

“CUT OFF FROM (ONE’S) PEOPLE”: PUNITIVE EXPULSION IN THE TORAH AND IN THE ANCIENT NEAR EAST

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In contemporary ethical debate, it is common to hear commands from the Torah being indiscriminately lumped together: “The Torah forbids homosexual behavior, but it also forbids wearing mixed fabric, and eating leavened bread during Passover.” Those who make such an argument wish to construe all three of these Torah commands as being of equal seriousness. The problem with this type of argument is that it confuses three types of prohibitions, all of which carry different penalties. The first prohibition carries a death penalty, the second carries no explicit penalty, and the third calls for the offender to be “cut off from his/her people” (known in Judaism as the *kareth* penalty). Such a wholesale mixture of texts is not a legitimate way to characterize the intent of the Torah’s teaching, because it inappropriately ignores distinctions in Israelite law that are clearly signaled in the text itself.

Edwin Good writes:

A society’s values may be negatively attested in its punishments for the crimes it most detests. The more serious the punishment, the more the offense represents the negation of what the society holds most dear. On this logic, those crimes for which the offender is put to death represent the most blatant rejection of the common values.¹

Clarifying the meaning of the *kareth* penalty can contribute to our understanding of the relative severity of the offenses in the Torah. This paper will argue that the *kareth* penalty is usually a form of expulsion from the community. It will also demonstrate that punitive expulsion as practiced in Israel fits into the legal practice of the ancient Near Eastern cultural context.

¹ Edwin Good, “Capital Punishment and Its Alternatives in Ancient Near Eastern Law” (*Stanford Law Review* 19 [1966–67]): 947.

A large number of offenses in the Torah call for the offender to be “cut off from his/her people” (the *kareth* penalty). They include:

Failure to be circumcised – Genesis 17:14.

Eating leavened bread during Passover – Exodus 12:15, 19.

Unauthorized production of sacred incense – Exodus 30:33.

Unauthorized production of sacred anointing oil – Exodus 30:38.

Profaning the Sabbath – Exodus 31:14.

Eating sacrificial meat in a state of uncleanness – Leviticus 7:20–21.

Eating blood – Leviticus 7:27; 17:10; 17:14.

Eating sacrificial fat – Leviticus 7:25.

Failing to slaughter meat as a sacrifice to YHWH – Leviticus 17:4, 9.

Committing “any of these abominations” listed in Leviticus 18 (according to v. 29), including various forms of incest, sacrifice to Molech, sex during menstruation, homosexual intercourse, and bestiality.

Eating sacrificial meat that has been left over until the third day – Leviticus 19:8.

Offering children to Molech – Leviticus 20:3–5.

Patronizing mediums and wizards – Leviticus 20:6.

Brother-sister incest – Leviticus 20:17.

Sex during menstruation – Leviticus 20:18.

Approaching sacred gifts that have been dedicated to YHWH, while one is in a state of uncleanness – Leviticus 22:3.

Failure to afflict oneself during Yom Kippur – Leviticus 23:29.

Failure to keep the Passover without a sufficient excuse – Numbers 9:13.

Sinning “with a high hand”, that is, deliberately as opposed to unintentionally, “despising the word of YHWH” – Numbers 15:30–31.

Failure to cleanse oneself with holy water after defilement due to contact with a dead person – Numbers 19:13, 20.

The Current Status of the Question

The meaning of the *kareth* penalty is a question to which today's scholars often respond with either uncertainty or avoidance. Childs offers not one word of comment on the four appearances of the *kareth* penalty in Exodus.² Noth states without further comment that *kareth* means to “be excluded from the cultic community and punished by death.”³ Gerstenberger writes, “The severity of this punishment remains a puzzle.”⁴

The predominant position on the meaning of the *kareth* penalty at the moment is the one developed by classical Judaism, that *kareth* is a divinely-imposed penalty consisting of premature death of the offender and/or the extinction of the offender's descendants. This interpretation goes back at least as far as the Septuagint, where the term כרת as a penalty is consistently translated by terms such as ἐξολεθρεύεσθαι (seventeen times) and ἀπολήναι (six times).⁵ Targum Onqelos, Neofiti I, and Pseudo-Jonathan always use the *ištapa'al* of יצי, “to cause to go out,” usually interpreted to mean “to finish, complete, end...make an end of, destroy.”⁶ However, the Samaritan Targum uses either קטע (“to cut

² Brevard Childs, *The Book of Exodus: A Critical, Theological Commentary* (Philadelphia: Westminster, 1974). Cf. his comments on Exod 12:15, 19; 30:33, 38; and 31:14.

³ Martin Noth, *Leviticus: A Commentary* (trans. J. E. Anderson; London: SCM, 1977), 63.

⁴ Erhard Gerstenberger, *Leviticus: A Commentary* (trans. Douglas W. Scott; Louisville: Westminster/John Knox, 1996), 237–38.

⁵ Origen's Hexapla offers the option αφανισθησεται at Genesis 17:14.

⁶ Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (New York: Title Publishing, 1943; repr., Peabody, Mass.: Hendrickson, 2005), 1567.

off, break off”) or the *itpa’al* of עקר (“to be uprooted, detached, removed”) in all of the *kareth* passages.⁷

Josephus’ statement (*Ant.* 3.12.1) that both incest and sex during menstruation carry a death penalty in the Torah is further evidence of this understanding of the *kareth* penalty. Yet Josephus also recounts historical evidence that a different interpretation also existed in practice during the late intertestamental period: “And whenever anyone was accused by the people of Jerusalem of eating unclean food or violating the Sabbath or committing any other such sin, he would flee to the Shechemites, saying that he had been unjustly expelled” (*Ant.* 11.8.7).

Qumran uses the term נכרת to describe the eschatological annihilation of the wicked (e.g. 1QS II 16–17). Yet Qumran gives more evidence for the use of punitive expulsion than any other Jewish source, although it does not use the term נכרת for this penalty. 1QS VIII 22–23 states that one “who transgresses a word of the Torah of Moses deliberately or through negligence, shall be banished (ישלחהו) from the Council of the Community and never come back again,” a statement that clearly indicates how Qumran implements Numbers 15:30–31. Persons guilty of inadvertent sin are allowed to return if they keep a clean record for two years (1QS VIII 24–27).

In tractate Kerithot of the Mishnah, 36 *kareth* offenses and their punishments are discussed by the rabbis of the first two centuries C.E. If these offenses were committed unintentionally, a sin offering is prescribed. But in m. Mak. 3:2, several of these *kareth* crimes are penalized by scourging.⁸ The tractate goes on in m. Mak. 3:15 to state that if

⁷ Jastrow, *Dictionary*, 1108 (עקר); 1351 (קטע).

⁸ The version of the Mishnah cited throughout this paper is Herbert Danby, *The Mishnah: Translated*

an offender is scourged, the penalty of “Extirpation” (*kareth*) no longer applies, since justice has been satisfied.

The problem with the consensus developed by classical Judaism is that the history of early Jewish interpretation does not guarantee reliable results, especially when dealing with social or cultural elements that may have been lost to later memory. The history of interpretation of the command “You shall not boil a kid in its mother’s milk” is proof of the unreliability of using history of interpretation to determine original meaning.⁹

Von Rad is possibly the first scholar to argue that the *kareth* penalty refers to “the excommunication of the offender” rather than a threat of divine extermination.¹⁰ He writes:

In H as well as P we still find ancient ban formulae which quite certainly were formerly practiced in cultic life in a very concrete form. “Cutting off (כרת) from the midst of the people of Israel” is particularly frequently mentioned (Lev. XVII.4, 9f., 14, XX.3, 5f.; Num. IX.13, XV.30, 31 and frequently). The Deuteronomic formula too, “you shall purge (ביר) the person or thing out of your midst” is to be judged in the same way (Deut. XIII.6 [5], XVII.7, 12, XXI.21). The *arur* formulae also belong here (W. Zimmerli in *Z.A.W.*, 1954, pp. 13ff.). The fate of a sacrally expelled person was terrible (Gen. IV.13f.), for as the bearer of a curse it was impossible for him to find shelter in another community; he was refused admission to all other groups, and, because at that time no one could dispense with relationships to supernatural powers, he was forced into the arms of the unlawful cults of magic.¹¹

Von Rad does not offer any evidence to substantiate his theory. However, he does argue that the phrase “he shall bear his iniquity” (ישא עונו) means simply that “the agent is abandoned to the evil which he has occasioned,” which in some cases involved

From the Hebrew with Brief Introductory and Explanatory Notes (Oxford: Oxford University Press, 1933).

⁹ On the basis of the Ugaritic text CTA 23:14 (= UT 52:14), “Cook a kid in milk, a lamb in butter”, current scholarship holds that Exod 23:19b (= Exod 34:26b; Deut 14:21d) is a prohibition of a Canaanite fertility ritual, a datum evidently forgotten by later interpreters.

¹⁰ Gerhard von Rad, *Old Testament Theology* (trans. D. M. G. Stalker; 2 vols.; New York: Harper, 1962), 1:264.

¹¹ Von Rad, *Theology*, 1: 264n182.

“excommunication from the community by the pronouncement of a ban over the offender,” although von Rad concedes that this too “virtually amounted to a sentence of death.”¹² Von Rad’s theory has been followed by Westermann and Pope, among others.¹³

In 1954, Zimmerli analyzed the use of כרת in cases where it appears to mean “destroy” or “exterminate.”¹⁴ Zimmerli argues that this use of כרת is confined almost entirely to the hip’il conjugation. This would allow for a less severe meaning of the term in most instances of the *kareth* formula, where כרת occurs in the nip’al conjugation. Zimmerli refers to the *kareth* formula in its hip’il form as “eine Bannformel,” which can mean either the pronouncement of a spell or curse (as in the classic rabbinic view) or a declaration of banishment (which would favor von Rad’s theory). Zimmerli’s position is much clearer in his commentary on Ezekiel, where he writes that “already at an early period Israel clearly knew a type of sacred law which protected certain orders of cultic taboo and which concluded with a pregnant formula of banishment.”¹⁵ Ultimately, Zimmerli sees *kareth* as involving both exclusion from the *Bundesvolk*, and the eventual outworking of divine punishment in cases where the death penalty is called for but is never implemented.

Morganstern presents a theory that *kareth* was originally understood as death at the hand of God, but then developed into excommunication in practice in the post-exilic

¹² Von Rad, *Theology*, 1: 268.

¹³ Claus Westermann, *Genesis 12–36: A Commentary* (trans. John J. Scullion; Minneapolis: Augsburg, 1985), 266–67; Marvin Pope, “Excommunication,” *IDB* 2:184. See also Karl Elliger, *Leviticus* (HAT 4; Tübingen: J. C. B. Mohr, 1966), 101. Elliger uses *ausgemerzt* (“amputated”) in his translation of the *kareth* penalty.

¹⁴ Walther Zimmerli, “Die Eigenart der prophetischen Rede des Ezechiel,” *ZAW* 66 (1954): 1–26.

¹⁵ Walther Zimmerli, *Ezekiel 1* (trans. Ronald E. Clements; Hermeneia; Philadelphia: Fortress, 1979), 304.

period.¹⁶ Morganstern sees excommunication as a secondary development, making its first appearance in the Priestly Code, which he believes to be post-exilic, in contrast to H legislators, who use “cut off” in its primary sense. Yet Morganstern theorizes that excommunication “was undoubtedly current among the pre-Canaanite Israelite clans and tribes, and, as Judges 11:2–11 shows, persisted at least into the earliest period of settlement in Palestine.”¹⁷

Morganstern cites the example of circumcision in Genesis 17:14 as key to his case:

Now this same characteristic, late Priestly implication of excommunication, of disqualification and disbarment from the community of Israel and from its peculiar, intimate relations with Yahwe, is manifestly inherent in the entire legislation for circumcision in Gen. 17:9-14...Those who refuse to submit to the rite of circumcision...have practically excommunicated themselves from fellowship in Israel and from participation in the cult of Yahwe. And certainly from the standpoint of Israel itself they must have been regarded as excommunicated and outside the fold. Only this and no more can be the implication of the punishment of “cutting off” in v. 14. Certainly the consideration of ultimate, premature death at Yahwe’s hands is very remote here.¹⁸

Like Morganstern, Phillips sees *kareth* as excommunication. He theorizes that it was employed during the post-exilic period as a means of commuting all death penalty offenses except murder.¹⁹

Hasel’s entry for כרת in *TDOT* attempts to accommodate both interpretations of *kareth*.²⁰ Hasel writes:

¹⁶ Julian Morganstern, “Addenda to ‘The Book of the Covenant, Part III—The *Huqqim*,’” *HUCA* 8f (1931–32): 33–58.

¹⁷ Morganstern, “Addenda,” 57n57.

¹⁸ Morganstern, “Addenda,” 48n52 (note begins on 43).

¹⁹ Anthony Phillips, *Ancient Israel’s Criminal Law* (Oxford: Basil Blackwell, 1970), 28–32.

²⁰ Gerhard F. Hasel, “כרת,” *TDOT* 7:339–52.

It is certain that the final goal of the sentence was the premature death of the offender...In the majority of offenses, “cutting off” means a “cutting out” which leads to “banishment” or “excommunication” from the cultic community and the covenant people...the cultic community or the clan can “cut off” the offender (to the extent that the offense is known) from life in God’s presence through exclusion. The one so cut off is then left to God as the ultimate agent of final punishment.²¹

The only extensive attempt to examine the *kareth* penalty discovered so far is the doctoral dissertation of Donald Wold, written under the supervision of Jacob Milgrom.²² Wold’s conclusions are echoed in Milgrom’s comments on *kareth* to such an extent that their views will be referred to as the Wold-Milgrom position.

Wold argues that the phrase “shall be cut off from his people” is a divine extermination curse,²³ parallel to standard Near Eastern curses that call on a deity to “erase his name and seed from the land.” Wold presents a *tour de force* of references to “destroying one’s seed” throughout the ancient Near East. The closest parallel he finds to the biblical *kareth* formula is *napištum nakāsu*, “to cut off a life.”²⁴ He also claims that the verbs *nasāhūm* (“to expel”),²⁵ *halāqum* (“to make disappear”),²⁶ and the Phoenician קצה (“to cut off”),²⁷ are parallels to *kareth*.

²¹ Hasel, *TDOT*, 348.

²² Donald John Wold, “The Meaning of the Biblical Penalty ‘Kareth’” (Ph.D. diss., University of California at Berkeley, 1978).

²³ Wold, “Kareth,” 254: “(K)areth is a conditional divine curse of extinction in its original form.”

²⁴ Wold, “Kareth,” 15–18.

²⁵ Wold, “Kareth,” 20: “Although נסח is not used with the *kareth* penalty in the Priestly source, there is no question about its semantic parallelism to the verb כרת outside of P.”

²⁶ Wold, “Kareth,” 22–23.

²⁷ Wold, “Kareth,” 27–28.

Wold interprets the term עמיים to mean one's family or kin.²⁸ To be "cut off" from one's kin not only means eternal isolation after death, but also the extermination of one's family line (which Wold finds also in the warning "they shall die childless"). Wold sees the witness of ancient Judaism as being unanimous in support of this position.

Wold explains the phenomenon of laws that call for both *kareth* and the death penalty as being one penalty added on top of the other.²⁹ The offender will be both executed and eternally exterminated, and if the offender escapes execution, God will still exterminate that soul.

Wold breaks new ground in his full chapter of meticulous analysis of evidence from the LXX, which he demonstrates to be unanimous in its translation of כרת as destruction or extermination rather than expulsion.³⁰ Wold finds Qumran to be unanimous in treating *kareth* as destruction.³¹ He also argues that Ezekiel "nationalizes" *kareth*, applying a punishment aimed at the individual to the nation as a whole by means of the Exile, although he sees this punishment as not expulsion from the land per se, but total annihilation of the wicked.³² Finally, Wold devotes a chapter to discussing parallels to the Hebrew concept of afterlife: the Egyptian concept of "going to one's Ka," and the Mesopotamian expression "to be joined to the ghosts of one's relatives."³³ Both of these,

²⁸ Wold, "Kareth," 8–12.

²⁹ Wold, "Kareth," 58: "When the kareth penalty is juxtaposed [sic] to יומת to יומת it is imposed not in the absence of but in addition to death by man."

³⁰ Wold, "Kareth," 130–59.

³¹ Wold, "Kareth," 160–85.

³² Wold, "Kareth," 122–23.

³³ Wold, "Kareth," 186–249.

in Wold's view, reinforce the theory that *kareth* involves extinction of the sinner and his/her seed.

While one of Wold's strongest arguments is his appeal to proposed Near Eastern parallels, he concedes, "To date, our search of the Akkadian sources has turned up no examples of karātu with either napištum or awilum as its object so as to provide an exact parallel to the biblical kareth formula with the verb karātu."³⁴ But he also asserts, with regard to the theory of *kareth* as expulsion, "our investigation of kareth has not produced a single ancient opinion which might be brought in support of this interpretation. Kareth as excommunication is a purely modern invention."³⁵ While Wold's statement regarding ancient opinion may be true, there is no lack of internal biblical evidence for the expulsion theory, nor is there lack of Near Eastern evidence for expulsion as punishment, which evidence this paper intends to set forth.

Like Wold, Milgrom claims, "Jewish exegesis unanimously holds that *kārēt* is a divine penalty but is in disagreement concerning its exact nature."³⁶ He notes that "[m]ost moderns" define *kareth* as excommunication or death by human hand, and even credits Qumran as holding to this position (contra Wold). But Milgrom rejects any notion that *kareth* is a humanly administered punishment of any kind because it is always applied to deliberate sins against God, not against humans.

³⁴ Wold, "Kareth," 15.

³⁵ Wold, "Kareth," 50. Wold's chief objection to *kareth* as a lesser penalty than death is that it "strips kareth of its force as a deterrent to misconduct." (Ibid.)

³⁶ Jacob Milgrom, *Leviticus 1–16: A New Translation with Introduction and Commentary* (Anchor Bible 3; New York: Doubleday, 1991), 457.

As to the exact nature of *kareth*, Milgrom offers two options, without preference for either.³⁷ One possibility is extirpation of the offender's line of descendants. Milgrom cites five biblical texts as proof: Psalm 109:13; Ruth 4:10; Malachi 2:12; Numbers 16:33; and Deuteronomy 29:19. None is a precise parallel to the *kareth* formula in the Torah. The first two use the כרת root, but there is no proof that הנפש ההוא may be equated with one's name or seed. His latter two examples have no linguistic connection to the *kareth* formula at all. Milgrom's best example is Malachi 2:12, but despite his claim that "the context clearly speaks of the extirpation of the line,"³⁸ one could argue instead that the context is actually Ezra's excommunication of those who married foreign wives. Milgrom cites the Hittite "Instructions for Temple Officials" as an alleged parallel to Malachi 2:12, a case of collective punishment where the deity avenges sacrificial malpractice by extirpation of the offender's entire family and descendants, but his appeal is unconvincing.³⁹

Milgrom offers as an alternative the possibility that *kareth* is the prevention of the offender from rejoining one's ancestors in the afterlife.⁴⁰ He presents *kareth* as the exact reverse of being "gathered to (one's) people."⁴¹ Such an interpretation would indicate that *kareth* was intended as an individual punishment rather than a collective one. Yet

³⁷ Milgrom, *AB* 3, 458–60.

³⁸ Milgrom, *AB* 3, 459.

³⁹ *Ibid.*

⁴⁰ Milgrom, *AB* 3, 459–60.

⁴¹ See Num 20:24; 27:13; 31:2; Gen 25:8, 17; 35:29; and 49:33, where עמית is actually used. Milgrom cites additional examples where אבות is used.

Milgrom goes on to argue that the two possibilities are not mutually exclusive, and that both threats may have been included in *kareth*: no descendants and no afterlife.⁴²

Finally, Milgrom explains the naming of both *kareth* and the death penalty in the cases of Molech and Sabbath violations: “Whereas the *kārēt* cases assume that the sin takes place in private so that only the deity is aware of the crime, the Molech and Sabbath violations are performed in public and, unless punished at once by judicial execution, they may demoralize the entire community.”⁴³

Lafont is possibly the only scholar to connect the possibility of banishment in Israel with evidence for banishment in the ancient Near East.⁴⁴ She cites CH §154 (“If a gentleman has sex with his daughter, they shall make that gentleman leave the city”), along with YOS 10 31 (“l’exilé qui a été chassé reviendra dans sa ville”), and the Hittite provision of banishment for the sin of *hurkel*.⁴⁵ Lafont writes, “De fait, le sort du père incestueux à Babylone est peut-être à rapprocher de l’excommunication hébraïque, consistant à retrancher moralement, et sans doute aussi matériellement, le pécheur de la communauté religieuse et sociale.”⁴⁶

⁴² Milgrom, *AB* 3, 460.

⁴³ *Ibid.*

⁴⁴ Sophie Lafont, *Femmes, Droit, et Justice dans l’Antiquité orientale* (OBO 165; Fribourg: Editions Universitaires, 1999), 184–85.

⁴⁵ See the discussion of the Hittite concept of *hurkel* in Harry A. Hoffner, “Incest, Sodomy, and Bestiality in the Ancient Near East,” in *Orient and Occident: Essays Presented to Cyrus Gordon on the Occasion of His Sixty-Fifth Birthday* (ed. Harry A. Hoffner; AOAT 22; Neukirchener-Vluyen: Neukirchener Verlag, 1973), 81–90. Hoffner describes *hurkel* as a serious sin or taboo. According to Hoffner, every extant example of *hurkel* is sexual in nature.

⁴⁶ Lafont, *Femmes*, 185.

The Meaning of כרת

The basic meaning of כרת is “separation.”⁴⁷ Out of its 288 occurrences in the Hebrew Bible, כרת is used 90 times as the verb in the idiomatic expression “to make a covenant.” Outside Hebrew, the *krt* root is only used to denote physical cutting, and is not used for either of the two chief secondary meanings it has developed in Hebrew: removal and destruction, which account for 148 of its occurrences in the Hebrew Bible.

Spatial separation from a specific place is the meaning of כרת in Joshua 3:16, where the waters of the Jordan are “cut off.” One key example is 1 Kings 9:7, where YHWH promises that if the nation disobeys, “I will cut off Israel from the land that I have given them,” the fulfillment of which becomes the ultimate example of banishment, the Babylonian exile; in the parallel to this passage (2 Chr 7:20), נתש is used for כרת, clearly demonstrating a non-fatal meaning for כרת in this case. In Zechariah 14:2, כרת clearly refers to an expulsion in the distant future: “Half will go into exile, but the rest of the people shall not be cut off *from the city*.”

The OT uses several different verbs to unambiguously express the concept of expulsion. Almost none of them is used in a legal context. Lepers are expelled (שליח) in Numbers 5:2–3. נדח is used for the self-imposed banishment of Absalom (2 Sam 14:13–14). The expression בן פני השליך is used to describe the Exile in Jeremiah 52:3 (= 2 Kgs 24:20; see also Deut 29:27; 2 Kgs 17:20; Jer 7:15). The root נסח is clearly cognate to the

⁴⁷ A more complete treatment of the issues surrounding the meaning of the verb כרת in the biblical *kareth* penalty will be presented in Chapter Two of G. Thomas Hobson, “Cut Off From (One’s) People: Punitive Expulsion in the Torah,” Ph.D. diss., Concordia Seminary – St. Louis, forthcoming.

Akkadian *nasāhum*, which even Wold correctly translates as “expel.”⁴⁸ Proverbs 2:22 uses it as a poetic parallel of כרת: “But the wicked will be כרת from the land, and the treacherous will be נסח from it.” The root גרש is used to denote Solomon’s banishment of Abiathar (1 Kgs 2:27). גרש is used for Adam and Eve’s banishment (Gen 3:24), as well as the banishment of Cain (Gen 4:14). The root ברל clearly refers to punitive expulsion in Ezra 10:8, and is one of the chief terms for punitive expulsion at Qumran.

The verb גזר is used 16 times in the OT. It is the root that most closely resembles כרת in its use. Four times it is used to mean “slice,” twice it is used as the verb in the expression “to make a decree” (Est 2:12, Job 22:28), and the rest are very similar to the figurative sense of כרת. In 2 Chronicles 26:21, leprous Uzziah is “cut off from the house of YHWH,” the closest parallel to biblical *kareth* as separation. In Leviticus 16:22, the live scapegoat is taken to “a land cut off,” i.e. isolated from civilization. A similar use is found in Habakkuk 3:17, “though the flock be cut off from the fold.” In Isaiah 53:8 (“cut off from the land of the living”), the added specificity of the phrase “from the land of the living” makes it clear that death is in view here (specificity that the *kareth* penalty lacks). In both Lamentations 3:54 and Ezekiel 37:11, the speaker speaks of being presently “cut off” (no predicate); the use of the perfect tense strengthens the sense that the meaning is separation or isolation rather than “destruction,” since the speaker is alive while speaking.

The passages where *kareth* appears most likely to be punitive expulsion are the passages that meet the following criteria: 1. There is a בן- clause that clearly delineates a community from which the subject is separated; 2. עם is either used in the singular or

⁴⁸ Wold, “Kareth,” 20: “Although נסח is not used with the kareth penalty in the Priestly source, there is no question about its semantic parallelism to the verb כרת outside of P.”

has been replaced by “Israel,” “the congregation,” or “from my presence” (the use of **מִקְרָב** may also add to the concept of a physical separation); 3. No contextual obstacles exist to a meaning of expulsion rather than death. 4. The verb is in the nip‘al conjugation, which is less likely to connote destruction than the hip‘il conjugation.

The first person singular hip‘il form of **כרת** found in Leviticus 20:1–6, where the verb clearly refers to destruction, occurs a total of 40 times in the Hebrew Bible.⁴⁹ All but once it is found in the mouth of YHWH (in Joshua 23:4, it is spoken by Joshua). In addition, there are five cases of **כרת** in the hip‘il infinitive construct that are also part of first person statements by YHWH.⁵⁰ An examination of this evidence indicates that the **כרת** pronouncements in passages such as Leviticus 20:1–6 are a form of divine prophetic speech, to be distinguished from penalties for statutes.

The verb **כרת** in Hebrew is ambiguous enough to allow for meanings that involve either destruction or mere removal. For instance, when the Canaanites were “cut off,” many were destroyed, but many were driven out (**גרש**), which is consistent with a meaning of “removal.” Both in Hebrew and in other Semitic languages, one must look to other verbs such as **השמיר** or **שלח** for clarity on what is intended. This may be why *krt* ceases to be used to denote either expulsion or destruction. This may also explain why *kareth* as a biblical penalty requires explanation for later Jewish readers.

⁴⁹ Lev 20:3, 5, 6; 26:22, 30; Josh 23:4; 1 Sam 2:33; 2 Sam 7:9; 1 Kgs 9:7; 14:10; 21:21; 2 Kgs 9:8; 1 Chr 17:8; Isa 14:22; Ezek 14:8, 13, 17; 21:8, 9; 25:7, 13, 16; 29:8; 30:15; 35:7; Amos 1:5, 8; 2:3; Mic 5:9, 10, 11, 12; Nah 1:14; 2:14; Zeph 1:3, 4; 3:6; Zech 9:6, 10; 13:2.

⁵⁰ Ps 101:8; Isa 48:9; Jer 44:11; Ezek 14:19, 21.

Ancient Near Eastern Evidence for Expulsion as a Penalty for Offenses

The paucity of evidence for the criminal penalty of expulsion from the community would appear to be an argument against the theory advocated in this paper. CH §154 is the only extant statute in any Near Eastern law code that explicitly calls for this practice. However, Westbrook cautions that Near Eastern law codes are not comprehensive legislation, and that we must therefore beware of “arguments from silence.”⁵¹ Furthermore, both Finkelstein⁵² and Loewenstamm⁵³ point out that there is very little textual evidence that penalties in any of the Near Eastern law codes were carried out as stipulated. For example, virtually no executions for adultery or murder are recorded, other than the employment of the river ordeal in *ARM 26 249–58*, although there are numerous instances of blood money paid. Numerous cases of both offenses may have been dealt with outside the court system and consequently may not have been recorded. Furthermore, legal codes are practically never cited in the decisions recorded in ancient Near Eastern court documents, although royal decrees are sometimes cited.⁵⁴ Evidence for actual legal practice needs to be sought in texts outside the ancient law codes, such as royal decrees, court records, historical texts, and letters.⁵⁵

⁵¹ Raymond Westbrook, *Studies in Biblical and Cuneiform Law* (Paris: Gabalda, 1988), 5–7.

⁵² Jacob J. Finkelstein, *The Ox That Gored* (Transactions of the American Philosophical Society 71/2; Philadelphia: American Philosophical Society, 1981), 40.

⁵³ Samuel Loewenstamm, *Comparative Studies in Biblical and Ancient Oriental Literatures* (AOAT 204; Kevalaer: Neukirchener Verlag, 1980), 146–53.

⁵⁴ Raymond Westbrook (“Cuneiform Law Codes and the Origins of Legislation,” *ZA* 79 [1989]: 214–15) cites the edicts of Uru’inimgina of Lagaš, Ammi-saduqa of Babylon, Telepinus of Hatti, and Horemheb of Egypt as examples of royal legislation by decree that supersedes written law codes.

⁵⁵ One is forced to resort to these sources in Egypt, where no written law codes have been discovered to date.

A semantic field must be identified in which to look for the equivalent of *kareth* as expulsion in these texts, since *krt* does not carry this meaning outside Hebrew. In Akkadian documents, the causatives of *wasûm* (“to go out”) and *galûm* (“to go into exile”) form a part of this field, along with the verbs *tarādum* (“to send away”) and *nasāhum* (“to expel”). In Hebrew (at Qumran), the verbs שָׁלַח and בָּרַל also form a part of this field.

Criteria for what qualifies as punitive expulsion must be delineated. The following methodology will be used. First, fugitives from justice or from capture will be eliminated from consideration. Second, exiled peoples (particularly as a result of conquest) will not be included; an identifiable crime must be the reason for the expulsion. Third, other expulsions that are non-judicial in nature, such as evictions from a field or a house, will not be included. Finally, because some of the *kareth* crimes in the OT appear to be punished by expulsion from the cultus, punitive expulsions will be defined to include not only expulsion from a city or nation, but also banishment from temple or palace.

This research will seek to accomplish two goals:

1. It will seek to remove any possible objection that there is not enough evidence for the practice of punitive expulsion in the ancient Near East.
2. It will seek to demonstrate that there is more evidence for the punitive expulsion theory on *kareth* than there is for the Wold-Milgrom divine-extermination theory, for which there is no evidence of such a penalty within the body of stipulations of any Near Eastern legal text.

Research yields the following results, which will be grouped in three categories. The first category will consist of texts where the connection with *kareth* appears to be the strongest. The second category will consist of texts whose resemblance to *kareth* is less strong, but which serve nevertheless as evidence for the practice of banishment in the ancient Near East. The final category will contain texts where it is unclear whether punitive expulsion is being practiced at all, making them of marginal value at best. In each category, the texts will also be grouped by time period.

Near Eastern punitive expulsion texts most closely resembling biblical *kareth*.

A. Second millennium B.C.E. texts and earlier.

1. CH §154 – Hammurabi of Babylon, ca. 1750 B.C.E.

Akkadian text:

*šum-ma a-wi-lum dumu.munus-su₂ il-ta-ma-ad a-wi-lam šu-a-ti uru u₂-še-eš-š₂-u₂-
šu*

“If a gentleman has had intercourse with his daughter, they shall make that gentleman leave the city.”⁵⁶

Driver and Miles observe on this statute,

This penalty of banishment will include loss of family and property as well as citizenship and is perhaps more severe than that prescribed in §158, where the offender is driven from his ancestral home. Nothing is said of the fate of the

⁵⁶ E. Bergmann, *Codex Hammurabi: Textus Primigenius*, 3d ed. (Rome: Pontifical Biblical Institute, 1953), cuneiform = 19, R 10, lines 67–72. Translation cited here is from “The Code of Hammurabi,” translated by Theophile J. Meek (*ANET*, 172). The present writer has substituted “gentleman” for Meek’s “seignior” (*awīlum*). Transcription in H.-Dieter Viel, *The Complete Code of Hammurabi* (2 vols.; Munich: Lincom Europa, 2005), 2:566.

daughter; but, as she is under the dominion of her father, she cannot be regarded as a free agent and presumably is not punished.⁵⁷

Why is this the only offense that Hammurabi penalizes with removal from the community? The offense is not treated as a death penalty crime, but given its similarity to the sex-crime of Enlil (see the “Myth of Enlil and Ninlil” below) and its perceived defiling character, this offense in CH §154 probably carried a stigma of defilement that necessitated expulsion of the perpetrator. Indeed, among the Hittites, Hoffner cites a purification ritual employed specifically for cases of father-daughter incest.⁵⁸

2. Myth of Enlil and Ninlil, lines 59–61 – Sumer, third millennium B.C.E.

Sumerian text:

^dEn-lil₂ u₂-zug₄-ge [iri-ta ba-ra-e₃]

^dNu-nam-nir u₂-zug₄-ge iri-ta ba-ra-e₃

^{7d}En-lil₂ nig₂-nam-še₃ nam mu-un-tar-ra-ke₄

^{7d}Nu-nam-nir nig₂-nam-še₃ nam mu-un-tar-ra-ke₄

^dEn-lil₂ i₃-ĝen....

Akkadian version:

MIN (i. e., ^dEn-lil₂) *mu-su-uk-kum i-na a-li li-ši*

MIN (i. e., ^dNu-nam-nir) *mu-su-uk-kum i-na a-li li-ši*

MIN (i. e., ^dNu-nam-nir) *a-na šim-ti ša₂ ta-ši-mu*

MIN (i. e., ^dEn-lil) *il-la-ak...*

⁵⁷ G. R. Driver and John C. Miles, *The Babylonian Laws* (2 vols.; Oxford: Clarendon, 1952), 1:318.

⁵⁸ Hoffner, “Incest, 89.

“This sex-criminal Enlil will leave the town!

This sex-criminal Nunamnir will leave the town!

Enlil, in accordance with that which had been decided as destiny

Nunamnir, in accordance with that which had been decided as destiny

Enlil (did) go (away)...”⁵⁹

Several texts must be pieced together for this myth, where the divine council decrees banishment on the god Enlil for seducing and impregnating an underage female. In an early attempt by Kramer to reconstruct this myth, Enlil’s arrest and banishment are overlooked entirely.⁶⁰ Only four out of the twenty extant texts of this myth contain these lines, although three additional texts contain fragments.⁶¹ Enlil’s pregnant partner follows him on his journey to the underworld, and gives birth to the moon god Zuen (= Sin).

In his more recent translation of this myth, Jacobsen explains his translation of the term *u₂-zug₅-e₆*:

The term translated ‘sex offender’ denotes a person who for reasons connected with sex is, or has become, taboo; temporarily, as for instance a menstruating woman, or permanently, as here. The use of this term, and the penalty of banishment imposed, shows that Enlil’s offense was considered a crime, an act threatening society as a whole, probably because divine anger would bring retribution on the society unless the offender were removed from it.⁶²

⁵⁹ The text-critical edition of this myth is Hermann Behrends, *Enlil und Ninlil: Ein sumerischer Mythos aus Nippur* (Studia Pohl: Series Maior), Rome: Pontifical Biblical Institute, 1978. Translation cited here is from Thorkild Jacobsen, “Sumerian Mythology: A Review” (*JNES* 5 [1946]): 133.

⁶⁰ Samuel Kramer, *Sumerian Mythology* (rev. ed.; New York: Harper, 1961), 43–47.

⁶¹ Behrends, *Enlil und Ninlil*, 28.

⁶² Thorkild Jacobsen, *The Harps That Once: Sumerian Poetry in Translation* (New Haven: Yale

The date of the myth is uncertain, but it probably echoes reality in Mesopotamia in the late third millennium B.C.E. Several features of this myth are striking. How does such an unflattering tale come to be told about the most prominent Sumerian deity? And why is he punished with a penalty that, while evidently not unknown in early Mesopotamia, is so rarely attested in extant literature of the period? Indeed, Jacobsen points out that banishment was a severe penalty, compared to the approach of later Sumerian law, which only called for enforced marriage in cases like the present case.⁶³ In an earlier analysis, Jacobsen writes, “since it seems to imply that Enlil must take the road to the nether world and the realm of death the story may reflect a development from an earlier punishment of death to a later one by banishment, or vice versa.”⁶⁴

The practice of banishment of an *uzug*₄ is also found on Gudea Statue B (ca. 2100 B.C.E.):⁶⁵

(15) *lu*₂ *uzug*₄ (*KAxU*₂)-*ga ni*₂-*ğal*₂

(col. iv. 1) *lu*₂-*si-gi*₄-*a* (2) *NITA.UD* (3) *munus-kiğ*₂-*du*₄-*ga* (4) *iri-ta im-ta-ed*₃

(5) *dupsik-bi munus-e nu-il*₂ (6) *sağ ur-sağ-e mu-na-du*₃

“Persons ritually unclean, unpleasant to look at (?), (and) women doing work⁶⁶ he banished from the city; no woman would carry the basket, only the best of the warriors

University Press, 1987), 174n18.

⁶³ Ibid.

⁶⁴ Thorkild Jacobsen, *Toward the Image of Tammuz and Other Essays on Mesopotamian History and Culture* (ed. William L. Moran; HSS 21; Cambridge: Harvard University Press, 1970), 207.

⁶⁵ Dietz Otto Edzard, *Gudea and His Dynasty* (Royal Inscriptions of Mesopotamia Early Periods 3/1; Toronto: University of Toronto Press, 1997), 32, col. iii.15–iv.6. Cuneiform text in Rafael Jiménez Zamudio, *Inscripciones Sumerias de las Estatuas de Gudea de Lagash: Texto Transliterado y Cuneiforme con Notas, Léxico y Signario* (Madrid: Ediciones de la Universidad Autónoma, 1997), 19, with transcription on 91–92.

would work for him.” The text is a dedication of a votive offering by Gudea, ruler of Lagaš, for “Ningirsu, mighty warrior of Enlil.”

Gudea’s inscriptions include another reference to the uzug (spelled $u_2-si_{11}-ni$ or $u_2-si_{19}-ni$) which occurs almost verbatim on both Statue B col. 7, line 34, and on Cylinder B col. 18, line 1: “In his/my city the one (who appeared) unclean to someone was permitted to sleep (only) outside.”⁶⁷ Again, although the cause of defilement is left unspecified, the uzug must not be permitted to remain in the city.

The term $uzug_4$ occurs in seven distinct forms or spellings, according to the Pennsylvania Sumerian Dictionary.⁶⁸ The term is used in the name Ki-uzug, a city quarter in Šuruppak, indicating a possible locale where the unclean must be confined.⁶⁹ It occurs in the name of a city gate in VAT 10610, rev., line 14: “When [you] enter the Gate of the Impure like a storm” ($ka_2.gal.u_2.zug\ bar.\check{s}eg_3.ga_2.bi\ tu.ra.[zu.de_3]$), possibly indicating the place where the unclean are expelled from their city.⁷⁰ The term also appears to be the epithet of a neighborhood deity in pre-Sargonic Lagaš (twenty-fourth century B.C.E.): “Its deity is Nin-ur₄-DU, the Impure One of Ekur” ($dingir-bi\ ^dNin-ur_4-DU\ u_2-ka-e_2-kur-ra$).⁷¹ While Biggs rejects this meaning for an epithet for a deity,⁷² at least

⁶⁶ Milgrom (*AB* 3, 763) translates “the woman in labor I caused to go out of the city,” by which he means women in childbirth; the context seems to indicate otherwise.

⁶⁷ Edzard, *Gudea*, 36; 98.

⁶⁸ Pennsylvania Sumerian Dictionary, “muzug,” n. p. [cited 5/12/2009], online: <http://psd.museum.upenn.edu/cgi-bin/xff?xff=e3866>.

⁶⁹ Piotr Steinkeller, *Third Millennium Legal and Administrative Texts in the Iraq Museum, Baghdad* (texts by John Nicholas Postgate; Winona Lake, Ind.: Eisenbrauns, 1992), 21; Otto Edzard, *Sumerische Rechtsurkunden* (Munich: Verlag der Bayerischen Akademie der Wissenschaften, 1968), 62.

⁷⁰ Cited in William Lambert, *Babylonian Wisdom Literature* (Oxford: Clarendon, 1960), 120.

⁷¹ Field number: 2H-T25. Robert D. Biggs, “Pre-Sargonic Riddles from Lagash,” *JNES* 32 (1973), cuneiform = 31, col.1, lines 2’-3’.

⁷² Biggs, “Riddles,” 33.

two Sumerian myths feature deities who have become ritually defiled by a sex crime (see the myth of Enlil and Ninli above, and the myth of Nergal and Ereškigal below).

In addition, the term *uzug* is found in at least three Sumerian proverbs. The most pertinent one of these is a proverb in a collection by Gordon:⁷³

1.40 (= PSD 1:52): *ninda-ni ninda u₂-zug_x he₂-a lu₂ nam-bi₂-in-šu₂-šu₂* “May his bread be (as) bread (made by an) unclean (woman), and no man eat it!”⁷⁴

The Akkadian cognate to *uzug* is used in the myth of Nergal and Ereškigal, where the queen of the underworld seduces Nergal, then uses blackmail to get the heavenly gods to send him back to her permanently. She says,

5' [That god, whom] you sent here, has had intercourse with me, let him lie with me.

6' Dispatch [that god] to me, that he may be my husband, that he may spend the night with me.

7' I am sexually defiled (*mu-suk-ka-ku-ma*), *I am not pure*, I cannot execute the judgments of the great gods. (These lines are repeated verbatim in lines 21'–23'.)⁷⁵

Ereškigal claims that she is ritually impure, ostensibly because she has been seduced. The only difference between this case and the myth of Enlil and Ninli is that here, both parties are consenting adults. Ereškigal declares that the remedy for her

⁷³ Edmund I. Gordon, *Sumerian Proverbs: Glimpses of Everyday Life in Ancient Mesopotamia* (Philadelphia: University of Pennsylvania University Museum, 1959), 457; 258.

⁷⁴ The text and translation followed here is that of Thorkild Jacobsen, which differs from the version of 1.40 given on page 60. Jacobsen comments here, “The reference is to the taboo on bread-making – typically a woman’s task – during periods of menstruation.”

⁷⁵ Oliver R. Gurney, “The Sultantepe Tablets (Continued): VII. The Myth of Nergal and Ereškigal,” *Anatolian Studies* 10 (1960): 122–23.

defilement is for her seducer to marry her. Also, because she is defiled, Ereškigal claims that she is unable to execute the judgments (*ul a-da-ni di-ni*) of the great gods. While there is no banishment here (to where could one banish her?), Ereškigal's inability to perform in her divine office is tantamount to banishment.

The term *uzug*₄ and its loanword in Akkadian convey a meaning that ostensibly stands behind both the punitive expulsion in CH §154 and the Torah's practice of *kareth*. It is sufficiently early and geographically close to both legal codes to be one logical influence behind both of these legal formulations.

3. ARM 26 206:17–22 (= A 3893) – Mari, reign of Zimri-Lim, ca. 1775–1760 B.C.E.

Akkadian text:

a-na <ā>la-ne₂-e ru-gu-um-ma a-sa₃-ak-ka-am li-te-er-ru lu₂ ša ri-i-sa-am ip-pu-šu i-na a-lim^{ki} li-šē-šu-u₂

“Give orders to the cities to return the taboo material. Whoever commits an act of violence shall be expelled from the city.”⁷⁶

The above passage is a decree by an anonymous prophet of Dagan, according to Yaqqim-addu in a letter to King Zimri-Lim. It is the clearest punitive expulsion in the extant documents from Mari. The prophet requests a lamb to eat, and proceeds to devour it raw (literally “alive”). The prophet then assembles the elders in front of the city gate and declares, “A devouring (*ukultum*) will take place!” This declaration has been taken

⁷⁶ Transcription in Jean-Marie Durand, *Archives Épistolaires de Mari I/1 (Archives Royales de Mari XXVI)*; Paris: Recherche sur les Civilisations, 1988), 434, lines 19–22. Translation cited here is from Martti Nissinen, *Prophets and Prophecy in the Ancient Near East* (ed. Peter Machinist; SBL Writings from the Ancient World 12; Atlanta: Society of Biblical Literature, 2003), 38.

to mean a threat of either an epidemic among the cattle or an even greater catastrophe. At this point, the prophet makes his demand that the cities return the *asakku*, and calls for the expulsion of anyone who has committed *rīsu*.

The term *asakku* refers to taboo material, possibly belonging to a deity in this case rather than to royalty. But the act of *rīsu* prompting expulsion in this oracle is unclear; according to Nissinen, Durand’s translation “act of violence” is based on the word’s only other extant occurrence in a Late Babylonian text.⁷⁷

The *CAD* (14:376) defines *rīsu* as “assault.” It cites *JNES* 15 136:82 (*ri-is*[var. *-i*]-*sa lu īpuš risibta lu īpuš*, “though he committed assault, though he committed robbery [may he be absolved]”). It derives the word from the verb *rāsu* to smash or crush (14:183). Heimpel adds, “This verb is used of a meteor *ša qaqqara irāsu* ‘that strikes the ground’.”⁷⁸

8. “From the Instructions of the Border Guards,” lines 11–16 – Hittite, ca. 1400 B.C.E.

Hittite text:

ka-ru-u₂-li-ja [ma]-ah-ha-an KUR.KUR-kan₂ an-da hu-ur-ki-la-aš

iš-hi-u₂-ul i-ja-an ku-e-da-ni-aš-kan₂ URU-ri ku-aš-ki-ir na-aš-kan₂

ku-wa-aš-kan₂-du ku-e-da-ni-ma-aš-kan₂ URU-ri ar-ha par₂-hi-iš-ki-ir

na-aš-kan₂ ar-ha par₂-hi-iš-kan₂-du nam-ma-za URU-aš EGIR-an-da wa-ar-ap-du

⁷⁷ Nissinen, *Prophets*, 39.

⁷⁸ Wolfgang Heimpel, *Letters to the King of Mari: A New Translation, with Historical Introduction, Notes, and Commentary* (Winona Lake: Eisenbrauns, 2003), 256n249.

nam-ma w(a-ta)r-na-ah-ha-an e-eš-du na-aš-ša-an EGIR-pa li-e

ku-iš-ki tar-na-i ku-i-ša-an-ša-an EGIR-pa tar-na-i na-an ša-ku-wa-an-za

As it has been from olden days – in a town in which they have been accustomed to imposing the death penalty, they shall continue to do so. But in a town where they have been accustomed to imposing exile, they shall continue that (custom). Furthermore, the citizens shall bathe afterwards, and there shall be a public announcement. No one shall let (the exiled) return. He who lets him return, shall be put in prison⁷⁹

Hoffner discusses the use of banishment by the Hittites for the punishment of incest and bestiality. He writes,

From the evidence of the Hittite laws (§§187–88, 199–200A) and the early 14th century instructions to the commanders of the border garrisons, it seems clear that persons found guilty of *hurkel*, i. e. having sexual relations of a forbidden (perhaps incestuous) type, were either executed or banished, while the town in which the offender lived was purified. During this early period it is unlikely that any known offender avoided either death or banishment. The phrase *huišnizi-an LUGAL-uš* “the king may spare his life” (§§187–88, 199) means he would be banished instead of executed.⁸⁰

As time went on, Hoffner says, a ritual was developed where the animal involved in a sexual crime would be sent away, bearing the impurity of the crime away from the community. “In this way,” he says, “the offender could continue to live in the city without bringing the wrath of the gods upon it.”⁸¹

Hoffner explains the difference between sexual crimes and the category of torts and personal offenses:

Hurkel constitutes an offense against the culprit’s city. By committing such an act, he has brought impurity upon his fellow townsmen and made them

⁷⁹ Cuneiform text in *KUB*, XIII, 2 ii 26 – iii 35. Transcription in Einar von Schuler, *Hethitische Dienstanweisungen für höhere Hof- und Staatsbeamte* (ed. Ernst Weidner; Archiv für Orientforschung Beheft 10; Osnabrück: Biblio-Verlag, 1967), 47. Translation by Albrecht Goetze, *ANET*, 211.

⁸⁰ Hoffner, “Incest,” 89–90.

⁸¹ Hoffner, “Incest,” 90.

liable to divine wrath. Thus the townsfolk must protect themselves by eradicating the cause of the divine wrath, i.e. either by executing the offender(s) or removing them permanently from the town.⁸²

The purpose behind Hittite banishment here is much different than in the previous text. Cases of *hurkel*, as opposed to cases of political banishment, involve concepts of defilement and divine wrath similar to those involved in the proposed practice of punitive expulsion in the Torah.

9. RS 16:249, lines 13–19, 22, 25–26 – Ugarit, reign of Niqmepa, ca. 1313–1260 B.C.E.

*un-du ta-bi-ia-nu [] abdi-^{il}nergal mâr abdi-mi-ir u₃ [mu-n]a-hi-mu hi-it-ta rabîta^M
i-te-ep-š[u] ^{aban}kunukka mé-hé-er ^{aban}kunuk šarri rabî i-te-ep-šu ù tup-pa-ti sà-ar-ru-ti i-
na libbi^{bi al}ú-ga-ri-it i-ša-at-tù-ru...ù šarru la id-du-uk-šu-nu-m[a(?)]...a-na ekallim la e-
ru-b[u] i-na eqli âli^K ul i-r[u-bu]*

“Because Tabiyanu..., Abdinergal son of Abdimir, and Munahimu have committed a great crime, because they have made a copy of the great seal and have written false tablets...(but the king has not put them to death)...they shall never again enter the palace! They shall never again enter the territory of the city [of Ugarit]!”⁸³

This incident is known only from this text. Such forgery would appear to be a form of treason.

10. RS 1957.1, lines 6–13 – Ugarit, reign of Amistamru, ca. 1245–1215 B.C.E.

Akkadian text:

^ma-mis-tam-ri LUGAL ^{KUR.URU}u₂-ga-ri-it^fpi₂-id-da₂ ra-bi-ti

⁸² Hoffner, “Incest,” 85.

⁸³ Jean Nougayrol, *Le Palais Royal d’Ugarit* (ed. Claude F.-A. Schaeffer; Mission de Ras Shamra Tome VI, Part 2; Paris: Imprimerie Nationale, 1955), cuneiform = plate 74, lines 13–26. Transcription in Nougayrol, *PRU* Tome VI, Part 3, 97–98, lines 13–26. Translation by the present author.

DAM-*su*₂ DUMU.SAL ^mZAG.ŠEŠ LUGAL ^{KUR}*a-mur-ri*

iš-tu E₂-šu KUR-šu *i-ta-ba₂-ak-ši*

*u*₃ *i-na* ^{KUR.URU}*a-mur-ri ut-te-ir-ši* *u*₃ ^{m.d}İŠDAR-*mu-wa*

LUGAL ^{KUR.URU}*a-mur-ri* ^f*pi₂-id-da₂ ra-bi-ti* NIN-šu

iš-tu E₂.GAL ^{lim}-šu ša ^{KUR.URU}*a-mur-ri i-ta₂-ba₂-ak-ši*

i-na URU ^{lim} ša-ni-im-ma *ul-te-ši-ib-ši*

“Amistamru, king of Ugarit, drove out Piddu, the Great Lady, his wife, daughter of Bentešina, king of Amurru, from his house (and) his land, and to Amurru he returned her. And Šaušgamuwa, king of Amurru, drove out Piddu, the Great Lady, his sister, from his palace of Amurru; in another city he placed her.”⁸⁴

At first, this text may appear to be a simple case of divorce rather than banishment.

(The cause appears to have been adultery on the part of the queen.) However, note that the queen is banished from the kingdom of Ugarit, and even her brother, the king of Amurru, banishes her from his palace to live in another town. Under the terms of the divorce decree, which was imposed by Initeššub king of Carchemiš on behalf of the Hittite king Tudhaliya (who was overlord of both kings), the king of Amurru is forbidden to speak to his banished sister or help her return to Ugarit. In a separate text (RS 17.159), the ex-wife of the king of Ugarit is also forbidden any contact with her children, who apparently remain with their father.

Another case of banishment in the family of Amistamru involves an unspecified political plot (*hi-ta₂-ta iḥ-ta-tu₃*, “ont commis une faute”) by two of his brothers during

⁸⁴ Cuneiform text in Loren Fisher, ed., *The Claremont Ras Shamra Tablets* (Analecta Orientalia 48; Rome: Pontifical Biblical Institute, 1971), 20 and plate 1 (photo). Transcription and translation cited here are from Fisher, *Claremont Tablets*, 11–12.

the reign of their mother, Queen Aḥatmilku.⁸⁵ The text is RS 17.352, lines 5–11. The brothers are banished to Alašia (Cyprus), but the text does not spell out the punishment clearly enough to be treated here.

13. *P DM 27* – Egypt, reign of Rameses II, ca. 1250 B.C.E.

mtwe tidt mdit tanbt siwh fšriw fmss msdrw wiwf didi r p33ta K3š

*rdd mtwi šwi mwi r p33nt tašri p33ywm' mw mrmim iwf didi rk h33š mp33dw šn
3bbwt.*

Lines 2–4 – “Sollte ich mit der Frau reden, (dann) sollen (meine)..., (meine) Nase (und) Ohren (verstümmelt werden und) (ich) soll nach dem Lande Nubien verbannt werden.” Lines 8–10 – “Sollte ich dorthin gehen, wo die Tochter des *P3-ywm* (ist), (dann) soll (ich) zum Steinbrechen am Berg von Elephantine eingesetzt werden.”⁸⁶

Here is a judicial case where an Egyptian adulterer must swear never again speak to the woman involved, on threat of mutilation and exile. The first oath is almost identical to the roughly contemporary oaths sworn by perjurers in Egypt. The second oath lacks mutilation as a sanction and features a different destination for banishment, including hard labor. The adulterer breaks his first oath and impregnates the woman, whereupon his own father hauls him into court, and he is forced to take another oath. There is no indication that the adulterer is ever punished, perhaps because the offended husband

⁸⁵ Nougayrol, *PRU* 4:120–22.

⁸⁶ Schafik Allam, *Hieratische Ostraka und Papyri: Transkriptionen aus dem Nachlass von J. Černý* (Tübingen: im Selbstverlag des Herausgebers, 1973), hieroglyphic text = 99, verso, lines 2–4, 8–10. Transcription by Karen Hobson. German translation in Schafik Allam, *Hieratische Ostraka und Papyri aus der Ramessidenzeit* (Tübingen: im Selbstverlag des Herausgebers, 1973), 301–302, no. 272.

never takes action against his wife. The location of this case is a workers' village outside Thebes.

C. Post-exilic texts.

1. Edict of Artaxerxes in Ezra 7:26 – ca. 445 B.C.E.

“All who will not obey the law of your God and the law of the king, let judgment be strictly executed on them, whether for death or for banishment (Aramaic שרשו, “uprooting”) or for confiscation of their goods or for imprisonment.”

Fensham writes, “this word is to be derived from the Persian word *sraušya*, meaning ‘corporal or physical punishment.’ The punishments were not derived from the law of God, although some of them are mentioned in the Pentateuch (Lev. 24:12; Num. 15:34); rather, they are of Persian origin and are thus state penalties.”⁸⁷ Jacob M. Myers translates the term in question as “exclusion,” but adds this note: “Possibly a Persian word, from *sraušya*, Avestan *sraošya* = ‘physical punishment.’”⁸⁸ Blenkinsopp prefers the translation “physical punishment,” noting that the parallel in 1 Esdras 8:24 reads τιμωρία.⁸⁹ But Breneman argues that the act of banishment in Ezra 10:8 (see below) is an implementation of this category of punishment in 7:26.⁹⁰

⁸⁷ F. Charles Fensham, *The Books of Ezra-Nehemiah* (NICOT; Grand Rapids: Eerdmans, 1982), 108

⁸⁸ Jacob M. Myers, *Ezra Nehemiah* (Anchor Bible 14; Garden City: Doubleday, 1965), 59.

⁸⁹ Joseph Blenkinsopp, *Ezra-Nehemiah: A Commentary* (Old Testament Library; London: SCM, 1989), 152: “Corporal punishment (*šerošî*, from Old Persian *sraušya*), especially flogging, is characteristic of Persian rather than Israelite penal practice...While the list of penalties is hardly complete, it seems that the Persian penal code was invoked even for infractions of traditional Jewish law.”

⁹⁰ Mervin Breneman, *Ezra Nehemiah Esther* (New American Commentary 10; Nashville: Broadman and Holman, 1993), 138.

The most comprehensive and convincing argument, in the opinion of this writer, is made by Williamson:⁹¹

It has been argued by Rundgren, *VT* 7 (1957) 400–404, Falk, *VT* 9 (1959) 88–89, and others that this should be translated “flogging,” or the like. Rundgren points to סרושיתא in *AD* 3:6, a Persian loan-word meaning punishment, which he then interprets as corporal punishment. He therefore prefers to see the first letter as ש, and thinks that MT arose later as an etymological speculation by the Massoretes (שרש, “to uproot”), giving rise to Vg’s *exilium*. However, it should be noted (i) that the step from “punishment” to “flogging” is speculative, and not, apparently, inherent in the meaning of the word; (ii) that *Ezra* 10:8 may be understood as an early testimony to the interpretation as “banishment”; and (iii) that the Vrs do not support the suggested meaning. LXX παίδεα “discipline” is nowhere near so specific as “Prügel, Bastonade” “thrashing” (Rundgren), and 1 *Esdr* 8:24 τιμωρία “punishment” is again general, like the Iranian word. Such generalized senses are inappropriate to the context, however. Driver may therefore be right in his suggestion (*AD*, 99) that “assimilation has taken place, and the Iran.-Aram. סרוש ‘punishment’ has been used in the sense suggested by the Heb. שרש ‘uprooted’.”

2. *Ezra* 10:8 – If any did not come within three days to the assembly to deal with the intermarriage issue, “all their property should be forfeited, and they themselves banned (יברל) from the congregation of the exiles.” (Compare *Malachi* 2:12, where “May YHWH יכרת (hip‘il) from the tents of Jacob” is declared as the penalty that intermarriage deserves.)

Fensham pictures the threatened punishment as follows:

He will be excluded from the community. The culprits will be removed from the community, viz., they would not be allowed at the service of the temple, and it might also mean that they would forfeit their rights as citizens. These were for Jews severe measures indeed. They were then not allowed to partake in the daily sacrifices for the removing of their sins. They were totally cut off from other members of the community and could expect no help in times of

⁹¹ H. G. M. Williamson, *Ezra, Nehemiah* (Word Biblical Commentary 16; Waco: Word, 1995), 97.

distress. They were regarded as foreigners without any claim on the religious communion of the exiles.”⁹²

3. Nehemiah 13:28–29 – Nehemiah expels (ואבריחהו עליו) the grandson of the high priest for marrying the daughter of Sanballat.

Describing the act in distinctly un-judicial language, Nehemiah inflicts on Eliashib’s grandson the penalty decreed by Ezra for failure to divorce a pagan wife. There is no decree of excommunication mentioned; the offender is simply driven out of the governor’s presence, leaving it unspecified whether the offender has also been driven out of Jerusalem and/or out of Jewish territory. Fensham points out, “Such an act as that of Eliashib’s grandson was a direct challenge to the authority of Nehemiah,” therefore it was “the highest form of religious apostasy.”⁹³ The immediate problem is that the Torah decrees that a high priest may only marry a virgin of Israel (Lev 21:14), and the offender in this case was in line for that office.

Josephus relates a similar incident that he appears to be conflating with the present case (*Ant.* 11.7.2–11.8.2). He tells of a Manasseh, the son of Johanan, brother of the high priest Joiada, who married Sanballat’s daughter. He states that the elders of Jerusalem give Manasseh the choice of either divorcing his wife or being forbidden to approach the altar. When Manasseh tells Sanballat of his dilemma, Sanballat offers to build a temple for him to serve in at Mount Gerizim. Manasseh agrees to join Sanballat, along with a number of Jews who are in mixed marriages. At this point, Alexander the Great enters the story, with both the Jews and Sanballat vying for his favor.

⁹² Fensham, *Ezra-Nehemiah*, 138.

⁹³ Fensham, *Ezra-Nehemiah*, 267.

It appears Josephus may be giving a garbled version of an event in the time of Alexander, presented as an explanation of how the Samaritan temple came to be built. Josephus credits the elders of Jerusalem rather than Nehemiah for confronting the individual in question, and does not speak of an expulsion taking place. The biblical figure is not named, but is identified as the son of Jehoiada rather than his brother, and the incident related by Nehemiah takes place approximately 100 years before the coming of Alexander.⁹⁴ If there was a Sanballat in the time of Alexander, he is not the same figure as the one in Nehemiah's account, and the incident is not to be confused with the one in Nehemiah 13.

4. Josephus, *Ant.* 11.8.7 – “And whenever anyone was accused by the people of Jerusalem of eating unclean food or violating the Sabbath or committing any other such sin, he would flee to the Shechemites, saying that he had been unjustly expelled (ἐκβεβλήσθαι).” Josephus is apparently describing Jewish practice in the second century B.C.E., although the time here is unclear.

Note that punitive expulsion is evidently being practiced in Jerusalem for Sabbath-breaking (which carries both a death penalty and *kareth* in the Torah), and for eating unclean food. The issue does not appear to be kosher food as per Leviticus 11, but food that is ritually unclean for other reasons. If this is correct, this also would be a case explicitly calling for *kareth*, and would indicate that this is how the penalty was interpreted in Jerusalem at that time.

5. Josephus, *B. J.* 2.8.8 – “Men convicted of major offenses are expelled (ἐκβάλλουσι) from the order, and the outcast often comes to a most miserable end; for

⁹⁴ See discussion by Ralph Marcus in Appendix B (498–511) of the LCL edition of the *Antiquities*.

bound as he is by oaths and customs he cannot share the diet of non-members, so is forced to eat grass till his starved body wastes away and he dies.” Here Josephus is describing the Essenes, although the time is unspecified (first century C.E.?); he writes as if the Essenes were still in existence as a community. The Essenes may be the people who populated Qumran (below).

6. Dead Sea Scrolls.⁹⁵ Qumran uses כרת as extermination in eschatological contexts. For example, 1QS II 16–17 reads, “May God set him apart for evil, that he may be cut off from (וינכרת מתוך) all the Sons of Light because of his backsliding from God through his idols and the stumbling block of his iniquity. May he put his lot among those who are cursed forever.” Likewise, CD^b XX 25–26 says, “But all who entered the covenant who have broken through the border of the Torah, when (26) the glory of the Lord appears to Israel they will be cut off from the midst of the camp (מוקרב המזונה) (יכרתו) and along with them all the wicked ones of Judah, in the days when it is purged.”

CD^a III 1 says, “Through it (wantonness of heart, שרירות לבם) strayed the sons of Noah and their families; through it they are cut off (נכרתים).” (See also CD^a III 9.) Similarly, 4Q88 VIII 6 contains the line, “all about are your enemies cut off (נכרתו), O Zion, all your foes have been scattered (התפזרו).” Note that here, the root כרת is paired with פזר, implying removal rather than destruction.

In 4QpPsa^a 1–10, the כרת root is employed numerous times, partly because the passage is a *peshet* on Psalm 37. In addition, the text says in column II, lines 3–4, “all

⁹⁵ The translation of the Dead Sea Scrolls used throughout this paper, unless otherwise indicated, is James Charlesworth, *The Dead Sea Scrolls: Hebrew, Aramaic, and Greek texts with English translations* (6 vols.; Louisville: Westminster/John Knox, 1993 –).

who refuse to turn back from their sin will be cut off (יכרתו),” while in column III, lines 11–12, it says, “those cursed by him will be cut off – they are the ruthless ones of the cov[enant, the wic]ked ones of Israel, who will be cut off (יכרתו) and will be destroyed.”

In the Temple Scroll (11QTemp LIX 15–17),⁹⁶ God says that if a king’s heart and eyes stray wantonly from God’s commandments, “I will cut off (אכרית) his descendants forever from ruling over Israel,” but if he is obedient, “a man of his sons shall not be cut off (יכרת) from sitting on the throne of the kingdom of Israel forever.” Here the idiom of the “non-removal formula” is borrowed from 1 Kings 8:25, plus a corresponding “removal formula” is added.

But while Qumran almost always uses כרת only in an eschatological sense, Qumran regularly practices expulsion as a penalty for offenses (using שלח and ברל instead of כרת). 1QS V 18 declares, “all who are not accounted within his covenant (נחשבו בבריתו) (כול אשר לוא (להבריל)... must be excluded (להבריל).” One of the most severe such penalties given is the penalty for pronouncing the sacred Name, either accidentally or on purpose, an act that merits the death penalty in the Torah:

1QS VII 1–2 – “If he blasphemed – either because of being terrified with affliction or because of any other reason, while he is reading the Book or saying benedictions – he shall be excluded (והברילהו) (2) and never again return to the Council of the Community.”

The closest parallel to biblical *kareth* is to be found in 1QS VIII 20–23, which parallels Numbers 15:30–31:

⁹⁶ The edition used here is Yigael Yadin, ed., *The Temple Scroll* (3 vols.; Jerusalem: Israel Exploration Society, 1983).

“And these (are) the precepts according to which the men of perfect holiness shall behave each with his fellow: (21) all who enter into the Council of Holiness of those who walk with the perfect of the Way as he commanded, (indeed) every man of them (22) who transgresses a word of the Torah of Moses deliberately or through negligence, shall be banished (ישלחהו) from the Council of the Community (23) and never come back again.”

The passage goes on in line 24 to say that if the act in question was done “through inadvertence,” then he shall be “excluded from the pure-food⁹⁷ and from the Council” for two years.” In the next column (IX 1), it states, “For (it is because) of one inadvertence that he can be punished two years, while for the one who acts deliberately he shall never return.”

A text that appears to contradict the verdict of 1QS VIII 20–23 on “sinning with a high hand” is 4Q159 2–4 4–6, “and anyone who rebels [(6) He will be put to death, one who transgresses intentionally (יומת אשר עשה ביד רמה).” The language is the same as Numbers 15:30–31, but the context appears to be rebellion against a court, as envisioned in Deuteronomy 17:12, where the prescribed penalty is death.

Lesser offenses call for exclusions of six months or a year:

1QS VI 24–25 – “If a man among them is found who lies (25) about property, and he knows (his deception), he shall be excluded (ויבדילהו) from the midst of the pure-food of the Many (for) one year, and be fined one fourth of his food.” Note that the exclusion

⁹⁷ It is not entirely clear what the term טהרה means here. Charlesworth has opted for the meaning “pure-food.” Göran Forkman (*The Limits of the Religious Community: Expulsion from the Religious Community within the Qumran Sect, within Rabbinic Judaism, and within Primitive Christianity* [Coniectanea Biblica New Testament Series 5; Lund: CWK Gleerup, 1972], 55–56) explains that at Qumran, “The Purity” (טהרה) in the singular seems to refer to a category of ritually clean items that is broader than food, while ritually clean food is denoted by the plural form of the word. Forkman cites Josephus, *B. J.* 2.8.5, where novitiates at Qumran, after a year, can “share the purer kind of holy water,” καθαρωτέρων τῶν πρὸς ἀγνείαν ὑδάτων μεταλαμβάνει, and only after two more years as a novice can they touch the common food, τῆς κοινῆς ἄψασθαι τροφῆς. These levels of community membership contribute to the system of torts at Qumran.

is not from the community, but from the certified food supply. The oaths described by Josephus (see previous section) with regard to eating the food of outsiders do not appear to apply here. Rather, this punishment seems to be a demotion in status, an exclusion that stops short of complete expulsion from the community as a whole. One must keep in mind that Qumran excludes from its membership the physically and mentally handicapped and the senile (1QS^a II 5–9, 1QM VII 3–6). The reason given is, “For the angels of holiness are in their congregation.” Consequently, Qumran’s expulsions need not all be considered punitive. They are administered according to the degree of seriousness of the offense.

1QS VI 25–27 – “And one who answers (26) his fellow with stubbornness, addresses him impatiently, disregards the position of his associate by rebelling against the word of his fellow who is registered before him, (27) [or tak]es the law into his own hand shall be punished (וּנְאִנֵּשׁ) (for) on[e] year [and excluded.]” The meaning of “punished” as opposed to “excluded” here is not clear, although the root in biblical Hebrew is used for imposition of a fine. Forkman discusses the explanation of Hunziger, who argues that “וּנְאִנֵּשׁ in 1 QS does not primarily imply fines but separation from the Purity, even though this is not expressly stated.”⁹⁸

1QS VII 4–5 – “The man who unjustly and knowingly insults his fellow shall be punished (וּנְעַנֵּשׁ) (for) one year, (5) and be excluded (וּבְרִילָהוּ).”

1QS VII 15–18 – “The man who slanders about his fellow (16) shall be excluded (וּבְרִילָהוּ) for one year from the pure-food of the Many, and be punished (וּנְעַנֵּשׁ); but if it is

⁹⁸ Forkman, *Limits*, 57–59, citing C.-H. Hunziger, “Beobachtungen zur Entwicklung der Disziplinarordnung der Gemeinde von Qumrān,” in Hans Bardtke, ed., *Qumran-Probleme* (Berlin: Akademie-Verlag, 1963), 231–47.

against the Many that he slanders them he shall be banished (ישלחהו) from them, (17) and he is never to come back again. The man who grumbles against the authority of the Community shall be banished (ישלחהו) and never come back, but if it is against his fellow that he grumbles (18) unjustly then he shall be punished (for) six months.”

1QS VII 22–25 – “And every man who has been in the Council of the Community for as long as a period of ten years, (23) and whose spirit then backslides by being treacherous toward the Community, and he leaves the teachers of (24) the Many to walk in the stubbornness of his heart shall never again return to the Council of the Community. And a man from the men of the Communi[ity w]ho shares (25) with him his pure-food or his property wh[ich...] the Many, his judgment shall be the same; he shall be banis[hed,...] (ישלחהו).” Schiffman explains that the penalty for this crime of “throwing off the yoke of the sect” is different for novices: “If he is a recent member, he may repent and begin the initiation process anew, but if he has completed ten years, he may never again be admitted.”⁹⁹

4Q159 2–4 9–10 – “But if by [...] he humbled her, he shall be fined two minas and be expelled (ושלח) all his life.” The context is false accusation against the virginity of one’s bride. Deuteronomy 22:18 prescribes a monetary fine equal to the one prescribed here, plus it says the elders shall “chastise” (ויסרו) the man.¹⁰⁰ Here expulsion is provided as the punishment. It is unclear whether the woman is expelled de facto as well.

⁹⁹ Lawrence Schiffman, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony, and the Penal Code* (ed. Jacob Neusner et. al.; Brown Judaic Studies 33; Chico, Calif.: Scholars Press, 1983), 158.

¹⁰⁰ It is tempting to speculate whether Qumran read the hip’il ויסירו “they shall remove (= expel him)” in place of ויסרו in this passage.

4Q269 7 I 13 – “One who approaches to fornicate (לִינִית) with his wife against the precept shall depart and return no more.” Commentators have puzzled over this unusual prohibition. Baumgarten has suggested that it refers to either sex during menstruation (a *kareth* offense) and/or sex during pregnancy, which was forbidden at Qumran (see Josephus, *B. J.* 2.8.13) and which also involved defilement that could lead to a *kareth* offense.¹⁰¹

Similar language of punitive exclusion from the community, mostly in fragmentary form that lacks a context, is found in 1QS^a XIII 1; 1QS^b XX 3, 26; 4QD^a 10 II. 2, 10; 4QD^a 11 7, 14; 4QS^g IV 2–3; 4Q265 4 7, 12.

While Qumran’s requirements for Sabbath observance are stricter than the rest of the Jewish community, Qumran does not punish violation of the Sabbath with the death penalty, but with what appears to be either expulsion or probation. CD^a XII 3–6: “But each man who errs and profanes the Sabbath or the holy days shall not be put to death, for he is to be guarded by the sons of man, and if he is healed of it, he shall be guarded for seven years; then he may enter the assembly.”

The one example of a *kareth* offense that appears to be treated as a capital offense at Qumran is in 4Q266 6 II 9–10, where the text says that a pregnant woman “shall not eat [any hallowed thing, nor come into the sanctuary,][for] it is a capital [of]fense (מוֹרֵט [מִן]שֶׁפֶט).” Here may be evidence of divergent opinion at Qumran, or of variation of opinion through time.

¹⁰¹ Joseph M. Baumgarten, *Qumran Cave 4 XIII: The Damascus Document (4Q 266–273)* (DJD 18; Oxford: Clarendon, 1996), 164–65.

The controlling issue for the practice of expulsion at Qumran was the holiness of the community. To some extent, the *Sitz im Leben* of *kareth* in early Israel was also one of concern for the holiness of the community, to preserve the community from being a target of divine wrath. Qumran merely takes its standards of holiness to a much higher level than that of early Israel, which called for removal of anyone whose presence or behavior threatened that holiness.

It is true that *kareth* language is never explicitly applied to the practice of banishment at Qumran. Yet Qumran's practice of banishment seems to be an echo of an earlier understanding of the Torah. It may reflect the Sadducean branch of Second Temple period exegesis, in which case its apparently different approach to *kareth* carries a great deal of weight. The present writer would argue that Qumran's interpretive tradition is more faithful to the original meaning of *kareth* than the tradition of the LXX and the rabbinic tradition.

Additional Evidence of Punitive Expulsion

The following evidence consists of examples of punitive expulsion that do not parallel biblical *kareth* as closely as the above group of examples. In some cases, the reason for expulsion is not clear. In other cases, the offense does not resemble the kind of offense for which *kareth* was practiced. Nevertheless, these examples serve as added evidence that punitive expulsion was indeed practiced in biblical times.

A. Second millennium B.C.E. texts.

1. *P BM 10052*, 8, plate 31, 17–18 – Egypt, sixth year of Rameses XI, ca. 1100 B.C.E.

Standard Egyptian penalty for perjury: *mtwi dd d3 iw f hšb.f didi tw Kšy* “If I speak falsehood, may <I> be mutilated and sent to Kush.”¹⁰²

A total of nine examples are referenced in David Lorton, “Treatment of Criminals in Ancient Egypt,” *JESHO* 20 (1977): 33–38. All nine are found in Thomas Eric Peet, *The Great Tomb-Robberies of the Twentieth Egyptian Dynasty*.¹⁰³ The example cited above is found in Peet, 151. The others are:

P BM 10052, 3, plate 27, 22–23 (Peet, 146)

P BM 10052, 5, plate 28, 4–5 (Peet, 147)

P BM 10052, 5, plate 29, 26–27 (Peet, 148)

P BM 10052, 7, plate 30, 9–10 (Peet, 150)

P BM 10052, 9, plate 31, 1–2 (Peet, 151)

P BM 10052, 11, plate 31, 1–2 (Peet, 152 – suspect?)

P BM 10052, 11, plate 32, 9–10 (Peet, 153)

P BM 10052, 11, plate 32, 23 (Peet, 153 – suspect?).

These tomb robbery texts come from the judicial court of Thebes. The destination of the threatened banishment was therefore not a long distance, although hard labor is implied.

¹⁰² Transcription by Karen Hobson.

¹⁰³ Thomas Eric Peet, *The Great Tomb-Robberies of the Twentieth Egyptian Dynasty*; Oxford: Clarendon, 1930; repr. Hildesheim/New York: Georg Olms, 1977.

In addition, Lorton cites a judicial text published by Hayes¹⁰⁴ that says, “a ship’s captain who helped an escapee was deprived of his position and his name (*w3 n rn.f*) and banished (? *shr*), and his family assigned to a labor camp.”¹⁰⁵ The text dates to the thirty-first year of the reign of Amenemhet III (1812 B.C.E.), making it the earliest extant Egyptian banishment text. There is no indication of the destination to which the offender is banished. The text reads as follows:

Handed over to the Office of the Provider-of-People is the fami[ly of] the one who was [ba]nished because of complicity (?) in his plot (?), the one removed from (the office of) Skipper of the Treasury and deprived of his name Deduamūn’s son, Montuhotpe.”¹⁰⁶

The same oath, “May my nose be cut off and may I be sent to Kush,” is also found in the Ramesside Inscription of Mes, lines N21, N27-8, and N30.¹⁰⁷ The legal actions described in this text take place at On and at Pi-Ramesses in Lower Egypt, both at least 500 miles north of Kush.

Aside from assignment to penal servitude in the granite quarries,¹⁰⁸ it would appear that Kush (= Nubia) was the destination of choice for such banishment as early as the reign of Rameses II. *P DM 27*, discussed below, is the only extant text where there is an oath that penalizes disobedience by sending the offender to Elephantine.

¹⁰⁴ William Christopher Hayes, *A Papyrus of the Late Middle Kingdom* (Papyrus Brooklyn 35:1446; Brooklyn: Brooklyn Museum, 1955), 53–54.

¹⁰⁵ Lorton, “Treatment of Criminals,” 17.

¹⁰⁶ Hayes, *Papyrus*, 53–54.

¹⁰⁷ Alan Gardiner, *The Inscription of Mes: A Contribution to the Study of Egyptian Judicial Procedure* (Untersuchungen zur Geschichte und Altertumskunde Aegyptens 4/3; Hildesheim: Georg Olms, 1964), 9–10.

¹⁰⁸ Lorton, “Treatment of Criminals,” 6–7. The location is not specified, but may be Elephantine.

It is uncertain whether this sanction of banishment in these oaths was actually put into practice. The indication that the accompanying threat of mutilation was actually employed in the process of interrogation increases the possibility that banishment was also employed if and when perjury could be established.

This oath formula appears to have been current from the reign of Rameses II into the Twentieth Dynasty. Unlike biblical *kareth*, the Egyptian penalty (if actually put into practice) involves transportation to a specific, distant inhospitable location, rather than an unspecified expulsion from the local community. However, expulsion to Kush is found here in texts surrounding the time and place in which the Hebrew nation was born under Moses.

2. Decree of Horemheb, lines 16–17, 20–22 – Egypt, reign of Horemheb, ca. 1330 B.C.E.

(Now) if there i[s the man] who (wants to) deliver dues [for] the breweries (?) and abattoirs (?) of Pharaoh on behalf of the t[wo] deputies [of the army] – [and there is anyone who interferes] and he takes away the craft of any military man (or) of any (other) [per]son in any part of the country, the law shall be applied to him by cutting off his nose, he being sent to Si[le]...[If there is anyone who interferes with those who] – and those who are supplying the harîm as well as the offerings of all (kinds of) gods in that they deliver dues on behalf of the two deputies of the army, a[nd he] – , the law [shall be applied] against him by cutting off his nose, he being sent to Sile likewise.¹⁰⁹

The scope of the Horemheb decree is surprisingly narrow. This text decrees banishment to the Asiatic frontier to the border fortress of Sile for government officials who plunder tax revenues brought by citizens. While only two offenses specify banishment as punishment, two additional statutes read “it shall also be done

¹⁰⁹ Stela in the Temple of Amun-Re at Karnak. Hieroglyphic text is published in Kurt Pflüger, “The Edict of King Haremhab [sic],” *JNES* 5 (1946): 269–76. Translation is in Pflüger, “Haremhab,” 260–67.

accordingly,” implying the same punishment, and several more provisions in the decree have penalties that are unclear or illegible.

Horemheb, the issuer of this decree, comes to the throne, not by royal blood, but by virtue of his military position as commander-in-chief, having served as the de facto ruler under Tutankhamun and Ay. It appears that this time of Egyptian political weakness was accompanied by domestic anarchy. According to Aldred:

This pillaging is but one indication of a general lawlessness that seems to have prevailed since the end of the reign of Akhenaten, and suggests that the disorder referred to by Tutankhamun in his Restoration Stela had by no means been curbed. The great granite stela which Horemheb erected...bears other witness to this general unrest. The woefully damaged text which is usually referred to as ‘The Edict of Horemheb’ appears to be a selection of the ordinances which the king issued ‘to seek the welfare of Egypt’ by suppressing illegal acts.”¹¹⁰

Of all the Egyptian banishment decrees, this is the only one that sends offenders to the Asiatic frontier rather than south to Nubia or west to the Sahara oases. The decree is issued at Karnak, near Thebes. Sile, also known as Tjaru, is located by James Hoffmeier approximately seven kilometers north of the end of Lake Ballah, at a site known as Tell Hebua.¹¹¹ *Sillu* is mentioned in EA 288 (fourteenth century B.C.E.). Its fame as a border fortress is corroborated by excavation, which reveals a military facility that expanded considerably during the New Kingdom period. While Sile was not as isolated, and may not have been as hot, as the other two known destinations for Egyptian banishment, being sent to Sile may have involved hard labor in the construction of this fortification.

¹¹⁰ Cyril Aldred, *The Cambridge Ancient History*, 3d ed., vol. 2, part 2 (ed. I. E. S. Edwards; Cambridge: Cambridge University Press, 1975), 75.

¹¹¹ James K. Hoffmeier, *Ancient Israel in Sinai: The Evidence for the Authenticity of the Wilderness Tradition* (Oxford/New York: Oxford University Press, 2005), 90–94.

3. Banishment Stela of Menkheperre (= Maunier Stele, Louvre C256), lines 11, 15–16 – reign of Psusennes I (?), ca. 1020 B.C.E.

O my good lord, (it is) the matter of these servants, against whom thou art wroth, who are in the oasis, whither they are banished...Thou shalt hearken to my voice on this day, and thou shalt [relent] toward the servants whom thou banished to the oasis, and they shall be brought (back) to Egypt.¹¹²

The high priest of Amun at Thebes issues an oracle to convince Pharaoh that Amun wants banishment stopped. It is debated whether this text is actually from the Menkheperre who served as High Priest in the Twenty-first Dynasty, or from Neo-Assyrian times, and whether it concerns banishment of individuals or mass exile. Von Beckerath states,

Dies geschah im 25. Regierungsjahr eines leider ungenannten Pharaos. Diese Datierung ist das geschichtliche Hauptproblem unserer Stele; es bildet wie wir sehen werden, ein Schlüsselproblem der immer noch sehr umstrittenen Chronologie der 21. Dynastie.¹¹³

The chief advocate of a Neo-Assyrian date for this stele is Reilly, who argues that the use of characters from the Twenty-first Dynasty is fictional, and that the banishment victims here have been exiled to this Sahara oasis by the Assyrians.¹¹⁴ Reilly points to Breasted's puzzlement about the identity of the banished persons in this text, and claims that a context of Theban liberation from Assyrian rule in 637 B.C.E. provides a better explanation for these exiles. Reilly offers no epigraphic evidence to support his theory;

¹¹² Louvre C 256 (Maunier Stela). Hieroglyphic text is published in Jürgen von Beckerath, "Die 'Stele der Verbannten' im Museum des Louvre," *Revue d'Égyptologie* 20 (1968): 11–12. Translation in James Henry Breasted, *Ancient Records of Egypt* (5 vols.; Chicago: University of Chicago Press, 1906–7; repr. New York: Russell & Russell, 1962), 4:317–18.

¹¹³ Von Beckerath, "Verbannten," 27–28.

¹¹⁴ Jim Reilly, "Piankhi the Chameleon: The Next Generation," n. p. [cited 5/27/2008], online: http://www.kent.net/DisplacedDynasties/The_Next_Generation.html.

furthermore, the idea that the Assyrians would banish captives to this Sahara oasis does not fit with Assyrian practice elsewhere.

Virtually all other commentators assign this text to the Menkheperre of the late eleventh century B.C.E. Černý cites this text as evidence of “internal strife within the Theban state.”¹¹⁵ Young tentatively assigns the stele to this era, locating it in Amenemope’s twenty-fifth year (to whom Young attributes a long reign).¹¹⁶ Wentz concurs on this dating, without identifying the pharaoh in question.¹¹⁷ Kitchen assigns a 53-year high priesthood to Menkheperre, thereby implying that the stele is dated by the year of his priesthood rather than by the year of any pharaoh’s reign.¹¹⁸

Kitchen describes the scene behind the Banishment Stela as follows:

Menkheperre was summoned to Thebes by Amun himself to ‘come South in valour and victory to pacify the land and suppress its (his?) foe’ – a person unnamed perhaps some Theban pretender to the high-priesthood of Amun who had arisen as focus of local opposition in a hiatus period following the death of Menkheperre’s predecessor. Such opposition was quickly beaten down and the ringleaders exiled to the western oases...

Thus, behind the proud façade of Pinudjem’s pose as nominal co-pharaoh in Tanis with his sons as successive military commanders of the south and high priests in Thebes, there lurked outright opposition, even rebellion, against the ruling house in Thebes itself. With its talk of exiles in the oases and stays of execution, the Banishment stela of Menkheperre casts a lurid light on a

¹¹⁵ Jaroslav Černý, “Egypt from the Death of Ramesses III to the End of the Twenty-first Dynasty,” in *The Cambridge Ancient History*, 3d ed., vol. 2, part 2 (ed. I. E. S. Edwards et al.; Cambridge: Cambridge University Press, 1965), 657.

¹¹⁶ Eric Young, “Some Notes on the Chronology and Genealogy of the Twenty-First Dynasty,” *Journal of the American Research Center in Egypt* 2 (1963): 110.

¹¹⁷ Edward F. Wentz, “Chronology of the Twenty-First Dynasty,” *JNES* 26 (1967): 168: “From a reading of the Banishment Stele it appears to me that Kees was quite correct in concluding that Menkheperre was inducted into the office of his father Painutem I as high priest and generalissimo in a Year 25.”

¹¹⁸ Kenneth A. Kitchen, *The Third Intermediate Period in Egypt (1100–650 B.C.)* (2d rev. ed.; Warminster: Aris & Phillips, 1986), 269–71, 465.

sombre pattern of tension between priestly military commanders based in the north and local opposition parties in Thebes itself.¹¹⁹

Once he was firmly in power, Kitchen writes,

Menkheperre now deemed it politic to seek further reconciliation with local interests at Thebes. Encouraged by a favorable oracle of Amun during his procession in Karnak a day before New Year's Eve, Menkheperre recalled the exiles from the oases and set aside the death-penalty except for such as might in future seek to use it. These concessions seem to have secured him peace.¹²⁰

Von Beckerath interprets the phrase “not slaying the living” (which Kitchen interprets as forbidding the death penalty) as a figurative reference to exiling people, and that it is the practice of exile itself that is here being banned as a virtual death sentence.¹²¹

Banishment here takes the place of a death penalty, but is apparently viewed as a virtual death sentence, if this interpretation is correct. The place of banishment, in this case, is believed to be the El-Kharga Oasis, which is 400 miles south of Memphis but only 140 miles due west of Thebes.

Although the offenses that call for banishment in this text are not specified, political rebellion seems to be what is being punished.

4. Apology of Hattusilis 12:33–36 – Hittite, ca. 1300 B.C.E.

Hittite text:

*na-aš a-pi₂-ya e-eš-ta ma-a-an-kan₂ da-ma-a-in ku-pi₂-ya-ti-in ku-up-ta ma-an I-NA
KUR ^{URU}KA-RA^D-DU-NI-YA pí-en-bi-eš-ta nu GIM-an me-mi-an AŠ-ME na-an e-ip-pu-
u-un na-an-kan₂ A.AB.BA ta-puša*

¹¹⁹ Kitchen, *Intermediate Period*, 260.

¹²⁰ Kitchen, *Intermediate Period*, 261.

¹²¹ Von Beckerath, “Stele der Verbannten,” 26n23b; 34–35.

“He (Urhitesupas) would have planned another plan, (and) would have proceeded into the land of Karaduniya; but when I heard of the matter, I arrested him and banished him across the sea.”¹²²

Sturtevant and Bechtel explain the context of this text.¹²³ Hattusilis was the younger brother of Muwattallis, who ruled as king ca. 1325–1303 B.C.E. After the death of Muwattallis, Hattusilis was required by the Decree of Telepinus to establish his nephew Urhitesupas on the throne, rather than inheriting the kingship himself. Urhitesupas gradually takes away cities that are under Hattusilis’ rule to erode his authority. Finally, Hattusilis seizes the throne by military action, appealing to several oracles from Ištar. Urhitesupas is allowed to rule a limited amount of territory, but when he seeks to expand his rule into Mesopotamia, Hattusilis banishes him, just as Urhitesupas himself has banished others (12:19). Here, banishment is practiced as both a political act and as an act of mercy.

B. First millennium B.C.E. texts and later.

1. *RIMA* 3 A.O.104.9, rev., lines 10–14 (duplicate: AAA 20 105+, rev., lines 10–13) – Neo-Assyrian. Adad-nerari III, dated 797 B.C.E.

Akkadian text:

*še-ši ina ŠU ša₂-ni-im-ma mu-nu-šu₂ MAN EN-šu₂ ul-tu qe₂-reb E₂.GAL-šu₂ [i]t²-ti
a-mat HUL-tim u MU NU SIG₅ i-na-sah₃-šu₂ a-di u₄-me TILA ina qe₂-reb E₂.GAL e-
rib-šu₂ NU GAL₂*

¹²² Cuneiform text is from Edgar Sturtevant and George Bechtel, eds., *A Hittite Chrestomathy* (Philadelphia: Linguistic Society of America, 1935), 60. Transcription and translation cited here are from Sturtevant, *Chrestomathy*, 78–81.

¹²³ Sturtevant and Bechtel, *Chrestomathy*, 84.

If anyone tells the king to remove the province of Hindanu from the authority of Nergal-eriš, “may the king his lord banish (*i-na-saḥ-šu*) him from his palace with curses and maledictions. As long as he lives, may he not be allowed to re-enter the palace.”¹²⁴

This text is from a stone tablet on display in the temple of Ištar in Nineveh.¹²⁵ It contains a warning against challenging the authority of the governor that Adad-nerari has installed in Hindanu. Since the offender is to be banished from the palace but not from the temple, a purely political offense is in view.

2. ADD 647 = K 211, rev., line 29 – Neo-Assyrian. Assurbanipal, dated 657 B.C.E.

Akkadian text:

qe₂-reb E₂.KUR E₂.GAL *i-tal-lu-ka li-za-am-me-[šu₂]*

Whoever disturbs the body of this servant of the king after he dies, “May the king...forbid him to walk in temple and palace.”¹²⁶ Three other verbatim examples are: NARGD 12+, rev., line 29;¹²⁷ K14444, rev., line 5; K6197, rev., line 1.¹²⁸ All three are royal grants from the period of Assurbanipal, but dates are unavailable due to the

¹²⁴ Reginald Campbell Thompson and M. E. I. Mallowan, “The British Museum Excavations at Nineveh, 1931–32,” AAA 20 (1933) 71–186; plates 80–104. Cuneiform = plate 99, tablet 105, rev., lines 11–13; transcription: pages 113–14; translation: page 115. Transliteration and translation cited here are from Albert Kirk Grayson, *Assyrian Rulers of the Early First Millennium BC II 858–745* (Royal Inscriptions of Mesopotamia Assyria 3; Toronto: University of Toronto Press, 1991), 215, rev., lines 10–14.

¹²⁵ Grayson, *RIMA 3*, 213.

¹²⁶ Claude H. W. Johns, *Assyrian Deeds and Documents* (4 vols.; Cambridge: Deighton, Bell, and Co.; London: G. Bell and Sons, 1898), cuneiform = 1:506, tablet 647, rev., line 29. Transliteration and translation cited here are from Laura Kataja and Robert Whiting, *Grants, Decrees, and Gifts of the Neo-Assyrian Period* (State Archives of Assyria 12; Helsinki: Helsinki University Press, 1995), 26, no. 25.

¹²⁷ John Nicholas Postgate, *Neo-Assyrian Royal Grants and Decrees* (Rome: Pontifical Biblical Institute, 1969), 34, no. 12, K 2814 (+ ADD 734, ADD 4, pp 172–3-) + K 14460 + Rm 572, plate 16, rev., line 62. Transcription and translation are in Kataja, SAA 12, 34, no. 31.

¹²⁸ Transcription and translation for these are in Kataja, SAA 12, 35, nos. 33 and 34.

fragmentary nature of the texts. The preceding sentence makes a decree over the offender that reads (apparently verbatim in all three cases despite gaps in the texts), “May the king his lord be angry with him and show him no mercy,” while the banishment decree is followed by, “and by the wrath of god and king may a bloodstained weapon await him. May the dogs tear apart his corpse as it lies unburied.”

Although this standard threat resembles a curse, it is almost entirely within the power of the king who is making the threat to deliver what he promises, with little if any help needed from deity. The limited banishment that is decreed here, therefore, qualifies as a form of punitive expulsion, although its resemblance to biblical *kareth* is admittedly remote.

3. NARGD 37, rev., lines 2–4 – Neo-Assyrian. Private undated votive text.

Akkadian text:

^dIŠ.TAR *a-šib-bat* URU.*arba-il*₃ SAHAR.ŠUB.BA-*a li-mal-li-šu*₂ *a-na* E₂.KUR
E₂.GAL *e-reb-šu*₂ *li-hal-liq*

“May Ištar dwelling in Arbela fill him with leprosy and cut off his entrance to temple and palace.”¹²⁹

Postgate states that this text is from “an unstratified context East of the Nabu temple at Nimrud,” and that it is “clearly a grant to the Nabu temple at Kalhu,” therefore it must be a royal gift.¹³⁰ This text is a curse rather than a legal decree. It calls upon a deity to inflict a plague that will bar the offender from the presence of god and king. According

¹²⁹ John N. Postgate, *Neo-Assyrian Royal Grants and Decrees* (Rome: Pontifical Biblical Institute, 1969), cuneiform =74, plate 23, rev., lines 14^l–16^l. ND 6207. Not collated. Menzel Tempel [sic] n 67 T 171–72. Transliteration and translation cited here is from Kataja, SAA 12, 123, no. 97, rev., lines 2–4.

¹³⁰ Postgate, *Grants*, 74–75.

to lines 3–4 of the text, the donor has cleared a third party of unspecified claims, and hereby warns anyone else of bringing claims against that party, invoking curses by several deities in addition to the above curse if anyone should try to do so. While the text does not function to declare a punishment by human legal authority, it does call for a form of limited banishment (albeit by divine hand), a form that becomes a standard threat in similar Neo-Assyrian decrees.

4. ABL 1105, rev., line 11–12 – Assurbanipal, treaty with Babylonian allies, from the time of the Šamaš-šumu-ukin rebellion, 652–648 B.C.E.

Akkadian text:

^d30 *na-an-na-ru* AN-*e* u KI.TIM [xxxxxxxxxxxxxxxx] E₂.KUR u E₂.GAL *e-re-ba-nu*

“May Sin, light of heaven and earth, [...*prohibit*] your entry into temple and palace [...].”¹³¹

Similarly, Esarhaddon’s treaty with Ratamaia:

[^dxxx n] *a-an-mar* [AN-*e* u KI-*ti*₃ SAHAR.ŠUB.BA-*e*] [*li-h*] *al-lip-ku-nu* [*ina* IGI DINGIR.MEŠ u LUGAL *e-rab-ku-nu a-a iq-bi*] [*ki-*] *ma sir-ri-me* MAŠ.DA₃ [*ina* EDIN*ru-up-d*] *a*

“[May Sin], the brightness of heaven and earth,...[forbid your entering into the presence of the gods or king (saying): ‘Roam the desert] like the wild-ass (and) the gazelle.”¹³²

¹³¹ Robert F. Harper, *Assyrian and Babylonian Letters* (14 vols.; Chicago: University of Chicago Press, 1892–1914), cuneiform = 11:1216, tablet 1105, 82-5-22, 130, rev., line 11. Transliteration and translation cited here are from Simo Parpola and Kazuko Watanabe, eds., *Neo-Assyrian Treaties and Loyalty Oaths* (State Archives of Assyria 2; Helsinki: Helsinki University Press, 1988), 67, no. 9.

While the invocation of Sin in these two examples falls into the category of a curse rather than a legal pronouncement, it calls upon a divine power to banish the offender from temple and palace, a measure employed in contemporary legal practice.

6. ABL 706 + ABL 1318 + K 12968, rev., line 10 – Neo-Assyrian. Reign of Sargon II, ca. 725 B.C.E.

Akkadian text:

i-ti-ši-šu ma-a a-na KUR.e-bir-ID₂ u₂-sa-ga-li-uš

“They took him away and deported him to the land beyond the River.”¹³³

The letter is addressed to the king. It is written by “your servant Zeru-ibni.” The letter concerns a Ninevite scribe Erra-Gamil, about whom the king has inquired. He states:

I summoned him, and thoroughly questioned Nabû-šumu-ušur and the scribes from Nemed-Ištar and Laqê, servants of the king my lord, (who told me): “He came two years ago, got a position with Ila’i-Bel, and worked punctually on his behalf. Last year, while Ila’i-Bel was still alive, a *tracker* came and took him away.”

7. K 1033 = ABL 58, rev., line 9 – Neo-Assyrian. Reign of either Esarhaddon or Assurbanipal, approximately 670 B.C.E.

Akkadian text:

¹³² Donald J. Wiseman, “The Vassal-Treaties of Esarhaddon,” *Iraq* 20 (1958): 1–99. Cuneiform = ND 27, plate 6, column 6, lines 419–21. Transcription and translation cited here are from Wiseman, 59–60, lines 419–21.

¹³³ The text in which this line occurs is a combination of the following texts: Harper, *ABL*, cuneiform = 7:759, tablet 706 (= K 1076); Harper, *ABL*, cuneiform = 13:1474, tablet 1318 (= K 5420B); Simo Parpola, ed., *Cuneiform Texts from Babylonian Tablets in the British Museum, Part 53: Neo Assyrian Letters from the Kuyunjik Collection* (London: Trustees of the British Museum, 1979), cuneiform = plate 115, no. 444. Transcription and translation of the combined text cited here are from Simo Parpola, ed., *The Correspondence of Sargon II, Part I: Letters from Assyria and the West* (State Archives of Assyria 1; Helsinki: Helsinki University Press, 1987), 160, no. 204.

u₃ ki-i ši^{d15} ša₂ N[INA.¹KI]^{d15} ša₂ arba-il₃ iq-ba-a[n-ni] ma-a ša₂ TA LUGAL
 be-li-n[i¹] la ke-nu-ni ma-a ša₂ TA* KUR-aš-šur.[KI] ni-na-sah-šu₂ ket¹-tu¹-ma¹ TA*
 KUR-aš-šur.KI li-in-ni-s [ih₂¹]*

“And inasmuch as Ištar of Nineveh and Ištar of Arbela have said: ‘We shall root out from Assyria those who are not loyal to the king, our lord,’ he should really be banished (from) Assyria!”¹³⁴ The reference is to an unnamed troublemaker. The speaker is Nabu-nadin-šumi, “your (the king’s) servant.” The line before the quote in question reads, “[I]f he has been troublesome, may the gracious face [of the king] tur[n] away from him!” No other context is given.

Geographic punitive expulsion is clearly what is being described, and the offense is said to be political disloyalty. Political disloyalty in a public servant, however, involves the violation of an oath to deity, the breaking of which calls down the wrath of the deity. Consequently, the king must execute the deity’s wrath on the offender. Wherever a loyalty oath has been sworn to deity, punitive expulsion must be described as more than simply political.

8. ABL 505, lines 9–12 – Neo-Assyrian. Reign of Sargon II, dated 710 B.C.E.

Akkadian text:

*ŠEŠ-šu₂ 1-en ina URU.arrap-ha it-ta-lak ma-a lu-šag-li-a-šu₂ ih-t[i¹-li]q LUGAL
 it-ta-har*

¹³⁴ Harper, *ABL*, cuneiform = 1:55, tablet 58, K 1033, rev., line 9. Transcription and translation cited here are from Simo Parpola, *Letters from Assyrian and Babylonian Scholars* (State Archives of Assyria 10; Helsinki: Helsinki University Press, 1993), 221, no. 284.

“A brother of (Sîn-uballiṭ, mayor of Dar-šarrukku) went to Arrapha, saying ‘I will deport him,’ so he ran away and appealed to the king.”¹³⁵

9. ABL 712, rev., lines 2–7 – Neo-Assyrian. Reign of Sargon II, dated 710 B.C.E.

Akkadian text:

[E₂ ^mDINGIR-*ma – tak*]-*lak nu-šag-la* [xxx] *nu-šag-la-a-ma* [LUGAL] *i-pa-lu-hu*
[*ki-ma*] E₂ ^mDINGIR-*ma – tak-lak nu-sag-li ur-ke-ti am-me-e-ša₂ an-nu-ti nu-šag-li* [0]

“We must deport the house of Ilumma-taklak, and we must also deport..., so that they will fear the king. After we have deported the house of Ilumma-taklak, let us thereafter deport the latter there, too.”¹³⁶

10. Piankhy Prohibition Stela¹³⁷ – Reign of Piankhy, 747–716 B.C.E.

Egyptian text:

(6) *Nn rdít ‘q.sn r hwt-ntr nt ‘Imn n Pmw hry-ib Dw W‘b hr mdt pfy, btw pw dd.f*
ír.sn m hwt-ntr nt ‘Imn. ‘Ir.sn (7) mdt nn wd.tw n ntr ír sw. ‘Ir.sn w3ww m íb.sn, m sm3
s n wn bt3.f

“Not letting them enter the Temple of Amun of the town of Pemu-Within-the-Pure-Mountain on account of that thing, that crime that he says they committed in the Temple of Amun...They have committed evil in their hearts, even killing an innocent man.”¹³⁸

¹³⁵ Harper, *ABL*, cuneiform = 5:544, tablet 505, 81-2-4, 95, obv., lines 9–12. Transcription and translation cited here are from Andreas Fuchs and Simo Parpola, *The Correspondence of Sargon II, Part III: Letters from Babylonia and the Eastern Provinces* (State Archives of Assyria 15; Helsinki: Helsinki University Press, 2001), 116, no. 169.

¹³⁶ Harper, *ABL*, cuneiform = 7:764, tablet 712, Sm 1223, rev., lines 2–7. Transcription and translation cited here are from Fuchs and Parpola, *SAA* 15, 28, no. 40.

¹³⁷ Hieroglyphic text in Heinrich Schäfer, ed., *Urkunden der Älteren Athiopkönige* (Leipzig: J. C. Hinrichs, 1905), “Bannstela,” *Urkunden* III, lines 110–13.

Here is not a case of expulsion from the community, but exclusion from the temple. It is unclear why mere exclusion is being contemplated here, for a crime that normally merited death under Egyptian jurisprudence. It may be that the crime is known to the temple personnel, but has not been prosecuted by civil authorities.

11. 1 Kings 2:27 – “So Solomon banished (ויגרש) Abiathar from being priest to YHWH, thus fulfilling the word of YHWH that he had spoken concerning the house of Eli in Shiloh.” Note that in 1 Samuel 2:33, God promises, “The only one that I will not cut off (אכריית) from my altar shall be spared to weep out his eyes and grieve his heart.” Solomon’s motive is stated as mercy: “You deserve death, but I will not execute you at this time.” Abiathar has committed no death penalty offense to be found in the Torah; the issue is entirely political loyalty.

12. Jeremiah 36:5 – reign of Jehoiakim, December 605 B.C.E.

“I am restrained (אצור). I cannot enter the house of YHWH.”

This verse parallels the roughly contemporary Neo-Assyrian texts (above) where offenders are forbidden “to walk in temple or palace.” Here appears to be a similar case of political expulsion. While Duhm believes that Jeremiah is excluded from the Temple for reasons of Levitical impurity,¹³⁹ most other commentators’ views are like that of John Bright: “The probable sense is that Jeremiah had (after the incident of xx 1–6?) been forbidden to enter the temple; or perhaps it was simply that the authorities had him under

¹³⁸ Transliterated text and English translation is from Sara Orel, ed., *Death and Taxes in the Ancient Near East* (Lewiston, Idaho: E. Mellen, 1992), 114.

¹³⁹ B. Duhm, *Das Buch Jeremia* (Tübingen: J. C. B. Mohr, 1901), 290.

observation and would stop him if he tried to speak there.”¹⁴⁰ Bright states that אָצַר “cannot denote physical arrest” here as it does in Jeremiah 33:1 and 39:15.¹⁴¹

The ancient versions themselves show a variety of interpretations of אָצַר in this passage. The LXX reads φυλάσσομαι, “I am being guarded.” Aquila and Symmachus read συνέχομαι, “I am being restrained.” Origen reads *conclusus sum*, “I am restricted/confined.” The Vulgate reads *clausus sum*, “I am shut in.” The Peshitta reads *kl’*, while the Targum reads *kly*, both implying physical restraint or incarceration. It is unlikely that Jeremiah is in prison, since in 36:19, Baruch and Jeremiah are told to “go and hide,” which would also argue against a literal interpretation of φυλάσσομαι. The most logical explanation of all the evidence is that Jeremiah is on an unwritten no-entrance list to keep him out of the Jerusalem sanctuary. 2 Chronicles 23:19 states that Temple gatekeepers were to prevent the unclean from entering the sanctuary; these may have also barred entrance to those who had been punitively expelled. This may give a picture of how *kareth* may have been practiced in the First Temple period, although it must be noted that not a single word of the *kareth* formula is found in this text.

13. Jerusalem and Babylonian Talmudim¹⁴² – There are several pages on excommunication in *y. Mo’ed Qat.* 3:1.I–XI (distinct from *kareth*, but practiced nonetheless). The passage says that there are 24 offenses that merit excommunication, but nowhere in the text itself are these offenses listed. The complete list of these offenses

¹⁴⁰ John Bright, *Jeremiah: A New Translation* (Anchor Bible 21; Garden City: Doubleday, 1965), 179.

¹⁴¹ *Ibid.*

¹⁴² The version of the Jerusalem Talmud cited throughout this paper is Jacob Neusner, trans., *The Talmud of the Land of Israel: A Preliminary Translation and Explanation*. 5 vols. Chicago: University of Chicago Press, 1982 – . The version of the Babylonian Talmud cited throughout this paper is Isidore Epstein, ed., *The Babylonian Talmud* (18 vols.; London: Soncino, 1978).

is pieced together by Strack and Billerbeck, mainly with materials from the Babylonian Talmud.¹⁴³

1. Whoever despises or speaks contemptuously of a scholar – m. ‘Ed. 5:6 (see below).
2. Whoever treats the messengers of a Jewish court with contempt – b. Qidd. 70a.
3. Whoever calls one’s fellow a slave – b. Qidd. 28a.
4. Whoever belittles the words of the scribes or the words of the Torah – m. ‘Ed. 5:6.
5. Whoever is summoned to appear before a Jewish court on a specific date, and does not appear. (No reference given.)
6. Whoever does not pay a penalty or verdict handed down by a Jewish court – b. Mo’ed Qat. 14b.
7. Whoever owns a biting dog or an ox that causes damage, who does not repair the damage – b. B. Qam. 15b.
8. Whoever sells property to a Gentile, until that person takes responsibility for all disturbances that this may cause to neighboring Israelites – b. B. Qam. 114 a.
9. Whoever testifies for a Gentile against an Israelite in a heathen court for the sake of economic reward – b. B. Qam. 113b.
10. Any priestly butcher who does not give the meat that is owed to fellow priests – b. Hul. 132b.

¹⁴³ Hermann Strack and Paul Billerbeck, *Kommentar zum Neuen Testament aus Talmud und Midrasch* (5 vols.; Munich: C. H. Beck, 1956), 4/1:309–13.

11. Whoever desecrates the second day of Pentecost in the Diaspora, even if it is local custom to work that day – b. Pesah. 52a.

12. Whoever does work after noon on the fourteenth of Nisan – b. Pesah. 50b.

13. Whoever is heard to utter the Divine Name unnecessarily – b. Ned. 7b.

14. Whoever leads the masses to eat sacred offerings outside Jerusalem. (No reference.)

15. Whoever leads the masses to desecrate the divine Name – b. Ta'an. 23a.

16. Whoever calculates leap years outside Israel and determines when to change the calendar – b. Ber. 63a. See also y. Mo'ed Qat. III 81d, 22–24 (below).

17. Whoever puts a stumbling block before the blind – b. Mo'ed Qat. 17a.

18. Whoever hinders the crowd from fulfilling a religious obligation – j. Mo'ed Qat. 3, 81d, 21 (see below).

19. Any butcher who gives or sells meat from torn animals – b. Sanh. 25a.

20. A priestly butcher who will not let his butcher-knife be inspected by scholars – b. Hul. 18a.

21. Any male who sexually stimulates himself – b. Nid. 13b: “A man who wilfully causes erection should be placed under the ban.” This passage is based on m. Nid. 2:1: “The hand that oftentimes makes examination is, among women, praiseworthy; but among men – it is to be cut off!”

22. Any divorced couple who bring complaints to court against one another that give suspicion that they have resumed sexual intimacy with each other – b. Ketub. 28a.

This chapter forbids all remarriage of one's ex-spouse, and prescribes how much distance is to be kept between former spouses to prevent all suspicion of resumed intimacy.

23. Any scholar, whose "reputation is a most offensive one (dessen Ruf ein übler ist)" – b. Mo'ed Qat.17a.

24. Whoever pronounces a ban on someone who does not deserve it – y. Mo'ed Qat. 3, 81d, 40.

Much of the material in the Talmudim involves characters and events long after the destruction of the Temple. The case of Theudas of Rome is one case that appears to take place while the Temple is still standing:

It was taught: Said R. Yosé, "Todos of Rome taught the people of Rome to eat lambs roasted helmet-style on the night of Passover. Sages said to him, "If you were not Todos, should we not excommunicate you [for this proper instruction]?" (And what was so special about Todos? Said R. Hanania, "He would send gifts in support of rabbis.") "For do you not turn out to cause the community to eat Holy Things outside [of the Temple]? And whoever causes the community to eat Holy Things outside of the Temple is supposed to be excommunicated."¹⁴⁴

Also in the Jerusalem Talmud is a case involving the official reporting of the new moon. Rabbi Gamaliel II threatens a ban against Rabbi Akiba, who wanted to prevent large numbers of people from reporting the new moon because it was a Sabbath. Gamaliel says that Akiba "hindered the people from complying with a commandment." (y. Mo'ed Qat. 3 81d, 22–24) Similarly, in the Babylonian Talmud, Hananiah is threatened with a ban for determining intercalary months in Babylon, taking upon himself authority that was reserved for the rabbis in Palestine (b. Ber. 63a).

¹⁴⁴ Neusner's translation refers to this passage as y. Mo'ed Qat. 3:1 VII. E–H. The traditional reference is p. Moed Qatan III 81d, 24–28.

b. Mo'ed Qat. 17a says, "Rabbi (Jehuda) had a maid servant who saw a man flogging his grown-up son. She banned him because by so doing he was transgressing the commandment 'You shall not put a stumbling-block before the blind.'" The date for this incident would be ca. 200 C. E., if it is not legendary. It is remarkable that here, a woman who is not a rabbi pronounces the ban. Presumably she commands the authority of her master, Rabbi Judah ha-Nasi. This may be the same incident referred to in the Jerusalem Talmud (y. Mo'ed Qat. 3:1 X. G), although names and details do not match.

There are also brief allusions to excommunication in the Mishnah. In m. Ta'an. 3:8, Onias the Circle-Maker (ca. 80 C. E.) is threatened with a ban for being too familiar and irreverent toward God. In m. Mid. 2:2, both mourners and those who are under a ban find it necessary to go around the Temple rather than passing through it. This tradition appears to be an authentic tradition from the time when the Temple still stood. It provides evidence that excommunication included exclusion from the Temple for the length of time that it was decreed on the individual.

In m. 'Ed. 5:6, Akabya b. Mahalaleel is reportedly banned for failing to retract four of his opinions on purity, although the Mishnah's editor (Rabbi Judah) denies it: "God forbid that it should be Akabya that was put under the ban! – for the Temple Court was never shut against the face of any man in Israel so wise and sin-fearing as Akabya b. Mahalaleel." Also in this same passage, Eleazar b. Enoch is banned "because he threw doubt on [the teaching of the Sages concerning] the cleansing of hands."

Forkman reviews the range of opinions on this practice:

Around the question of the ban's function there reigns a certain amount of confusion. נדוי is most often translated as "excommunicated" or something similar. This happens often, for example, in the Soncino edition of the Bab.

Talmud. E. Schürer equates the ban with expulsion from the Jewish community. G. F. Moore speaks of the ban as excommunication. S. Krauss describes it as a temporary exclusion, and L. Finkelstein calls it “expulsion.”

Contrary to this interpretation Billerbeck maintains that the ban, נדוי, was something completely different from an expulsion...Hunziger stresses that the ban never aimed at complete exclusion from the synagogue.¹⁴⁵

At its earliest stage, this practice of expulsion may have only been practiced within the circle of the Pharisees, who had an exclusive membership. Only with the passage of time does it become a generalized practice. The Gospel of John 9:22 (see also 12:42) claims that this form of expulsion was employed on followers of Jesus. Certainly by the time the Gospel of John was written, in the last decade of the first century C.E., this ban had become official for a large portion of the Jewish community.

Talmudic excommunication bears more resemblance to Jesus’ teaching in Matthew 18:15–17 than it does to *kareth*. It nevertheless serves as evidence for punitive expulsion, although the rationale for Talmudic excommunication may not have been exactly the same as for *kareth*, since there is no indication in the Talmud that the presence of such offenders threatens to bring wrath on the community. Forkman observes,

If we inquire into the kind of opposition which brought on the threat of a ban or was belayed with a ban we find, namely, that opposition to questions of purity played a greater part before the year 70, while the traditions after the year 70 lay more stress on the character of the opposition as being defiance against the rabbinic authority.¹⁴⁶

Thus, purity and authority, both of which are elements involved in *kareth*, served as the unspoken rationale for excommunication in the rabbinic period. Excommunication was intended to preserve the authority of the *halakoth*. The handling of the *kareth*

¹⁴⁵ Forkman, *Limits*, 102.

¹⁴⁶ Forkman, *Limits*, 97.

offenses specified in the Torah had already been institutionalized, as well as the theology of *kareth* as punishment at the hands of heaven. But the need for punitive expulsion persisted, as threats of impurity and insubordination arose that were not covered by *kareth*, but which resembled *kareth* offenses. Rabbinic practice may have been similar to the way that *kareth* offenses were handled in pre-exilic and early post-exilic Israel.

Other texts.

The final group of texts consists of texts where it is unclear whether punitive expulsion is being practiced at all. They are presented here for their value to be judged by the reader.

1. EA 62:37–38 – Amarna, letter of Abdi-Aširta to Paḥanate, ca. 1400 B.C.E.

Akkadian text:

— — — [š]u₂-nu iš-tu ^{al}Šu-mu-ri^{ki} — — — [b]e-t[u-m]a la-a aṭ-ru-ud-[m]i

[mi-ni]m [i]-k[a]-az-zi-bu-nim [^{amēlūt}] ḥa-za-nu[-t]e^{m[e]š} a-na pa-ni-ka

“I did not expel (*aṭ-ru-ud-mi*) them out of Šumur. What lies did the regents tell thee?”¹⁴⁷

This passage seems to be a reference (via a denial) to the kind of political expulsion practiced by the Hittites and in Mari. However, it is unclear whether the act was a formal legal or political act, or whether the individuals were merely expelled out of animosity.

¹⁴⁷ Otto Schroeder, *Die Tontafeln von El-Amarna* (Vorderasiatische Schriftdenkmäler der Königlichen Museen zu Berlin, Heft 11–12; Osnabrück: Zeller, 1915), cuneiform: 42, no. 28, lines 37–38. VAT 1680. Transcription in Mercer, *Amarna*, 1:254. Translation in Moran, *Amarna*, 134. Transcription in Mercer, *Amarna*, 1:254.

4. *YOS* 10 31 ii.52–54 – The date of this text is uncertain, as is often true for omen texts, although Lafont places it in the Old Babylonian period.¹⁴⁸

Akkadian text:

šum-ma mar-tum ap-pa-ša a-na KA₂ E₂.GAL-im ša-ki-in ta-ri-du-u₂-um ša kuššudu ana ālišu itâr

“If the tip of the gall bladder is located at the palace gate, the exile who has been hunted shall return to the city.”¹⁴⁹ At least eighteen other examples of exiled figures (mostly political) are cited in similar texts in *CAD* 19:60–61, including:

šarru tar-du itibbēma māta ibêl – “an exiled king will rise up and rule the land” (CT 39 11:48).

tar-du ana bīt abišu itâr – “the exile will return to the house of his father” (CT 30 50:12, also CT 51 158:11; CT 20 22 81–2–4, 279:8.)

tar-du kussâ iṣabbat – “an exile will usurp the throne” (ZA 52 242:34).

tar-du pi-du-šu ta-nam-din – “you (Marduk?) pay the ransom for the exile” (KAR 321, rev.1).

It is unclear whether these are exiles who are being punished for political crimes, fugitives from justice, or escapees from a *coup d'état*. Because of the hypothetical nature of omen texts, the only context that can be spoken of is the real-life conditions in which the predictions would be heard. The texts speak of a fairly common phenomenon of

¹⁴⁸ Lafont, *Femmes*, 184.

¹⁴⁹ Albrecht Götze, ed., *Old Babylonian Omen Texts* (Yale Oriental Series, Babylonian Texts 10; London/New Haven: Yale University Press, 1947), cuneiform = plate 43, tablet 31, column ii, lines 52–54. Transcription and translation cited here is from *CAD* 19:61.

political leaders being sent away to live in exile. No doubt, there were also fugitives who were avoiding capital punishment (the question of why the hypothetical figure in the *YOS* text is being “hunted” raises this possibility), but at least some of the hypothetical figures in these omen texts seem to have been punitively expelled (the term *tarīdum* strongly suggests one who has been sent away rather than an escapee). The resemblance to biblical *kareth* in these cases is superficial, but it appears that such expulsion was practiced commonly enough to be proverbial.

Conclusions

Three purposes of punitive expulsion reveal themselves in the Near Eastern evidence. The first purpose is political, to deprive a person who is a political threat of the ability to participate in society. The second purpose is mercy, where expulsion is practiced as a less drastic punishment than death. The third purpose is removal of contamination to avoid the wrath of deity upon the community, a purpose that is particularly evident in Hittite practice.

The Near Eastern evidence cited above verifies the hypothesis that, contrary to the impression created by its virtual absence in the formal Near Eastern legal codes, expulsion or banishment was, in practice, an accepted form of judicial punishment in Israel’s broader Near Eastern context. The evidence establishes the plausibility of the expulsion penalty in Israel as a combination of mercy for a crime that deserves death, plus removal of contamination. It demonstrates a clear precedent in the second millennium B.C.E. for such expulsion, and documents its use throughout the biblical period in the ancient Near East. It also shows clearly that such expulsion was practiced

by post-exilic Jews, even if that practice is not clearly connected to the language of *kareth*.

The question is, How strong are the parallels between any of these pieces of evidence and the biblical *kareth* penalty? In terms of time and geography, the early Mesopotamian, Hittite, and Egyptian evidence are closest to the Israel of the Exodus. Mesopotamian expulsion, and the rationale behind it, is likely to have been a component of the Hebrews' patriarchal heritage. Egyptian expulsion provides a contemporary context for Hebrews who have just come out of Egypt; expulsion was a well-attested legal option right there in their own time, at least in theory. Both Israel and the Hittites appear to have inherited culturally from the Hurrians, therefore Hittite banishment and its accompanying concept of impurity may also be a clue to Israelite practice. Two significant differences of Egyptian punitive expulsion from biblical *kareth* are the specification of a distant destination for the banished offender, and the almost complete confinement of this penalty in Egypt to its presence in oath formulas.

CH §154 is the closest parallel to what is proposed to be biblical *kareth*: a provision in a legal code that punishes by geographic expulsion from one's city a perpetrator of a sex crime like the kinds described in Leviticus 18, a penalty more merciful than death, which also removes what was apparently viewed as a source of contamination. Hittite practice becomes the next closest parallel: expulsion clearly is practiced by local option as a merciful commutation of capital punishment in the standard legal code, with the motive to remove contamination clearly in evidence.

Royal decrees become the next closest parallels to *kareth*. The foremost of these is the case from Ugarit. The crime of counterfeiting royal restricted property parallels the

sacred restricted items in Exodus 30:33 and 38, and a merciful alternative to death is provided for. The next closest parallel is the decree by the Mari prophet quoted by Yaqqim-addu, where the offense appears to be a cultic one, but the punishment stops mercifully short of death. Protection of the community from divine wrath may also be in view. The Edict of Horemheb and the Neo-Assyrian decrees bear the least resemblance to *kareth* (expulsion and possibly mercy being the only common elements), although the Neo-Assyrian decrees (expulsion from temple and palace) do resemble Israelite expulsions during the later monarchy.

Evidence from curse formulas does not parallel *kareth* as to the offenses involved. The one exception is Papyrus Deir el-Medineh, where adultery is the crime. Unlike most Near Eastern curse provisions, however, the Egyptian perjury examples do not require the action of a deity, but call for a punishment that is entirely within human power to perform. The same is true for the Neo-Assyrian curses: while Sin and Ištar are invoked, banishment from temple and palace do not require any direct action from deity. The punishments invoked in the above-cited passages appear to bear witness to realistic practice, as opposed to curses such as “(M)ay you be food in the belly of a dog or pig.”¹⁵⁰ To the extent that a curse formula is either unlikely or impossible to have been fulfilled by deliberate punitive action by those who have decreed it, such a curse does not qualify as evidence of *kareth*.

This raises a separate issue, whether *kareth* itself is really a curse rather than a codified punishment. If it is a curse, then the parallel with these extra-biblical curses

¹⁵⁰ Wiseman, “Vassal-Treaties,” 66, line 484.

becomes obvious. It is argued here instead that in the case of *kareth*, expulsion of the offender is achieved by human rather than divine agency.

The category of matter-of-fact references to expulsion bears the least resemblance to true biblical *kareth*. There is one monumental exception: the myth of Enlil and Ninlil, where a shocking sex crime is involved, and where expulsion rather than death is decreed by the gods. Historical evidence for expulsion among Jews in the post-exilic period cannot serve as proof of the meaning of *kareth*; it can only serve as evidence that not all Jews followed the point of view of the LXX, Josephus, and the later rabbis as to how *kareth* was to be put into practice.

If *kareth* is indeed expulsion in codified form, its presence and its frequency in the Torah becomes unique among Near Eastern sources. Only Qumran, at the very end of the period in view, offers codified punitive expulsion on any comparable scale. Nevertheless, without the additional evidence presented above, the argument that *kareth* was originally intended as punitive expulsion would be more difficult to maintain. But if *kareth* is a curse rather than a codified punishment, it becomes unusual among the curses of the Torah, which are not normally mixed together with statutes. This is possibly the strongest argument against the Wold-Milgrom theory on *kareth*: no ancient Near Eastern law code contains any divine extermination curse within its system of torts.

While it is easy to trace the origins of the Wold-Milgrom interpretation of *kareth* back through the rabbinic sources to the LXX, a different interpretative tradition may be traced back from Qumran through the Maccabean period (as described by Josephus) to Ezra's fifth century B.C.E. community. It is the conclusion of this writer that it is the latter interpretive tradition that faithfully preserves the meaning of a penalty whose

meaning had been lost to the greater part of Israel.

The conclusion of this paper is that *kareth* is an expression of relative mercy, which preserves the possibility of repentance. It also removes a source of ongoing moral contamination from the community that puts the community at risk. *Kareth* is the equivalent of a life sentence in a prison without bars.

The conclusion that *kareth* is a form of punitive expulsion makes more sense out of the data than the theory that *kareth* is a divine extermination curse, for which there is no evidence as a threatened penalty in the legal provisions of any ancient Near Eastern law code.

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