Antinomian Narratives in the New Testament and Rabbinic Literature

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Abstract

The aims of this thesis are to explore texts at the intersection of halacha and aggada, law and narrative, and to ascertain the parallels in literary form and legal development present in the texts of the early Church and Rabbinic movement. This investigation relies on secondary literature in literary and legal theory as well as a literature review of scholarship around the central text of the thesis: Mark 7:1-23. A detailed exegesis of this text from both a literary and historical-critical perspective will help delineate the features of the genre of antinomian narratives by serving as an archetypal example.

The contributions of this thesis include a proposal for three layers of redaction in Mark 7:1-23 corresponding to phases in the development of the Jesus movement and early Church's relationship with Torah law. The meaning of this text, and its key verse 7:15, shifted from an initial rejection of the Pharisaic innovation of hand impurity, to a polemic against a focus on ritual impurity, to a final rejection of the nomos of the Torah writ large. Based on this analysis of Mark 7:1-23 as an archetypal antinomian narrative, this thesis also theorizes that five main types of antinomian narratives are present in rabbinic and early Christian literature which require future study.

The Introduction of this thesis contains a literature review and describes the origins of this topic. Chapter one offers a narrative analysis of Mark 7:1-23 focusing on structure, rhetoric, genre, and theories of redaction with the objective of identifying literary features of antinomian narratives. Chapter two provides historical and legal background for purity law in the first century C.E. and hand impurity in particular. The chapter also examines five different interpretations of Mark 7:15 and its implications in each layer of narrative set out in the first chapter. Chapter three summarizes the previous findings on Mark 7:1-23 and proposes five types on antinomian narratives: didactic, metalegal, jurisgenitive, eschatological, and iconoclastic. An appendix of proposed structures of Mark 7:1-23 is also included.

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Dedication

Yehoshua ben Perachia says: Make for yourself a Rabbi, acquire for yourself a friend, and judge each person with the benefit of the doubt. (Pirke Avot 1:6)
"Acquire for yourself a friend" How? This teaches that one acquires a person as a friend for themselves when they eat with them and drink with them and study with them. When you learn Torah when they learn Torah and Mishnah when they learn Mishnah and then sleep when they sleep. And when one shares in the mystery with them: those of Torah and those of the world.
When friends like these learn Torah together, if one of them errs in a matter of halacha or becomes confused in the order of their learning or if they pronounce the impure as pure or the pure as impure of the forbidden as permitted or the permitted as forbidden: one friend will bring the other back. And from where do we learn that when one friend brings the other back and studies with them again there is a good reward for all their toils? As it is written: "Two are better than one; they have a good reward for all their toil (Ecc. 4:9)." (Avot D'Rabi Natan 8:1, creative license mine)

This work is dedicated to my LA Year in Israel cohort and to the ordination class of 5779: For sharing in the mystery and for bringing me back; for learning alongside me and teaching me and for the years of friendship and hevruta. And to many more years of learning Torah together, which has been and will be the reward of my journey.

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Introduction: Origins of the Topic and Mark 7:1-23 as a Case Study

I chose the topic of antinomian narratives based on my overarching interests in the relationship between halacha and aggada and studying the development of the early Church and rabbinic movement in parallel with each other. My primary interest in halacha and aggada arose from previous studies in legal theory, in particular the subfield of law and literature. The work of Robert Cover and Ronald Dworkin in this field sparked my interest in exploring it further, and I learned how to begin thinking about its application to a Jewish context from Rachel Adler and Abraham Joshua Heschels' writings. Cover's seminal essay "Nomos and Narrative" defined the terms of how legal theorists describe how communities create law utilizing and alongside the story of their identity.[1] Cover's use of the term *nomos* as signifying the breadth, authority, and lived reality of this legal story inspired my use of the term. In his essay, Cover famously uses the example of primogeniture in the Bible as an example of the relationship between law and narrative, and in doing so, actually grounds his thought about this relationship as a whole in an example of legal deviance by the central characters of the biblical community's story. This led me to consider these examples of antinomian behavior as particularly instructive in thinking about the boundaries, norms, and development of interpretive communities.

Ronald Dworkin's legal interpretivism provided me with the tools and language for shifting this exploration of the relationship between law and literature from that of an interesting thought experiment about the origins of law, to that of a theory for enacting and creating praxis in a legal community. He summarizes the legal interpretivist conception of law as follows:

[1] Robert M. Cover, "Nomos and Narrative," *Harvard Law Review* 97, no. 4 (1983).

> Legal reasoning is an exercise in constructive interpretation, that our law consists in the best justification of our legal practices as a whole, that it consists in the narrative story that makes of these practices the best they can be. The distinctive structure and constraints of legal argument emerge, on this view, only when we identify and distinguish the diverse and often competitive dimensions of political value, the different strands woven together in the complex judgement that one interpretation makes law's story better on the whole, all things considered, than any other can.[2]

I found Dworkin's legal interpretivism compelling as an alternative to legal positivism and natural law theory and wanted to learn more about how legal narratives find expression in religious legal communities rather than secular Western ones.

From Adler, I saw the possibilities of this kind of application of Western legal theory to the philosophy of halacha and the enormous potential for utilizing the relationship between law and narrative to address systemic incongruities between Reform theology and praxis. Adler explains, "A halakhah is a communal praxis grounded in Jewish stories… *A praxis is a holistic embodiment in action at a particular time of the values and commitments inherent to a particular story.* Orthodoxy cannot have a monopoly on halakhah, because no form of Judaism can endure without one; there would be no way to live it out."[3] Inspired and influenced by Cover, Adler uses this subfield of legal theory to create a "*proactive*" vision for crafting a halakhah "that fully, complexly, and inclusively integrates the stories and revelations, the duties and commitments of Jewish women and men."[4] The idea of using new stories to ground a new praxis helped me think about the rabbinic and early Church communities as having a need to create origin stories explaining their new *nomoi*.

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[2] Ronald Dworkin, *Law's Empire* (Cambridge: Harvard University Press, 1986), vii.
[3] Rachel Adler, *Engendering Judaism: An Inclusive Theology and Ethics* (Philadelphia: The Jewish Publication Society, 1998), 25-26, emphasis Adler's.
[4] Ibid., 34 and 59.

In Heschel's *Torah min Hashamayim* he creates an aggadically focused portrait of rabbinic thought for an audience oriented towards a Judaism of halachic supremacy.[5] His broad definition of aggadic material as the philosophical and theological underpinnings of the rabbinic system rather than superfluous legends demonstrated the necessity of understanding the texts of the aggadah themselves before attempting to engage with systematic theology. Heshchel's depth of analysis and breadth of knowledge combine to make *Torah min Hashamayim* into a kind of *Mishneh Talmud*, that is, a complete reorganization of rabbinic literature, yet this time organized by theological topics. Each of these thinkers inspired me to consider the relationship between halacha and aggadah, yet after reading Heschel, I realized that in order to have a proper sense on how to read these two components of rabbinic literature in relationship with each other, I first needed to acquire a better sense of how to read and analyze text in the way that these authors do with their core, grounding narratives. That is, before engaging in a theological approach, I wanted to gain facility with the aggadic texts about the halacha.

My text-critical approach was most influenced by Barry Wimpfheimer and Moshe Simon-Shoshan, who approached the question of the relationship between halacha and aggadah by looking at texts that overlap between these two categories: legal narratives. Wimpfheimer relies on the theories of Cover and Mikhail Bakhtin and examines legal narratives in order to create a new framework for understanding halacha. "Rather than working within an understanding of law as a statute book to which legal narratives must conform, this book uses the opportunity of legal narrative to reimagine law. Law is a cultural

[5] Abraham Joshua Heschel, *Heavenly Torah As Refracted through the Generations*, ed. and trans. Gordon Tucker with Leonard Levin (New York: Continuum, 2006).

discourse or a language through which a culture makes meaning."[6] Wimpfheimer's selection of texts, reliance on legal theory, definition of legal narratives, and argument for the inseparability of halacha and aggadah all influenced my methodology when undertaking a close read of a story about the law. Simon-Shoshan follows a taxonomic approach and orders the stories in rabbinic literature in relation to each other using criteria of "narrativity." He draws focus to legal narrative, which he argues has been a traditionally marginalized genre, as the optimal place to determine the rabbis meta-halakhic concerns.[7] Simon-Shoshan's systemic approach and focus on legal narratives as vehicles for thinking about the rabbinic enterprise more broadly influenced my search in attempting to identify antinomian narratives. These authors' shared focus on looking at texts from the center of the Venn diagram between halacha and aggadah inspired me to look at the same intersection in order to find those stories that reflect legal deviance specifically.

In looking at the topic of antinomian narratives, I hope to elucidate literary features that mark these narratives as well as identify the particular legal-historical circumstances they purport to describe and in which they were written. In order to develop these criteria, I will do a close read and analysis of a story that I believe is an archetypal case of this genre as it is a clear example of antinomian behavior with multiple possible layers of interpretation: Mark 7:1-23. By using this story as a case study, I hope to gain a clearer picture of the form and purpose of antinomian narratives. I chose this story in particular due to my secondary interest in the parallel development of Christianity and Rabbinic Judaism, my goals of gaining more facility with New Testament texts, and given that the Gospel of Mark is the earliest redacted

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[6] Barry Scott Wimpfheimer, *Narrating the Law: A Poetics of Talmudic Legal Stories* (Philadelphia: University of Pennsylvania Press, 2011), 3.
[7] Moshe Simon-Shoshan, *Stories of the Law: Narrative Discourse and the Construction of Authority in the Mishnah* (New York: Oxford University Press, 2012), 8.

narrative material in Christian or Rabbinic literature. Mark 7:1-23 presents the most conspicuous example of Jesus apparently condoning behavior contrary to Torah law. It is the most obvious starting place for an exploration of the role and function of antinomian narratives in shaping the legal story of a community.

Chapter One: Narrative Analysis

Defining Antinomian Narratives:

"We inhabit a *nomos*— a normative universe.… In this normative world, law and narrative are inseparably related. Every prescription is insistent in its demand to be located in discourse… and every narrative is insistent in its demand for its prescriptive point."[8] Robert Cover describes the *nomos* of a community as the world in which its members live. The community governs itself through prescriptive laws and implied norms. When pressed with the question of "Why do you do what you do?" the community would locate the meaning of this nomos in a shared story. In order for this nomos to adapt to new situations or assimilate new ideas, particularly ideas about meta-legal or ethical principles that underlie the law, corresponding stories of legal deviance and change must develop as well. In a similar vein, when a new community begins, grows, or desires autonomy and separation from an older community, it also legitimizes this process with stories.

Such stories fall under the rubric of antinomian narratives. The first type, didactic, provides instruction on the nuances of the communal norms, particularly with regard to appropriate exceptions from the law or the distinction between the sacred and the common. The second type, metalegal, demonstrates that overarching values or underlying ethical systems are more important than the individual rules that proceed from them. The third type, jurisgenitive,[9] demonstrates that a new nomos can only develop by breaking the old norms and their inadequate grounding principles.

[8] Cover, 4-5.
[9] I derive this term from Cover's notion of "jurisgenesis"- the creation of legal meaning (Cover, 11). This term draws attention to the subsequent and requisite re-creation of a nomos implied by this type of antinomian narrative.

Mark 7:1-23 illustrates the didactic, metalegal, and jurisgenitive functions of antinomian narrative. Analysis of its narrative/literary features, the legal issues at hand, and traditional and scholarly explanations of its meaning, provide insight into the relationship between the early Jesus movement and the law. Each layer of narrative development in this text demonstrates the evolution of the Jesus movement from an alternative interpretive community within the bounds of Second Temple Judaism to an autonomous community in its own right.

Literary Structure:

This passage contains three layers of narrative corresponding to the reception history of its individual components and the process of redaction. First, scholars generally accept that this incident and some component of the response goes back to the historical Jesus. Second, some segments of this passage originated as pre-Markan polemics from the early Church which post-date Jesus and became attached to the original core story. Third, the complete passage as constructed by Mark for Mark's community which include interpolations to the preceding passages as well as new explanations for the meaning of this incident and new conclusions that result from these explanations. Before dividing the passage according to these layers of narrative and offering a description of the genre of antinomian narrative utilizing this passage, I will review and summarize previous theories on the structure, composition, and genre of Mark 7.

Adela Collins utilizes the critiques and proposed structures of Mark 7:1-23 offered by Rudolf Pesch, Rudolf Bultmann, Martin Dibellius, and Roger Booth in her *Hermeneia* Commentary.[10] Pesch argues that vv.1-13 fits the tripartite division of a controversy-

[10] See Appendix A for a chart of each of these proposed structures.

dialogue: a description of the offensive situation (vv. 1-4), the objection of the opponents (vv. 1,2,5) and the response of Jesus (vv. 6-8, 9-13).[11] He theorizes that Mark combined this tradition with another, consisting of vv. 14-23, in order to make up the composite story. Bultmann argues that vv.1-8 is a composite story itself originating in the early Christian community, with vv. 6-8 serving as a polemic of the early Church and elaborated by Mark with vv. 9-13.[12] He does concede that it is impossible to know whether an argument from scripture goes back to the historical Jesus, who must have used scriptural citation and proofs in his teaching, or to these early polemics.[13] Bultmann identifies v. 14 as a transition and v. 15 as belonging to the oldest tradition with vv.1-8.[14] The remainder of the passage includes a post-Markan gloss (v. 16), transition material (vv. 17-18a), explanations attached to v. 15 prior to Mark's composition of the story (vv. 18b-19), and a Markan elaboration (vv. 20-23).[15] Dibelius concludes that vv. 5-23 consists of a number of "originally isolated sayings," organized by Mark and attached to vv. 1-4 to construct a narrative unit.[16] Booth claims that the earliest unit of material consisted of a simple question and answer as embellished in vv. 1-5 and 15, with separate polemics (vv. 6-7, 9-12) and explanations (vv. 18-19, 20-22) attached.[17] His structure and rationale will be examined in more detail below.

The structures proposed by E.P. Sanders and Thomas Kazen bookend these approaches. Sanders argues that no part of the passage dates back to the historical Jesus, and sees a division between two different traditions here brought together: one on the topic of

[11] Adela Yarbro Collins, "Dispute with the Pharisees," in *Mark: A Commentary*, ed. Harold W. Attridge, (Minneapolis: Fortress Press, 2007), 342.
[12] Ibid.
[13] Rudolf Bultmann, *History of the Synoptic Tradition* (Peabody, MA: Hendrickson Publishers, 1963), 49.
[14] Collins, 342.
[15] Ibid., 343.
[16] Ibid.
[17] Ibid.

food and the other on handwashing.[18] In stark contrast to Bultmann and Booth, he also contends that v. 15, is a Markan interpolation connected to v. 19b,[19] and therefore could not have been uttered by Jesus as it is an outlandish comment.[20] Kazen offers a thorough, yet circumspect analysis of the form critical approach entirely. He develops an outline of the pericope based on Booth, but with more reservations about the claims of authenticity dating to the historical Jesus and the line-by-line specificity offered in most other analyses. Kazen's conclusions most influenced my approach so I will offer his arguments in support of that structure in more detail.

Kazen doubts that the conflict dialogues reflect precise incidents in the life of the historical Jesus yet accepts as entirely plausible the idea that Jesus had controversies with other groups.[21] He posits that an "original" tradition existed consisting of Mark 7:1, 2, 5 and 15, as the question of hand-washing and purity "could hardly have been created by Mark or the early church, since this was not an issue in that later context."[22] Kazen agrees with the scholarly consensus that vv. 3-4 and 19c are clearly Markan editorial comments.[23] He groups the remaining verses into two replies and two explanations. The Korban Reply (vv. 9-12) and the Isaiah Reply (vv. 6-7) served as originally separate early church polemics. The Isaiah Reply points to a "Hellenistic milieu" as it appears taken from the Septuagint's version of Isaiah,[24] although the Korban Reply may have gone back to the historical Jesus, but almost

[18] Yair Furstenberg, "Defilement Penetrating the Body: A New Understanding of Contamination in Mark 7.15," *New Testament Studies* 54 (2008): 178 f. 4.
[19] E.P. Sanders, *Jewish Law from Jesus to the Mishnah: Five Studies*, (Philadelphia: Liberty Press International, 1990), 28.
[20] Ibid., 91.
[21] Thomas Kazen *Jesus and Purity Halakhah: Was Jesus Indifferent to Impurity?* Winona Lake, IN: Eisenbrauns, 2010, 62.
[22] Ibid.
[23] Ibid., 63.
[24] Ibid., 62.

certainly not in conjunction with the handwashing question.[25] The Medical Explanation (vv. 18-19) and the Ethical Explanation (vv. 20-22), argues Booth, belong to a later tradition which Mark placed here.[26] Kazen argues that the Purity Reply (vv. 14-15) most likely goes back to the original tradition as Jesus's position on hand impurity.[27] Following Kazen's adaptation and explanation of Booth's structure leads to a distinction between three kinds of narrative material: a core story potentially originating with Jesus, early unrelated polemics that became associated with this story, and later explanations of this story. I argue that these three groupings are actually layers of development present in Mark 7:1-23.

Proposed Structure of Mark 7:1-23 Based on Redaction Criticism:

In Michael Cook's *Mark's Treatment of the Jewish Leaders*, he explains the difficulties inherent in attempting to distinguish between different components of a narrative and assign them to a particular period in the reception history of a text: "Often, however, there inheres in source, form and redaction critical studies an element of conjecture… there is insufficient evidence either fully to verify or fully to invalidate our proposals… rightly, scholars must beware the circularity which can so easily assume control in source criticism."[28] Yet despite this caveat, he concludes, "But with regard to the controversy traditions, we find the case for sources more than merely plausible."[29] Cook argues that with regards to the Gospel of Mark, one may assume that "three chronological levels" exist: historical reality, Mark's written or oral sources, and the final redaction by Mark.[30] By combining Cook's notion of chronological levels with Kazen's structure, I argue that it is

[25] Ibid., 63.
[26] Ibid.
[27] Ibid.
[28] Michael J. Cook, *Mark's Treatment of the Jewish Leaders* (Leiden: E. J. Brill, 1978), 77.
[29] Ibid., 78.
[30] Ibid., 77.

possible to analyze Mark 7:1-23 at three different narrative levels: the original handwashing incident involving Jesus, (vv. 1, 2, 5, 14-15), polemics originating in the early church which became attached to this story (vv. 6-8, 9-13), and additional material dating to Mark's redaction (vv. 3-4, 17, 18-19, 20-23).[31]

The verses which make up the core story going back to the historical Jesus plausibly reconstruct a tension present in the early Jesus movement despite showing features of artificiality. Verses 1 and 5 introduce Jesus' interlocutors. As noted above, Kazen points out that Jesus most likely had opponents that would have raised questions about his and his disciples' behavior, yet the incident should still be seen as entirely constructed. Sanders and John Meir dismiss Mark's portrayal of Jesus questioners as wholly unrealistic due to their portrayal as "some sort of investigatory committee" who are "making a special trip from Jerusalem to Galilee to check on" the disciples handwashing.[32] Yet Collins points out that the text doesn't state that the scribes had come from Jerusalem to investigate Jesus, but simply came from Jerusalem; a not implausible scenario.[33] She reinforces that the question lacks an air of hostility and compares Mark's "why do your disciples not *walk* in accordance with the tradition of the elders?" with Matthew 15:2, "Why do your disciples *transgress* the tradition of the elders?"[34] Both the style of the questioners and the question itself about Jesus and the disciples behavior could plausibly go back to the historical Jesus.

The handwashing issue as established in verse 2 also belongs to this core story. While the background on the nature of purity in general and handwashing in particular in the

[31] Mark 7:16 "Let anyone who has ears to hear, hear!" does not appear in some manuscripts and is not included in the text of the NRSV or Collins commentary. It is most likely post-Markan. (Collins, 341.)
[32] Collins, 343.
[33] Ibid., 344.
[34] Ibid., 349.

Second Temple period will be more fully addressed below, suffice to say, it is likely that this issue and Jesus opinion and actions on this topic would be a point of contention in Jesus' time. More importantly, it is less likely that Mark's community, as represented in the final editorial layer of this text, would find this topic to warrant extended discussion. Rather, Mark utilizes this story about handwashing combined with its accretion of logia on purity in order to introduce a topic about which his community had serious disagreements: *kashrut*. These factors make vv. 14-15 the most plausible response offered by Jesus to this question, as it directly pertains to the handwashing issue at hand. These verses offer the narrowest and most tailored question, although this is not to say that Jesus may not have intended the comment to be taken more broadly. Furthermore, it is easy to see why other traditions about purity became attached to this comment as it lends itself to being taken as a more general statement in its formulation. Individual answers given for a particular purpose often become broader principles in legal systems as they develop.[35] Most scholars agree that this comment serves as the most likely candidate for the historical Jesus' response.[36] It passes the criterion of dissimilarity,[37] while not being too extreme to be considered implausible in its environment. These verses (1,2,5, 14-15) constitute the core story and the earliest layer of this narrative.

Positing the existence of a pre-Markan polemic that became attached to this story requires the largest degree of conjecture. The Isaiah Reply (vv. 6-8) could potentially date back to the historical Jesus, but likely not attached to this original story. The Korban reply (vv. 9-13) most likely originates in this period between Jesus and Mark. According to

[35] Compare the ideas of *pikuach nefesh* and 613 mitzvot. Both concepts become introduced as localized responses to a particular issue or a "non-serious" *aggadic* comment, respectively, yet *pikuach nefesh* develops into a catch-all metahalachic principle and the 613 mitzvot comment spawns an entire genre of medieval halachic literature attempting to enumerate them.
[36] Ibid., 353.
[37] C.S. Mann, *Mark: The Anchor Bible* (Garden City, NY: Doubleday, 1986), 315.

Collins, the Isaiah reply presents a rather hostile response by Jesus to an innocuous question.[38] This hostility reflects an increase of tensions and a desire for the early Church to defend and distinguish itself from its rivals. The passage from Isaiah itself also hints at the nature of the source of the critique. In its original context (Isa 29:13), Isaiah here critiques the official state cult and its disparaging attitude towards prophecy.[39] The use of Isaiah shows that the critique offered is internal, not external. The Jesus movement contests the rival interpretation of a more established interpretive community by establishing itself as a fundamentalist movement. Collins explains, "It may well be that the underlying issue is actually competition for the leadership of the people of Israel, as the original force of the question from Isaiah suggests."[40] The concern with contested authority fits the transitional time between the historical Jesus and Mark's Gospel.

The Korban reply's internal logic points to its provenance. This response must have originated prior to v. 19c which has Jesus exercising the same independent authority of interpretation that he accuses the Pharisees of using. Both the Korban and Isaiah reply still assume a level of fidelity to the purity system of the Torah as the crux of their argument. I argue that these two responses circulated with the core story and became well known to such an extent that Mark could not separate them, even when they contradict his core assertions regarding the law. In other words, the criterion of embarrassment applies just as equally to separating out an Ur-Markus from Mark as it would to distinguishing the historical Jesus from his portrayals in the Gospel.

[38] Collins, 349.
[39] Ibid., 350.
[40] Ibid., 351.

Both of these responses also focus on the personalities of the authority and portray Jesus and the Pharisees as having equally less authority than those whom Jesus cites. The responses begin, "Well did Isaiah prophesy (v. 6)" and "For Moses said (v. 10)," whereas Matthew 15:4 begins the later tradition with "for God said."[41] Jesus here critiques others for setting themselves up as having the authority to contradict Isaiah or Moses. These traditions portray Jesus as an interpreter with a rather conservative approach who downplays the notion of being an authority in his own right. It is easy to imagine the early Church post-Jesus and pre-Mark fighting for authority by demonstrating Jesus' faithfulness as a fundamentalist observer of Torah. The responses contrast Jesus, who only recognizes the authority of the Torah and prophets, to the Pharisees, who establish their own traditions which they use to negate the plain meaning of the Torah. This line of thinking may perhaps go back to the historical Jesus, but Mark would almost certainly not promote it unless the tradition that he received had already incorporated it.

The Markan layer of the text (vv. 3-4, 17, 18-19, 20-23) takes the components of the previous layers and redirects them with additional material and editorial comments to support Mark's agenda. Verses 3 and 4 provide an explanation of the behaviors present in the original story for an audience far removed from concern about the issue at hand. Matthew 15 does not include this line, which Collins argues reflects Matthew's desire to streamline the discussion,[42] as Matthew's law-literate community had no need for an explanation. Mark includes another narrative driven editorial comment in verse 17. This is a typical Markan scene change which contrasts public teaching with private revelations of the sub-text.[43] This

[41] Mann, 313.
[42] Collins, 344.
[43] Ibid., 355.

scene change combined with the disciples' lack of understanding in the next verse reflects Mark's wider narrative and agenda.

The Medical Explanation (vv. 18-19) almost certainly belongs to the redaction layer. If a tradition permitting non-kosher foods could be traced back to Jesus' ministry, why would the controversy have continued throughout the early Church period?[44] Matthew does not include v. 19c almost certainly due to its unlikely authenticity.[45] Kazen, following Booth, argues that the medical explanation belongs to a Hellenistic environment and would be foreign to Jesus' context.[46] The content of the Ethical Explanation (vv. 20-23), in contrast, is not entirely out of place and could reflect an earlier tradition of the historical Jesus. As Klawans points out, the Dead Sea Scrolls and tannaitic literature also share the idea that moral sins create moral impurity and defilement.[47] Furthermore, the DSS also argue that ritual and moral impurity are of the same kind, which is reflected in the combination of these verses with v. 15.[48] However, given that Paul provides similar lists of these sins in Gal. 5:19-21 and Rom. 1:29-31, the ethical explanation post-dates Paul and served as an influence to Mark. As will be demonstrated below, each layer of this narrative reflects a different function of antinomian narratives.

Rhetorical Analysis:

A form critical analysis also requires a broader understanding of the literary-historical milieu of the passage as a supplement to provide context for the narrative as a whole. In *The*

[44] Jonathan Klawans, "The Law," in *The Jewish Annotated New Testament*, ed. Amy-Jill Levine and Marc Zvi Brettler, (New York: Oxford University Press, 2011), 517.
[45] Lawrence M. Wills, "Mark: Introduction and Annotations," in *The Jewish Annotated New Testament*, ed. Amy-Jill Levine and Marc Zvi Brettler, (New York: Oxford University Press, 2011), 74.
[46] Michelle Fletcher, "What Comes into a Woman and What Comes Out of a Woman: Feminist Textual Intervention and Mark 7:14-23," *Journal of Feminist Studies in Religion* 30, no. 1 (Spring 2014): 38.
[47] Collins, 359.
[48] Ibid., 362.

Rhetoric of Jesus in the Gospel of Mark, David Young and Michael Strickland examine the discourses of Jesus within the Gospel of Mark and their relation to classical Greek rhetoric with regards to the topics addressed, arguments made, and the arrangement and style of those arguments into a broader narrative. They point out that the reigning methodology in New Testament studies, following Bultmann, has been to look behind the Gospel's narrative and see disparate fragments organized by the redactor.[49] However, since the 1980's, more attention has been paid to Mark as a literary composition in its own right and that the narrative portions of Mark should be heard as speeches.[50] Young and Strickland's methods and arguments provide a balance to an analysis heavily focused on form criticism, and their explanation of the rhetorical techniques present in Mark 7 provide helpful literary and historical context.

Young and Strickland define a rhetorical unit as a "self-contained section of the overall narrative, long enough to have an identifiable beginning, middle, and end within the narrative… at least five or six verses. Often… marked by an inclusion or by a clear use of proem and epilogue."[51] Although they suggest that from the literary perspective of the redactor, Mark 6:53 serves as the proper beginning of this passage in question,[52] Mark 7:1-23 on its own also fits this definition of a rhetorical unit. Young and Strickland divide the passage in four with each marked by a different main rhetorical strategy: *Exordium/Propositio* (vv. 6-8), Paradigmatic enthymeme (vv.9-13), Comparison and Interpretation (vv. 14-19), and Epilogue (vv. 20-23). The *exordium* and *propositio* are

[49] David M. Young and Michael Strickland, *The Rhetoric of Jesus in the Gospel of Mark* (Minneapolis: Fortress Press, 2017), xvi
[50] Ibid., xvii.
[51] Ibid., 63.
[52] Ibid., 185, the relationship between Mark 6:53-56 and Mark 7:1-23 will be further explored below.

introductory components of classical oration that establish *ethos* (credibility),[53] and the basic theme with a transition into arguments, respectively.[54] The Isaiah citation establishes credibility by providing proof from an established authority.[55] Mark organizes the various arguments by Jesus around a specific theme as set in the proposition: not only are the disciples not guilty, but rather their accusers are guilty of violating God's law precisely because they follow the tradition of the elders.[56] Mark further develops this theme by transitioning from Isaiah to the Torah in the *probatio*, the body of the speech which offers proofs of logical argumentation.[57] The first argument, the Korban reply, replicates the argument of the *propositio*.[58] Young and Strickland refer to the use of the word "korban" as a foreign term that rhetorically appeals to "emotion and elicit(s) admiration."[59] However, in an earlier stage of development the introduction of a second text would further develop and expand the argument by be to the post-Jesus pre-Markan environment in which the Jesus movement would contest the Pharisees using a shared language of Torah interpretation.

The rhetorical technique at play in the Korban argument, a paradigmatic enthymeme, uses a specific example to demonstrate a wider principle through a "logical deductive argument."[60] Young and Strickland expand and fill in the assumptions present in this argument in order to demonstrate its rhetorical moves:

> 1) God's word commands people to care for their parents. 2) The scribes and Pharisees forbid people who have called their sustenance "Korban" to care for their parents. 3) Therefore, the scribes and Pharisees reject the word of God by their tradition. 4) Since they reject God's word, the traditions of the scribes and Pharisees are wrong. 5) Therefore, Jesus's disciples committed no crime and are ritually clean.

[53] Ibid., 323.
[54] Ibid., 325.
[55] Ibid., 197.
[56] Ibid., 195.
[57] Ibid., 325.
[58] Ibid., 200.
[59] Ibid., 202.
[60] Ibid., 201.

The Korban and Isaiah responses taken together attempt to discredit the traditions of the Pharisees and position them as in opposition to God's word. This combination implies that Jesus is the "true interpreter of the law,"[61] which leads to the formulation of Jesus' own position in the second *probatio*.

Young and Strickland take vv. 14-19 as an argument based on an everyday metaphor of hygiene.[62] The obvious contrast between food and excrement become paralleled to outside-in and inside-out sources of impurity, respectively. The second probatio shows the illogical position of the Pharisees, provided that the audience in question sees a correlation between purity and cleanliness. While their argument does draw attention to the influence of Greek understandings of hygiene on the text, they fail to consider the possibility that the text's metaphor may have more to do with the purity system and its interpretation in earlier contexts.

Young and Strickland correctly point out that Mark has organized and edited the various responses and explanations delineated above into a rhetorical argument. Yet they do not address the logical inconsistency present when examining the argument as a whole between the scribes' apparent rejection of Torah by following their own traditions and Jesus' authority to supersede the Torah's purity laws and thus reject the Torah. Attributing these two types of arguments to two layers of textual development better explains this inconsistency. The importance of Young and Strickland's analysis lies in its highlighting of the redactor's hand in all components of this passage and particularly its organization; an insight easily overlooked in a purely form critical study. Their summary posits that "the

[61] Ibid., 202.
[62] Ibid., 204-5.

discourse is not fragmented, incoherent, or thematically inconsistent. It is a succinct, effective response to Jesus's enemies patterned after Jesus's emerging discursive procedure of public comparison followed by private interpretation."[63] While the final product created by Mark demonstrates careful composition, an analysis of the social-historical context of the evolution of the Jesus movement betrays the provenance of the passage's individual components.

Genre:

In order to clarify the category of antinomian narrative utilizing this story, I will review Bultmann and Tannehills' typologies of rhetorical units and process of delineating genres of material. In Bultmann's *History of the Synoptic Tradition* he utilizes form criticism to attempt to locate "individual units of the tradition" and develop a classification system of literary forms.[64] In his taxonomy, he terms Mark 7:1-23 as both a controversy dialogue[65] and a legal saying.[66] The controversy dialogues belong in the wider category of apophtegms, "units as consist of sayings of Jesus set in a brief context."[67] The narrativity of this story developed around a core saying in order to show how the teachings of Jesus apply to incidents in the life of the believer or attest to the authority of Jesus. The controversy dialogues in particular serve as apologetics and polemics of the early Church.[68] Bultmann defines the particular saying this story hinges upon as a legal saying: "I reckon among the legal sayings those which, by means of a proverb or by an appeal to scripture, justify or base

[63] Ibid., 212.
[64] Bultmann, 3.
[65] Ibid., 7.
[66] Ibid., 136.
[67] Ibid., 11.
[68] Robert C. Tannehill, "Varieties of Synoptic Pronouncement Stories," *Semeia* 20 (1981): 111.

the new outlook over against the old."[69] The combination of the Isaiah and Korban replies with v. 15 fits the form of a legal saying.

Robert Tannehill in *Varieties of Synoptic Pronouncements* develops a similar category to Bultmann's controversy dialogues called objection stories.[70] Tannehill points out that Bultmann occasionally includes stories that include a question about Jesus' opinion on an unknown matter in the category of controversy dialogues.[71] Tannehill argues that his objection stories tighten this category to remove some of these non-controversies, although in the case of Mark 7:1-23, he agrees that Bultmann's correctly identifies a true controversy dialogue.[72] Objection stories contain three components: the cause of objection, the objection itself, and the response to the objection.[73] An occasional fourth component of the objection story, a "dependent inquiry scene," as in vv. 17-23, consists of Jesus further explaining the issues previously raised.[74] Collins points out that dependent inquiry scenes occur often in Mark when Jesus gives public instruction to a large group followed by private instruction to the disciples.[75] Tannehill notes that Jesus' opponents prompt the objection in response to "peculiar behavior" by Jesus or the disciples.[76] The response to this objection illustrates the purpose of these stories:

> We often find general statements of principle in the responses in objection stories. Thus the story moves from a specific occasion to a disclosure of the basic principle by which actions and attitudes on such occasions should be governed, combining the vividness of a particular encounter with a general disclosure of God's will or the meaning of Jesus' mission. These general statements are often formulated

[69] Bultmann, 136.
[70] Tannehill, 107.
[71] Ibid., 108.
[72] Ibid.
[73] Collins, 342.
[74] Collins, 342.
[75] Ibid. This type of scene occurs often in rabbinic literature to draw a distinction between "simple" polemic arguments in response to the question of an outsider and the more complicated explanation needed to satisfy an insider.
[76] Tannehill, 110.

> antithetically, emphasizing the contrast between what is being said and another point of view… or emphasizing two contrasting possibilities.[77]

In Tannehill's explanation of the purpose of these stories, a few points are particularly noteworthy. Objection stories transform an incident in the life of Jesus into a maxim or command for future readers. The "vividness" of the anecdote demonstrates one of the core functions of narrative in communicating value. Stories provide an easy way of recalling and sharing information widely in a community. The two types of antithesis demonstrate two methods of communal construction. Antithesis can either communicate alternatives within a single community or contrast one community with another. Each of these features of objection stories show the interdependence of the narrative form with its details of particularity and its proscriptive content as formulated generally.

Conclusions: Literary Features of Antinomian Narratives

A narrative analysis of Mark 7:1-23, focusing on its structure, rhetoric, and genre reveals the key literary features of an antinomian narrative. As the antinomian nature of this story is readily apparent, by turning this story into an archetype we can begin to develop criteria for identifying further passages whose content does not at first glance register as antinomian. A more sophisticated and nuanced methodology for identifying this genre will arise from repeating this same depth of analysis with these other stories which will allow for a later reexamination of Mark 7:1-23 and a revision of these criteria with more data. The main literary criteria for determining an antinomian narrative include: the narrative form, establishing the authority of the protagonist, a critique of the status quo, a public demonstration of unusual behavior, an explanation of that behavior, positing an alternative understanding of the nomos, and creating a principle for broader application.

[77] Ibid.

The narrative form is an obvious *sine qua non* of this category. Tannehill explains that "both the power of the words and their story setting help them to take root in the memory and imagination of the reader, where they may provoke new thought."[78] The narrativity of a passage provides the vehicle for the impactful reception of the message. This story must establish the authority of the speaker to challenge and subsequently change the norms in question by their actions. Tannehill's objection stories contain "indirect praise of Jesus"[79] which establish his authority by demonstrating his skill at deflecting challengers. This authority allows the protagonist to critique the status quo in two ways: either by offering an internal critique (e.g. Bultmann's legal sayings) of by responding to an external critique (e.g. the objection/controversy stories). This critique leads to the positing of an alternative position; as Tannehill notes above, sayings formulated as antithesis draw a stark contrast between the position of the protagonist and the position supported by an alternative interpretation within the same community or the position of another community.[80] The most noteworthy and impactful feature of antinomian narratives is the application, either implied or explicit, of this anecdote to broader circumstances as a principle to govern future behavior.

The primary identifying criterion in an antinomian narrative, is the embodiment of the protagonist's critique of the *nomos* through an unusual public display. The origins of these activities, and the narratives themselves, are found in the example of the enacted prophecy (e.g. Ezekiel 4, Jeremiah 27). Tannehill notes, "in objection stories… conflict is initiated by the objector. The behavior of Jesus and his disciples has been noted in the public domain and has provoked a reaction."[81] These factors make objection stories the most likely candidates

[78] Ibid., 111.
[79] Ibid.
[80] Ibid., 110.
[81] Ibid.

for analysis as antinomian narratives. A literary analysis allows for the comparison of these stories as a genre and provides an ability to evaluate their degree of success and influence. The unusual behaviors and explanations can only be understood in a historical critical analysis of the issue at hand. In the following section, an examination of the various interpretations of the purity system in the first century C.E. will enable us to gauge how unusual Jesus' position is, and define what specific critique each layer of text offers this system.

Chapter Two: Historical-Critical Analysis

The ritual purity system was a major area of contention for the early Jesus movement.[82] Mark 7:1-23 serves as the key text in demonstrating the evolution of how this community understood the nature, purpose, or even continued utility of this system. Each layer of this text as proposed above (a core story of the historical Jesus, pre-Markan additional polemics, and Mark's community) regards the issue of purity differently. To place these positions on a spectrum or in relation to each other, one must first consider the historical-legal context of the specific purity issue in question- hand impurity- and purity law in general in the first century C.E. I will first provide a very brief overview of Jewish purity conceptions, with a more detailed look at theories concerning the origin of handwashing and hand impurity in particular. Next, the degree to which one can term the behaviors or positions taken in Mark 7:1-23 as antinomian depends on how broad or narrow the practice was actually accepted. I consider two opposing theories and how their positions mirror Jesus' and the pre-Markan community's understanding of the nature of hand impurity. Finally, I will review five interpretations of Mark 7:15, the key verse in the passage in understanding the position of the historical Jesus and/or Mark's community regarding the purity system.

Purity Law and Handwashing Customs in the First Century C.E.

While a full discussion of the biblical purity system and its reception in the first century C.E. by Jesus and his contemporaries is beyond the scope of this analysis, Thomas Kazen's *Jesus and Purity Halakhah* provides the most thorough treatment of this topic and highlights of his overview will serve as a narrow introduction to the topic. The Jewish purity system consists of three main topics: clean vs. unclean animals (Lev 11), contact impurity

[82] Wills, 73.

(Lev 12-15; Num 19), and impurity caused by grave sins (Lev 18-20).[83] Both the Torah and sectarian groups developed hierarchies of these impurities and methods for addressing them. Many groups and individuals developed allegorical understandings of these impurities, which did not discount the "realness" of the physical impurity and need for purification rituals.[84] Broadly speaking, "purity rules influenced the life of ordinary people at the end of the Second Temple period;"[85] this puts Jesus', the early Church's, and Mark's understanding of these purity laws as a major topic of concern when attempting to situate their views in their social-historical context.

The origins of the act of handwashing and the notion of hand impurity may arise from different sources before becoming intertwined during the late Second Temple period. Temple purity practices may provide one possible origin. In the Mishnaic purity system, priests wash their hands before eating certain types of sanctified food.[86] One theory for the origins of the expansive rabbinic purity system proposes the Pharisaic application of originally priestly purity customs to a wider Israelite audience.[87] Neusner popularized this view, although Yair Furstenberg argues that priestly handwashing is a preparatory rather than purifying act.[88] However, mishnah Chagigah 2:5 summarizes priestly handwashing saying, "If one's hands are impure, one's body is impure," which makes Neusner's connection plausible.

Others have argued that the act of handwashing originated prior to its association with the system of ritual purity. Eyal Regev suggests that the custom has pre-Hasmonean origins in both the Diaspora and Judea.[89] Collins expands on this theory and locates the source of

[83] Kazen, 4.
[84] Ibid., 3.
[85] Ibid., 8.
[86] Collins, 344.
[87] Ibid., 345.
[88] Furstenberg, 191.
[89] Collins, 345.

handwashing in a Diaspora originated custom related to prayer which spread to other areas of life. Both the book of Judith (1st cent. B.C.E.) and the Epistle of Aristeas (2nd cent. B.C.E.) provide examples of handwashing as a ritual associated with prayer.[90] John Poirier proposes that customs attested to in the diaspora may mirror those practiced in the land of Israel,[91] however Furstenberg points out that no sources of Palestinian provenance connect handwashing with prayer, but only with eating.[92] E. P. Sanders proposes a combination theory that handwashing functioned as a substitute for an ideal of full immersion and derived from the influence of pagan practices in conjunction with biblical references to the hands as the location for potential sources of defilement.[93] Sanders regards the pagan influence as the most likely source for this custom; Furstenberg expands and develops how this custom crossed over into the Jewish community.

Furstenberg points out that in the biblical purity system, hands cannot defile independently of the body.[94] He argues that some rabbinic practices, for example, hand washing in relation to table etiquette in m. Ber. 8:2-4, mirror Greco-Roman customs.[95] Furstenberg proposes an alternative explanation regarding the origins of hand impurity: a Greco-Roman custom became adopted into the native Jewish system of ritual purity. Furstenberg provides the most convincing explanation for the origins of hand impurity and summarizes, "hand washing was not originally a priestly custom; rather it was a product of everyday normative behavior in a society that indeed held purity as a significant cultural category."[96] While Furstenberg connects this concern to the popular pollution concept of

[90] Ibid., 344-346.
[91] Ibid., 347.
[92] Furstenberg, 191.
[93] Sanders, 262.
[94] Furstenberg, 190.
[95] Ibid., 192-193.
[96] Ibid., 193-194.

disease,[97] it may demonstrate an ethical-religious concern as well. Collins points out that Greek literature uses the metaphor of unwashed hands to signify those who "heedlessly invoke[e] the name of God in their oaths."[98] This combination of widespread belief in the status of the hands as a synecdoche for the body and the intersection between a pre-existing purification system and a common cultural practice points to hand impurity as a widely known custom. However, the degree to which this custom was practiced and by whom bears enormous significance in establishing whether or not the controversy in Mark 7 can accurately be termed an antinomian narrative. The historical-critical theory of this practice's origins can help provide context for understanding the relative importance and acceptance of this custom. Developing an interpretation of Mark 7 also requires examining the origins of this practice and the communities that observe it, *as understood at the time of its composition*. That is, where did both Jesus and the later Jesus movement think hand impurity came from and who was or should be practicing it?

Determining the Nomos: How Widely Accepted Was Hand Impurity?

The question of how widely and to what extent did Jewish groups practice handwashing lies on a spectrum from broadly observed by Jews in both the Diaspora and land of Israel to narrowly observed among only the Pharisees. The preponderance of the evidence suggests that most Jews at that time would be familiar with the practice yet vary on the frequency of its observance. Collins argues that archeological and epigraphic evidence suggests that many Jews corelated handwashing and purity and attempted to observe some component of ritual purity laws.[99] Among them, some Jews had an "expansionist" view of

[97] Ibid., 194, f. 50.
[98] Collins, 344, f.33.
[99] Collins, 345.

purity requiring handwashing before all meals,[100] but it is unclear how widespread this view was held. Sanders also finds the practice widely held among the Jewish community, but draws a distinction between Diasporic and Pharisaic handwashing practices.[101] Jews in the Diaspora mirrored the practice of their pagan neighbors as they washed their hands in connection to prayer- a concern not shared by early rabbinic sources.[102] According to Sanders, the Pharisees, in contrast, washed their hands "before handling the priests' food, before eating their own sabbath and festival meals and after handling the scripture."[103] Sanders therefore argues that Mark 7:1-4 reflects Diaspora practice, although it is unclear why he makes this assessment, given that the topic in question is handwashing before eating.[104] Furstenberg posits that handwashing before eating would be widely recognized as appropriate in Greco-Roman society, as this practice originated outside the Jewish community.[105] Each of these arguments point to an understanding of handwashing at the time as common and generally normative.

Some evidence suggests that hand impurity, if not handwashing, may not have been widely observed. Sanders and Collins point out that Mark's explanation of the practice for his Gentile audience, demonstrates a perception of hand impurity as a Jewish concern rather than a non-Jewish or Pharisaic one.[106] Those who support the theory that handwashing originated from Temple priestly practices with subsequent Pharisaic dissemination, namely

[100] Ibid., 344.
[101] Sanders, 39.
[102] Ibid., 40.
[103] Ibid.
[104] Ibid. It is possible Sanders assumes that since Diaspora Jews had more frequent occurrences of handwashing (possibly at least twice a day), a position that holds one must wash before all meals would be more likely found in a Diasporic setting than a Pharisaic one.
[105] Furstenberg, 193.
[106] Sanders, 39. Collins, 344.

Neusner, would locate this custom as peculiar to the Pharisees.[107] However, it is possible that untangling the act of handwashing from the concept of hand impurity may shed light on the more complex perceptions of these activities in different communities.

Laws of Purity and the Narrative Layers of Mark 7:1-23

To identify the activities of Jesus and the disciples as antinomian would depend on how handwashing and hand impurity were observed and perceived in their time. While Sanders argues that abstaining from handwashing was "not serious in the least,"[108] it appears that handwashing was a common practice in Jesus' time for both Jews and non-Jews alike. Yet the association of handwashing with absolving an individual of a unique type of impurity of the hands did not have wide acceptance. I argue that each layer of this text sees in it an antinomian act, but the nomos violated varies depending on the orientation and understanding of the purity system of the community that shaped that story.

For the historical Jesus, in the core story, hand washing does not have anything to do with purity. Only the Torah has a purity system, and, as mentioned above, has no mention of a category of hand-only impurity in relation to eating. Not washing before eating was an antinomian act, but Jesus and the disciples would consider it not a violation of the Torah, but of a widespread custom. Jesus' motivations here are subject to conjecture. It is plausible to think that Jesus would have noticed that non-Jews also washed their hands before eating and understood it to be a foreign practice that required its elimination as a fundamentalist reform. To the other extreme, Jesus could have taught and practiced Pharisaic customs regarding washing hands before eating meals on Shabbat and holidays, after handling scripture, and, if for some reason one of his disciples was a Levite, before eating sanctified food. In this

[107] Collins, 345.
[108] Sanders, 40.

scenario as given in vv. 1-2, Jesus and even his Pharisaic opponents, would not have violated traditional custom by eating without washing their hands in a situation that did not contain one of the preceding conditions, but still in violation of widespread hygienic norms or of the position of those who held an expansionist view of purity. The phrase "unwashed hands" in verse two may have even been added later as a Markan interpolation in an attempt to understand the meaning of impurity. As the verse's subject, "some of his disciples," indicates, it is possible that among the disciples some washed their hands non-ritually before eating while others washed ritually. As will be shown below in an analysis of verse 15, Jesus did not accept an extra-biblical purity system. For the disciples to eat without washing their hands would be unusual, but Jesus found the Pharisaic concern with the proper observance of a practice of foreign, or at least non-Torah, origin, even more bizarre.

The pre-Markan community engaged in a polemical debate with the Pharisees and viewed the Pharisees' practices themselves as antinomian and in violation of the Torah. This community argued that while handwashing is a common act, the Pharisees' customs and details governing its observance demonstrate that they care more about their traditions than the Torah. The Isaiah and Korban replies contrast the Pharisees' traditions with the Torah and find the former obfuscate the latter. This community itself may have even washed before eating in observance of the common practice, but not with the same kind of detail as relayed in verses 3-4. Given the discussion of handwashing and hand impurity in mishnah Yadayim 2:1-3 it is reasonable to presume that Pharisaic handwashing required a higher degree of involvement than common handwashing practices. These Pharisaic customs may have even developed in contradistinction from the common practice. The pre-Markan community, as opposed to the disciples' community, viewed the act of handwashing in accordance with the

details of Pharisaic practice as a violation of the Torah, rather than a custom unrelated to purity.

Mark's redaction draws the focus to a purposeful antinomian violation by Jesus, although this time, the law violated is the Torah itself. The comment in v. 3 "all the Jews" demonstrates that Mark's community is totally removed from the purity system and disassociates Jesus from the entire concept. Mark's level of detail in describing the Pharisaic traditions enhances its portrayal as foreign to the Jesus movement. For Mark, Jesus performed an antinomian act as an act of liberation from this system and provided instruction on the proper orientation away from ritual purity and towards moral purity. These ideas will be developed in relation to various interpretations of the meaning of the key verse: Mark 7:15.

Interpretations of Mark 7:15

Theories on the conceptions of purity held by Jesus, the early Church, and Mark hinge upon the subject, interpretation, and authenticity of Mark 7:15. At one extreme, E.P. Sanders (1990) argues that the verse is a Markan interpolation and unreflective of the position of the historical Jesus. Yair Furstenberg (2008) suggests that the historical Jesus rejects the Pharisaic addition of hand impurity to the purity laws set forth in the Torah. In v. 15, Jesus advocates for a fundamentalist position against any purity system overlaid onto the biblical one. John van Maaren (2017) expands Furstenberg's reading and demonstrates that it is not disconnected from the following scene in vv. 17-23. He hypothesizes that Mark and Mark's community continue to care about purity laws with this verse serving as an organizing principle of those laws established by Jesus. Michelle Fletcher (2014) provides a reinterpretation of the verse in order to better see its relationship to the wider purity system.

She points out that most readings of Mark 7 presuppose a male body, but when one assumes the gender-neutral nouns imply a female body, the reader sees a more holistic and contextual understanding of purity and directionality. This focus on the direction of purity originates in Thomas Kazen's thorough critical analysis of the passage (2010). He argues that Jesus was criticized for not following an expansionist view of purity practiced by a minority and defended his behavior by contrasting inner and outer purity. I drew from many of these authors' conclusions in formulating my own interpretation of this verse and passage as it was understood in the varying contexts of its stages of development.

Sanders argues that the entire scene of Mark 7:1-23 is fictionalized and constructed to such a degree that no part of it reflects the views of the historical Jesus. The handwashing incident serves as an introduction to get to the central criticism of the Pharisee's position on vows.[109] Jesus' comments on food became attached to this critique, and Sanders views this question about ritual purity as reflecting the concerns of Mark, not Jesus. "The most obvious meaning of Mark 7:15… is that 'all foods are clean,' as the author comments."[110] Sanders portrays this verse as an obvious Markan addition, reflecting a desire to break with the food purity laws. This rupture would have demonstrated a clean break with common Jewish mores, which Sanders finds implausible as an aim of the historical Jesus.[111] Sanders does partially open the door for a reinterpretation of the verse. "If, of course, we provide a new context for the saying, it can be saved as an authentic logion."[112] He muses that one possible interpretation may be a comparison of priorities, which would take v. 15 to mean "what

[109] Sanders, 91.
[110] Ibid., 28.
[111] Ibid.
[112] Ibid.

comes out- the wickedness of a person's heart- is what really matters."[113] This theory, briefly introduced by Sanders, sets the stage for further exploration of possible authentic meanings of this verse traceable back to the historical Jesus.

Furstenberg introduces a new read of this verse as expressing Jesus' opposition to the Pharisaic purity system, but not the Biblical system. Following Bultmann, he argues that this verse is an authentic logion, and can be examined in order to understand Jesus' views on purity.[114] Furstenberg begins with a critique of the traditional reading of v. 15 and makes the interesting observation that the first reader of this text was the redactor of Mark who takes it to mean a rejection of all ritual laws including the dietary laws.[115] He terms this the "traditional all-inclusive approach" and points out the obvious problem: "there is a clear incongruity between the minor dispute over a specific custom and the sweeping denial of biblical laws."[116] Scholars have typically attempted to address this incongruity by dividing the narrative between a smaller localized incident and the public teaching as a later composition, however, Furstenberg seeks to read the whole narrative coherently.[117] In this holistic reading, he views Jesus as choosing a particular occasion to contrast two types of defilement, that is, handwashing here serves as the archetype of the entire Pharisaic conception of purity which Jesus dismisses outright as a category he terms "that which enters a person."[118] Jesus rejects these Pharisaic customs as a cultural innovation derived from the Greco-Roman context, and in response offers a conservative halachic stance.[119] Furstenberg

[113] Ibid.
[114] Furstenberg, 176.
[115] Ibid., 177.
[116] Ibid.
[117] Ibid.
[118] Ibid., 178.
[119] Ibid., 178 f. 5.

argues that reading this logion as a reaction against an innovative and foreign conception of ritual impurity, offers a "plausible interpretation of the pericope as a coherent unit."[120]

Furstenberg reviews and critiques several previous attempts at reading this verse in its social-historical and literary context. In the traditional read, where the subject of Jesus' critique is the biblical purity system, this statement would be incongruous with the other sources.[121] That is, if Mark 7:15 meant to abolish ritual purity, it would be the only occasion in the synoptic gospels in which Jesus abrogated the Hebrew Bible. Furstenberg notes that the dominant view softens Jesus' statement by developing a contrast between ritual and moral purity. This argument, "saves Jesus from antinomianism, but does not offer a precise and tight reading of the verse."[122] Furstenberg raises the issue that this reading does not offer enough of a direct contrast using Jesus' language of "into" and "out of." Why could Jesus have not said "moral" and "ritual" impurity directly?[123] Furstenberg argues that "a close reading will present Jesus' statement as a precise answer to the Pharisees and as a sharp, direct response to the custom of handwashing."[124]

This close reading requires a sophisticated understanding of the various conceptions of purity law contemporaneous with Jesus. Furstenberg reviews this material and concludes that in a halakhic context verse 15 could be rephrased as, "contrary to your halakhah, which is unknown in the bible, the body is not defiled by eating contaminated food. Rather, it is defiled by what comes out of it."[125] The Pharisees specifically link their conception of hand impurity to this issue of food contamination; therefore, Jesus uses this situation concerning

[120] Ibid.
[121] Ibid., 180.
[122] Ibid.
[123] Ibid., 181.
[124] Ibid.
[125] Ibid., 183.

the practice of handwashing as a critique of their broader system.[126] Furstenberg argues that "no biblical source actually suggest that contamination can spread through ingestion," but avoiding the ingestion of food which became impure becomes a major theme of Pharisaic practice.[127] He concludes that this expansionist tendency, at the urging of the Pharisees, became associated with a preexisting widespread custom of handwashing, and "the custom itself reshaped the nature and content of discourse relating to ritual purity."[128] Once the rituals and ideas around handwashing became "Judaized," this common practice transformed how contemporary Jews thought about ritual purity in general. Furstenberg contrasts the Pharisees' acceptance of this new practice with Jesus' objection based on its foreignness to the Torah's purity system.[129] He links his interpretation of Mark 7:15 to Jesus' wider discourse on purity: "In Jesus' view, the anthropology of the levitical purity laws places the self as a source of impurity rather than as a vulnerable potential object of contamination."[130] Furstenberg offers a reading of this verse that places Jesus squarely in the context of contemporaneous halachic discourse, and begins to develop a plausible system of purity observed by Jesus and the disciples.

Van Maaren takes Furstenberg's division between two competing views of the purity system and attempts to harmonize it with the second half of the passage (vv. 17-23). He sees Jesus as developing an understanding of a purity system which encompasses both moral and ritual purity. This view is distinct from Sanders' unexplored proposition that the verse implies that moral purity is of a greater degree and kind than ritual purity. Rather, both moral

[126] Ibid., 184.
[127] Ibid., 195.
[128] Ibid., 200.
[129] Ibid.
[130] Ibid.

and ritual impurity are interlinked and originate in the body. Van Maaren begins with a critique of the traditional view which he first attributes to Origen: "Mark's Jesus contrasts ritual impurity with immorality, thereby rejecting the Levitical purity and dietary laws in favor of moral behavior."[131] He points out that this view does not make sense in light of Jesus' charge in v. 9 "you reject the commandment of God," as Jesus would be engaging in the same activity.[132] Van Maaren, like Furstenberg, points out that most attempt to solve this problem by ascribing one position to Mark's community and another to Jesus, which creates an incoherent narrative.[133] Van Maaren agrees with Furstenberg in that the key to understanding this verse and scene lies in seeing it as a core principle of Jesus' purity system, however, he argues that Furstenberg's analysis also created a new contradiction between the first (vv. 1-16) and second (vv. 17-23) scenes in the passage.[134] Van Maaren seeks to resolve this tension to promote Furstenberg's reading as the most likely understanding of the passage by arguing for the link between ritual and moral impurity which serve as the subject of the first and second scenes respectively.[135] Van Maaren argues that Mark and Mark's community still care about purity matters and have developed a system of purity marked by the directionality of all impurity: from the inside-out and not the outside-in.[136]

Van Maaren argues that most scholarly readers of this passage accept and incorporate the traditional reading into their analysis: "most studies of the past century do not directly address whether the ritual/moral contrast is correct, but assume it while dealing with the

[131] John Van Maaren, "Does Mark's Jesus Abrogate Torah? Jesus' Purity Logion and its Illustration in Mark 7:15-23," *Journal of the Jesus Movement in its Jewish Setting*, no. 4 (2017): 21.
[132] Ibid.
[133] Ibid.
[134] Ibid., 22.
[135] Ibid., 22.
[136] Ibid.

problems it creates for understanding Mark 7."[137] In addition to the previously mentioned contradiction between this interpretation and Jesus' accusation against the Pharisees, Van Maaren also points out that the traditional reading would make this "the only instance among the four gospels where Jesus is portrayed as rejecting Torah,"[138] that no evidence exists that this statement was used in debates about kashrut present in the early Church,[139] and that the verse would supply an "unusually general answer to a very specific question."[140] He next turns to Furstenberg's reading, as detailed above, and raises his central problem with an otherwise well-suited theory: why does Jesus, upon contrasting his own acceptance of the biblical purity system as opposed the Pharisaic innovations in purity, immediately set up a distinction between food and morality in the next scene?[141] Van Maaren explains that Furstenberg continues to perpetuate the traditional interpretation that moral impurity matters more than ritual impurity.[142] He argues that in the second half of the pericope Jesus actually continues to argue for an integrated purity system with both ritual and moral concerns in line with the Bible's own integrated system.

Van Maaren points out that most assume the use of purity language is metaphorical when applied to morality.[143] However, this idea that moral purity is metaphorical rather than "real" impurity has no basis in biblical law.[144] Van Maaren cites Mary Douglas who notes that all purity language is metaphorical and Jonathan Klawans who points out that therefore all purity is equally real in the biblical system.[145] Klawans does draws a distinction between

[137] Ibid., 24.
[138] Ibid., 25.
[139] Ibid., 25 f. 12.
[140] Ibid., 26.
[141] Ibid., 30.
[142] Ibid., 31.
[143] Ibid.
[144] Ibid., 32.
[145] Ibid.

ritual impurity which "concerns the status of the person in relation to the sacred" and moral impurity which "concerns the status of the community and defilement of the land."[146] Van Maaren applies these observations to vv. 17-23 and explains, "in Jesus' private instruction, immorality is not *contrasted* with impurity, but is *representative* of impurity."[147] Each example given in Mark 7: "bodily impurity, forbidden food, and grave sins" mirrors the biblical system which weaves each of these types of impurity together into a unified system, and "enables the entire pericope to be bound together by purity concerns."[148] Van Maaren's interpretation of v. 15 in relation to the second half of the passage relies on Furstenberg's reading of two contrasting categories: "Jesus then *illustrates* the direction defilement moves in relation to the body by contrasting the ingestion of (*kosher*) food with the expression of defiling sins."[149] Van Maaren introduces a holistic reading of this passage and raises important questions regarding the relationship between the early Jesus movement and purity laws.

The notion of directionality and purity, introduced by Kazen and expanded by Van Maaren, separately influenced, and became central to, Fletcher's reading of the passage. Fletcher uses "feminist textual intervention" to bring to light a new understanding of the purity debate.[150] Selections from her translation of Mark 7 provide a helpful illustrative example of this practice of reading:

> (15) There is nothing outside of a woman that goes into her that has the power to defile her as much as the things which come out of a woman are the things that defile the woman… (19) because it does not enter into her heart but into her womb/belly and goes out into the place of sitting apart/latrine? (Making all stench/food clean).

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[146] Ibid.
[147] Ibid., 35, emphasis Van Maaren.
[148] Ibid., 35-36.
[149] Ibid., 37, emphasis Van Maaren.
[150] Fletcher, 25.

Fletcher points out that all scholarly readings require various assumptions, "regarding the text's field of reference to create 'convincing' readings."[151] She argues that feminist textual inversion engages in a similar activity. Her translation choices, following her understanding of the subject of the sentence as female, creates new and stronger connections between this text and its legal-historical provenance. "When the text is considered with a female object, 'what goes into a woman' can have sexual connotations, referring to a penis and semen."[152] The assumption that v. 15 relates to eating is only retroactive based on the translation of key words in v. 19 as "stomach," "latrine," and "food." When switching the subject of the verse the opportunity arises for translating these words as "womb," "place of sitting apart," and "stench/filth," respectively. This reading brings up issues of purity and impurity more squarely in the domain of the Levitical system: *qeri* (seminal emission), *niddah* (menstruant), *zavah* (genital discharge), and *yoledet* (parturient).[153] Fletcher argues that "this intervention has revealed that when v.15 is read in relation to female purity rites it *does* make legal sense."[154] The idea that what comes out of a person is more severe than what comes in a person fits with the hierarchies of impurity in the Torah (e.g. that a person with a seminal emission carries a less severe impurity than a menstruant).[155]

Fletcher's reading also bolsters the importance of directionality in understanding v. 15. The idea that the contrast between stomach and heart is one of "inside to out" alone does not make sense. She introduces an additional component to the metaphor which sharpens the directionality reading: "Whether things come in or out is not of as much importance as *where*

[151] Ibid., 32.
[152] Ibid., 33.
[153] Ibid., 34-35.
[154] Ibid., 35, emphasis Fletcher.
[155] Ibid.

they come out from. Impurities that come out of the *koilia*/*qerev* (inner parts) such as menstruation, afterbirth, and discharges are declared less defiling that those that come out of the *kardia*/*lev* (innermost part), such as adultery, theft, and envy."[156] This supports Kazen's distinction between the inside and outside while adding nuance and supporting his hierarchal reading: impurities flow from the center of the body (the heart), then the stomach/insides, then the outside.[157] While Kazen argues that the medical explanation of v. 19 derives from Greek medical knowledge and would be "alien to the Palestinian Jew," Fletcher points out that reading womb instead of stomach would reflect the concerns and purity understandings of Jews in that context.[158] Her reading reinforces the necessity of understanding Jesus' comments as related to the purity system as a whole.

In Kazen's *Jesus and Purity Halakhah*, he provides a thorough analysis of how Mark 7 fits in to Jesus' wider theory of ritual impurity. He points out that this passage receives outsized attention as purity concerns are readily apparent, however, this leads to a skewed portrait of Jesus' concerns about impurity when the comments of the Markan redactor are taken to be Jesus' own. Kazen argues "what is at stake, even in Mk 7, is not food, but the overarching concept of bodily transferable impurity."[159] To build this case, he relies on a combination legal-historical and form critical analysis, which he believe reveals, "a seeming indifference on Jesus' part to certain purity issues… [which] demands if not an explanation of his motives, at least an interpretation within his cultural and religious context."[160] Kazen

[156] Ibid., 37, emphasis and parenthesis Fletcher.
[157] Ibid., 38.
[158] Ibid., 38.
[159] Kazen, 10.
[160] Ibid., 8.

examines the various attitudes towards impurity in Jesus' time and the relevant textual evidence to attempt to reconstruct the historical Jesus' understanding of these issues.

Kazen starts with the assumption that the core story on handwashing in Mark 7 can be mined for relevant details about the historical Jesus' opinions.[161] He situates this conflict within a wider debate on expansionist vs. restrictionist conceptions of purity present at that time. Kazen derives this concept from Alon and Milgrom (who refers to the distinction as maximalist vs. minimalist) who locate this tension as present within the Torah.[162] Milgrom attributes these two tendencies to the two sources in Leviticus, with P (Lev. 1-16) reflecting a restrictionist/minimalist conception of holiness localized to the sanctuary and its environs and H (Lev. 17-26) advocating for an expansionist/maximalist understanding of holiness as pervading the land of Israel which must be mirrored by the actions of the Israelites in that land.[163] Kazen argues that both of these views were found in Jesus' time and while the expansionist tradition was well-known and influential, it still contained a spectrum of views concerning the standard to be upheld regarding the maintenance of purity in daily life.[164] This degree of commitment and integration occurred among the various sects as well as the general population. Kazen explains, "in the case of purity in first century-Judaism, many would have adhered to the rules and customs, but only the most well-informed and concerned would have been *consistent*."[165] Kazen sees the historical Jesus and his disciples as consistently opposed to the expansionist current, which would not put them beyond the pale of first-century Judaism, but would mark them as distinct within that spectrum of practice.

[161] Ibid., 85.
[162] Ibid., 73-74.
[163] Ibid., 74.
[164] Ibid., 87.
[165] Ibid., emphasis Kazen.

Jesus' views on purity, as reflected in Mark 7:15, fall in the long tradition of the prophetic critique which admonishes the people to privilege moral over ritual concerns. Kazen reads Mark 7:15 as, "A man is not so much defiled by that which enters him from outside as he is by that which comes from within."[166] This is not a replacement of ritual purity with ethical purity, but a rebalancing of priorities.[167] In opposition to the expansionist camp, Jesus and his disciples most likely did not wash or immerse in line with general expectations.[168] In response to criticism, Jesus "justified his apparently negligent behavior by contrasting inner and outer purity in a manner reminiscent of earlier Jewish prophets."[169] This interpretation of Mark 7:15 reflects Kazen's larger study about the historical Jesus's understanding of the purpose of purity as shown below.

Kazen also highlights points of Mark 7 which reflect pre-Markan concerns based on both form and content. The entire framework of a controversy story takes a point of likely conflict between Jesus and his contemporary rivals and heightens the stakes and tensions between them. By mentioning the Pharisees as Jesus' opponents, the text presents Jesus as in opposition to a rival subgroup, rather than in opposition to a generally strong current of practice among the population.[170] This contrast reflects a community in heated competition with its rivals for interpretive authority. Kazen delineates the kinds of concerns this text presents into the layers of the Church's development. "Questions about what meat could be eaten… were not discussed in Jesus' context. Questions about the relationship between the law of God and human traditions, were probably not discussed by Jesus either, but at a pre-

[166] Ibid., 228 f. 120.
[167] Ibid., 88.
[168] Ibid., 230.
[169] Ibid., 231.
[170] Ibid., 86.

Markan stage in the early church."[171] These debates became engrained into the text of Mark 7, yet Kazen argues that despite its polemical intent, "it is possible to make responsible reconstructions of Jesus' attitude as well as of contemporary legal conditions."[172] The intersection between a form critical analysis and investigation of the social-historical context produces a window into the diachronic development of the early Church's views on purity.

Mark 7:1-23 reflects Kazen's two major conclusions as to Jesus' attitude toward impurity as shown throughout the gospels. First, Jesus is portrayed consistently as against expansionist trends in purity. Given the widespread acknowledgement, if not practice, of the legitimacy of this approach, Jesus' attitude and behaviors may aptly be termed antinomian, yet not beyond the realm of possibility. Second, this kind of behavior finds legitimate expression within contemporary Jewish contexts as prophetic moralizing. The prophets acted and taught utilizing both didactic and metalegal antinomianism in order to advocate for moral uprightness and reform. Kazen combines and summarizes these two points: "we thus must acknowledge an apparent tension between Jesus' behavior and contemporary aspirations and expectations… Jesus' attitude must be interpreted as part of a moral trajectory in which the Israelite prophetic tradition was an important part."[173] Kazen argues that, much like the prophets, Jesus attempts to demonstrate the priority of moral purity over ritual purity which he analogizes to the directionality of purity. Kazen raises the important caveat that "Jesus apparently saw moral evil and social injustice as a more serious impurity than bodily defilement, but this must be understood within the context of Hebrew corporeal anthropology, rather than western spiritualization."[174] As Van Maaren points out above, this

[171] Ibid., 86.
[172] Ibid.
[173] Ibid., 344-345.
[174] Ibid., 345.

impurity and defilement is still real, and not metaphorical. Kazen's historical and legal analysis fits Jesus and his views within his wider context.

Conclusions: Defining Mark 7:1-23 as an Antinomian Narrative

Both the conclusions and deficiencies of each of these scholar's theories on Jesus' understanding of purity and the role of Mark 7:15 as a key passage in formulating this understanding have influenced my read of the historical-legal context and antinomian nature of Mark 7:1-23. Sanders, despite his warnings about the authenticity of any part of this passage, does open the door for a reinterpretation of the verse that would suit Jesus' context. "The saying that what goes in does not defile- *unless an instance of antithetic hyperbole*- is a strong contravention of the law, and the circles in which such a saying resulted in disobedience of the food laws had clearly broken with Judaism."[175] This technique of antithetic hyperbole would be in line with prophetic acts and statements of antinomianism; particularly for didactic and metalegal purposes. Sanders is also a prominent voice in promoting the idea that Jesus observed the law and may be closely read as representative of his Jewish context. Establishing Jesus as within the nomos of the community allows him to be considered within the pale of credible Jewish ideas in his context while simultaneously utilizing antinomian actions to convey these ideas.

Furstenberg seeks to interpret the whole narrative coherently, which provided a helpful example for thinking about a narrative analysis of the passage. While his desire to see the passage in context as an attempt to glean deeper meaning of both the original context and its current narrative framework is laudable and valuable, these readings cannot be separated from the benefits of form criticism and the necessity of seeing different layers of narrative

[175] Sanders, 91, emphasis mine.

within the text. Even Furstenberg cannot take the narrative as a whole and needs to eliminate, at a minimum, 7:19c. This text must be read as both a seamless whole (in order to understand Mark himself as an interpreter of Jesus) and as a fragmented composition.

Furstenberg's reading creates a portrait of Jesus as a participant in halachic discourse and with his own views of Torah exegesis. I agree with Furstenberg that the historical Jesus in v. 15 objects to the addition of a "fence around the Torah" with regards to purity, which enables him to defend the Torah's purity system while providing an allegorical read of its moral implications. This is different than Sanders' proposal (and Kazen's development of it) as there is no contrast in prioritization between the moral and the ritual, rather both are interlinked. This interpretation best suits the prophetic precursors on whom Jesus based this interpretation. The historical Jesus' actions, much like those of the prophets, should be seen here as a didactic antinomian act: this teaching does not reject the Torah's system ritual purity, but explains its moral implications and rejects purity customs which do not align with this allegorical read. Kazen, using Milgrom, points out that both expansionist and restrictionist views on purity are found in the Torah. By combining this with Furstenberg's insight, it demonstrates that both Jesus and the Pharisees can pull the "conservative-traditionalist" card, while simultaneously advocating for new conceptions of the meaning of that purity system.

The primary benefit of Van Maaren's continuation of Furstenberg's analysis is the continued clarification of the narrative layer of the passage. Van Maaren provides a thoughtful caveat to a form-critical dominated approach: "the argument addresses Mark at the narrative level, without denying the clear composite nature of the pericope. The persuasiveness of this reading depends on the assumption that a coherent redactor is

preferable to a confused one."[176] That said, Van Maaren's attempt to find this coherence by attributing to Mark's community a concern about purity laws, is misplaced. Mark repurposes early passages to suit the needs of his current community, as will be explained below. Van Maaren insufficiently addresses the comments in the passage which separate out Mark's community from those that care about purity. He attributes vv. 3-4 as a reflection of the "Jewish milieu of Mark's gospel" because it indicates "first-hand knowledge of the Jewish custom" and serves to teach Mark's gentile community how to observe these new Jewish customs.[177] Regarding the other key passage commonly attributed to Mark he describes the motivations behind v. 19c as follows: "The narrator does not mean to clarify that now all food is permitted, but that permitted food does not convey impurity."[178] These explanations ignore the language which separates Mark's community from "normative" Jewish practice (i.e. "and all the Jews") and neglects to take into account the function of the passage in the context of Mark's wider narrative, respectively. Regarding vv. 17-23, at the earliest the medical and ethical explanations may belong to the layer of the pre-Markan community. However, given the similarities in the later passage to Paul's list of sins in Gal. 5:19-21 and Rom. 1:29-31, the more likely explanation is that they are additions by Mark. Van Maaren is correct in attempting to define an integrated system of purity as reflected in this chapter, yet it is better to locate the system as originating with Jesus or the pre-Markan community rather than Mark. In short, for the historical Jesus, the Pharisee's purity system is not Biblical, and Jesus puts forward a fundamentalist teaching about the real meaning of the biblical system. For the early Church post-Jesus and pre-Mark, the Pharisee's system is not only not biblical,

[176] Van Maaren, 22.
[177] Ibid., 39-40.
[178] Ibid., 38-39.

but also in contradiction and in opposition to the biblical system. While Jesus is ambivalent about the Pharisee's practices (or indifferent in Kazen's language), the pre-Markan community is outright hostile to those practices.

Fletcher's interpretation highlights the importance of preexisting categories about purity law and social-historical context in order to understand this difficult passage. Her translation of *koilia* (v. 19a) as womb could place this text as belonging to the historical Jesus or pre-Markan layer of the text as it fits with the concerns of the biblical purity system. However, as Mark needs the text to be about *kashrut*, he assumes that *koilia* means stomach and so adds v.19c for clarification. Her reading of v. 19c as in line with the rest of the passage appears much more forced. Fletcher is correct in advocating for a read of this passage which allows Jesus' interpretation to make legal sense, yet this is best accomplished by separating out the various layers of legal meaning posited by three different communities.

Kazen's association between Jesus and the prophetic critique and recognition of a second pre-Markan layer in the text both influenced my conclusions. Jesus' prioritization of the moral over the ritual lines up with the prophetic critique and allows for speculation about Jesus' motivations also paralleling those of the prophets. This accords with contemporary understandings of Jesus as an eschatological prophet: there is an immediate need for the people to correct the priorities of their actions. However, this emphasis on the moral explanation, does not betray an "indifference" to the biblical system of purity as Kazen explains, but rather as a realignment of interlinked priorities. The issue with Kazen's interpretation, which similarly impacts any reconstruction of the attitude of the historical Jesus, is his underlying assumptions about where to locate Jesus on a spectrum of attitudes in relationship to his context. That is, does one see Jesus as entirely typical of 1st century C.E.

Galilean Judaism or entirely atypical, or somewhere in between? This assumption will impact whether or not a scholar deems an attitude or interpretation as authentic or inauthentic to the historical Jesus which must be kept in mind when evaluating the claims of any position in historical Jesus scholarship.

Kazen best develops the idea of a pre-Markan layer to this story which contains a strongly polemical agenda. He points out that, "most scholars have focused exclusively on conflict stories, which in the case of purity may lead to a digression from, or at worst, a confusion of the issues at stake."[179] Kazen attributes the form of the conflict story itself to a post-Jesus provenance,[180] which would create a false association between the polemical responses of the early Church in competition with rivals for interpretive authority, and the more matter-of-fact teaching statements attributed to the historical Jesus. It is unlikely that Jesus would have rejected outright the biblical system of purity, but in accordance with a prophetic read, he emphasized the moral-allegorical dimension of their proper practice.

[179] Kazen, 10.
[180] Ibid., 60.

Chapter Three: Mark 7:1-23 as an Archetype for Antinomian Narratives

Purposes of Mark 7:1-23 In Each Narrative Layer:

A literary and legal-historical analysis of Mark 7:1-23 reveals the developmental layers of this text and the possible purposes for its composition. Read narrowly this narrative justifies opposition to handwashing and hand impurity; read broadly- against the entire system of purity. The authors of this text produce conflicting interpretations about the purpose of the law: Does Jesus defend Torah observance against the accretion of oral tradition, set himself up as establishing his own oral tradition, or abrogate the Torah under the authority of his own new law? The various understandings of the law at play in this story enables us to return to our original question of the relationship between law and narrative and apply it to the early Jesus movement in order to answer a fundamental question about the nature of law in this community.

> Kazen summarizes the various opinions of Jesus' relationship to the law, as follows:
>
> 1) Jesus was explicitly opposing or abrogating the Torah in principle, emphasizing ethics instead of ritual. 2) Jesus was explicitly opposing certain commandments, emphasizing his own authority. 3) Jesus was defending the biblical law against human tradition. 4) Jesus was in his teaching and actions implicitly opposing the Torah, without fully realizing what he did or what consequences could result. 5) Jesus was not opposed to the Torah; he differed on certain points of interpretation but was fully observant.[181]

While Kazen attributes these positions to different scholars, in fact we find elements of each of these positions dating back to different eras in the Jesus movement and each shed light on the developing understanding of the role of the law for the early Church. The core historical anecdote in Mark 7 corresponds to Kazen's third position, the pre-Markan community roughly corresponds to positions three and five, and Mark follows a hybrid of positions one

[181] Kazen, 49.

and two. Mark 7:1-23 provides an archetypal story for looking at an antinomian narrative that reflects multiple understandings of the law and the functions of these narratives in promulgating a theory of law. The literary features, legal issues, and rhetorical arguments displayed in this story can be found throughout Rabbinic and Christian literature, and I argue that from this story three types of antinomian narratives can be deduced. I will provide a name and description of each of these types and use one of the three layers of Mark 7:1-23 to illustrate this type, as well as highlight parallels in rabbinic literature for future study. I have also identified two other types of antinomian behavior not expressly represented in Mark 7 that warrant further explanation.

Functions and Types of Antinomian Narrative:

1. *Didactic*

Didactic antinomian narratives provide instruction in community norms through a story about breaking some of those norms. This category serves the broadest purposes and requires further subcategorizations. One purpose of these stories is to distinguish between, for lack of better words, "holy" from "profane" in a community. Some objects, times, and situations are part of the wider nomos, yet distinct from the ordinary rhythm of life. A didactic antinomian narrative allows for education in the more complex mores of the community by demonstrating how they express a deviation from normal behavior and expectations. The most famous example of didactic antinomianism is the "four questions" of the Haggadah. The Babylonian Talmud makes the antinomian nature of this action explicit in its discussion of the seder:

> Rav Shimi bar Ashi said: Matzah should be in front of each person, Maror should be in front of each person, and Charoset should be in front of each person. And one only removes the table (i.e. seder plate) from before the one who recites the Hagadah… Why do we remove the table? The school of Rabbi Yannai says: in order that the

> children will recognize (it) and ask: [Why is this night different from all other nights?] Abaye (as a child) was siting before Raba and saw that they removed the table from in front of him. He (Abaye) said to them: "we still have not eaten and you all take the table from in front of him?!" Raba said to him: "You have exempted us from saying Mah Nishtana."[182]

In this story, the four questions serve as the focal point of the entire seder, linking the unusual actions in the initial steps of the seder to the story told as a result of these questions. The participants in the seder engage in didactic antinomian behavior to spark curiosity in the children so that they will ask for an explanation of the purpose of the bizarre pre-meal rituals.

Didactic antinomian narratives may also provide education in exceptions to rules within a system. The process of creating law includes the refinement of applications of precedent. Some seemingly appropriate statutes or precedents may not apply when the pertinent circumstances differ slightly. This method of teaching exceptions by "breaking" what appears to be an obvious law often becomes expressed in narrative. Mishnah Berachot 2:5-8 provides a clear example of this practice through three stories about Rabban Gamliel in which he performs an action, his students ask "Did you not teach us, our Rabbi, that x action is prohibited or unnecessary?," and he provides an explanation for his behavior detailing why he is an exception to the law he previously taught.

These narratives may also teach the boundaries of a subcommunity or convey sectarianism. This subcategory shows the overlap between didactic and metalegal antinomianism. In Mark 7, the historical Jesus rejects the Pharisaic extra-biblical purity laws as unnecessary, and proposes a moralistic read of the existing commandments, much like prophetic antinomianism. At the heart of the conflict story is a simple question asking for clarification on Jesus' teachings to determine whether he is in accord with Pharisaic practice

[182] B. Pes 115b (Translation mine with Steinsaltz clarifications added).

or not. Collins explains, "the evangelist is presenting Pharisees and scribes as attempting to discern what kind of teacher Jesus is. If he does not teach his disciples to follow the tradition of the elders, why not, and what principles does he teach instead?"[183] This story remains in each layer a teaching story and attempts to convey the message and teachings of Jesus. What that message is, however, differs based on the argumentation and purposes of the authors. Didactic antinomian narratives convey the values, norms, and identity of the community. Cover explains why narrative is particularly suited for this task: "This objectification of the norms to which one is committed, frequently, perhaps always, entails a narrative- a story of how the law; now object, came to be, and more importantly, how it came to be one's own. Narrative is the literary genre for the objectification of value."[184] Didactic antinomianism makes the values at stake for this community real by prompting the community to think about them by way of transgression.

2. Metalegal

Metalegal antinomian narratives demonstrate that the system of ethical values that underlie the legal system are higher than the individual rules themselves and should guide their production, application, and revision. In Mark 7, the pre-Markan community provides a competing alternative to the Pharisaic tradition of purity and goes one step further than the historical Jesus. It is not that the Pharisees' purity system is simply the custom of another community, but rather, that their system itself is impure and obfuscating of moral purity. In contrast, Jesus' system and understanding of purity is both the proper fulfillment and interpretation of the Torah's system. The pre-Markan community utilizes this story to teach the proper ethical interpretation of the purity system which guides its practice.

[183] Collins, 349.
[184] Cover, 45.

Metalegal antinomianism teaches how to interpret and create a theory of law within the existing system while critiquing individual rules. It is this kind of antinomianism present in the Antithesis of Jesus' Sermon on the Mount (Matthew 5:21-48). Jonathan Klawans explains the legal theory present here in Matthew as within the bounds of Second Temple Judaism even when Jesus explicitly rejects or adds stringencies to the law. "Paradoxically, therefore, Jesus' fulfillment of 'the law' as articulated in Matthew's Sermon on the Mount can question the plain meaning of passages from 'the Law' (the Pentateuch) even as it reaches some conclusions that are commensurate with Jewish law generally speaking."[185] These acts of critique and expansion desire to create a law in line with the ethical demands of the Kingdom of God, which supersede the plain meaning and interpretations of individual laws.

I derive this relationship between metalegal antinomianism and legal change from Ronald Dworkin's legal interpretivism. In short, an interpretivist judge sees his/her role not as a creator of law, but an interpreter of the community's legal story. This judge bases her/his ruling in accordance with moral principles derived from an analysis of the full legal tradition. This may involve overturning precedent or pointing out that the law as stated is deficient from the vision of its best self, which is inherent and embedded within the story as a whole. In a metalegal antinomian narrative, a story about the violation or change of the law appeals to higher principles than the individual statute in question, and appeals to the desire for harmony and integrity between these principles and the lived experience of the law itself.

This need to explain legal changes and address moral inadequacies with the legal system finds expression in rabbinic metalegal antinomian narratives. In the biblical story of

[185] Klawans, 517.

the Daughters of Zelophehad (Num. 27:1-8) and in its subsequent rabbinic interpretation (Sifrei Bamidbar 133), the Torah and rabbinic tradition address the need for a legal change. The antinomian issue at hand is not the violation of the law, but the recognition of the present law's inadequacy: a bold claim particularly when the law at hand is the Torah. The Daughters of Zelophehad, in both the Torah text and the midrash, apply an interpretive approach to the law by looking at the general thrust of the legal system and their understanding of the nature of God as seen throughout the Israelites story. The legal remedy they propose brings God's nature in line with God's law. This story embodies metalegal antinomianism and creates a change within the system of law. Cover argues, "the transformation of interpretation into legal meaning begins when someone accepts the demands of interpretation and, through a personal act of commitment, affirms the position taken."[186] In metalegal antinomian narratives, the importance of the ethical underpinnings of the law become emphasized by demonstrating in a concrete way what is at stake for those who display these acts of commitment to the law by means of subverting or changing it.

3. Jurisgenitive

As explained in chapter one, I derive this term from Cover's "jurisgenesis," or, the creation of legal meaning.[187] Jurisgenitive antinomianism is the recognition that something new only develops when the old norms are broken. It is the claiming of authority by a group to create their own *nomos* out of an old one, and proves the most destabilizing and powerful iteration of antinomian behavior. Jurisgenitive antinomian narratives are the most important and ubiquitous as all new groups must justify their break with the old by creating a story of the legitimacy of their origins. The United States Declaration of Independence famously

[186] Cover, 45.
[187] Ibid., 11.

defines the values and principles by which a new political entity may be legitimately created in order to defend the patriot movement from the charge of treason. It explains where the story between the British Empire and the American Colonies diverged, and how the divergence of these stories now must mirror a divergence in their corresponding system of governance. Cover explains, "every legal order must conceive of itself in one way or another as emerging out of that which is unlawful."[188] The role of jurisgenitive antinomian narratives is to create this origin story.

In Mark 7:1-23, we see the point in which Mark's community declares its independence from the story of non-Pauline Christian and Jewish movements. Mark broadens the scope of Jesus' critique and uses this story as an indictment and rejection, not of handwashing or Pharisaic impurity, but of the entire system of ritual impurity. This is best seen by examining the role of this pericope in the wider structure and argument of the Gospel of Mark as a whole. In Joshua Garroway's *The Beginning of the Gospel*, he argues that Paul coined the term *euangelion* to describe his own new idea: "Gentiles could be saved by Christ without circumcision."[189] The central components of the *euangelion*, or Gospel, are Jesus' redemptive death and resurrection, and the Law-free mission to the Gentiles.[190] Mark, a disciple of Paul's Gospel, linked this term with earlier traditions about Jesus in order to develop a polemical narrative which both traces the Gospel back to Jesus and foreshadows the development of the Jesus movement from Jews to Gentiles, with "the annulment of the Law the signal moment in this transition."[191]

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[188] Ibid., 23.
[189] Joshua D. Garroway, *The Beginning of the Gospel: Paul, Philippi, and the Origins of Christianity* (Palgrave MacMillan, 2018), 10.
[190] Ibid., 96.
[191] Ibid., 109.

In Garroway's analysis of the structure of Mark, the first four chapters represent the mission to the Jews as Jesus operates in Jewish villages throughout the Galilee.[192] Mark 5 begins the transition to Gentile areas with the story of the Gerasene demoniac, paralleling Jesus' opening miracle in Mark 1.[193] The significant difference between these stories hints at the importance of Mark 5 in beginning the Gentile mission. Usually Mark's Jesus instructs those healed to refrain from speaking about Jesus, however, in Mark 5 he tells the Gerasene demoniac the opposite. "The demoniac, in a sense, becomes for the Gentile world what John the Baptist was for the Jewish world," thus, beginning a second phase in Jesus' ministry.[194] The disciples fail to understand this new phase, therefore, Jesus begins it himself in Mark 7:24.[195] To inaugurate this gentile mission as distinct from the Jewish mission, Mark needs to have a story of Jesus breaking the law to transition between the two: that is, Mark 7:1-23. This story becomes Mark's moment of separation from one nomos into another, and when considered in the fullness of the narrative becomes the central jurisgenitive antinomian narrative of the New Testament.

Cover uses a frequent motif in the Bible as the archetypical example of jurisgentive antinomianism: God's rescinding of primogeniture throughout Genesis. Given that the Israelite community, as did the Ancient Near East in general, has a law establishing inheritance based on primogeniture, why does the Israelite origin myth repeatedly flout this rule? Cover points out that the widespread acceptance of this rule is what gives these narratives power in signifying the creation of a new nomos:

> But in every instance in the Bible in which succession is contested, there is a layer of meaning added to the event by virtue of the fact that the mythos of this people has

[192] Ibid.
[193] Ibid., 110.
[194] Ibid., 111.
[195] Ibid.

> associated the divine hand of destiny with the typology of reversal of this particular rule… To be an inhabitant of the biblical normative world is to understand, first, that the rule of succession can be overturned; second, that it takes a conviction of divine destiny to overturn it; and third, that divine destiny is likely to manifest itself precisely in overturning this specific rule.[196]

The beginnings of Christianity and the beginnings of the Israelite story both utilize jurisgentive antinomian narratives to acknowledge their "parting of the ways" from the normative communities in which they arose.

Rabbinic literature contains instances of jurisgenitive antinomianism, yet the various rabbinic origins stories contain an overt agenda of emphasizing the rabbinic movement as the continuation of the legal narrative of the Torah. The rabbinic stories that come closest to the previous archetypical jurisgenitive antinomian narratives would be the new interpretive method of Rabbi Akiva. For example, in Avot D'Rabbi Natan A 6, Rabbi Shimon ben Eleazar compares the attitude and actions of Rabbi Akiva towards the teaching of Rabbi Eliezer and Rabbi Yehoshua to a stone cutter who chipped away stones from a mountain and tossed them into the Jordan River saying, "This is not your place, rather, this is your place." Comments in opposition to Rabbi Akiva's innovative method of reading are well attested in rabbinic literature, therefore, stories legitimizing their use and widespread acceptance were needed. Rabbinic jurisgenitive antinomianism requires further study, yet these stories are most likely related to the realms of methodology and the establishment of rabbinic authority. Cover's definition of a new nomos can be seen as a link between rabbinic, biblical, and Christian jurisgenesis: "when groups generate their own articulate normative orders concerning the world as they would transform it, as well as the mode of transformation and their own place within the world… a new nomos with its attendant claims to autonomy and

[196] Cover, 22.

respect, is created."[197] While biblical jurisgenitive antinomian narratives establish the Israelites as having their own place the world, and the Gospel of Mark articulates a new normative order, Rabbi Akiva creates a new mode of transformation which takes over and creates anew the rabbinic movement.

4/5. Eschatological and Iconoclastic

The final two examples of antinomianism are not expressly represented in Mark 7:1-23 although narratives of these varieties exist in early Christian and rabbinic literature. The first of these, eschatological, sees the world and its norms as ending imminently. It defies logic to observe the rules and laws of a community about to be destroyed or radically transformed. To an extent, the entire early Jesus movement could belong in this category. A view of the historical Jesus as an apocalyptic prophet (e.g. Bart Ehrman) or of the early church as expecting the Parousia and Kingdom of God within their lifetimes, would categorize all of the antinomian narratives of the early Church as eschatological. The most obvious Jewish parallel would be post-Rabbinic in the form of the Sabbatean movement.

Iconoclastic antinomianism sees antinomianism itself as a principle or platform. That is, the norms themselves are wrong entirely and the only logical action would be to remove the self from the world of law. In contrast to the jurisgenitive category, iconoclastic antinomianism has no desire to build anew, but only to reject the status quo. This category reflects a spirit of nihilism and narratives in this category seek to explain the origins of this attitude as a warning for those inside the community. Stories of Elisha ben Abuya's descent, behavior, and possible redemption may be the most obvious example of this category.

[197] Ibid., 34.

Conclusion:

All new law begins in deviance or violation of past precedent and the existing story of the law. Oftentimes, if this deviance becomes accepted by the legal community, an accompanying and compelling story develops to justify and explain the original actions and to further the narrative of the community as a whole. This revolutionary process is reflected in microcosm through antinomian narratives. By investigating these stories, we can recognize and address wider questions of legal meaning, the purpose of the law, and how to enact change.

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Appendix A: Proposed Structures of Mark 7:1-23

Verses	Pesch	Bultmann	Dibellius	Booth	Kazen	Mine
1	Description of the Offensive Situation	Originated with Early Church	Story Attached to isolated sayings (5-23) by Mark (vv 6-8 and 9-13 are older)	Question	Introduction	Core Story
2						
3					Markan Interpolation	Mark Redaction
4						
5	Objection of the Opponents (inc. 1 and 2)				Question	Core Story
6	Response of Jesus	(Early Church Polemic)	Independent Story Handwashing	Separate polemic	Isaiah Reply	Early Church Polemics
7						
8						
9		Markan Elaboration (possibly pre-Markan material)	Independent Story Korban	Separate polemic	Korban Reply	
10						
11						
12						
13						
14	Another	Transition		b)	Purity	Core
15	Independent	Early Church	Independent Saying	answer	Reply	Story
16	Tradition	Post-Markan gloss				
17	(Markan	Transition			Scene Change	Mark
18	Addition)	Transitional explanation of v.15	Later explanation of 15	Explanation of core story	Medical Explanation	Redaction
19		Attach to v.15				
20		Markan Elaboration (composed by Mark)	Later explanation of 15	Explanation of core story	Ethical Explanation	Mark Redaction
21						
22						
23						