:31–32, Jesus predicts that when the shepherd (himself) is stricken, the flock (his followers) will scatter (derived from Zech 13:7), but that later when he is risen, they will gather together again in Galilee. Fulfilling Jesus' prediction, after Jesus' arrest, all of Jesus' male followers flee (except Peter, who, after denying Jesus three times, also flees, and Judas, who kills himself). With the men among Jesus' followers gone, in Matthew particularly, women take the fore.

In the ancient Near East, the identification of people, and most especially deceased persons, had a distinctly female paradigmatic context. There was a long history of women's testimony allowed for the identification of (actual or presumed) deceased loved ones (or persons believed to be dead but who were alive), such as a child,²⁴ or especially a husband,²⁵ or other close (often male)

²⁴ The classic example of otherwise disqualified testimony by women identifying a loved one is, of course, the Judgment of Solomon. There, not only were the two women disqualified because they were women, they were doubly disqualified because they were harlots. *Sanh.* 24b2–25b2; *Shev.* 301 n. 4.

²⁵ *Yev.* 87b3 & n.2; see generally 87b–88b; Yael V. Levy, "The Agunah and the Missing Husband: An American Solution to a Jewish Problem," *Journal of Law and Religion* 10:1 (1993–94): 53–58; Martha T. Roth, "The Neo-Babylonian Widow," *JCS* 43 (1991–93): 4–7, 9, 14, 17–18, 22, 24–25; John Paterson, "Divorce and Desertion in the Old Testament," *JBL* 51:2 (1932): 161–70; Shalom E. Holtz, "'To Go and Marry any Man That You Please': A Study of the Formulaic Antecedents of the Rabbinic Writ of Divorce," *JNES* 60:4 (2001): 244–45.

friends or relations.²⁶ Because of women's greater physical intimacy with children and adult members of the opposite sex²⁷ (than men usually have with each other), and their intimacy among other women and knowledge of "women's" matters, women were considered in a particularly good position to make identifications of individuals.

There was very extensive and early legal development as to when a missing husband might be considered dead, and what happened if the presumed dead husband returned after his wife's remarriage.²⁸ This was an especially important issue with respect to a widow's right to remarry and recover her dowry from her husband's relations,²⁹ and whether she was subject to the rules of levirate marriage.

In Jewish law, these rules have a certain pride of place. They are mainly found in *Yevamos*, which is famous for being among, if not *the* most complex

²⁶ The classic example is in Homer's *Odyssey*, where returned home disguised, Odysseus is recognized by his childhood nurse by the scar on his leg received in a youthful hunting accident. *Od.* 19.428–54; Erich Auerbach, *Mimesis: The Representation of Reality in Western Literature* (trans. Willard Trask; Princeton: Princeton University Press, 1953), 1 ff. Alluding to the low status of women witnesses in Greek tradition, Odysseus was only recognized by his old nurse and his dog.

²⁷ Herbert W. Basser and Marsha B. Cohen, *The Gospel of Matthew and Judaic Traditions* (Leiden/Boston: Brill, 2015), 709.

²⁸ Roth, "Widow;" e.g., Middle Assyrian Laws para. 36, 45–46 in Martha T. Roth, *Law Collections from Mesopotamia and Asia Minor*, 2nd ed. (Atlanta: Scholars Press, 1997), 165, 170–72; *Council of Quinisext (Trullo)*, 93.

²⁹ *Yev.* 116b5 & n. 40; Roth, "Widow," 1–26. Evidence of this tradition is found perhaps in the Dead Sea Scrolls. Philip R. Davies and Joan E. Taylor, "On the Testimony of Women in 1Qsa," *DSD* 3:3 (1996): 223–35 (she may testify "against" her husband).

tractate³⁰ of the famously complex Talmud. Because of the *agunah* (“chained woman”) problem that a woman might be prevented from remarrying where her husband had died, but proof from male witnesses was lacking,³¹ at an early date, the sages/rabbis greatly relaxed the rules of witnessing to establish a person’s death, so as to allow testimony by the wife herself (developing to permit hearsay and even the testimony of any—even Gentile—woman) (*Yev.* 122a5–6 & nn. 37–44, 51–53), but concomitantly they created dire consequences for a wife who remarried when her husband was alive (*Yev.* 116b5 & n. 41). The rationale was that a person claimed to be dead, but who was alive, was likely to return (*Yev.* 115a3 & n. 19), and that people do not lie about any matter that is likely to be revealed (*Yev.* 93b2 & n. 19). Thus, if a wife were to testify falsely that her husband had died, and he was alive, she would likely be exposed by his return, resulting in her complete ruin, which militated towards accepting her testimony (*Yev.* 87b3–5 & n. 19).

These rules are found in *Mishnah Yevamot* 15–16³² and in the compilation of “House disputes” between Bet Shammai and Bet Hillel of *bo bayom*, “on that date” (*circa* 84) (*Ed. General Introduction*, 3a1(1.12), 8a1–2 (6.1), 9b1 & n. 2

³⁰ Yitzhak Dov Gilat, “Yevamot,” *EncJud* (2nd ed.), 21:324; *Yev.* xiviii (“formidable”).

³¹ Due to short life spans, the danger of male occupations involving travel, and the young age of women and the higher age of men at marriage, there were many young widows desirable for remarriage and child bearing. Stol, “Women,” 132.

³² The *Mishnah* (*circa* 200) is a compilation taken from prior sources, some quoted verbatim. David Weiss Halivni, *The Formation of the Babylonian Talmud* (trans. Jeffrey L. Rubenstein; New York: Oxford University Press, 2013), 6, 103, 113–14, 116.

(8.5); *Ber.* 27b1–28a2).³³ And, they obviously had extensive development before they were compiled because of the many and elaborate sub-rules and sub-exceptions, such as which categories of persons might not be allowed to controvert the wife’s witness (including mother-in-law, daughter of mother-in-law, co-wife, husband’s brother’s wife, husband’s daughter) (*mYeb.* 15.4) and the order of deaths, such as of a son and husband (*mYeb.* 15.8) Some of these rules of women’s witness may have preceded the disputes between Bet Shammai and Bet Hillel.³⁴ And, the historicity of these accounts may perhaps be bolstered by their involving significant rulings in which (unusually) Bet Hillel gave in and agreed with Bet Shammai (*mYev.* 15.2–3; *Yev.* 116b2, 116b5).³⁵ Discussion of the issues continued through Gamaliel the Elder (whom in Acts 22:3 Paul claimed to have been his teacher), Yehudah ben Bava, Nechemyah of Bet Deli, and Akiva (*mYev.* 6.7; 16.7; *Yev.* 115a3 & n. 18; 122a4–122a6 & nn. 44, 51–58, 122b3).

It is extremely difficult, nearly impossible to explain to Western readers the importance of Jewish/rabbinic law. In the first place, beginning in the late

³³ David Instone Brewer, “Review Article: The Use of Rabbinic Sources in Gospel Studies,” *TynBul* 50:2 (1999): 292; Herbert W. Bassler, “The Gospels Would Have Been Greek to Jesus,” in *Who Was Jesus: A Jewish-Christian Dialogue* (ed. Paul Copan and Craig A. Evans; Louisville, KY; Westminster John Knox, 2001), 112 & n.2.; Idem, *The Mind Behind the Gospels: A Commentary on Matthew* (Leiden: Brill, 2015); Idem, “Planting Christian Trees in Jewish Soil,” *Review of Rabbinic Judaism* 8 (2005): 107 (“antiquity and continuity of Rabbinic modes of thought are to be appreciated and validated by the study of New Testament”); Bassler and Cohen, *Matthew*, 711 (“*M.Yeb.* 15.4 affirms that women could give testimony about presumed dead”).

³⁴ Yitzhak Dov Gilat, “Yevamot,” *EncJud* (2nd ed.), 21:324; also John Christopher Thomas, “The Fourth Gospel and Rabbinic Judaism,” *ZNW* 82 (1991): 175 and n. 49 (“pre-Yavnean”).

³⁵ Some accounts of the victories of the Pharisees against the Sadducees are heavily apocryphal. For example, *B. Bat.* 115b1–16a1.

nineteenth century, particularly among Protestant scholars,³⁶ “legalism” became “the very definition and the all-sufficient condemnation of Judaism.”³⁷ Even post-War, Bultmann wrote of *Judische Gesetzlichkeit*.³⁸ But, putting aside this stupid, mindless prejudice, “Greek,” Western academic thought tends to deduction, focusing on the big picture, the rule, axiom, unity, and coherence in the question: What is the law, the rule? But, for our purposes, more important than the precise content of the various rules, is the “weight” of the law; even, for the sake of simplicity, taken quite literally, that is, the physical volume of paper as though placed on a balance scale, proverbially, the quantity of spilt ink.

In both the Jewish and Roman legal systems at roughly the same time two great competing schools developed that debated legal issues often involving what might seem the most abstruse, arcane, legalistic minutia: Hillel and the Pharisees versus Shammai and the Sadducees in Jewish law and Labeo

³⁶ Albert I. Baumgarten, “Marcel Simon’s ‘Versus Israel’ as a Contribution to Jewish History,” *HTR* 92:4 (1999): 467 n. 12 (in the eyes of Protestant scholars “legalism” viewed as “the worst of all possible religious defects”); 470 (“a mania for sterile casuistry, and of pedantic formalism, for all of which the Talmud provides abundant evidence”); Terry Pinkard, *Hegel: A Biography* (Cambridge: Cambridge University Press, 2000), 585 (Hegel believed that Judaism would and should have vanished from the world stage except for “tenacious unnecessary legalisms”).

³⁷ George Foot Moore, “Christian Writers on Judaism,” *HTR* 14:3 (1920): 252 (“None of the learned adversaries of Judaism in the seventeenth and eighteenth centuries, though they knew the literature immeasurably better” espoused these later anti-legalism theories).

³⁸ Rudolf Bultmann, *Primitive Christianity in its Contemporary Setting* (trans. R. H. Fuller; London: James and Hudson, 1956 (1949)), 59–71, 67–68 (in German original “*Judische Gesetzlichkeit*”); Anders Gerdmar, *Roots of Theological Anti-Semitism: German Biblical Interpretation and the Jews, from Herder and Semler to Kittel and Bultmann* (Leiden/Boston: Brill 2009), 385 & n. 67.

and the Proculians versus Capito and the Sabinians in Roman law.³⁹ Alan Watson finds “extremely puzzling” the importance Roman law attached to the opinions of such unpaid expert jurists who held no official position and whose opinions often conflicted.⁴⁰ The same might be said of the Talmudic sages.

Operating under a different criterion of relevance than “Western” academic thought, Talmudic (Pharisaic/rabbinic) thought tends to induction,⁴¹ focusing on “the granular,” details, particulars, specifics, the different, statistically insignificant, unusual, odd-man-out, sit-up-and-take-notice—*the exception, not the rule*.⁴² And, the exception to the exception and so on *ad infinitum*.

Thus, thinking in this inductive way, on the one hand, the general rule assuredly was that only two, Jewish, free men could be witnesses. But, what is absent can be more conspicuous than what is present. According to Daube, the rabbis needed positive authority from Scripture, but found it far from easy to

³⁹ Solomon Zeitlin, “The Halaka: Introduction to Tannaitic Jurisprudence,” *JQR*, New Series 39:1 (1948): 32; Peter Stein, “The Two Schools of Jurists in the Early Roman Principate,” *Cambridge Law Journal* 31:1 (1972): 8–31.

⁴⁰ Alan Watson, “Roman Law,” in *Civilizations of the Ancient Mediterranean: Greece and Rome* (3 vols.; eds. Michael Grant and Rachel Kitzinger; New York: Charles Scribner’s Sons, 1988), 1:609.

⁴¹ Louis Jacobs, *Studies in Talmudic Logic and Methodology* (London: Valentine, Mitchell, 1961), 9–10 nn. 3–4; Moshe Silberg, *Talmudic Law and the Modern State* (trans. Ben Zion Bodeser; ed. Marvin S. Weiner; New York: Burning Bush Press, 1973 (1961)), 19–21; Hyam Maccoby, *Philosophy of the Talmud*, (RoutledgeCurzon, 2002), 191–96; Leib Moscovitz, *Talmudic Reasoning: From Casuistics to Conceptualism* (Tubingen: Mohr Siebeck, 2002), 75–90; Avi Sion, *Judaic Logic: A Formal Analysis of Biblical, Talmudic and Rabbinic Logic* (Geneva: Editions Slatkine, 1995), 18–20, 135–36, 196–200, 252.

⁴² See *Inductive Reasoning: Experimental, Developmental, and Computational Approaches* (eds. Aiden Feeney and Evan Heit; New York: Cambridge University Press, 2007); David Daube, “Two Tripartite Forms,” 2:389–410.

discover Scriptural support for women's exclusion from testimony, and they had to resort to a highly forced construction of Deuteronomy.⁴³ Thus, in rabbinic law "the disqualification of women is on technical grounds not lack of credibility."⁴⁴ The reason given is that Scripture uses the masculine form. But, Scripture uses the masculine form in cases where both sexes are referred to.⁴⁵

And, "no one bothered to provide a well reasoned basis" for the two male witness rule.⁴⁶ And, for whatever reason in any event, the actual physical volume or weight of law regarding the two male witnesses rule was miniscule and negligible compared to the enormous physical volume and weight of law that allowed for women to be witnesses. The rule that permitted only male witnesses seemingly was so clear as to not warrant comment. To overcome such a clear rule, the amount of pages on the exception is enormous.

And, while there were a number of different exceptions that permitted women's testimony (e.g., *Ned.* 91a2; *B. Qam.* 114b2–3), witnessing by women for the purpose of establishing whether a person was alive or dead was far-and-away by sheer volume or weight the foremost exception to the rule of two, free, Jewish, male witnesses. It was a massive legal cause célèbre at a time of the greatest flowering of Talmudic exegesis in history, the time of the greatest of the greatest of all time, Hillel, Johanan ben Zakkai, and Akiva.

On the surface, women were the paradigmatic category of persons not allowed to be witnesses. But, less obvious to the Gentile outsider, they were also

⁴³ Daube, "Witnesses," 417.

⁴⁴ Maccini, *Testimony*, 95.

⁴⁵ Cohn, "Witness," 115; Daube, "Witnesses," 416; cf. *Shev.* 30a1–3 & n. 18.

⁴⁶ Daube, "Witnesses," 417.

the paradigmatic category of persons who in the exceptional and archetypal circumstances found in the gospels were allowed to be witnesses.

This enormous amount of legal background and development meant that the women witnesses to Jesus' resurrection, whose testimony fit within this vaunted legal exception to the male witness rule, were not merely "women," who acted as reliable "witnesses"—women whose testimony in certain circumstances was as good as men's. They were a highly developed legal category of halakhic women witnesses,⁴⁷ who, for that reason, their testimony was superior to men's. There was an enormous edifice of law that stood behind women's testimony, with no edifice of law standing behind men's testimony. Due to the comparative paucity of law on the subject of men's testimony, there was no legal category of halakhic male witnesses.⁴⁸

Jews knowledgeable in Pharisaic/rabbinic law and method, as so many were in that day, would recognize the allusion to this celebrated legal exception. In the inductive system of rabbinic law, Matthew's women witnesses are presented to fit within a most notable and celebrated legal exception, which enshrines these women's testimony within the mantle of *the* law, which itself *bears witness* to and corroborates these women's testimony. And, which would not be the case had the witnessing been by men or any combination of men and women. Women witnesses qua gender is a literary device. By reason of their

⁴⁷ Moscovitz, *Reasoning*, 6; Chaim Saiman, "Legal Theology: The Turn to Conceptualism in Nineteenth-Century Jewish Law," *Journal of Law and Religion*, 21:1 (2005/06), 74 (an ownerless ox is not an ox; an ox is an animal to which the laws of "ox" apply, a halakhic ox).

⁴⁸ A *halakhic* category of witnesses was *zomemim* witnesses, but it does not cross paths with the law of women's witness.

gender, the law is a second witness to these women's witness, a *paraclete*, if you will, an Aaron to her Moses.

In sum, the message is gendered. All and only women's testimony concerning Jesus' resurrection is incomparably better than the testimony of all and only men or any combination of men or women. From a purely Jewish perspective, having all women witnesses to the crucial first sighting on the third day of the risen Lord, was exactly what the story called for. The Jewish law gave its stentorian roar of approval.

Moreover, although the classic fact pattern was of women (or a woman) testifying that a person was dead, the reverse could equally apply, that a person thought dead was alive. Indeed, the most pertinent instance in rabbinic law to Matthew's narrative is of women's testimony that, "He lives." Matthew's exceptional case is similar to the "novelty" (extreme exception) where a qualified witness, a man, testifies that a woman's husband is dead, but two disqualified witnesses, women, testify that he lives, we are to believe the women over the man.⁴⁹ Thus, the testimony of the women in Matthew is similar to that testimony which in the Talmud is the great exception, the novelty, where we believe women

⁴⁹ *Yev.* 117b3. Usually, unequivocal reliability is only afforded to two male witnesses (*Yev.* 115a4 & n. 29). And, two or more women witnesses have the status of one male witness (*Yev.* 117b). Matthew goes further than the Talmud where it is one man versus two women. Conceivably, because they are not named and due to their common indemnification by the priests, the guards as a group might be considered as a single witness. In a group, infirmities within the group can affect the entire group. *Mak.* 6a1–3. Also, the guards never saw Jesus resurrected, and only said that his corpse was stolen, not mentioning whether it subsequently became alive or not, which does not precisely contradict the women.

over a man—where the women say, “He is not dead, he lives”—we believe their testimony over a man’s testimony that he is dead.

ON THE THIRD-DAY

In rabbinic law and custom the first three days following death were “understood to have a special quality” such that “the unique status of the first three days is beyond question.”⁵⁰ Generally, absent unusual circumstances, not found in the gospels, that might produce a delay in decomposition, identification of the deceased had to occur by the third day after death (*mYev.* 16.3; *Yev.* 120a3; 1 Cor 15:4). Under normal circumstances, by the fourth day, the corpse would have begun to decompose (*Yev.* 120a3 & nn. 16–18; John 11:39).⁵¹ And, an identification of a corpse that had (in some measure) decomposed was highly problematic, such that it would have been out of the question for Jesus to be identified solely outside of the three day window.

The rabbinic rules requiring identification of a deceased person by a witnessing of the corpse during the three days after death are paralleled in the rabbinic tradition that a resurrection of the body (outside of the general resurrection) occurs on the third day after death, prior to the commencement of decomposition.⁵² Peter speaking in Acts 2:31–32 and Paul speaking in Acts 13:35–37 state that Jesus’ body did not decompose.

⁵⁰ David Kraemer, *The Meanings of Death in Rabbinic Judaism* (London/New York: Routledge, 2000), 123, 124; Bassar and Cohen, *Matthew*, 707.

⁵¹ Kraemer, *Death*, 21.

⁵² Kraemer, *Death*, 84; Hosea 6:2 (“on the third-day he will rise us up, and we shall live in his sight” is used repeatedly in rabbinic exegesis for the notion that resurrection of the dead will occur on the third-day); Jacob Neusner, *Hosea in Talmud and Midrash* (Lanham, Maryland: University Press of America, 2007),

There was the notion that the soul hovers around the body until the third-day; that until the third-day even the soul is not sure that the body is dead and clings to the hope of reentering the body.⁵³ Only “from the third day death is irreversible; until that point, it is always possible that the soul will find its way back into the body.”⁵⁴ Thus, the identification of Jesus as resurrected (in contradistinction to the identification of his corpse) had to occur specifically on the third-day.

In Matthew, the most Jewish of the gospels, especially, Jesus must resurrect on the third-day for it was common public knowledge that Jesus said he would rise from the dead on the third-day (Matt 16:21; 17:22–23; 20:17–19).⁵⁵ As corroboration, Matthew 27:62–63 has the priests and Pharisees tell Pilate that Jesus announced publicly, and it became well known, that “after”⁵⁶ three days he would rise again. Putting Jesus’ prediction of his resurrection on the third-day in the mouths of his enemies, the priests, and his learned opponents,⁵⁷ the Pharisees,

15, 44–45, 53, 138; Selby Vernon McCasland, “The Scriptural Basis of ‘On the Third Day,’” *JBL* 48:3/4 (1929): 124–37; J. Wijngaards, “Death and Resurrection in Covenantal Context (Hos. VI 2),” *VT* 17:2 (1967): 226–39; Luke 9:22; 18:33; 24:21.

⁵³ Kraemer, *Death*, 125

⁵⁴ Kraemer, *Death*, 84.

⁵⁵ John Paul Heil, “The Narrative Structure of Matthew 27:55–28:20,” *JBL* 110:3 (1991): 424.

⁵⁶ *Meta* “after” or “with” the third-day. Any difference between “on” or “after” is “actually insignificant.” “The third day is the significant one.” The Talmud also debates whether “until” means to include the last stated period of not.” Kraemer, *Death*, 156 n. 6.

⁵⁷ Andrew R. Simmonds, “Woe to You . . . Hypocrites!” Re-reading Matthew 23:13–36,” *BSac* (2009): 336–49.

significantly bolsters the credibility of Jesus' prediction.⁵⁸ As further evidence that resurrection had to occur by the third-day, the tomb was secured by guards only "until the third-day" (Matt 27:64; *Gos. Pet.* 29).⁵⁹

These third-day traditions, combined with the Pharisaic/rabbinic notion of actual full bodily physical resurrection, and that identification had to occur prior to decomposition mean that the witnessing of the resurrected Jesus on the third-day has an importance incomparably greater than any subsequent identification or witnessing.⁶⁰ Thus, it is extremely important to note that, in both Matthew and John, the only people to see Jesus "on the third-day" (calculated the Jewish way from sundown-to-sundown), during the crucial three-day limitations period, are women.⁶¹

While John habitually uses Greco-Roman (sunrise-to-sunrise), not Jewish time (sundown-to-sundown),⁶² yet, in John, as in Matthew, counted the Jewish way, a woman is the sole witness to the risen Lord during the crucial three-day period. Under rabbinic law, the other later eyewitness identifications of the risen Jesus (by men outside of the three-day limitations period), may bolster the

⁵⁸ Ulrich Luz, *Matthew 21–28* (ed. Helmut Koester; trans. James E. Crouch; Minneapolis: Augsburg/Fortress, 2005), 587 ("officially certified"). Notice the similarities in *Peter*.

⁵⁹ Heil, "Structure," 428; Kraemer, *Death*, 83.

⁶⁰ In Matthew 28:16–20, Luke 24:36–45, and John 20:19–23, Jesus appears to the disciples as a group. In Matthew it is at some unspecified time, but presumably much later than "the third-day" because the meeting is on a mountain in Galilee. In Luke and John, the group meeting is on the third-day, but only calculated the conventional Greco-Roman way from sunrise-to-sunrise, rather than the Jewish way from sundown-to-sundown.

⁶¹ Computed in the Jewish manner by the day beginning at sunset (Matt 28:1–10, 17; Mark 16:1–11; contrast Luke 24:1, 13, 21, 29, 33; John 20:1, 19).

⁶² Walker, "Hours."

women's testimony, but by themselves, the later testimony beyond the third-day (by men) is insufficient. Thus, under rabbinic law, in Matthew and John, *the* crucial testimony of Jesus' resurrection comes from women, and women alone.

To further contrast the women's and men's witnessing, in Matthew, when the women meet Jesus they worship him (Matt 28:9). The men do the same when they meet Jesus (Matt 28:17), but, while the women believed, Jesus' male disciples doubted. (The phrase can mean "some (of the men) doubted," a theme that is taken up in John in the figure of doubting Thomas, or it can mean that they all harbored some doubts.) Having both the women and the men worship Jesus, but the women believe while the men harbor doubts presents the Greco-Roman figure of speech and rhetorical form called an emphasis (Latin: *significatio*), that by having parallel episodes with a difference, draws extra attention to the difference, between the women's and men's witnessing.

LUKE AND JOHN USE GREEK ROMANCE NOVEL GENRE

In their resurrection recognition scenes, Luke and John employ Greek romance/adventure novel genre. The Greek novel was a relatively low-brow formulaic melodrama that featured (1) a very prominent heroine, usually the protagonist, (2) an exceptionally strong and faithful but chaste pre-marital love relationship between a woman and a man, (3) who are both deeply religious and virtuous, and (4) in the story, one or the other, or both of them believes the other has died. But, in a scene of non-recognition turning to recognition, they discover their thought-lost love is alive! Thus, after many trials, tribulations, and travels, overcoming seemingly impossible odds and adversities, she gets her man, and

they live happily ever after.⁶³ Characteristically, in the non-recognition turning to resurrection scene, the dialogue is impossibly contrived or “cutesy,” which instantly indicates the genre.⁶⁴ Thus, in John 20:13–16, we find:

Jesus: “Woman, why do you weep? Who are you looking for?” (As though he did not know.) Thinking him to be the gardener (non-recognition), she responds.

Mary: “Sir, if you have taken him away, tell me where you have laid him, that I may take him away.” (Jesus, of course, has indeed taken *him*(self) away.) Overwhelmed by her devotion, that she (with a mere woman’s strength⁶⁵) would take him/Jesus away (whom she supposes is a lifeless corpse), no longer able to contain his emotions, he blurts out.

Jesus: “Mary.” Now recognizing him, she turns to face him exclaiming in delight.⁶⁶

⁶³ S. Wiersma, “The Ancient Greek Novel and Its Heroines: A Female Paradox,” *Mnemosyne*, 4th Series 43:1/2 (1990): 121.

⁶⁴ Joshua Levinson, “The Tragedy of Romance: A Case of Literary Exile,” *HTR* 89:3 (1996): 237, 239–40, 243; Bryan P. Reardon, “The Greek Novel,” *Phoenix* 23:3 (1969): 291–309; Wiersma, “Heroines,” 109–23; Bryan P. Reardon, “General Introduction,” in *Collected Ancient Greek Novels* (ed. Bryan P. Reardon; Berkeley: University of California Press, 1989), 2, 12, 309 n. 33 (frequent legal trial scenes). Legal allusions are common.

⁶⁵ Alluding to the theme in Mark that the women are too weak to remove the stone.

⁶⁶ A similar scene is found in *Chaereas and Callirhoe*. “Don’t be frightened, lady, whoever you are. I will not use force on you. You shall have the husband you want.” (Indeed she will, and it is him.) Before he could finish speaking, recognizing his voice, she threw the covering from her face, and they both cried out at the same time: “Chaereas!” “Callirhoe!” Adeline Fehribach, “The ‘Birthday’ Bridegroom: The Portrayal of Jesus in the Fourth Gospel,” in *A Feminist Companion to John* (2 vols.; eds. Amy-Jill Levine and Marianne Blichenstaff; New York: Sheffield Academic Press, 2003), 118. *An Ethiopian Story* provides another example. “What is this? O gods, you have brought about

Mary: “Master-dear.”⁶⁷ She grabs and hugs him.⁶⁸

In Luke 24:5, the angel’s statement from the tomb, “Why do you seek the living among the dead” is contrived, but the dialogue of Luke’s road to Emmaus much more so.

Jesus (unrecognized): “What are you discussing?” Surprised, one of the disciples answers.

Disciple: “Are *you* the only stranger in Jerusalem who does not know of the things that have occurred?” (referring to Jesus’ death). In a delicious irony, the disciple thinks that the person, whom he fails to recognize as Jesus, does not know of the events concerning Jesus when the person spoken to (Jesus) knows them better than anyone.

The reason why Luke and John use novel style seems to be that (1) the Jewish women witnesses tradition made no sense for Gentiles unfamiliar with rabbinic law, (2) the women of Greek novels were not light-headed but instead resourceful, intelligent, brave, and ultimately victorious and vindicated.⁶⁹ Presenting women in an extremely favorable light (as though these novels were written today), the novel genre was the closest available literary vehicle to convey

the impossible! This is Thisbe’s face!” And, in another recognition scene, a short time later: “I have found you, Theagenes!” “You are alive, Charikleia!”

⁶⁷ Brown, *Introduction*, 1010. “Rabbuni” does not translate well into a diminutive poor language like English. Xenophon of Ephesus, *An Ephesian Tale* 14 (“Husband and master, I have found you again”).

⁶⁸ This is implicit, not explicitly stated.

⁶⁹ While called “Greek,” these novels arose in Asia Minor in the expatriate ambiance of Greeks among exotic natives, and Alexandria became the genre’s hub. Wiersma, “Heroines,” 111. In ex-patriot Greek communities outside Greece, the status of “Greek” women (by virtue of their being Greeks among native) was higher than of women in Greece.

the rabbinic women witness message to a Gentile audience. And, (3) since Jews read and wrote Greek novels, including as glosses on biblical narratives,⁷⁰ there was no cultural impediment to recasting the rabbinic story into a Greek novel style.

Moreover, to a degree, themes of non-recognition/recognition are inherent in Luke and John. Unlike in Matthew where Jesus' promised resurrection is widely known and anticipated, in Luke and John, even Jesus' disciples do not yet understand the meaning of Jesus' death; only later Jesus opens their minds to understand (Luke 24:6, 8, cf. 21, 31, 45–46; John 2:22; 12:16; 20:9).

Using Greek novel genre is highly unusual in the NT and occurs only in Luke and John and only in this one instance of their resurrection/appearance stories. The compelling reason *not* to use Greek novel genre is because novelistic recognition scenes with their contrived dialogue unavoidably smack of fiction, and using *this* fictional genre tends to make any account presented in it unbelievable.⁷¹ Many Greek novels are “campy,” tongue-in-cheek, and self-

⁷⁰ *Joseph and Aseneth*, for example.

⁷¹ Philip F. Kennedy and Marilyn Lawrence, *Introduction*, in Terence Cave, *Recognitions: A Study in Poetics* (Oxford: Clarendon Press, 1988), 1–4, 5 (“The reader of the story recognizes the plot (‘Oh, it’s a recognition story!’);” 489 (non-recognition/recognition scenes of novels are “the mark or signature of fiction so that even when something like it occurs in fact, it still sounds like fiction,” a “contrivance,” “too neat to be real,” “regarded with contempt and suspicion,” a “cliché,” “banal,” having “the character of an old tale,” “inferior status” literature); Rebecca Carol Johnson, “The Politics of Reading: Revolution and Recognition in Jabra Ibrahim Jabra’s *In Search of Walid Masoud*,” in *Recognition: The Poetics of Narrative: Interdisciplinary Studies on Anagnorisis* (eds. Philip F. Kennedy and Marilyn Lawrence; New York: Peter Lang Publishing, 2009), 182 & nn. 22–23 (“an obstacle to belief rather than a means to it”); Michal Peled Ginsburg, “Dickens and the Scene of Recognition,” *Political Answers* 3:2 (2005): 1, 4. On recognition scenes in the gospels, see Piero Boitani,

mocking, flaunting the unbelievable nature of their stories. One of the oldest, overdone, and time-worn themes in ancient literature,⁷² a large body of ancient literature, including rabbinic spoofs of biblical non-recognition scenes,⁷³ mocked the genre.⁷⁴

Thus, Luke disguises the romance genre by not having women but rather *adelphoi*, which could mean men or women, or a man and a woman, but presumably the context seems to indicate two men or perhaps a man and woman.

But, John boldly, by reducing the number of women from two (in Matthew) to one (in John), emphasizes the romantic overtones, and John's dialogue portrays Jesus and Mary as deeply emotionally attached, as in love.⁷⁵ This is not to suggest that their relationship was necessarily sexual. To the contrary, in Greek novels the protagonists were always entirely devoted but devout and chaste *promessi sposi*. Nonetheless, sexual relations are anticipated by them and the reader/hearer, after the events recounted in the story. And,

"Recognition: The Pain and Joy of Compassion," *Recognition*, 213–26; Levinson, "Romance," 227–44.

⁷² Christopher Gill, trans., Longus, *Daphnis and Chloe* 4.21–22, in *Greek Novels*, 342 n. 74. The unexpected recognition of abandoned children became a staple of the plots of New Comedy, in Menander's *Epitrepontes*, for example, and is found in many plays by Plautus, such as, *Captivi*, *Menaechmi*, *Poenulus*, *Rudens*, and *Edidicus*, and by Terence, such as, *Heauton Timorumenes* and *Eunuchus*.

⁷³ *Sotah* 10b1 & n.4 (Judah and Tamar); *Yev.* 122b2; *Meg.* 13b1 (Jacob and Leah)

⁷⁴ For example, Longus, *Daphnis and Chloe*, Reardon, *Novels*, 342 & nn. 74–75; Heliodorus, *An Ethiopian Story* 17–19, *ibid*.

⁷⁵ Adeline Fehribach, "The 'Birthday' Bridegroom: The Portrayal of Jesus in the Fourth Gospel," in *A Feminist Companion to John* (2 vols.; eds. Amy-Jill Levine and Marianne Blichenstaff; New York: Sheffield Academic Press, 2003), 115–118, suggests that the reason John has one woman rather than two is in order for John's non-recognition/recognition scene to more closely follow the standard romance plot of Greek novels.

John's language, "touch," *hoptomai*, only in John here, has a sexual double meaning not found in Matthew's *krateo*.

However, notice that John, having adopted Greek romance novel genre is a prisoner of that genre, and the author of this passage in John cannot smoothly get out of the romance genre, but if he does not get out of it quickly, the story will seem fictional. Hence, with no good way out of the genre, the author gets out of the romance genre by one of the worse transitions in John: Jesus to Mary: "Don't touch me," "Non me toccare" (John 20:17).

BENEATH THE SURFACE, IN THERE LEGAL ALLUSIONS, JOHN AND MATTHEW TELL THE SAME STORY

Amazingly, in John, Mary's witnessing of the risen Lord is set within the same rules/exceptions of the rabbinic law of women witnesses as Matthew's story. Only John's story is set in that part of the law in which the testimony is from one woman, rather than, as in Matthew, two. Ordinarily, in rabbinic law, having two women witnesses is incomparably better than one (analogously to the two male witness rule).⁷⁶ Allowing the testimony of one witness was a rabbinic dispensation, and one witness would not be believed without her having conducted an investigation (*Yev.* 84b4–5 & n. 26; 87b3 & n. 5; 88a; 91a4 & n. 36; 92a1–2 & n. 8; 93b3; 94a4).

⁷⁶ Luke having many women is contrary to the rabbinic rule that two witnesses are as good as a 100 (*Yev.* 88b5, 117b2). Moreover, an amorphous group of women would not qualify because of possible rivalries and conflicts between them (*Yev.* 117a2–3 & n. 19).

Thus, Mary's actions are presented as her investigating, in a "searching motif,"⁷⁷ in which in a crescendo, Mary consults in ascending order of prominence the two disciples, two angels, and finally, the supposed gardener/Jesus about the removal of the body.⁷⁸ Mary's search constitutes the investigation required under rabbinic law to "lay the foundation," to "qualify" her testimony as "admissible" despite coming from but one woman witness, rather than two. And, moreover, the testimony of one woman, concerning a man with whom she was very close, in rabbinic law was *the* archetypal exceptional case that permitted women's testimony—of a wife concerning her husband.⁷⁹ Thus, John uses the romance genre to assimilate its resurrection witness story into the archetypal legal context permitting a single woman witness.

Flirting with the stereotype of women's *levitas*, according to Bultmann, John's Mary is a "foolish,"⁸⁰ a ditz. "Prematurely," without looking into the

⁷⁷ Rudolf Schnackenburg, *The Gospel According to St. John* (3 vols.; New York: Crossroad, 1982), 3:316.

⁷⁸ Raymond E. Brown, *The Gospel According to John (xiii–xxi): Introduction, Translation, and Notes* (Garden City: Doubleday, 1970), 1009.

⁷⁹ Andrew Simmonds, "Mark's and Matthew's *Sub Rosa* Message in the Scene of Pilate and the Crowd," *JBL* 131:4 (2012): 747 (allusions to Jesus as married derive "from the husband-and-wife new covenant form (Jer. 31:31–33)"). Notice the similarities with Augustus and Roma. Mary Beard, John North, and Simon Price, *Religions of Rome* (2 vols.; Cambridge: Cambridge University Press, 1999), 1:352–53.

⁸⁰ Rudolf Bultmann, *The Gospel of John: A Commentary* (trans. G. R. Beasley-Murray; eds. R. W. N. Hoare, J. K. Riches; Philadelphia: Westminster Press, 1971), 686. Notice, however, that Mary is completely fearless and the allusion to a women's strength in Mary's determination to carry away Jesus' corpse. Mary assumes a dominant role in asking, "Lord, If you have carried him off, tell me, and I will raise/lift up/take him away." And, ironically, Mary is prescient. Someone has removed the body, and the one she comes to suspect, and accuse, the "gardener," did it. The gardener would have jurisdiction over the garden containing the tomb. Dodd, *Historical*, 148, perceives a psychological dimension.

tomb, she “impulsively” jumps to a mistaken conclusion that there has been a tomb robbery and persists in her foolishness interrogating the “gardener.”⁸¹ On the other hand, in a “Who Dun It?” motif, the one she suspected and confronted, the gardener, did it.

And, moreover, in any event, the testimony of women identifying a loved one as alive or dead, was not based upon principles cross-examination or legal probing or testing, it was based upon deterrence, the disastrous consequences to her if her testimony proved wrong.⁸² Similarly, the strength of the women’s testimony of Jesus’ resurrection is due to the miraculous coincidence of the backdrop of it fitting perfectly within the interstices of the law, not whether Mary had originally been “foolish” or not.

In our male-centric culture, it is widely believed that John’s “Mary is marginalized in favor of the beloved disciple,”⁸³ That “the beloved disciple, not Mary, is the perceptive witness.”⁸⁴ But, studied closely, Mary’s witness is superior to that of the beloved disciple.

In John 20:8–9, the beloved disciple at the empty tomb “sees and believes,” but the next verse says he did “not yet know/understand the scripture that Jesus must rise,” which necessarily undercuts and disparages the value of his “seeing and believing” as “inadequate.”⁸⁵ (“Blessed are they that have not seen and yet have believed” (John 20:29)) And, more importantly, in Luke and John,

⁸¹ Schnackenburg, *John*, 308; Bultmann, *John*, 683.

⁸² *Yev.* 122b2 and nn. 14–15.

⁸³ Maccini, *Testimony*, 232.

⁸⁴ Bauckham, “Women,” 9.

⁸⁵ William Bonney, *Caused to Believe: The Doubting Thomas Story as the Climax of John’s Christological Narrative* (Leiden: Brill, 2002), 149–50.

the male disciples who look into the empty tomb, after doing so, simply leave and “went away again unto their own home” (John 20:10) (implicitly telling no one).

Compare that to Mary’s message *apostola apostolorum*.

Notice the different ambiguous readings and emphasis. For those not meant to understand, the climax of the story is the recognition: Jesus: “Mary.” Mary: “Master-mine.”⁸⁶ However, the real climax of the story, for those meant to understand, is: her testimony qualified by her investigation, Mary becomes Jesus’ messenger, his “apostle-to-the-apostles” (*apostola apostolorum*)⁸⁷ (and theatrically to all hearers/readers). In an explosive stentorian climax to the crescendo, she proclaims *viva voce*, “I have seen the Lord!” The evangelist relates that she gave them the message Jesus entrusted to her.

THE WOMEN WITNESSES AND THE EMPTY TOMB ARE FROM DIFFERENT LITERARY GENRES. APPEARANCE/RESURRECTION VERSUS DISAPPEARANCE/ASCENSION

In the last 150 years, the so-called empty tomb theory has gained many adherents. In a time when scholars increasingly disbelieved miracles and sought to read the gospels shorn of “mythology,” it was felt that Mark might represent an early stage of the story prior to it having been distorted by increasing layers of

⁸⁶ The diminutive of master/rabbi does not translate well into English, a diminutive poor language.

⁸⁷ Raymond E. Brown, “Roles of Women in the Fourth Gospel, *TS* 36 (1975): 693 & n. 14 (citing Rabanus Maurus). A. Saltman, “Rabanus Maurus and the Pseudo-Hieronymian “*Quaestiones Hebraicae in Libros Regum et Paralipomenon*,”” *HTR* 66:1 (1973): 45–46 (knowledge of and sympathy for rabbinic learning; in whose writings “the Jewish lamb seems to lie down quite comfortably by the side of the Patristic lions”).

myth and legend.⁸⁸ A great many theories have been proffered, including that there were separate appearance and empty tomb traditions,⁸⁹ that the empty tomb tradition might be exceptionally old,⁹⁰ and that the source for the gospels may have ended with the empty tomb, with the different appearance stories added later.⁹¹ There has also been considerable theorizing over the role of women in empty tomb tradition. François Bovon suggested that Paul's list of witnesses in 1 Cor 15:5–8 that prefers men over women represents a compromise between Judeo-Christianity and Hellenistic Christianity at the expense of Johannine Christianity.⁹²

The empty tomb witnessing (“disappearance”) as an indication or evidence of an ascension or apotheosis is fundamentally Greco-Roman,⁹³ and

⁸⁸ Daniel P. Fuller, “The Resurrection of Jesus and the Historical Method,” *JBR* 34:1 (1966): 18; Dieter Lührmann, “The Gospel of Mark and the Sayings of Q,” *JBL* 108:1 (1989): 51–71; Herbert Jennings Rose, “Hercules and the Gospels” 31 *HTR* (1938): 140; Allison, *Resurrecting*, 299–352; William O. Walker, “Christian Origins and Resurrection Faith,” *JR* 52:1 (1972): 41–55; Daniel A. Smith, *Revisiting the Empty Tomb: The Early History of Easter* (Minneapolis: Fortress Press, 2010), 10, 143, 165 (Mark's empty tomb motif is a departure from Paul, downplayed in Matthew, Luke, and John, and little used by early Christian authors); Jane Schaberg, *The Resurrection of Mary Magdalene: Legends, Apocrypha, and the Christian Testament* (New York: Continuum International, 2004), 210–25.

⁸⁹ Herbert Burhenn, “Pannenberg's Argument for the Historicity of the Resurrection,” *JAAR* 40:3 (1972): 370.

⁹⁰ Joseph J. Smith, “Resurrection Faith Today,” *TS* (1969): 412–15.

⁹¹ Koester, *Gospels*, 220, 231, 255 & n. 5.

⁹² François Bovon, “Le privilège pascal de Marie-Madeleine,” *NTS* 30 (1984): 50–62; Gerald O'Collins and Daniel Kendall, “Mary Magdalene as Major Witness to Jesus' Resurrection,” *TS* 48 (1987): 639–41; Holly E. Hearon, *The Mary Magdalene Tradition: Witnesses and Counter-Witnesses in Early Christian Communities* (Collegeville: Liturgical Press, 2004), 2–8.

⁹³ Daniel A. Smith, *Revisiting the Empty Tomb: The Early History of Easter* (Minneapolis: Fortress Press, 2010), 57, 95; Neill Q. Hamilton, “Resurrection Tradition and the Composition of Mark,” *JBL* 84:4 (1965): 418; E. J. Bickerman,

reserved for the elite only, and different from the Jewish women witness (“appearance”) and egalitarian resurrection traditions.

The empty tomb is not a rabbinic nor a legal concept and does not have anything to do with the rabbinic law of women witnesses nor the third-day. The women witness and third-day traditions are appearance traditions requiring testimony that the person is alive, or dead; not disappeared. From the perspective of rabbinic law, the empty tomb functions as a foundational predicate for the appearance.⁹⁴ There is no such thing as a halakhic empty tomb (in contradistinction to halakhic women witnesses). *Rabbinic law does not corroborate women witnessing an empty tomb.* Thus, women at the empty tomb are not relieved of whatever invidious stereotypes in the popular prejudice that might attach. Moreover, the empty tomb is not a “women’s issue.”⁹⁵ Anyone, male or female, could be an empty tomb witness. Indeed, the most prominent example of empty tomb belief is John’s beloved disciple at the empty tomb, who “sees and believes.”

“*Diva Augusta Marciana*,” *AJP* 95:4 (1974): 372–73; Richard C. Miller, “Mark’s Empty Tomb and Other Translation Fables in Classical Antiquity,” *JBL* 129:4 (2010): 759–76; Peter G. Bolt, “Mark 16:1–8: The Empty Tomb of a Hero?,” *TynBul* 47.1 (1996): 27–37. Justin Martyr, 1 *Apol.* 21.54, analogizes Jesus’ resurrection to a pagan ascension.

⁹⁴ Having foundational sequential steps is similar, for example, to the steps in a blood sacrifice (killing, catching (the lifeblood), transporting, pouring/landing) with the last step, the pouring and landing of the lifeblood, *zerikah*, the most important. Simmonds, “Blood,” 178. The preceding steps are the offer, and the landing of the lifeblood the acceptance.

⁹⁵ Cf. Osiek, “Women,” 217.

The concept behind the empty tomb was the ancient, principally Greco-Roman motif that “disappearance” indicates and corroborates ascension.⁹⁶

“Disappearance” meant not just missing, but rather that the person vanished without a trace.⁹⁷ People who die leave behind bones and teeth that endure.

Hence, a “disappearance” without a trace indicated an ascension.

Its largely Greco-Roman basis did not prevent the empty tomb from being a part of the original rabbinic “Urgospel.” At the time of Jesus, the legend of Romulus’ ascension,⁹⁸ which provided the model for the ascensions of Julius Caesar and Augustus, had gained enormous prominence throughout the Mediterranean world.⁹⁹ Suetonius, *Julius Caesar* 84, relates how the Jews at Caesar’s funeral mourned him the most among the foreigners present, and over successive nights.¹⁰⁰ Moses’ ascension in Josephus is modeled after Romulus’

⁹⁶ Smith, *Revisiting*, 57, 95; Hamilton, “Resurrection,” 418; E. J. Bickerman, “*Diva Augusta Marciana*,” *AJP* 95:4 (1974): 372–73; Richard C. Miller, “Mark’s Empty Tomb and Other Translation Fables in Classical Antiquity,” *JBL* 129:4 (2010): 759–76; Peter G. Bolt, “Mark 16:1–8: The Empty tomb of a Hero?,” *TynBul* 47.1 (1996): 27–37. Justin Martyr, 1 *Apol.* 21.54, analogizes Jesus’ resurrection to a pagan ascension.

⁹⁷ Diodorus Siculus, *Bib. hist.* 4.38.3–5; Ovid, *Met.* 14.805–51, 870, 15:840–42; Plutarch, *Rom.* 28.4–6; Heb 11:5.

⁹⁸ Mary Beard, John North, and Simon Price, *Religions of Rome* (2 vols.; Cambridge: Cambridge University Press, 1999), 1:148–49.

⁹⁹ Larry Kreitzer, “Apotheosis of the Roman Emperor,” *BA* 53:4 (1990): 210–17; Smith, *Revisiting*, 95–96. The relationship between the New and Old Testaments is similar to the Aeneid and the Iliad and Odyssey: a realized eschatology of prophesy and fulfillment for a new order and the creation of a new people, the good news, gospel of the savior. Helmut Koester, “The Memory of Jesus’ Death and the Worship of the Risen Lord,” *HTR* 91:4 (1998): 341, 349; Idem, “Jesus the Victim,” *JBL* 111:1 (1992): 10–13; Norman W. DeWitt, “Vergil and Epicureanism,” *Classical Weekly* 25:12 (1932): 95.

¹⁰⁰ Contrast in later times, Philo, *Legat.* 162, 218, that mocks Caligula “soaring above.” Seneca’s *Apocolocyntosis* ridicules Claudius’ reception in heaven. Cassius Dio, *RH* 56.46.2; 59.11.2, reports instances of testimonial witnesses to

ascension.¹⁰¹ And, Jesus' ascension in *Peter* is like a Roman imperial apotheosis.¹⁰² *Peter* follows the Roman sequence of ascension first, followed by "disappearance" second. In this form, the steps are independent and corroborative. The mass appearance is viewed from afar; the "disappearance" up close. The Latin Codex Bobbiensis of Mark 16:4 has the same sort of Roman-style ascension as *Peter*.¹⁰³

The mass appearance in Paul's 1 Cor 15:5–8 to 500 or more brothers at once is also in this Roman motif.¹⁰⁴ In Roman culture, in matters of great importance, the involvement and approval of "the people" (male Romans in the Forum) played a prominent, even religious, role (Cicero, *Sest.* 106; Polybius, *Hist.* 6.14, 53–54).¹⁰⁵ Paul frequently couches his messages in the cultural milieu of those whom he addresses.¹⁰⁶ Thus, Paul has few rabbinic allusions; his Gentile

ascensions paid one million sesterces, and, 66.1, that Vespasian dying purportedly joked that he felt he was becoming a god.

¹⁰¹ James D. Tabor, "'Returning to the Divinity': Josephus's Portrayal of the Disappearance of Enoch, Elijah, and Moses," *JBL* 108:2 (1989): 229–31.

¹⁰² Indicia include the large crowd ("from Jerusalem and environs"), civil and military officials, both Roman and Jewish witnesses, Jesus and the angels stylistically soaring up, angels' heads reaching heaven and Jesus between them soaring further, the heavenly question, "Have you proclaimed?" And, the talking cross accompanying the party to heaven answers, "Yes." On bizarre Roman funerary antics, see Geoffrey S. Sumi, "Impersonating the Dead: Mimes at Roman Funerals," *AJP* 123:4 (2002): 559–85; Kreitzer, "Apotheosis."

¹⁰³ Timothy P. Henderson, *The Gospel of Peter and Early Christian Apologetics: Rewriting the Story of Jesus' Death, Burial, and Resurrection* (Tubingen: Mohr Siebeck, 2011), 177 (testifies of ideas likely circulating centuries prior).

¹⁰⁴ On the number 500, see Peter J. Kearney, "He Appeared to 500 Brothers (1 Cor. XV 6)." *NT* 22:3 (1980): 267–68. 500 is typically Roman. Reference the symbolism of 500 and 50 in the Roman *legis actio sacramento*.

¹⁰⁵ Fergus Millar, *The Crowd in Rome in the Late Republic* (Ann Arbor: University of Michigan Press, 2002).

¹⁰⁶ For example, Rom 1:22–23 (Roman stereotype of inferior (Egyptian) animal worshippers); Origen, *Comm. Jo.* 10.5.

audience would not have understood them. Corinth, destroyed in 146, was repopulated by Julius Caesar with freedmen and retired Roman soldiers (and their new often much younger wives). After his death, Caesar was worshipped in Corinth in its official cult of the Divine Julius. Hence, Paul's story of a mass appearance to 500 would resonate with Paul's Corinthian audience as would his androcentric conception of the family (1 Cor 11:3). Conversely, in Acts 13:30–31, set at a much earlier time, speaking during Sabbath services in a synagogue, Paul says the risen Jesus, “for many days was seen by those who came up with him from Galilee to Jerusalem, who are his witnesses to the people.”

In John 19:39, Jesus is buried with what seems an absurdly large quantity of spices. Burial with an “extravagant display of spices was an innovation of Sulla, which became a common element in Roman imperial funerals.”¹⁰⁷

Although “disappearance” usually followed an observed ascension, truncated, it could be an independent stand-alone proof without anyone observing the ascension.¹⁰⁸ On the other hand, the Roman form could include a third step of the ascended person returning and making an appearance to an individual or two, which would be reported to the Senate for its consideration and approval or rejection.¹⁰⁹

¹⁰⁷ Geoffrey S. Sumi, “Spectacles and Sulla’s Public Image,” *Historia: Zeitschrift für alte Geschichte* 51:4 (2002): 421. Jewish burials were extremely simple. *Mo’ed Qat.* 27b1 & n. 8. Reuben Kashani, “Burials,” *EncJud* (2nd ed.), 4:292–93; Avraham Faust, “Early Israel: An Egalitarian Society,” *BAR* (July/August 2013): 45–48, 62–63.

¹⁰⁸ As, for example, in the stories of people who tried to fake their “disappearances” so as to be remembered as gods. Arrian, *Anab.* 7.27.3; Diogenes Laertius, 8.2.69; Gregory of Nazianus, *Or.*, 5.14.

¹⁰⁹ Bickerman, *Diva*.

The Roman story of the ascended Romulus appearing to an individual contains some of the same elements as are found in the gospels: “At the break of dawn,” Proculus Julius “on the road”¹¹⁰ met ascended Romulus with “fear and awe.” “Go and tell my assembly this message” (of a great destiny). And, this story has circulated and been believed ever since, except by some who say he made it up (based upon Livy 1.16.6–8; Plutarch *Rom.* 28; Seneca, *Apocolocyntosis*).

Focusing on genre, in the disappearance/empty tomb tradition, almost every time a story of a miraculous ascension/disappearance is told, immediately it is challenged with cynicism, critique, a discordant version, or, simply put, doubt.¹¹¹ And, moreover, the disappearance literary tradition gave rise to a plethora of humorous stories of fraudulent disappearances.¹¹²

This trope of doubt seems to carry over into the Christian gospels. Mark: the women told no one; Luke: they were not believed; *Peter*: the guards are ordered not to tell; Matthew: the angel’s message is (has to be?) repeated by

¹¹⁰ It had to be on public land. Bickerman, *Diva*, 374.

¹¹¹ Beard, North, and Price, *Religions*, 1:149–50;

¹¹² For example, Livy 1.16 (witnessed, but some say he was put up to it); Plutarch, *Rom.* 27–28 (vanished; some say murdered and cut to pieces); Herodotus, *Hist.* 4.14–15 ((slightly embellished) when he disappeared people marveled, when he reappeared, they marveled the more, when he disappeared again?); Cicero, *de re Pub.* 2.20.17 (Romulus, worthy of the gods by glorious virtue. Yet most great men deified were by people very little enlightened, whose ignorance spawned credulity. But, Romulus lived in already enlightened times. Perhaps we should believe the reports; lesser men than he have been deified); Cicero, *Nat. d.* 3.15 (stories of deified mortals are appropriate—for the illiterate); Dionysius of Halicarnassus, *Ant. Rom.* 1.64 (some say translated to the gods; others that he floated down stream); Arrian, *Anab.* 7.27.3 (dying Alexander tried to fake his disappearance); Diogenes Laertius 8.2.69, (Empedocles faked his disappearance by jumping into a volcano, but the volcano revealed his scheme by belching out one of his sandals).

Jesus. And, in Matthew and John, there is the strangely discordant theme of a tomb robbery.

This trope of ending a story in a discordant note of doubt, or that the matter is subject to dispute and debate, may come from its use in etiologies and etiological poems.¹¹³ Whatever its source, this final expression of doubt is an inherent feature of disappearance stories, and different from the rabbinic women witness tradition, which unequivocally endorses the women's witness of Jesus' appearance.

THE ORIGINAL STORY DID NOT END, AS DOES EXTANT MARK, WITH THE EMPTY TOMB

The version of the resurrection story in the earliest gospel, Mark,¹¹⁴ the so-called "empty tomb" story, was evidently *not* the earliest version. The version in Matthew is earlier. This is shown by the fact that, notwithstanding its abrupt ending, Mark contains fragments of the story in Matthew that are part of an interrelated sequence.

In a series of three "sandwiched"¹¹⁵ episodes (which evinces considerable attention to literary form), Matthew has the *same* two women be among the women who see Jesus die, buried, his empty tomb, and resurrected (Matt 27:55–56, 61; 28:5–10).¹¹⁶ This same essential sequence (without the witnessing of

¹¹³ Jennifer Ingleheart, "Propertius 4.10 and the end of the 'Aeneid': Augustus, the 'Spolia Opima' and the Right to Remain Silent," *GR* 54:1 (2007): 76.

¹¹⁴ Christopher M. Tuckett, "The Current Status of the Synoptic Problem," in *Studies*, 9–50.

¹¹⁵ Heil, "Structure," 422–22. Sandwiching is prominent in Mark. James R. Edwards, "Markan Sandwiches: The Significance of Interpolations in the Markan Narratives," *NT* 31:3 (1989): 193–216.

¹¹⁶ Heil, "Structure," 420, 423, 426–27, 29.

Jesus resurrected) is also found in Mark 15:40–41, 47; 16:1, and (to a lesser extent) in Luke 23:49, 55; 24:10. Having the same women, who knew Jesus well, witness all three crucial events presents these women’s testimony as better credentialed than had the testimony come from different sets¹¹⁷ of witnesses (*Yev.* 114b5, 121a5b1–122b1; *Sanh.* 86a4 & nn. 39–41). Thus, having the *same* identified women see Jesus’ death, burial, empty tomb, and angel(s) (and in Matthew, see Jesus resurrected), “lays the foundation,” the evidentiary “predicate” for the “admissibility” and credibility of these women’s testimony. Laying the foundation, requires considerable attention to formulaic legal detail, and “qualifying” witnesses’ testimony presupposes that they will testify—otherwise, it serves no purpose.¹¹⁸ Thus, the fragments of Matthew contained in Mark indicate that this section of Mark was based upon an earlier source that expatiated the story along the lines in which it appears in Matthew.

Interestingly, this legalistic trope of otherwise redundant repetitions (the women saw, the women saw, the women saw) is also unmistakably present in *Peter* in the legalistic repetitions of the guards “seeing” the sequential steps (in

¹¹⁷ They have to witness the events together, not “this one from here, that one from there.” *Mak.* 6b2–3.

¹¹⁸ Martin Dibelius, *From Tradition to Gospel* (*Die Formgeschichte des Evangelium*) (trans. Bertrum Lee Woolf; Cambridge: James Clarke, 1982 (1919)), 190 (“superfluous” thrice repetition of the women’s identities indicates Markan narrative based upon earlier source); Hamilton, “Resurrection,” 417 (“to function as witnesses in a special way,” “to qualify them as,” “comparable to Peter and the disciples”). In ancient writing, repetitions are revealing, not redundant. Matthew Wright, “Comedy and the Trojan War,” *CQ* 57:2 (2007): 415, 423, 428; Num 7:12–88; Richard A. Lanham, *A Handbook of Rhetorical Terms*, 2nd ed (Berkeley: University of California Press, 1991), 189–90.

Peter) of Jesus' more Roman-style apotheosis/ascension.¹¹⁹ There seems to be some sort of interrelationship or shared literary ancestor between Matthew, Mark, and *Peter* in their use of this laying of a legal foundation in these narratives.¹²⁰

UNARMED WOMEN DEFEAT MEN-AT-ARMS

Matthew sets up an elegant legal contretemps in which there are counter-testifying male witnesses, the guards, whom the chief priests and Pharisees have Pilate post to guard Jesus' tomb. Putting aside the (uncertain) fact of whether the guards were Gentiles or not,¹²¹ who like women were also not eligible as witnesses, the testimony of the guards might trump the testimony of the women because the guards are male.

Matthew relates that, upon learning from the guards that Jesus had risen, the chief priests and elders (but not the Pharisees) bribed the guards to testify that Jesus' corpse had been stolen by his disciples while they, the guards, were asleep (Matt 28:12–13). But, the testimony of the guards that they were asleep amusingly/ridiculously impeaches itself. First, guards were strictly liable to produce the person or object they were commissioned to guard; failing which, they had to “pay” for the missing prisoner by taking their prisoner's place and

¹¹⁹ Henderson, *Peter*, 167–69.

¹²⁰ Koester, *Gospels*, 236, says in Matthew's and *Peter's* guard scenes, “we are dealing with the same story.”

¹²¹ Matthew 27:65 uses a Latin loan word for “guards” whence the English “custodian.” Luz, *Matthew 21–28*, 588. In the style of Matthew, the use of a Latinism may suggest that the guards are either Roman or Roman-like, but the matter is not free from doubt. In *Peter* they are Roman. Bassler and Cohen, *Matthew*, 712, suggests they were “Temple soldiers.”

suffer his same fate.¹²² Liability was strict. For their failure to guard Jesus' corpse, the guards would have to take Jesus' place in the tomb. Moreover, no guard would ever admit that he had been sleeping. Sleep was an indictment, not an excuse. And, if they had been asleep, they would not have seen what they said they saw.

Thus, Matthew presents an exceptional case where, not only are we to *believe* the testimony of women, but we are to *disbelieve* the competing but incredible testimony of men, the bribed guards. However, there is a doubly fascinating feature in Matthew's portrayal of the testimony of the women "defeating" the testimony of men that alludes to (what may be) the real reason why women were not allowed as witnesses—their disqualification from combat, that primordially witnessing was associated with a physical fight, and the ancient notion that witnesses challenging one another's truthfulness insulted the other and witnesses could be challenged to fight.¹²³

In medieval times, anyone exempt from fighting could not be a witness. Even youthful robust male clergy forbidden to shed blood could not be witnesses in lay courts—to "prevent the appearance as witnesses of those who could not be compelled to accept the combat."¹²⁴

¹²² David Daube, "Lex Talionis," in *Biblical Law and Literature*, 3:215 (substitution). In *Antigone* where Creon charges the guard with finding the culprit or facing death. The same rule is found in Acts 16:25–31 and Petronius' *Woman of Ephesus* story.

¹²³ Daube, "Transferred," 1:397; "Witnesses," 411–12; also Joshua T. Katz, "Testimonia ritus Italici: Male Genitalia, Solemn Declarations, and a New Latin Sound Law, *HSCP* 98 (1998): 183–217 (*testis* means both testicle(s) and witness).

¹²⁴ Henry Charles Lea, *Superstition and Force: Torture, Ordeal, and Trial by Combat in Medieval Law* (New York: Barnes & Noble, 1996 (1870)), 101–04;

Indeed, according to Daube, the role of trial by combat/battle in the law of witnessing is reflected in the requirement of two witnesses, based upon the understanding that in battle two will defeat one.¹²⁵ An offended litigant might challenge one witness to fight, but not two together. Daube also points to the requirement in Deuteronomy 19:17 that witnesses “stand up” as related to rising to do battle.¹²⁶

Reflecting the trial by battle motif, in Matthew, in metaphoric martial combat, the women do not just defeat men, but unarmed women defeat men-at-arms—the truly exceptional case.

In Mark 16:8, the women cower in fear and amazement, trembling and distracted, they are alarmed. Likewise, in Luke 24:4–5, the women are fearful and bewildered. But, in Matthew 28:8–10, the women are not bewildered or weak. In Matthew 28:5, 10, an angel and subsequently Jesus instruct the women, “Do not be afraid.” And, the women run to tell the disciples. The weakness of the women in Mark and Luke, in Matthew 28:4, is transferred to the guards, who tremble with fear; they became like dead men they were so scared.¹²⁷ Thus, in a role reversal, the women are stereotypically strong like men; the men are stereotypically weak like women

Trisha Olson, “Of Enchantment: The Passing of Ordeals and the Rise of the Jury Trial,” *Syracuse Law Review* 50 (2000) 109, 120 (women, aged, or crippled could not engage in trial by battle). For the same reason, women were not crucified.

¹²⁵ Daube, “Transferred,” 1:397.

¹²⁶ Daube, “Witness,” 411–12.

¹²⁷ Setzer, “Excellent,” 263–64, 266–67.

Traditionally, a weak person called to testify could require as a condition of testifying that a champion be provided to fight in their place.¹²⁸ Hence, one would expect that the (weak) women might have a champion to defend them, but Matthew's women need no defense. In Matthew 28:14, it is the guards who have a champion to defend them! They are not just bribed, the guards are promised protection/indemnified by the chief priests and elders.¹²⁹

These evident allusions to the reason for the disqualification of women's testimony based upon trial by battle reflect a long tradition in antiquity of contrasting weak but amazingly powerful women challenging men-at-arms. The most famous example is Sophocles' *Antigone*, which also involves the burial of a loved one, inept, allegedly bribed male guard-witnesses, and a contest between spiritual and temporal authority, with an outwardly weak but inwardly strong woman battling against guards.¹³⁰

CONCLUSION

There has been an enduring mystery why in the gospels so important a role as the first witnesses to Jesus' resurrection on the third-day is filled by women, when, as a rule, women were not allowed as witnesses or were considered inferior witnesses to men. By fitting within a vaunted exception of

¹²⁸ Lea, *Superstition*, 101–04.

¹²⁹ The indemnity may be a reference to Roman law, that the priests are acting like Romans. Reference the use of indemnity in the Babatha Archives.

¹³⁰ The theme is found in Achilles Tatius' *Leucippe and Clitophon* 6.21–22: “Watch a new contest: a single woman competes with all the engines of torture and wins every round. . . I am unarmed, alone, a woman. My one weapon is my freedom. . . If you try to set it on fire, you will not find the fire hot enough.” In an ancient biblical context, this theme may be found in the story of Deborah in Judges 4:17–22 in which in an obvious sexual role reversal of rape in war, a woman nails an enemy military commander to the floor (Yev. 103a4).

rabbinic law, acting like an enormous band shell, the law echoes, amplifies, radiates, corroborates, endorses, and lends its imprimatur to their testimony, making it better than had the same testimony come from men or any combination of both men and women. Remarkably, John alludes to the same, very specific, recondite rabbinic law of women witnesses as Matthew.

The rabbinic women witness tradition was an appearance not a disappearance/empty tomb tradition. And, the redundant legalistic repetitions in Mark indicate that it existed in a developed form before extant Mark. Under rabbinic law, unless part of an overall appearance story, the presence of women at the empty tomb does not vouch for their credibility. But, as part of an overall appearance story, the female gender of the witnesses does vouch for their credibility.

That the gospels and especially Matthew and John draw on the Pharisaic/rabbinic law of women witnesses identifying whether a loved one is alive or dead implies some degree of romantic intimacy between Jesus and Mary. Besides explaining the reason for having women witnesses to Jesus' resurrection, the invocation of this body of law may possibly argue for a greater role for women within the Catholic Church and, in imitation of Jesus, priest being permitted to marry.

