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Simon J. Gathercole

Early Judaism and Covenantal Nomism: A Review Article

Dr Gathercole, who is a Lecturer in New Testament in the University of Aberdeen, offers an assessment of the first volume of D.A. Carson, Peter O'Brien, Mark A. Seifrid (ed.), Justification and Variegated Nomism, a massive survey of Judaism in the light of the pioneering work of E. P. Sanders.

Key words: Judaism; Paul; E. P. Sanders; New Perspective.

Did E.P. Sanders get early Judaism right or wrong? That is the broad question with which this volume concerns itself, and the fact that the book is over six hundred pages long is evidence enough that the question is no simple one.¹ Indeed, there is also a helpful nuancing of the issue at various points in the volume, because naturally this crude opening question is not the most important one. Really there are two questions for discussion. The first concerns covenantal nomism, Sanders' succinct summary of early Judaism: Jewish religion is *covenantal*, in as much as everything begins with the covenant which God has made with his people, in his unconditional election of them; *nomism* refers to the corresponding obligation on the part of that chosen people to obey the Law (the *nomos*) in response to that electing grace of Israel's God. The question, then, is whether this is an accurate and useful summary of the pattern of Jewish religion as seen in the post-biblical literature from the third century BC to the rabbinic period. This is the theme of this first volume in a two-part project. The second question is how to understand Paul against the background of the Jewish religion of his time, and this will be dealt with in Volume 2, subtitled 'The Paradoxes of Paul'. As the first volume of a pair, then, this book analyses the various Jewish texts on their own terms, though not only for their own sake.

1 D.A. Carson, Peter O'Brien, Mark A. Seifrid, eds. *Justification and Variegated Nomism. Volume 1: The Complexities of Second Temple Judaism* (Wissenschaftliche Untersuchungen zum Neuen Testament; II/140; Tübingen: Mohr/ Grand Rapids: Baker Book House, 2001). Volume 2, subtitled 'The Paradoxes of Paul', will probably appear in 2003-2004.

Contents

The volume boasts an international array of contributors of varied theological standpoints, and is by no means confined to conservative scholars. The areas discussed are as follows: 'Prayers and Psalms' (Daniel Falk); 'Scripture-Based Stories in the Pseudepigrapha' (Craig Evans); 'Expansions of Scripture' (Peter Enns); 'Didactic Stories' (Philip Davies); 'Apocalypses' (Richard Bauckham); 'Testaments' (Robert Kugler); 'Wisdom' (Donald Gowan); 'Josephus' (Paul Spilsbury); 'Torah and Salvation in Tannaitic Literature' (Philip Alexander); 'Some Targum Themes' (Martin McNamara); 'Philo of Alexandria' (David Hay); 'IQS and Salvation at Qumran' (Markus Bockmuehl); 'Righteousness Language in the Hebrew Scriptures and Early Judaism' (Mark Seifrid); and 'The Pharisees between "Judaisms" and "Common Judaism"' (Roland Deines). Don Carson provides a brief preface and a longer conclusion, summarising some of the implications of the various sections.

The level of the discussion is surprisingly accessible, considering the technical nature of some of the subject matter. This will probably be a pleasant surprise to those who are coming to the issue without much prior knowledge of the Second-Temple literature. On the other hand, this might be counter-balanced by the extreme length of many of the articles (Alexander's chapter extends to 40pp, Falk's, Bauckham's, and McNamara's chapters to roughly 50pp, with that of Deines weighing in at 60pp). There are, however, also excellent indices (amounting to 70pp) which make the work very useful as a reference resource, and considering the size of the book, the price is really very reasonable.²

Summary of Modifications and Criticisms of "Covenantal Nomism"

We noted above that the second component of Sanders' description of Judaism concerns Israel's response of obedience. The nature of this obedience and to what extent it is relevant to or necessary for salvation has attracted a great deal of scholarly attention, and this attention has received fresh impetus since Sanders. The issue has been of great concern to New Testament scholars because their assumption has traditionally been that Paul is responding to a Jewish theology of salvation by works. Sanders argued, however, in his classic *Paul and Palestinian Judaism* was that the decisive guarantee of salvation was God's gracious election of Israel, with obedience to the Law – or at

2 List price is \$44.99.

least the intention to do so – only playing an important role in *maintaining* Israelites' covenant status. Jews, then, did not believe in salvation by works, and Paul was opposing no such thing. This volume attempts to respond to this challenge laid down by Sanders.

As the title suggests, the volume is concerned to analyse the various different 'variegations' of obedience to the Law and its role in relation to 'salvation' in Judaism.³ This volume at times agrees with Sanders' analysis with respect to some texts (as we shall see later), but also argues that other texts can construe the soteriological function of Law-observance differently. Such observance of Torah is noted in various places as crucial for acceptance within the covenant, maintenance of status within the covenant, and for eschatological salvation at the judgement. We may single out six disputed areas.

1. Obedience to the Law and Acceptance within the Covenant

This point has been the most neglected by scholars. Sanders' argument that 'getting in' was entirely on the basis of divine election and grace was made so forcefully, and has been so widely accepted, that it has become something of a non-negotiable in Jewish studies.⁴ However, there are some important qualifications to Sanders' rule which emerge in the essays by Evans and Falk in particular. In his somewhat brief chapter, Craig Evans notes that, 'Although God's grace is extolled in *Joseph and Aseneth*, the author believes that salvation comes through obedience to the Torah' (p. 65). Furthermore, it is not just *final* salvation for which Law-observance is a criterion, it is also the very entrance to the covenant community. For Joseph's wife Aseneth, when she eats a paradisaal honeycomb, it has the effect of 'nullifying her idolatrous past': according to Evans, elements such as 'change of diet' and the like 'play the principal role in the conversion of Aseneth'. 'God's grace is the presupposition, to be sure, but apart from wholesale adoption of Jewish food and purity laws, the conversion of Aseneth could not have taken place' (p. 66). Similarly, Bockmuehl makes some reference to the entry-requirements for becoming members of the community. 'To become members, the sectarians are individually examined for two years as to the soundness of their understanding and lifestyle' (p. 395). In addition to this reference (IQS 6:13-23), he also cites the parallel in Josephus (AJ 2.137-138). However, despite the fact that entry is a product of divine predestination and the ongoing action of God, Falk argues that IQH reflects

3 I use the term 'salvation' despite the fact that it is considered inappropriate by many to designate 'getting in', 'staying in' or eschatological vindication.

4 See e.g. M.G. Abegg's article, '4QMMT C 27, 31 and "Works Righteousness"', *DSD* 6 (1999) 139-147.

a strong sense of the need to prove oneself worthy by obedience *before* entering the covenant: 'taking upon themselves to obey the covenant regulations was an essential element in the process of entering the covenant; it was the requisite evidence for admittance to the community apart from which there is no salvation or atonement' (p. 33). Hence Falk is dissatisfied with Sanders' formulation that obedience to the law is always a *consequence* of being in the covenant.⁵ It is refreshing to have attention paid to this much-neglected issue.

2. *Repentance and Obedience to the Law*

Related to this, secondly, is the issue of repentance. For Sanders' presentation of the Jewish evidence in *Paul and Palestinian Judaism*, repentance is undoubtedly something that stands on the 'divine grace' side of the equation; there is no question of it being a 'work', since it is simply the acknowledgement of one's sinfulness, a plea for God to have mercy. However, the impression is sometimes somewhat different in the discussions in the present volume. Part of Aseneth's conversion, for example, involved a week-long repentance (*Jos. As.* 10.2-17). One of the questions raised in this volume, allied to the question of the conditions for getting in, is the nature of repentance. But it does not simply solve the problem by talking in terms of Jewish authors having a 'legalistic' view of conversion. Comparison needs to be made with the understanding of repentance in the Gospels, where it is not merely presented only in *passive* terms; rather there is a considerable amount of reckoning to be done. The rich young man must consider whether he is willing to give away everything he has and follow Jesus (*Mk* 10.21 and parallels). Some scholars note that the acceptance of the 'yoke of Torah' which was expected of converts to Judaism means that there is no real distinction to be made between 'getting in' and 'staying in'.⁶ But it needs to be considered to what extent this also applies to the early Christian concept of repentance.

3. *Continuing Obedience*

The third level at which evidence of variegation is proposed is found in Seifrid's discussion of Community Rule (1QS 3:9-12). Here Seifrid notes that, 'Salvation, although it comes from God alone, is found in obedience to God's requirements' (p. 434). In other words, it is not just a question of maintaining the salvation already obtained (as per

5 E.P. Sanders, *Paul and Palestinian Judaism* (Minneapolis: Fortress, 1977), p. 32.

6 See, for example, the comment of F.B. Watson noted in G. Stanton, 'The Law of Moses and the Law of Christ', in J.D.G. Dunn, ed. *Paul and the Mosaic Law: The Third Durham-Tübingen Research Symposium on Earliest Christianity and Judaism* (Grand Rapids: Eerdmans, 2001 [1996]), 99-116 [105 n. 16].

Sanders), but rather of continually living so as to establish salvation before God: 'Even though saving divine intervention is still anticipated, the Qumran covenant does not save as a promise prior to and independent of obedience, but precisely *as* the "perfection of way" in which righteousness is found' (p. 435). Seifrid, then, by contrast with Bockmuehl in the previous chapter, sees in 1QS 11 a reference to God blotting out transgressions on the basis of the righteous deeds of the human speaker: 'And with *my* (Bockmuehl: "His") righteous deeds, he (God) blots out my transgressions.' Unfortunately the reading of the Hebrew text at this point is still an unresolved issue. Seifrid rightly notes that orthographically, the 'my' rendering is preferable (p. 435). Bockmuehl admits that the spelling is 'unusual', and probably 'due to a simple error of omission' (p. 398 n. 60), but appeals to the fact that the phrase 'acts of righteousness' never appears in the Scrolls as 'actual human deeds of righteousness', and the idea of a person atoning for his sins through acts of righteousness is similarly absent. However, both of these objections might be questioned. For example, in Sirach and Tobit, both of which were found at Qumran, "righteousnesses" are clearly human actions (Tob 1.3; 2.14; 4.5; 12.9; Sir 44.10), and can also have an atoning function (Tob 12.9; Sir 3.3; 3.30). It is also highly probable in my judgment that the idea of individual atonement through righteous acts can be found in 1QS 3:6-12 and 4QMMT C 25-26. In fact, Falk sees in 1QH reference to the purification of individuals' sins because of their righteousness.⁷

4. A Static or a Dynamic Relationship?

Fourthly, a different criticism of Sanders comes from McNamara in his treatment of the Targums. McNamara goes as far as stating that 'it is questionable whether "covenantal nomism" is an apt description of any form of Jewish religion' (p. 355). He makes the interesting point that a 'covenant' requires obedience to God in a dynamic sense; not just a static Law-observance, but a hearing of the voice of the living God (as from the prophets, for example). This might be a controversial point, but is worthy of further reflection. However, it remains highly questionable whether, as McNamara implies, obedience to the Law is intrinsically and ineluctably a static enterprise.⁸ Similarly, the prophets' major concern was very frequently the return to devotion to God through obedience to Torah.

7 'You will purify them to cleanse them from guilt for all their deeds are in your truth, and in your mercies you will judge them with a wealth of compassion and abundant forgiveness. . . ' (1QH_a 14[=6]:8-9).

8 However, McNamara is certainly right to affirm that it is possible to have a superficial knowledge of the Law, but not the 'true knowledge' that is required by God according to Paul (p. 356).

5. Election and Final Destiny

The fifth level at which Sanders' schema is questioned is one which I have discussed at length elsewhere,⁹ and so would naturally have hoped for more discussion of here in this volume! But the point is nicely made by Enns, in the conclusion to his piece on 'Expansions of Scripture'. He questions Sanders' frequent equation of salvation with election. Enns prefers to say that '*election* is by grace but that *salvation* is by obedience' (p. 98). This may be overstating the case slightly: Jewish literature does not always limit salvation to the final destiny of the people of God. Nevertheless, he is right to emphasise that 'the final outcome is based on more than initial inclusion in the covenant' (p. 98).

6. Divine Assistance and Obedience

The issue of divine assistance in obedience to the commandments is another aspect of early Jewish thought which requires further reflection as to how it impacts on the relation between Judaism and Paul. It will be interesting to see how this is dealt with in the second volume. The range of possibilities tends to be governed by two factors. On the one hand, one can emphasise the sense of dependence on God, and the need for divine assistance. It is often assumed that the Spirit-enabled obedience (prominent especially in the Qumran literature) means that Judaism cannot be described as being any more synergistic than Pauline theology. On the other hand, this point can simply be trumped by saying that Paul would not accept that other Jewish groups outside of Christ did in fact possess the Spirit: the Spirit is, after all, the Spirit of Christ (e.g. Rom 8.9).

Nevertheless, there is a helpful accentuation of the theme of divine assistance *in the literary evidence*. Falk notes that this is prominent in the liturgical works, perhaps where one might expect it to be most evident (p. 23). Hay notes a similar emphasis in Philo (p. 378). However, it is interesting that at this point, Falk acknowledges that the language of the prayers is conventional, and it is impossible to know what actual people's attitudes would be. It could well be the case that liturgical works in general (not just in Judaism) are most likely to reflect *ideals* of religious attitudes and practices, but can easily wash over the worshipper through over-familiarity.¹⁰ As such they are, of all genres, most in danger of being *unrepresentative* (which is by no

9 *Passim* in Gathercole, *Where is Boasting? Early Jewish Soteriology and Paul's Response in Romans 1-5* (Grand Rapids: Eerdmans, 2002).

10 The point about the possible disjunction between the idealising texts of the Second-Temple period and actual attitudes has been picked up by a number of scholars such as T.R. Schreiner in his *Romans* (Baker Exegetical Commentary; Grand Rapids: Baker, 1998), 174.

means the same as saying that they are inevitably so). Moreover, even if this volume helpfully draws attention to references to divinely assisted obedience in Judaism, comparison clearly shows that the theme is far more concentrated in Paul's letters.

Some Neglected Areas

In general, the chapters follow a pattern of having quite substantial introductory material to each text or corpus, and thus one has to read a considerable amount of this before getting to the substance of the argument as it is related to the topic of the book. This is particularly evident in the chapter by R. Deines on the Pharisees. This is an important essay, and deserves to be taken seriously as a powerful challenge to the consensus view that Pharisaism was not the most influential 'party' between 150BCE and 70CE. Deines adduces strong evidence that Pharisaism is in fact close to 'common Judaism'. In addition to the evidence from Josephus and the Gospels, which is viewed by many with suspicion, Deines also adduces important evidence from elsewhere. Two examples from the Dead Sea Scrolls will suffice. First, the sobriquet by which the Pharisees are known in the *pesharim* from Qumran, the 'seekers of smooth things', implies that they seduce the majority with their easy interpretations of the Law, as in the Nahum peshet, where they deceive the simple minded of Ephraim (p. 473, n. 102; pp. 476-77, 502). Secondly, Deines argues that the 'majority of the people' mentioned in 4QMMT are in fact Pharisees. The rulings on the interpretation of the Law held by the 'majority' here coincide with Pharisaic interpretation of the Torah, and the Pharisees can be identified with the 'they' group in MMT: they are a group who do not seem to be popular either with the authors of MMT or with its recipients. On a different note, Deines is also confident about attributing early Jewish texts to specific groups. Although he does not go into much detail on this issue, it seems that he thinks that the Pharisees should be credited with a great deal more ownership of extant Jewish texts than is usual. The extent of this introductory discussion perhaps means that Deines has little space to deal with soteriology. He does make the important point that, 'What is at stake in the proper interpretation of the Law is the nation's standing with God and thus its future. It is the Law's *soteriological relevance* (which is inseparably linked with its traditional application) that requires its "precise" interpretation and observance. This Sanders does not take adequately into account' (p. 493). This is a crucial point, but this paragraph is the only place in Deines' 60 pp. essay which addresses directly the soteriological dimensions of Pharisaic thought.

Again, problematic as Josephus may be in his accuracy, there is no real discussion of the passages about Pharisaic eschatology and the relationship which Josephus notes between obedience and resurrection to life. (As he sees the Pharisees as enthusiastically followed on this point by the people in general, this has special significance.) Similarly, the comparable idea which Josephus attributes to the Essenes is not discussed. Spilsbury's essay on Josephus does mention the relevant passages (*AJ* 18.12-13; *BJ* 2.154ff, 162ff) in passing (pp. 241, 258), but is (rightly) more concerned with recasting the whole question of the divine-human relationship in the constitutional categories within which Josephus sets it. It is a pity, however, that Josephus' accounts of Pharisaic and Essene soteriology do not receive detailed and critical attention somewhere in the volume, especially since from Josephus' perspective the majority of Jews followed the Pharisaic position on judgment and the afterlife.

There is also no treatment of the LXX, which is a shame since a number of scholars have in the past talked of a 'legalistic' tendency in the Greek translation. It would be useful to have a thorough examination of this issue, although as is noted in the volume, this would be a huge task, and has understandably been omitted. (However, Seifrid's thorough and adept examination in this volume of Hebrew righteousness language will be supplemented by his treatment of comparable Greek terminology in volume 2.)

Furthermore, although it may be considered problematic in some circles, it has in recent years been widely acknowledged by scholars (and not only from conservative camps) that the NT in general, and the Gospels in particular, should be used in the reconstruction of first-century Judaism.¹¹

Since the volume is already very large, it might be slightly unfair to criticise it on the grounds of omissions of material. Nevertheless, it is difficult to avoid the feeling that treatment of some of these areas should have been included.

Evaluation

At the outset, the volume identifies one principal aim among a number of subsidiary ones, namely to problematise the unified picture (or, "lowest common denominator") of Early Judaism which Sanders presented in his book. And in that it is certainly successful. However,

11 See, for example, the comment of G. Stanton, in his 'The Law of Moses and the Law of Christ', in Dunn, ed. *Paul and the Mosaic Law*, 105.

the results are so diverse that it could encourage further a 'pick-and-choose' approach in which scholars accept that a variety of options are on offer within the Jewish literature and then can choose whichever one of the 'Judaisms' on offer suits them best.

For example, on the one hand, orthodox Sanders disciples could appeal to those parts of this volume which endorse with some qualifications the accuracy of the designation 'covenantal nomism'. Falk concludes that 'the motifs associated by Sanders with the pattern "covenantal nomism" recur frequently through these prayers', even though part of the success of the concept of covenantal nomism lies in its great flexibility (56). The best correspondence to covenantal nomism comes, he argues, in the penitential prayers. Similarly, on 1 Enoch, Bauckham offers the summary statement that 'broadly our findings coincide with Sanders's', although he questions whether this literature can really be described in the same category as the pattern of religion in the rabbinic literature (148). Interestingly, Bockmuehl draws the same conclusion in his analysis of the Qumran literature (413).¹² Even where the appropriateness of the specific term 'covenantal nomism' is questioned, many of the essays echo the spirit of Sanders' work, for example by emphasising the fundamental priority of divine grace, even in calling forth human obedience.¹³

On the other hand, Falk and Bockmuehl also emphasise the boundary-defining function of obedience within the schemas of the texts they are treating, that is, how the discourse about righteousness functions to maintain and strengthen the separation of the group who produced the literature, from those outside.¹⁴ This would appeal very much to those who have tended to accept the basic outlines of Sanders' approach, but who prefer to emphasise the *definitional* aspects of obedience, whereby observance of the Torah marks out the group as the people of God, as those who will be vindicated on the final day. N.T. Wright would be one well-known scholar in this category.¹⁵ And similarly, Jimmy Dunn has suggested to me that the book should be entitled *Justification and Variegated Covenantal Nomism!*

To this extent, Carson's summary and conclusion tends to down-

12 This may strengthen the point made above about the problem of Sanders' extremely broad categories.

13 See e.g. Hay on Philo (p. 378).

14 Falk (pp. 16, 43, 51, 56); Bockmuehl (pp. 405, 408, 414) suggests (tentatively) an increasing separatism reflected in the different versions of the *Community Rule*.

15 Though see now M.A. Elliott, *The Survivors of Israel* (Grand Rapids: Eerdmans, 2000), who makes perhaps the strongest case for the widespread understanding of the Law along these lines.

play the extent to which many adherents of the New Perspective will also find plenty of grist to their mill in this volume. However, as he is right to point out, there are also the resources within this volume for those who would resist Sanders' conclusions. The conclusions of Enns (as noted above), Alexander, and McNamara, and in large measure Spilsbury pose serious challenges both to Sanders' overall methodology and approach to the 'pattern' of Jewish religion, as well as to his exegesis of particular texts. In terms of approach, Deines points out how Sanders is a master of caricaturing positions with which he disagrees.¹⁶ In addition, Alexander documents very nicely (in a short, but excellent survey of modern treatments of Jewish thought) how dominant the liberal Protestant approach to Judaism, whereby "works-righteousness" is seen as something intrinsically negative. Thus if scholars have wanted to treat Judaism negatively, they have tended to accentuate works-righteousness (as in, say, Strack/Billerbeck). If positively, then work-righteousness must be written out of the picture or at least de-emphasised (as by G.F. Moore and E.P. Sanders). Alexander makes the point that this is a theologically loaded approach based on Protestant presuppositions, even when those presuppositions have influenced Jewish scholars.¹⁷

There are so many complex issues involved in all these discussions that we have inevitably only touched on a few samples here. The fact is that this volume provides an extremely useful treatment of a huge variety of texts from the earliest Enochic literature to medieval Jewish texts. The editors are to be commended for assembling a first-class group of contributors, who with a few exceptions provide careful and detailed assessments of the texts. Readers will disagree with points of exegesis at times, but in general this is a fine book. As Carson notes, however, this volume does not find its only end in itself: he hopes to have the 'straitjacket imposed on the apostle Paul' removed, which might 'prepare us for a more flexible approach to Paul' (p. 5). So we await to see how this volume has an influence on the exegesis of Paul, not only in *Justification and Variegated Nomism: Volume 2*, but in scholarly discussion of justification and Law more widely in years to come. Controversy over Paul's doctrine of justification is as alive now as it has ever been in recent history, and this volume will no doubt play a key role in future debates.

16 Echoing the point he (with M. Hengel) makes in their 'E.P. Sanders' "Common Judaism", *Jesus and the Pharisees*, *JTSNS* 46.1 (1995) 1-70.

17 D. Schwartz's essay *Leben durch Jesus versus Leben durch Torah* (Franz-Delitzsch-Vorlesung 1991; Münster: Franz-Delitzsch-Gesellschaft, 1993) makes much the same point.