

## The Gibeonite Exception

### Giorgio Agamben and Joshua 9

*Gil Rosenberg, University of Denver and Iliff School of Theology*

*Abstract: In this article I read the narrative of the Gibeonites' deception in Joshua 9 with the help of Giorgio Agamben's logic of sovereignty. I argue that the Gibeonites are simultaneously included and excluded from political life, and as such they exemplify the paradoxes of sovereignty and bare life which Agamben describes. Moreover, the case of the Gibeonites also exhibits some of the complexities of sovereignty. The Gibeonites destabilize any easy hierarchy between bare and political life, and the Israelites' decision-making processes illustrate William Connolly's observation that the location of the sovereign decision is often diffuse and uncertain. My paper can be read as a literary interpretation of Joshua 9 or as a test case or exemplar for the political theories with which I engage.*

#### I. Introduction

The story of the Gibeonites' deception of the Israelites in Joshua 9 highlights the instability of the boundaries between Israelite insiders and outsiders. L. Daniel Hawk (1996, 154) eloquently captures the paradoxical status of the Gibeonites, describing them as "indigenous outsiders" and "bad insiders." Like most scholars who attend to the paradoxes of the Gibeonites' status, Hawk focuses on the Gibeonites' implications for Israelite identity (Nelson 1997; Hawk 2000; Creach 2003). In this paper, I suggest a shift of focus from identity to politics, and argue that Giorgio Agamben's account of the logic of sovereignty (Agamben 1998) highlights the importance of the Gibeonites for any political analysis of the book of Joshua.

#### *L. Daniel Hawk, the Gibeonites, and Israelite Identity*

I begin with a summary of Hawk's argument, for it most clearly articulates the Gibeonites' ambiguous status and its relationship to questions of Israelite identity, and forms the foundation for my own reading. Throughout his commentary on Joshua 9, Hawk emphasizes how the descriptions of the Gibeonites link them closely to the Israelites. "The Gibeonites, from the beginning of the episode, bear an essential resemblance to Israel" (Hawk 2000, 139). In some ways, the Gibeonites are more Israelite than the Israelites themselves. For example, they acknowledge Yahweh at precisely the moment in the story when the Israelites seem to have forgotten all about him (143). Hawk reads the narrative of the Gibeonites as highlighting the similarity between the Gibeonites and the Israelites, despite their presumptive status as enemies and outsiders.

Their status epitomizes the ambivalence that Israel itself expresses toward outsiders. From a distance, the peoples of the land are obstacles that must be eliminated in order to claim possession of yhw's gift of the land. Up close, however, they do not appear all that *different*. (148)

The point of this ambivalence, he suggests, is to loosen and perforate the boundary between Israel and its neighbors. In this reading, Joshua 9 supports the view that Israelite identity need not be defined too strictly, and that it can be expanded to include various groups who had previously been excluded. This conclusion reinforces Hawk's (1996) earlier argument, from an article entitled "The Problem With Pagans." In that article Hawk suggests that the narratives of Gibeon and Rahab form one current of a complex debate throughout the book of Joshua about the status of outsiders. This Gibeon/Rahab current strikes an inclusionary chord, in tension with the exclusion exhibited by narratives of total destruction, like Jericho and Ai (note that these stories of destruction directly follow the stories about Rahab and Gibeon, respectively). "The transformation of Canaanites from others into marginal Israelites thereby issues an implicit challenge to the exclusivistic boundaries set out in Deuteronomy and validates the expansion of those boundaries" (1996, 161).

For Hawk, then, the critical issue in the story of the Gibeonites is an orientation toward outsiders. What is the proper attitude for an Israelite to take toward a Gibeonite? On what grounds is Israelite identity constructed, and in what ways do the Gibeonites meet or fail to meet the standards for inclusion within the Israelite community? This is a compelling reading, and I will often draw on Hawk's observations and insights in my own argument. However, I see in the Gibeonites' ambiguous status not just a commentary on the problems of identity, but also on the problems of political decision making.

Questions of politics, of course, are integrally related to questions of identity. For one thing, political processes and decisions are important factors in the construction of identity. Who makes decisions in a community, and whose perspectives are considered when those decisions are made? To whom do those decisions apply? These are questions of sovereignty, and the answers constitute the community, at least in part. So when I argue below that the Gibeonites exhibit the paradox of sovereignty in which it is impossible to tell what is inside and what is outside, I am both agreeing with and extending Hawk's argument. I am agreeing, because my argument about sovereignty has implications for identity which align nicely with Hawk's conclusions. But I am extending it in two ways: (1) I am delving deeper into one aspect of how the Israelite community constitutes itself (how it defines and creates its identity) and (2) by addressing processes of decision making (sovereignty), my interpretation has implications not only for identity but for politics and political theory more broadly.

*"Giorgio Agamben," the Gibeonites, and Biblical Studies*

While scholars (like Hawk) who notice the paradoxical nature of the Gibeonites' place in Israelite society do not bring a political perspective to bear, politically inclined scholars who look to Joshua do not attend to the ambiguities of the Gibeonites or give them a significant place in their theories (McConville 2006; Sutherland 1992). If Agamben is to be believed, however, whatever power is exercised in Israelite society (either historically or within the world of the text) is likely to involve precisely the kind of exclusionary inclusion which I suggest characterizes the Gibeonites. The relationship I see between Agamben and Joshua, a relationship which this paper will elaborate, can be read in at least two ways. First, the account of the Gibeonites can be read as a sort of allegory or

foundational myth for the dynamics and logic of sovereignty. In other words, the Gibeonites are an example or a test case which supports Agamben's description of sovereign power. From this perspective, my paper is an exercise in political theory. Alternatively, the logic of sovereignty can help us understand what is happening in Joshua 9. It allows us to redescribe the narrative from a slightly different vantage point and thereby highlight aspects of the text, and connections to current political concerns, that have previously gone unnoticed. In particular, drawing connections between Agamben and Joshua opens up the biblical text for use in radical democratic projects like those to which Agamben sees himself contributing. From this perspective my paper is an exegetical exercise, focused on a particular reading of Joshua 9.

Before turning to Joshua 9, a few words are in order about the relationship between Agamben and the field of biblical studies. On the one hand, Agamben is one of the few philosophers who has contributed directly to the field, through his commentary on Romans, *The Time That Remains* (2005b). On the other hand, very few biblical scholars draw on his larger corpus, and those that do remain within the Pauline texts (Woodard–Lehman 2007; Fiorovanti 2010). In terms of the balance between exegesis and theory, these few articles are weighted toward theory, in that they primarily articulate a political thesis, using the biblical text for support. To my knowledge there has been no attempt to use Agamben for the kind of literary reading that I offer. Therefore, in addition to my explicit arguments about Joshua 9, I see this paper as an exploration of new possibilities that Agamben's work, and contemporary political theory more broadly, provides for biblical interpretation.

## II. The Paradox of Sovereignty

In this section my focus is on the sovereign decision separating bare from political life and the various ways that the Gibeonites exemplify the paradoxes involved in any such decision. I begin with the laws of Deuteronomy 20, where I argue the initial separation of bare and political life is represented. I then move to the narrative of the Gibeonites in Joshua 9, where the logic which was laid out in Deuteronomy 20 is enacted. Finally, I show how the paradoxical status which emerges for the Gibeonites in Joshua was already inscribed in Deuteronomy 29 and its ritual of covenant affirmation.

### *Political and Bare Life in Deuteronomy 20*

For Agamben (1998), sovereignty can be characterized as the power to separate "bare life" from "political life."<sup>1</sup> Bare life is that which is excluded from the law, while political life falls under the law's power. Bare life is excluded both from the protections and the punishments of the law. Agamben's paradigm of bare life is the Roman *homo sacer*, the sacred man, who can be killed by anyone but cannot be sacrificed. That is, anyone can kill the *homo sacer* without consequence, but

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<sup>1</sup> "Political life" often brings with it connotations of political agency, the power to have a voice and an impact in politics. This is not how Agamben uses the term when he contrasts it with "bare life." In this opposition, political life is merely life which is subject to the law. The most powerless member of society, if they are tried for a crime and thereby subjected to capital punishment is "political life" to the extent that they were treated according to the law.

the *homo sacer* cannot be killed “according to the forms prescribed by the rite of the law” (Agamben 1998, 102). Jaques Rancière (2004, 301) puts it this way: “Bare life is no longer the life of the subject that [state power] would repress. Nor is it the life of the enemy that it would have to kill.”

Agamben (1998, 82–83) goes on to argue that, even as bare life is defined by its exclusion from the law, it is just as much characterized by inclusion as exclusion. There are at least three ways in which the excluded exception is also included. (1) First, bare life is created by a sovereign decision which excepts it from the law. Thus, bare life is included at the center of the sphere of sovereignty. (2) Agamben also argues that sovereignty's exclusion of bare life is at the root of law and exposes the logic of law more generally (29). Because the application of law always requires a decision to apply the law, the possibility of an excluded exception by the non-application of the law always exists. Law is founded (in every application) on the logic of exclusion and the separation of bare life from political life, and in this sense bare life lies at the very heart of the law, even as it is excluded from it. Another way in which Agamben formulates this logic is that “what is excluded in the exception [the law] maintains itself in relation to the rule in the form of the rule's suspension” (17–18). (3) Finally, there are times in which the exclusion of bare life from the law is inscribed in the law itself. Agamben (2005a) gives many examples of provisions included within modern constitutions that allow for the suspension of law through the invocation of a state of emergency. This final type of the inclusion of the excluded is often the easiest to identify, and that will be the case in my reading of the case of the Gibeonites. The obvious inclusions can then help alert us to the ways that the rule—the Israelites and their political existence—maintains itself precisely in relation to what is excluded—the Gibeonites.

In Deuteronomy 20, Yahweh prescribes how the Israelites are to interact with the other nations when they enter the promised land.<sup>2</sup> In doing so, Yahweh separates the bare life of those who live far away from the political life inside the land. First, Yahweh gives instructions that apply to cities that are “very far from you” (Deut 20:15).<sup>3</sup> “When you draw near to a town to fight against it, offer it terms of peace. If it accepts your terms of peace and surrenders to you, then all the people in it shall serve you at forced labor. If it does not submit to you peacefully, but makes war against you, then you shall besiege it” (vv. 10–12). If they attack the city, the Israelites are instructed to kill all the males, but they are free to keep the children, women, livestock and booty for their use. Again, these laws apply to cities that are far away. In contrast, the cities that are actually within the land must be destroyed. “But as for the towns of these peoples that the lord your God is giving you as an inheritance, you must not let anything that breathes remain alive” (v. 16). This is the *herem* commandment, which is often referred to as “the ban.”<sup>4</sup>

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<sup>2</sup> For details of Deuteronomy 20, see Tigay (1996).

<sup>3</sup> All Biblical citations are from the NRSV.

<sup>4</sup> Agamben also uses the term “ban,” but it does not correspond neatly with the Biblical ban. In fact, the biblical ban is the *opposite* of Agamben's (1998, 28, 109–111) ban, because it delineates that which *must* be killed (sacrificed?), rather than excluded bare life which sovereignty abandons.

Using Agamben's language, the laws in Deuteronomy 20 command the sovereign separation of bare life from political life. The Hittites, Amorites, Canaanites, Perizzites, Hivites, and Jebusites are constructed as precisely those who state power "would have to kill," and therefore political (v. 17).<sup>5</sup> On the other hand, those who are far away are abandoned or excepted. Sovereignty "withdraws" from them, in so far as the law does not prescribe what is to be done to them or for them (Agamben 1998, 18). They "may" be taken as slaves, but they may also be left or killed. This indifference of the law to the fate of those who are far away is what characterizes bare life.

The inclusion of the exclusion is clear in Deuteronomy 20, because the exception of the far away towns from the *herem* commandment is inscribed in the law. The law defines a specific relationship between Israel and these towns, but that relationship is precisely one of exclusion and indifferent abandonment. The towns that are far away are included only so that they can be excluded, exemplifying the exclusionary inclusion. Moreover, one can read the order of the laws, with the exception of the towns far away preceding the rule of the *herem*, as a figure for the priority of the exception in the foundation and maintenance of the rule.

### *The Gibeonite Exception in Joshua 9*

The distinction in Deuteronomy 20 between towns that are far away and those that are in the land, which I am reading as bare and political life, underlies the narrative of the Gibeonites in Joshua 9.<sup>6</sup> Gibeon first appears in the narrative after the miraculous defeat of the cities of Jericho and Ai (Josh 6, 8) by the Israelites. The kings in the area hear about these defeats, and most of them decide to form an alliance to defend themselves against the invading Israelite army (Josh 9:1). It is unclear if these kings know about the ban and its terms, but their actions (gathering an alliance to try to defend themselves against the invading Israelites) suggest that they do. If they know that the Israelites will utterly destroy everything that lives in their cities, and will not make a treaty under any conditions, it makes sense for them to pursue a military, rather than a diplomatic, strategy. In contrast, the text makes clear that the Gibeonites are familiar with all

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<sup>5</sup> While my focus in this paper is on the towns far away and their status as bare life, the status of the towns in the land begs further attention. I understand political life as that which is included in the law, in opposition to bare life which is both included and excluded. In this paper, I associate the towns in the land with political life, but their status is actually just as complex as that of the towns that are far away. On the one hand, they seem like an enemy or foreigner, the pure excluded of the Israelite political order. But unlike the enemy for whom it is *possible* to be killed (Schmitt 1996), these towns *must* be killed, and that demand is inscribed in the law. Though constructed as outsiders (named the Hittites, Amorites, etc. in contrast with Israelites), the inscription of their deaths in the law is more like that of criminals. We might see in this confusion of the enemy with the criminal a sign of the terrorist (Ulmen 2007). I neglect a more sustained analysis of the towns inside the land in order to focus on the towns far away from the land, while at the same time acknowledging the interrelations of the two types. Whatever the status of the towns inside the land, those outside the land have the characteristics of bare life, and that is enough for my argument.

<sup>6</sup> For textual and other exegetical details of Joshua 9, see the commentaries by Soggin (1972), Boling (1982), Butler (1983), Nelson (1997), and Hawk (2000).

of the details of the ban (9:24), and they use this knowledge to pursue an alternative strategy.

The Gibeonites disguise themselves so that it will appear that they have come from far away: torn and dirty clothes, old food, empty waterskins. They request a treaty, and when the Israelites question them the Gibeonites repeat that they have come from far away and point to their tattered clothes and moldy food as evidence. The Israelites are fooled, and they make a treaty with the Gibeonites. They soon find out that the Gibeonites actually live in the land. This raises a difficult question about how to treat them: do they spare them according to the treaty, on which they swore an oath?<sup>7</sup> Or do they submit them to the ban as the law demands for those that live in the land? The Israelites resolve the dilemma by enslaving the Gibeonites (vv. 3–27). Immediately thereafter, the Gibeonites are attacked by the alliance formed by the other kings. The Israelites, honoring the treaty, come to the defense of Gibeon and defeat the alliance, stringing up the carcasses of the kings in a bloody exhibition (Josh 10:1–27).<sup>8</sup>

The Gibeonites, from the moment they put on their disguises and leave their towns, confuse the distinction between inside and outside, between included and excluded. While they reside in the land (included), they appear to be from far away (excluded)—convincingly enough for the Israelites to be fooled. Once they enter into the treaty, a new form of the paradox emerges. Now they are included by the terms of the treaty, but they remain excluded by Deuteronomy 20. This confusion leads to a difficult situation for the Israelites, who have to decide how to deal with this exception, the included exclusion.

The Israelites decide to submit the Gibeonites to forced labor. “Joshua made them hewers of wood and drawers of water for the congregation and for the altar of the lord, to continue to this day, in the place that he should choose” (Josh 9:27). This perpetuates the liminal status of the Gibeonites. They are given a specific role, in association with the temple, at the very heart of Israelite society (Hawk 2000, 147). But that role is one of subjugation and marginalization. Over time, it appears that the Gibeonites became increasingly assimilated within Israelite society, but they always remain “the Gibeonites” (1 Kings 3; 1 Chron 16, 21; 2 Chron 1; Neh 3, 7). While they may not technically be bare life (there is no evidence that they can be killed without consequence, or that they are exempt

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<sup>7</sup> The Israelites' oath represents another intersection of Agamben's work and the Bible, an intersection which deserves its own analysis. Agamben (2011) argues that the oath performatively creates a bond between language and reality. The oath makes a claim that language is what it claims to be, and that a speakers' words will correspond with actions. Agamben's observations about the oath do fit well with the narrative of the oath, and the anxiety about keeping the oath, in Joshua 9. Moreover, Agamben highlights examples where sacred (bare) life has been established with an oath, thus linking the oath with the creation of bare life. Again, Joshua 9 fits this pattern, in that the oath is instrumental in the creation of bare life. On the other hand, Joshua 9 suggests an interesting tension with Agamben's claim that the oath, in its linking of words and actions, is what creates the force of law. That is, according to Agamben the oath guarantees that the words of law correspond to actions in reality. But in the case of Joshua 9, the oath displaces the law instead of confirming it. The oath bonds the Israelites' words with their actions even as it undermines the divine law.

<sup>8</sup> The hanging of the carcasses exemplifies Michel Foucault's (1995) conception of sovereign power, which should not be confused with Agamben's.

from capital punishment), they are both included in and excluded from the political community. They continue to embody the paradox of the sovereign logic through which the Israelites first encountered them.

### *The Inclusion of the Excluded in Deuteronomy 29*

There is another way in which the Gibeonites are simultaneously included and excluded, this time at the level of intertextuality rather than narrative. In addition to the connection between Joshua 9 and Deuteronomy 20 formed by the laws of conquest, there are also strong connections between the Gibeonites and the covenant ritual in Deuteronomy 29 (Blenkinsopp 1966; Kearney 1973; Hawk 2000, 138–140; Creach 2003, 86). This time the paradox presents itself as a literary or theological phenomenon, rather than a strictly political one, but it again highlights the complexity of the Gibeonites' situation and the contradiction that they inhabit and/or represent. As we will see, Deuteronomy 29 foreshadows (literarily) or predicts (theologically) the Gibeonite exception.<sup>9</sup> The Gibeonites are never named, so they are excluded. But the strength of the intertextual connections suggests that they are nevertheless present (Hawk 2000, 136–7). Thus, Deuteronomy contains both the laws that constitute the distinction between bare and political life (far away and in the land) and the seeds of the exception (the Gibeonites) that deconstructs this distinction.

The first hint of the Gibeonites' hidden presence in Deuteronomy 29 is a statement of the Israelites' failure to properly understand or discern. "But to this day the lord has not given you a mind to understand, or eyes to see, or ears to hear" (Deut 29:4). This lack of recognition is, of course, a central feature of the Israelites' interaction with the Gibeonites and the cause of the Gibeonites' successful deception.

There is also a reference in Deuteronomy 29 to the Israelites' clothes and food which uses language that is reminiscent of the Gibeonites. "I have led you forty years in the wilderness. The clothes on your back have not worn out, and the sandals on your feet have not worn out; you have not eaten bread, and you have not drunk wine" (Deut 29:5–6). The worn-out clothes and sandals appear again in the story of the Gibeonites as part of the Gibeonites' disguises. Within the Gibeonites' deception, the clothes and sandals are worn-out from many days of traveling from their "far away" town. "They took worn-out sacks for their donkeys, and wineskins, worn-out and torn and mended, with worn-out, patched sandals on their feet, and worn-out clothes; and all their provisions were dry and moldy" (Josh 9:4–5). In both cases the relationship between the length of travel and the state of the provisions is unexpected. The Israelites traveled for forty years, but their provisions did not wear out, while the Gibeonites traveled only a short distance, but their provisions are worn-out. Hawk (2000) highlights that this connection links the Gibeonites with the exodus from Egypt, a foundational moment in Israelite history. This linkage, and the way it brings the Gibeonites in contact with the imaginative center of Israelite identity, reinforces the uncertainty

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<sup>9</sup> I trust it is clear that I am approaching the canonical text synchronically; arguments that might posit literary dependence of one text upon the other (e.g. Kearney 1973) do not effect my argument.

about whether the Gibeonites should be properly understood as included or excluded.

Finally, Deuteronomy describes those who are assembled and who are party to the covenant: “the leaders of your tribes, your elders, and your officials, all the men of Israel, your children, your women, and the aliens who are in your camp, both *those who cut your wood and those who draw your water*” (Deut 29:10–11; emphasis mine). In Joshua, the Gibeonites are condemned to cut wood and draw water; but Deuteronomy makes it clear that this particular form of forced labor is included within the community that makes the covenant with Yahweh. As Hawk (2000, 137) puts it, “we may view the Gibeonites as those Moses referred to on the plains of Moab, namely ‘those who are not with us today,’ who nonetheless are participants in the covenant community (Deut 29:15).”

The combination of these three passages in Deuteronomy 29, which appear in close proximity to one another, suggests a strong connection with the Gibeonites in Joshua 9. This connection further complicates the question of the Gibeonites’ status as enemy, political life, or bare life. The Gibeonites are under the ban because they live in the land, they appear as bare life (pretending to be from far away), and are then subjected to an exclusion (submitted to forced labor) which is also an inclusion (part of the community which makes a covenant with Yahweh, and bound to the community’s foundational myth through the imagery of the Exodus).

### III. The Complexities of Sovereignty

I have highlighted three dimensions of Agamben’s logic of the inclusionary exclusion and exclusionary inclusion: the laws of conquest in Deuteronomy 20, the narrative of the Gibeonites in Joshua 9, and the Gibeonites’ absence/presence in the covenant declaration of Deuteronomy 29. I now depart from this paradox, and from Agamben’s work (but not his influence), in order to highlight other features of sovereignty, bare life, and political life in the Gibeonites’ story. In this section I draw a comparison from Hannah Arendt’s work to argue that the Gibeonites destabilize any neat hierarchy between bare and political life. I then look with William Connolly at the complexity of the decision making processes in Joshua 9, seeing evidence for a diffusion of sovereignty. I will argue that it is the central place of *interpretation* in the Israelites’ political decisions, in part, that results in these complexities of sovereignty.

#### *The Gibeonites’ Strategy of De-politicization*

Discussions of political and bare life usually assume a hierarchy between the two, with political life being privileged. For example, Agamben (1998, 174–76) sees the concentration camp as the pure example of bare life. Occasionally, however, bare life becomes preferable. If political life is defined by inclusion in the law, its value is determined by its place within the law. Does the law inscribe freedom or oppression for the political life that it subjects? Life or death? While political life cannot be killed by just anyone (as bare life can), *it can be sacrificed* (that is, killed in accordance with the law). If the context pits political rights against the “anything goes” of bare life, the choice seems clear. But if the choice is between “must be killed” and “excluded irrelevancy,” some people will choose

exclusion. The Gibeonites provide an interesting case of this dynamic. According to Yahweh's law, the Gibeonites must be killed, and are therefore political. But the Gibeonites' political strategy is precisely to de-politicize themselves, to turn themselves into bare life.<sup>10</sup>

Hannah Arendt describes the success of the Nazi strategy of depoliticizing the Jews. The Nazis took everything away from them, and allowed them to leave Germany. But because the Jews were now poor, dirty, hungry, and, most importantly de-nationalized (lacking passports or other papers), they were seen by other countries as bare life and therefore those countries felt no responsibility to take them in. The strategy of de-nationalization turned the German rhetoric that the "Jews were the scum of the earth" into reality (Arendt 1951, 269).

When the Gibeonites arrived and asked the Israelites for a treaty, they had turned themselves into this same bare life. "Here is our bread," the Gibeonites say, "see, it is dry and moldy; these wineskins were new when we filled them, and see, they are burst; and these garments and sandals of ours are worn out from the very long journey" (Josh 9:12-13). They have turned themselves, if only temporarily, into the "scum of the earth." Their claim to be from far away is comparable to that of lacking papers; it is the sign of bare life. Arendt (1951, 278) explains that, after World War I, many people "took refuge in statelessness" in order to avoid being deported back to their countries of origin, "a 'homeland' where they would be strangers." Just like these refugees, the Gibeonites prefer the fate of bare life to the dignity of a political life which leads to death. Arendt makes the provocative claim that the "calamity of the rightless is ... not that they are oppressed but that nobody wants even to oppress them" (296). Given their specific situation, the Gibeonites agree with Arendt's analysis, except that they see this not as the calamity of the rightless, but as their protection. The Gibeonites' status as bare life effects a change from those-who-must-be-killed to those who are "merely" oppressed. "Now therefore you are cursed," Joshua tells the Gibeonites, "and some of you shall always be slaves" (Josh 9:23). Coming as it does just after "let them live," the Gibeonites probably heard it not as a curse, but as a blessing. The narrator reinforces this point, declaring that Joshua "saved them from the Israelites" (9:26). "Delivered" is another common translation here, and is a strong word, often used for Yahweh's action on behalf of the Israelites. In this situation, the use of "saved"/"delivered" creates a sense of ironic tension and highlights the ambiguity of the outcome for the Gibeonites. As Robert Boling (1982, 269) points out, "Joshua *delivered* the Gibeonites from the power of the Israelites and into a condition of servitude."

The question of the Gibeonites' success or failure is ambiguous. If the criterion is life, they were successful. But under the cry of "live free or die" the Gibeonites fall short. My point, though, is to highlight the way this ambiguity undermines a simple hierarchical scheme in which political life is seen as good and bare life is seen as bad. Judith Butler critiques Agamben's use of "bare life" because it

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<sup>10</sup> I am not suggesting here that the Gibeonites conceived of their strategy in terms of bare life. To the extent that they knew what they were doing and what its consequences might be, the Gibeonites were probably making the choice that they thought would maximize their chance at survival. What is at stake in my analysis is the surprising relationship between bare life and survival in the Gibeonites' case.

conflates multiple forms of exclusion (Butler and Spivak 2011, 42). The Gibeonites' decision to choose bare life highlights this multiplicity: some forms of exclusion are better or worse than others. If bare life means living in a Nazi-style concentration camp, the Gibeonites might have chosen to fight. But if it means possibly being left alone, and at worst being second-class citizens who assimilate over the course of many centuries, then it might arguably be worth pursuing.

### *Where is Sovereignty?*

In my reading of Deuteronomy and Joshua in terms of Agamben's sovereign decision between bare and political life, I have (often implicitly) located sovereignty with Yahweh, as represented by his laws. Deuteronomy 20, I argued, separated bare life from political life. But for Agamben, sovereignty can never be located in laws, but only in the moment of decision when bare life is excluded or abandoned. It is in the application of laws, or the lack thereof, that the logic of sovereignty can emerge (Agamben 1998, 49–62). Thus, while the *logic* of the sovereign exclusion of bare life is easily seen in Deuteronomy 20, we will not be able to identify the *location* of the sovereign decision which excludes the Gibeonites in the written laws, but only in the narrative of Joshua 9 which describes their application (or lack thereof). And while Yahweh is the traditional location of sovereignty in the Hebrew Bible (e.g. Butler 1983, 105), I argue that in the story of the Gibeonites sovereignty is more complex and distributed, shared amongst different parties. Its location is both diffuse and uncertain.

To help interpret the location of sovereignty in the story of the Gibeonites I turn to William Connolly's observations about the diffusion of sovereignty. Connolly (2004, 23, 30) highlights an ambiguity within sovereignty (which he argues is currently being "intensified") between "acting with final authority and acting with irresistible power." As an example, Connolly uses Alexis de Tocqueville's observations about the encroachment of white settlers onto Amerindian land, in spite of the government's (presumably sincere) treaty against such encroachment. The government acts with final authority to set aside land for Amerindians, but does not have irresistible power to stop its citizens from violating its (supposedly sovereign) decision (32). I argue that the same is true of Yahweh with respect to the Gibeonites; he has final authority, but he does not have (or at least he does not demonstrate, and he therefore leaves open the possibility that he does not have) irresistible power.

Like Connolly's example, the case of the Gibeonites also involves a treaty, but here the situation is reversed. While the American government asserted its final authority by making a treaty, Yahweh's authoritative decision forbids the Israelites from making a treaty with the Gibeonites. But like the American government, Yahweh does not have the irresistible power to enforce his decision. The Israelites are implicitly criticized by the biblical author with the remark that the leaders "did not ask direction from the lord" (Josh 9:14). But this just highlights the freedom the Israelites have to make a free decision on the matter, the only punishment being this subtle critique from the narrator. If the people don't ask Yahweh, then Yahweh can't make them do what he has "decided."

Sovereignty appears, therefore, to be located with the humans. But the humans sometimes act as if they do not have complete sovereignty, for they present

themselves as bound to Yahweh's will via the law. When the Gibeonites first propose a treaty, the Israelites resist. "Perhaps you live among us; then how can we make a treaty with you?" (Josh 9:7). The Israelites' self-perception is that they do not have a choice in the matter. They think the law (and through the law, Yahweh) is sovereign. But as we saw above, sovereignty cannot reside in laws. Bare life is separated not by law but by abandonment to law.

It is also possible that Yahweh actually does have more sovereignty than it appears. Just because Yahweh does not act in this case does not mean that he is not exercising sovereignty. Sovereignty emerges not only in applying the law, but also in refraining from its application. It is possible that Yahweh is deciding not to act precisely because the Israelites are making the decisions that they are making, and that had they acted differently he would have intervened. Lack of action does not necessarily mean a lack of sovereignty. In fact, one could argue that by refusing to act in any way towards the Gibeonites, Yahweh is exemplifying their abandonment and thereby manifesting his own sovereignty.

The refusal of the Israelites to take responsibility for their own sovereignty and Yahweh's lack of intervention leave room for the Gibeonites to participate in the sovereign decision which abandons them to bare life. The Gibeonites would (presumably) not have become bare life had they not deceived the Israelites. That is, the Gibeonites' decision to deceive the Israelites was crucial to their exceptional fate.

The "final" sovereign decision is a result of a complicated sequence of smaller decisions and events, none of which on its own constitutes a separation of bare from political life, but which together creates that separation. Can we avoid locating some of the logic of sovereignty in each of these smaller decisions and the sequence itself? In the end, the Israelites recognize and exercise their own sovereignty, partially through their acts of interpretation (see below). But it is the combination of the Gibeonites' deception, the Israelites' adherence to and (mis)interpretation of the law, Yahweh's initial decision when the law was created, and his ensuing silence that leads to the eventual (sovereign) decision about the treaty.

Even if one wanted to argue that sovereignty was captured in a single decision, what decision would one pick? Is sovereignty exemplified by the moment when the Israelites swear the oath on the treaty, or by the decision to honor the oath by enslaving the Gibeonites? The fact that the Israelites must decide whether or not to enforce their own decision emphasizes the hidden and continual nature of sovereignty. The sovereign does not decide once and for all, but is always deciding, even when it appears that no action is taken. The decision to separate bare life from political life must be made at every moment; to the extent that bare life remains bare life, it does so because of an ongoing sovereign decision (Agamben 1998, 39–48).

Biblical scholarship on Joshua 9 has highlighted another problem of sovereignty in the story. Not only is sovereignty distributed amongst human and divine authorities, and not only do the Gibeonites and the Israelites both participate in the sovereign decisions. There is also confusion about which Israelites are making various decisions. Joshua, the "leaders," and the Israelites all take turns exercising authority. The Gibeonites first speak to Joshua and the

Israelites (Josh 9:6). The Israelites respond, but then the Gibeonites speak only to Joshua (vv. 7–8). Then Joshua and “the leaders” are the ones who actually make the treaty (v. 15). Once the deception is discovered, the Israelites set off for Gibeon, and criticize the leaders for their mistake (vv. 16–17). Compromising in the face of the Israelites’ complaint, the leaders decide to use the Gibeonites for forced labor (vv. 18–21). Then Joshua talks to the Gibeonites, questioning their motivation, cursing them for their action, and carrying out the leaders’ decision that the Gibeonites would be relegated to forced labor (vv. 22–23).

So far, various decisions are made by different parties; the text depicts a radically distributed sovereignty. But then the text introduces a contradiction. “[Joshua] saved [the Gibeonites] from the Israelites; they did not kill them. But on that day Joshua made them hewers of wood and drawers of water” (Josh 9:26–27). The problem is that the leaders had already made those decisions in v. 21: “The leaders said to them, ‘Let them live.’ So they became hewers of wood and drawers of water for all the congregation, as the leaders had decided concerning them.” So was it Joshua or the leaders who made this decision?

Within biblical scholarship, the most common explanation for the confusing variation is the positing of multiple sources (Liver 1963; Soggin 1972, 110–13; Blenkinsopp 1972, 33–35; Nelson 1997, 123–26; Sutherland 1992). I find some recent attempts to make sense of the final form of the text more satisfying. Hawk (2000, 145), for instance, reads the multiple actors’ roles in terms of “a fracture within the Israelite community.” Moreover, he notices that when Joshua declares the Gibeonites’ fate, he adds a detail, clarifying the location of the Gibeonites’ service. “Instead of confirming the leaders’ decision to place the Gibeonites in the service of the congregation, Joshua places them in the service of the ‘house of yhwh” (147). Sarah Hall (2010, 158–60) preserves the narrative intact simply by asserting that the various actors had specific roles in political and diplomatic situations, and that the text accurately depicts Joshua, the Israelites and the leaders all acting within their proper spheres of authority. However, Hall does not address the fact that both Joshua and the leaders are reported to have made the decision about the Gibeonites’ servitude. My interpretation, which I will give shortly, follows Hall while addressing this gap.<sup>11</sup>

Because of their interest in contradiction and their willingness to tolerate paradox, contemporary theoretical discourses (like the political theory of Agamben *et al*) are particularly well suited to address the fractures in the text which historical criticism attributes to multiple sources and an uneven process of redaction. They provide an alternative approach for interpreting the final form of the text while allowing for the reader’s sense that there is something happening in the text that is at least a little bit off. In this case, if we allow for a diffusion of sovereignty and if we set out to investigate how this diffusion operates, the contradiction that arises from the report that multiple actors made the same decision leads us to see a paradox of distributed sovereignty. Both statements are true: the leaders decided that the Gibeonites should be hewers of wood and drawers of water, and Joshua decided it, too. The complexities of sovereignty

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<sup>11</sup> Hall should not be blamed for this gap, as her interests did not lead her to deal with the tension between verses 21 and 27.

often require the full participation of multiple parties. The independent decisions of both the leaders and Joshua were required to make and execute the decision.

It is not just the leaders and Joshua acting independently which enacts the sovereign decision—the Israelites also have a role to play. Once the Gibeonites' ruse is discovered, the Israelites are not pleased, so "all the congregation murmured against their leaders" (Josh 9:18). Murmuring is a common tool of the Israelites to express their displeasure, and it is taken seriously (cf. Exod 15–17; Num 14–17). The leaders feel compelled to respond to the Israelites' complaints. While they are not willing to revoke the treaty, the leaders' subjection of the Gibeonites to forced labor seems to be a result of the people's murmuring. Thus the Israelites exert some form of power over the leaders—they participate in the diffusion of sovereignty. Again, can we locate sovereignty at some pure moment of decision if that decision is dependent on a complex sequence of decisions and events? The Israelites' actions were a necessary ingredient in the outcome, even if the final decision was not theirs to make.

I have twice mentioned that sovereignty cannot be located in law, and alluded above to the importance of interpretation in locating sovereignty. Here I connect these observations and highlight three places in Joshua 9 where the gap between law and sovereign decisions is particularly salient.

First, the precedence of the oath over the written law demonstrates the gap between sovereignty and the law. When the Israelites choose to ignore the law and instead to honor the law-breaking oath, that is where sovereignty is enacted. This decision abandons the Gibeonites to bare life because it fails to apply to them the law which is in force. In exempting the Gibeonites from the law, the Israelites place the Gibeonites outside the law. At the same time, this ban of the Gibeonites includes them by establishing a relationship of mercy and exception between the two groups. At the root of this relationship is the gap between the law and the sovereign decision that is created by the impossibility of applying the law.

A second example of a gap between law and decision is the discrepancy between Yahweh's instructions for dealing with far away cities and the apparent terms of the treaty. According to the Deuteronomic law, the appropriate terms for a treaty with a faraway city include subjecting the inhabitants to forced labor (Deut 20:11). The Israelites believe they are dealing with just such a faraway city, so we would expect the treaty to involve forced labor. It is true that we are not told what the terms are, but the narrative strongly implies that forced labor was only later introduced in order to appease the angry Israelites (though this is not explicit, either). One possible reason that the original treaty is more lenient is that the situation does not quite fit the conditions in Deuteronomy, "when you draw near to a town to fight against it" (v. 10). The law envisions the Israelites approaching a faraway town, but in Joshua the situation is reversed because the Gibeonites approach the Israelites. The difference in the situation required interpretation of the law.

Finally, interpretation was also necessary when the Israelites discovered their mistake. They were caught between two laws. On the one hand, they were supposed to annihilate the Gibeonites. But on the other hand, they were supposed to keep their oath. The Israelites would have made an oath on Yahweh's name as part of the treaty, so breaking it would have been a violation of one of the most

important commandments (Deut 5:11; Hall 2010, 160–61; Hawk 2000, 146; Butler 1983, 104). Even if the law is considered to be sovereign, the law does not specify what to do in all cases, and the people (Joshua, leaders, and larger congregation) are forced to make what amounts to a sovereign decision. Every gap in the law is a potential site of sovereignty. Note that in making both of their decisions, the people choose the relatively generous choice, always avoiding the implementation of the *herem* against the Gibeonites.

With respect to the need for interpretation, the law operates similarly to Etienne Balibar’s description of states and borders. Balibar (2002, 76) says this about the nation–state, but it could apply equally well to our discussion of sovereignty and law: “[it] is, among other things, a formidable reducer of complexity, though its very existence is a permanent cause of complexity.” The law in Deuteronomy 20 which separates the towns “very far away” from those that are “here” is similarly both a reducer and cause of complexity. On the one hand, it reduces complexity by separating all towns into two categories and giving clear guidelines as to how the Israelites should interact with each type. On the other hand, the interpretive decisions it necessitates in Joshua 9 create, rather than reduce complexity. What happens if they approach us? How do we decide if they are from far away or not? What should we do if we are fooled? The law fails to take into account all of the intermediate or ambiguous possibilities. The complex uncertainties of such intermediate cases are a direct result of the “simple” opposition created by the border.

The common conception is that Yahweh is the exemplary sovereign in the Hebrew Bible, standing outside the law, creating the law which cannot be questioned. But the encounter with the Gibeonites suggests that Yahweh is merely the legislative branch, and that the human judicial and executive branches have significant independence (at least at times). This is significant, given Gilles Deleuze’s (1995, 169) observation that “it’s jurisprudence [the interpretation of the law], ultimately, that creates law.” It is also worth noting that the role of the Israelites might be close to the hypothetical model that Deleuze advocates. “We musn’t go on leaving [jurisprudence] to judges,” says Deleuze. “We don’t need an ethical committee of supposedly well–qualified wise men, but user–groups” (169–70). While Joshua is clearly leading, and while there are other leaders as well, might the Israelite involvement with the Gibeonites represent the jurisprudence of a user–group? It is clear that the Israelites are represented as being knowledgeable about both the laws and the situation, and that their position has persuasive power. It is unclear whether they can be used as a model of a future politics, but they at least reveal some of the complexities of sovereign decisions.

#### IV. Conclusion

I have argued in this paper for a reading of the narrative of the Gibeonites that highlights contradictions, paradoxes, and complexities in the exercise of sovereignty and the consequences of sovereign decisions. Because of their complex, exceptional, and dynamic relationship with the Israelites, the Gibeonites allow us to see multiple dimensions of sovereignty and its abandonment of bare life. On the one hand, they both embody and take advantage of the fundamental paradox of sovereignty, which Agamben has exposed. On the other hand, they

present critical challenges to the Israelite leadership which reveal the diffusion and complexity of Israelite political life. As the exception (which Agamben would argue not only proves but constitutes the rule), the Gibeonites highlight nuanced relationships of power in the book of Joshua, preventing us from adopting overly-simplistic models of biblical power and politics. Read with the help of Agamben, the case of the Gibeonites reminds us of the importance of the excluded exception for any political analysis of the book of Joshua. If Agamben is right, attention to the paradoxes and complexities that I have raised with respect to the Gibeonites will reveal previously unnoticed political dynamics in the rest of the book as well, particularly wherever the maintenance of the rule is most at stake.

## Bibliography

- Agamben, Giorgio. 1998. *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen. Stanford: Stanford University Press.
- Agamben, Giorgio. 2005a. *State of Exception*. Translated by Kevin Attell. Chicago: University of Chicago Press.
- Agamben, Giorgio. 2005b. *The Time That Remains: A Commentary on the Letter to the Romans*. Translated by Patricia Dailey. Stanford: Stanford University Press.
- Agamben, Giorgio. 2011. *The Sacrament of Language*. Translated by Adam Kotsko. Stanford: Stanford University Press.
- Arendt, Hannah. 1951. *The Origins of Totalitarianism*. New York: Harcourt Brace.
- Balibar, Étienne. 2002. *Politics and the Other Scene*. New York: Verso.
- Blenkinsopp, Joseph. 1966. "Are There Traces of the Gibeonite Covenant in Deuteronomy?" *Catholic Biblical Quarterly* 28: 207–219.
- Blenkinsopp, Joseph. 1972. *Gibeon and Israel: The Role of Gibeon and the Gibeonites in the Political and Religious History of Early Israel*. Society for Old Testament Study Monograph Series. Cambridge: Cambridge University Press.
- Boling, Robert G. 1982. *Joshua: A New Translation with Notes and Commentary*. Anchor Bible. Garden City: Doubleday.
- Butler, Judith and Gayatri Spivak. 2011. *Who Sings the Nation-State? Language, Politics, Belonging*. Kolkata: Seagull Press.
- Butler, Trent C. 1983. *Joshua*. Word Biblical Commentary 7. Waco: Word.
- Connolly, William. 2004. "The Complexity of Sovereignty," in *Sovereign Lives: Power in Global Politics*, edited by Jenny Edkins, Véronique Pin-Fat, and Michael J. Shapiro. New York: Routledge.
- Creach, Jerome F. D. 2003. *Joshua*. Interpretation. Louisville: John Knox.
- Deleuze, Gilles. 1995. *Negotiations, 1972–1990*. Translated by Martin Joughin. New York: Columbia University Press.
- Fiorovanti, David. 2010. "Language, Exception, Messianism: The Thematics of Agamben on Derrida." *The Bible and Critical Theory* 6 (1): 5.1–5.12. doi: 10.2104/bc100005.
- Foucault, Michel. 1995. *Discipline and Punish: The Birth of the Prison*. Translated by Alan Sheridan. New York: Random House.

- Hall, Sarah Lebharr. 2010. *Conquering Character: The Characterization of Joshua in Joshua 1–11*. New York: T & T Clark.
- Hawk, L. Daniel. 1996. "The Problem with Pagans." In *Reading Bible, Writing Bodies: Identity and the Book*, edited by Timothy K. Beal and David. M. Gunn, 153–163. New York: Routledge.
- Hawk, L. Daniel. 2000. *Joshua*. Berit Olam. Collegeville: Liturgical Press.
- Kearney, Peter J. 1973. "The Role of the Gibeonites in the Deuteronomic History." *Catholic Biblical Quarterly* 35: 1–19.
- Liver, Jacob. 1963. "The Literary History of Joshua IX." *Journal of Semitic Studies* 8: 227–43.
- McConville, J. G. 2006. *God and Earthly Power: An Old Testament Political Theology: Genesis—Kings*. London: T&T Clark.
- Nelson, Richard D. 1997. *Joshua: A Commentary*. The Old Testament Library. Louisville: Westminster John Knox.
- Rancière, Jacques. 2004. "Who is the Subject of the Rights of Man?" *South Atlantic Quarterly* 103 (2/3): 297–310.
- Schmitt, Carl. 1996. *The Concept of the Political*. Translated by George Schwab. Chicago: University of Chicago Press.
- Soggin, J. Alberto. 1972. *Joshua: A Commentary*. Translated by R. A. Wilson. The Old Testament Library. Philadelphia: Westminster.
- Sutherland, Ray K. 1992. "Israelite Political Theories in Joshua 9." *Journal for the Study of the Old Testament* 53: 55–74.
- Tigay, Jeffrey H. 1996. *The JPS Torah Commentary: Deuteronomy*. Philadelphia: Jewish Publication Society.
- Ulmen, G. L. 2007. "Translator's Introduction." In Carl Schmitt, *Theory of the Partisan*. Translated by G. L. Ulmen. New York: Telos Press.
- Woodard-Lehman, Derek. 2007. "One in Christ Who Lives Within: Dispersive Universality and the Pneuma–Somatics of Identity." *The Bible and Critical Theory* 3 (3): 31.1–31.19. doi: 10.2104/bc070039.



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