

The Mamzer Jesus and His Birth

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So why did some people accuse Jesus of being born of fornication (porneia, John 8:41)? Was it for the same reason he was called “son of Mary” in his own town (Mark 6:3) rather than “son of Joseph”? What emerges from both Rabbinic literature (supplemented by Origen) and the New Testament is that Jesus’ mother was clearly known and that the identity of his father was contested.

The New Testament offers not one, but three theories of Jesus’ conception. This pluralism of meaning undermines any approach that assumes that the texts simply reflect facts *or* that they invent a single doctrinal proposition which they present as fact. All three theories need to be accounted for if an appreciation of the Gospels is to be attained. The generative concern, which establishes a continuum among early Judaism, Jesus, and early Christianity, moves away from the assertion or denial of fact to the assessment of how texts arose and with what understandings. That shift, under way in Europe since the 1940s, is still not complete in the study of the New Testament in North America today. Groups such as "The Jesus Seminar" continue to treat texts on the assumption that they falsify history, while conservative Evangelicals assume that their historical value is a given. [1] This essay is offered as an exercise in permitting the Gospels to be read within the same constructive view of history that has become standard in the humanities; however, it still struggles to receive its place in the study of the Bible.

One New Testament theory presents Jesus’ birth as the consequence of an intervention of a holy spirit (by an unspecified mechanism) since Mary had not had sexual relations with a man. That is the explanation of Luke’s Gospel most emphatically (Luke 1:34-35), seconded less straightforwardly by the Gospel according to Matthew (Matthew 1:18-25).

A second explanation, expressed by Philip in John’s Gospel after he had become Jesus’ disciple, maintains that Jesus was in fact the son of Joseph (John 1:45), and it is -- emphatically and rather oddly -- repeated both by John’s "Jews" in the synagogue at Capernaum (John 6:42) and by Luke’s congregation in Nazareth (Luke 4:22). Although the latter references are or may be dismissive, Philip’s is not, and it is difficult to see how the genealogies of Jesus, variously presented by Matthew (1:1-17) and Luke (3:23-38), can have been developed except on the supposition of this second theory. (Matthew 1:16 and Luke 3:23 try to finesse the issue, but these adjustments seem to be *post hoc*). Further, Jesus’ identity as David’s son -- recognized by the Gospels (Matthew 1:1; 9:27; 12:23; 15:22; 20:30, 31; 21:9, 15; Mark 10:47, 48; Luke 18:38, 39) as well as by Paul and later sources (Romans 1:3, cf. 2 Timothy 2:8; Revelation 5:5; 22:16) implicitly invokes this theory since only Joseph (himself called David’s son in Matthew 1:20, cf. Luke 1:27, 32; 2:4) can have mediated that pedigree to Jesus.

Finally, in John's Gospel opponents appear to taunt Jesus with being born of "fornication" (*porneia*; John 8:41), and such an accusation is often seen as standing behind the pointed omission of Joseph, together with reference to his mother and siblings, in the identification of Jesus in Mark 6:3. At that juncture, Matthew's reference to Jesus as the son of the workman (Matthew 13:55) has been construed to imply Joseph's paternity (but also saying in a Semitic idiom that Jesus belonged to the class of such workers). But Luke 4:22, the apparent analogue of Mark 6:3; Matthew 13:55, has the people in Nazareth say unequivocally that Jesus is *Joseph's* son and this story might lay behind John 6:42.

The New Testament can in no sense be said to endorse the charge in John 8:41, perhaps implicit in Mark 6:3, although those texts attest to (or are patient of) the existence of such an accusation. Indeed, it seems that Matthew, Luke, and John would prefer to imply that Joseph was Jesus' actual father rather than approach Mark's admission that people referred to Jesus in a way which gave comfort to those who denigrated his descent. But the second theory of Jesus' conception -- the assertion of Joseph's paternity, rather than a grudging acceptance -- may legitimately be claimed to be more broadly supported in the New Testament than the theory of the virginal conception and to be assumed in sources earlier than the infancy narratives of Matthew and Luke.

The purpose of this essay is not to make a case for the superiority of the second theory, arguable though that is on exegetical grounds. Rather, our purpose is to explain how all three theories emerged. What were the conditions under which some of Jesus' followers would acclaim him as David's son and Joseph's, while others would make his birth even more miraculous than that of the prophet Samuel (cf. 1 Samuel 1:1-2:11), and opponents would scorn him as the offspring of fornication?

When Rabbinic literature has been used at all in order to illuminate this issue, it has typically been cited in connection with the allegation, cited as early as the time of Celsus (see below), that Jesus' mother had had relations with a Roman soldier. As we will see, however, that tradition seems to be a late arrival within a skein of passages that deal with the overall question of *mamzerut*, or mixed genealogy. That is the first part of the discussion here. The second part deals with how the suspicion of mixed genealogy might arise in Jesus' case; the third part involves a consideration of circumstances in which the charge of *mamzerut* might have come to be leveled at Jesus in particular.

I. Defining Mamzerut

At base, a *mamzer* was the product of a union that was forbidden because the couple was not permitted to marry and procreate according to the Torah. Whatever became of the man and the woman as the result of their sexual contact, their offspring was what we may call a changeling or mixing (terms which perhaps better convey the sense of *mamzer* than "bastard" or "mongrel," the traditional translations). [2] The sense of abhorrence involved, at the mixture of lines which should never be mixed, was such that the stricture of *mamzerut* could also be applied to the offspring of a woman whose sexual partner was not categorically identifiable and therefore was not known to have been permitted to her.

The practice of attributing the status of mixed genealogy to particular individuals varied over time. That is not surprising since Deuteronomy 23: 2, although specifying that a *mamzer* is to be excluded from the congregation until the tenth generation (see also Yebamoth 8:3 in the Mishnah [3]), does not actually define what such a mixed offspring might be. But for all that the definition of *mamzerut* did change, it is striking that the precise description of Mary's pregnancy in Matthew 1:18 (as occurring between the time a contract of marriage was exchanged and the actual cohabitation of the couple) would have put Jesus into the position of being considered a *mamzer* within a principle articulated in the Mishnah.

In what follows, we will cite and explain the major passages at issue, following the line of chronology critically assigned to Rabbinica, first Mishnah (from the second century), then Tosefta (from the third century), and then Talmud (from the fifth century). [4]

Yebamot 4:13 in the Mishnah [5] attests an established consensus by the second century that incest -- under the terms of reference of Leviticus (which of course were more rigorous than in the Hellenistic world) -- would produce a *mamzer*. At the same time, a rabbi named Joshua supported by Simeon ben Azzai (allegedly citing written evidence) broadens the definition by including adultery as grounds for finding *mamzerut*:

How is one a *mamzer* (Deuteronomy 23:2)? Any case of near of kin is forbidden, according to the words of Rabbi Aqiba. Simeon of Teman says, Any case where they [that is, the parents] were liable to extirpation by heaven (Leviticus 18:29). The *halakhah* is according to his words. Rabbi Joshua says, Any case where they were liable to death by a court. Rabbi Simeon ben Azzai said, I found a scroll of descents in Jerusalem, and there was written in it: A certain man is a *mamzer*, from a man's wife (Leviticus 18:20), thus confirming the words of Rabbi Joshua.

It is interesting that in Matthew's Gospel Joseph is portrayed as having decided to divorce Mary quietly (Matthew 1:19). In the Mishnah, the possibility of such a dissolution of the contract between betrothal and common domicile is mentioned (see Sotah 4:1). In the present case, such an act would imply: voiding the contract of marriage without a formal charge of her adultery and the *mamzerut* of the child. This mishnaic tractate cites Deuteronomy 23:2 explicitly, moving into a case of adulterous relations by way of application of the statute. The connection of ideas is easy to follow because the themes of virginity, adultery, rape, and incest are developed in Deuteronomy (22:13-30) just before the mention of the *mamzer*; the punishment for such crimes (sometimes expressly demanded in this chapter of Deuteronomy) is stoning.

Ketubot 1:9 in the Mishnah, however, is even more to the point since it corresponds to Mary's predicament as specified in Matthew 1:18:

She was pregnant, and they said to her, What kind of this fetus is this? From a certain man, and he is a priest! Rabban Gamaliel and Rabbi Eliezer say, She is believed. And Rabbi Joshua says, We do not rely on her statement. But she remains in the assumption of having become pregnant by a *Netin* or a *mamzer* until she brings evidence for her words.

Here we have two opposed policies. In one (Gamaliel's and Eliezer's), the testimony of a mother suffices to establish fatherhood; in the other (Joshua's), evidence -- for example in the shape of knowledge of the couple's common domicile, as we shall see -- was required.

Joshua's opinion is consistent with his view in Yebamot 4:13 since there a finding of adultery involves a witness (human or supernatural, see Numbers 5:11-31), and witnesses are just what he calls for in Ketubot 1:9. Logical consistency would approve this position. The opposition of Gamaliel and Eliezer in this case, however, draws attention to a severe social problem inherent within Joshua's definition of *mamzerut* and his application of that definition. If the matter turns on being unable to establish a licit father, that extends the number of children who might be considered *mamzers* and opens a large number of women to the charge or the suspicion of adultery.

But the point of view attributed to Gamaliel and Eliezer does not represent all that much progress from the point of view of well-ordered social relations. Since it permits a woman to name a licit father, by the terms of the Torah itself that man would be required to marry her without recourse to divorce (Deuteronomy 22:28-29). What the Mishnah is showing us, in the names of rabbis from the first century, is that *mamzerut* posed social as well as logical problems (see also Qiddushin 4:8 [6]). The attributions themselves need not be taken at face value here (although I am struck by the consistency of the views ascribed to Joshua at various junctures in the Mishnah); whether they are accepted or not, the Mishnah memory that *mamzerut* was a thorny issue remains. Indeed, the most direct proof of that is that the Mishnah not only recollects the problem, but also goes on to resolve it.

This resolution is beautifully represented in Mishnah Qiddushin 4:1-2 in a passage which will take some explaining once we have cited it:

Ten descents came up from Babylonia: (1) priest, (2) Levite, (3) Israelite, (4) impaired priest, (5) convert, and (6) freed slave, (7) *mamzer*, (8) *Netin*, (9) silenced [*shetuqi*], and (10) foundling. Priest, Levite, and Israelite marry among one another. Levite, Israelite, impaired priest, convert, and freed slave intermarry one another. Convert, freed slave, *mamzer*, *Netin*, silenced, and foundling all intermarry among one another. These are silenced -- everyone who knows his mother but does not know his father; and foundling -- everyone who retrieved from the market and knows neither his father nor his mother. Abba Saul called a "silenced" [*shetuqi*] "to be examined" [*beduqi*].

This passage is a triumph of categorical thinking. Within this list, the status of a *mamzer* is neatly distinguished from that of one put to silence, although the two are also closely associated.

The category of *mamzerut* is evidently reserved for offspring of known instances of adultery, incest, or other known instances of illicit intercourse (see Qiddushin 3:12 in the Mishnah). In contrast, the category of the "silenced" (*shetuqi*) caste permits mother and child not to be associated with adultery, incest, or illicit intercourse and the punishments they occasioned, a compassionate conclusion in the face of the uncertainty of fatherhood. From the point of view of mother and child, the *shetuqi* represents a signal advance over Joshua's perspective on the *mamzer* (in Ketubot 1:9); from the point of view of the alleged father, it also makes life easier than Gamaliel and Eliezer would have it. Even the foundling, whose licit birth could not be attested by a mother or by witnesses (again, under the provisions of Ketubot 1:9), is protected from the status of *mamzerut* here.

The manifest tolerance of this distinction between *mamzer* and *shetuqi* (or foundling, *mutatis mutandis*) and the elegant social adaptation it facilitated comport well with the adjustment toward marriage that the passage as a whole conveys. The alignment of the differing castes is articulated in two senses. The first sense of this alignment is the association of one caste with several others. Levites and Israelites can intermarry with one another and with priests. Proselytes and freed slaves can intermarry with impaired priests one notch further down the list but also with the Levites and Israelites higher in the list. In much the same way, the *mamzer*, *Netin*, silenced, and foundling classes can intermarry with one another and with proselytes and freed slaves.

If this strong association is surprising in view of the treatment of *mamzerut* elsewhere in the Mishnah (and the Hebrew Bible), it is far from unambiguous. That brings us to the second sense of the articulation of caste alignment in the list. It is hierarchical -- and literally so -- because priests are assigned a unique position, without a higher association in the list, and emphatically without links to the other categories lower in the list which are not expressly Israelite. Taken together with the associative articulation, the hierarchical articulation conveys an ideal structure of marital preferences.[7] A given arrangement is less desirable the more one moves down the list so that any sense of preference all but disappears within the varying degrees of *mamzerut* cited (except in implicit contrast to a Gentile without any affiliation with Israel).

This relative disapprobation of the *mamzer* was such that, well after the Mishnah, it provoked the rule that when a Gentile or a slave had sexual relations with an Israelite woman, the result was a *mamzer* (Qiddushin 70a). This was the root of the growing sense that maternity rather than paternity governed one's identity as an Israelite and also provided a place for proselytes in procreation, even as it maintained their status as outsiders. [8]

The means by which *mamzerut* is attributed to those of non-Israelite paternity in the Talmudic passage is instructive. In two ways, the attempt is made to link the mishnaic category referred to in Qiddushin 4:1 firmly to scripture (Talmud Qiddushin 70a [9]):

Mamzers: from where do we know? From where it is written, And Sanballat the Horonite and Tobiah the slave, the Ammonite heard it (Nehemiah 2:10); and it is written, for there were many in Judah sworn unto him, because he was the son-in-law of Shechaniah the son of Arah, and his son

Jehohanan had taken the daughter of Meshullam the son of Berechiah to wife (Nehemiah 6:17-18). This holds that when a gentile or a slave has sexual relations with an Israelite woman – the offspring is a *mamzer*. That is convenient for him who maintains that the offspring is a *mamzer*, but from the viewpoint of him who holds that the offspring is licit, what can be said? Furthermore, how do you know that they had children? Maybe they didn't have children? And furthermore, how do you know that they were originally here but then went up? Perhaps they were located there. Rather, from this: And these are the ones who went up from Tel-melah, Tel-harsha, Cherub, Addon, and Immer, but they could not show their fathers' houses nor their seed, whether they were of Israel (Nehemiah. 7:61). Tel-melah: This refers to people whose deeds are like those of Sodom, which was turned into a salt heap. Tel-harsha: This refers to those who call "father," whom their mothers silence. But they could not show their fathers' houses nor their seed, whether they were of Israel: This refers to a foundling, retrieved from the market. Cherub, Addon, and Immer: Said Rabbi Abbahu, Said the Lord, I said that the Israelites would be valued before me as a cherub, but they have made themselves into a leopard. There are those who say, said Rabbi Abbahu, Said the Lord, Even though they have made themselves into a leopard, nonetheless, the Israelites are valued before me as a cherub.

In the first case, Tobiah's status as an Ammonite and a slave is used to attribute *mamzerut* to his children. But then, the objection is raised that not enough is known about the status of these children for the prescription of Deuteronomy 23:2 to have been known to be applied. Instead, Nehemiah 7:61 is invoked on the assumption that the inability to specify one's father's house involved *mamzerut*. Not only does the Talmudic passage maintain this basic point as the straightforward reading of the Mishnah (Ketubot 1:9), but it also associates slaves, silenced ones, and foundlings within the general category of the *mamzer*, as the list in the Mishnah does (Qiddushin 4:1).

Once this definition was accepted, it was a short step to the tradition that Jesus' father had been a Gentile and a Roman soldier at that (Shabbat 104b and Sanhedrin 67a according to manuscripts in Munich and Oxford). It had once been possible to accuse him of *mamzerut* in a mishnaic sense because the identity of his father was not established; according to the Talmudic tradition, his father was known and known as non-Israelite, and for that reason, he was a *mamzer*. Whatever the current definition, it could be and was applied to Jesus. [10]

II. Proximity and Sexual Contact

That then brings us to the question of how the status of a *mamzer* can have been applied to Jesus.

Well before the Talmud, a commonly cited tradition affirmed that Jesus' father was called "Panther," a Roman soldier with whom Mary had an adulterous affair (Origen, *contra Celsum* 1.2). [11] This is a cunning haggadah because it doubles Jesus' *mamzerut*: he is the product of adultery (and therefore a *mamzer* according to the definition of the Mishnah) and the offspring of a non-Israelite father (and therefore a *mamzer* according to the definition which later emerged in the Talmud).

This story is as hybrid as Jesus' birth is made out to be, but the idea has been taken up in recent discussions of Jesus' "illegitimacy": his irregular birth is explained by the rape of his mother in Sepphoris during the civil strife of 4 BCE. [12] Although this hypothesis has helped to move us along the right track into a consideration of birth status in Judaism, in my opinion, it demands more supposition about tight contact between Sepphoris and the hamlets which surrounded it than recent discussion warrants (see below). Further, the "Panther" tale suits the Mishnaic and Talmudic definition of *mamzerut* so well as to suggest it is a fiction. [13]

So why did some people accuse Jesus of being born of fornication (*porneia*, John 8:41)? Was it for the same reason he was called "son of Mary" in his own town (Mark 6:3) rather than "son of Joseph"? What emerges from both Rabbinic literature (supplemented by Origen) and the New Testament is that Jesus' mother was clearly known and that the identity of his father was contested. Whoever his natural father was,

Joseph, another man to whom Mary was not married while Joseph was her husband (a soldier or not, a Gentile or not), or the power of the most high (if some procreative event really is implied in Luke 1:35), Jesus was a *mamzer* within the terms of reference established by the Mishnah in its discussion of traditional definitions (Ketubot 1:9 above all). This category provoked the disparate views of Jesus' birth attested in the New Testament (and, to a lesser extent, in Rabbinic discussion).

Although the relevance of *mamzerut* to the evaluation of Jesus might be held to be as much as Rabbinic literature can teach us, there is another step to take. The simple fact of proximity between a man and a woman is well attested with halakhic discussion as a cause for concluding that sexual contact has occurred. The most famous instance of that is the Mishnaic tractate Sotah, where having been with a man other than her husband in a private place obliges a married woman to drink the bitter water of Numbers 5:11-31 (Sotah 1:1-7 [14]). In this case, Eliezer and Joshua are said to disagree as in the question of believing a pregnant woman about the paternity of her child. Joshua demands two witnesses before she is required to drink, while Eliezer is content with the testimony of one witness, even the husband himself (Sotah 1:1).

Just as proximity invokes the suspicion of forbidden sexual contact, so it may be used to suggest that permitted contact has occurred. This brings us to a discussion of the *halakhah* most frequently discussed in connection with Matthew 1:18.

Raymond Brown supported the argument of many commentators that there was a difference in marital custom between Galilee and Judea: in Galilee, he claims that no sexual relation was tolerated between a woman and her husband before they lived together in their marital home; in Judea, intimate relations were not excluded in the interim between the agreement of contract and the couple's public cohabitation. [15] John P. Meier demurs, observing that "later rabbinic distinctions about differences of customs in Judea and Galilee are of questionable relevance." [16]

Yet Meier persists in the supposition that Matthew 1:18 reflects a controversy over Mary's virginity, and for him, Rabbinic literature shows at least that virginity was such an important issue that the dispute over Jesus' birth should be seen as one over his mother's sexual experience at the time of her marriage. In this, Meier is far from alone because the discussion about virginity was prompted by the widely cited compendium of Paul Billerbeck. [17] But the texts cited from that source have often been taken out of context, in my view, and in any case, their relevance for an understanding of Matthew 1:18 seems only indirect.

First, the alleged difference in custom cited by Brown and other commentators is not supported by all the texts they cite. It is not the Mishnah (Ketubot 1:5) but the Talmud (Ketubot 9b, 12a) which claims a distinction between Galilee and Judea. The Mishnah speaks only of Judea, insisting that a man does not have the right, if he had lived with his father-in-law (and therefore with his fiancée) prior to marriage, to bring a complaint against his wife after the marriage because she was no longer a virgin. If there is a contrast with Galilee in this case, it is merely by implication. The source of an explicit contrast is the Tosefta (Ketubot 1:4), which the Talmud seems to adapt in this instance.

The significance of the contrast as drawn by Brown [18] -- that in Galilee a bride's virginity was demanded, whatever the circumstances of the couple's domicile before their public cohabitation -- may also be contested. If the economic development of Jewish Galilee was less elevated and less urban than in Judea, as contemporary archaeology would suggest, [19] the domicile of a groom with his father-in-law would have been so current that no complaint of the type envisaged in the Mishnah would have been feasible.

Perhaps it was especially in urban Judea, where more families had the means to offer their children their own marital domiciles, that there was the possibility -- real or imagined -- of a confusion of the customs of the rich and the poor. Under these circumstances, the Mishnah lays down a rule in Ketubot 1:5 that brooks no double dealing: "He who eats with his father-in-law in Judea without a witness can not bring a complaint for the cause of non-virginity, because he was alone with her."

Clearly, then, the rule that proximity allows the finding of sexual contact (whether permitted or not) seems to have been well established. Just as women were protected against one custom being substituted for another, so there was an explicit caution against moving a woman away from her home (Ketubot 13:10):

There are three provinces in what concerns marriage: Judah, Beyond Jordan, and Galilee. They do not remove from town to town or from city to city. But in the same province, they do remove from town to town or from city to city, but not from a town to a city, and not from a city to a town. They remove from a bad dwelling to a pleasant dwelling but not from a pleasant dwelling to a bad dwelling. Rabban Simeon ben Gamaliel says, Also not from a bad dwelling to a pleasant one, since the pleasant dwelling tempts.

Following this rule in a relatively undeveloped area (such as rural Galilee) would imply that a groom would "eat with his father-in-law" after his marriage, as well as before. Although the husband brought a patriarchal construction of genealogy to the marriage, the location of household, which was the bride's domain, was determined by where she lived, and in most cases must actually have been under the control of her family.

Although Mishnah Ketubot 1:5 indirectly indicates how and why one might conclude that sexual contact had occurred, the fact remains that the problem specified in Matthew 1:18 is not Mary's virginity but her pregnancy. This simple observation, by Marie-Joseph Lagrange, [20] invites another take on Matthew 1:18. If Joseph and Mary were known not to be living together, even though they were betrothed, that would account for Jesus' repute as a *mamzer* in Nazareth. This brings us to the issue of locating Bethlehem.

III. *Bethlehem*

"Where Was Jesus Born?" Steve Mason and Jerome Murphy-O'Connor both answered that question for *Bible Review*, [21] and their remarks landed the editors with a blizzard of mail. This is not surprising when you consider that *where* Jesus was born necessarily involves *how* he was born. The way these two scholars approached their assigned question takes us into that whole issue.

Mason represents the position that Nazareth was Jesus' birthplace. After all, he called it his *patris* (or fatherland; Mark 6:4; Matthew 13:57; Luke 4:24), although this term might refer to Jesus' region generally more than to Nazareth in particular (see John 4:43-44). More to the point, John's Gospel has Philip identify Jesus as "Joseph's son from Nazareth" (John 1:45-6). Murphy-O'Connor, on the other hand, criticizes Mason for supposing that the messianic prophecy of a son of David (derived from Micah 5:2) caused Christians to make up the name "Bethlehem" as Jesus' natal village. He insists that Matthew and Luke used different sources that mentioned the place so that it is more likely the name was remembered rather than a Christian invention.

Both these contributors, for all their differences, follow the principle that an historical "fact" is an event that we surmise actually happened. History involves both the chain of events which historians study and the theories they use to understand them. In this case, our challenge is to see a coherent picture, without just discounting about one-half of the evidence (be it about Nazareth or Bethlehem).

But are we even arguing about the right Bethlehem? The Hebrew Bible itself mentions a Bethlehem far to the north of Jerusalem, assigned to Zebulun (Joshua 19:15), and in John 7:41-42, some apparently well-informed skeptics resist the idea that Jesus is the messiah on the grounds that he comes from Galilee and not from Davidic Bethlehem. In Hebrew, the name means "house of bread," designating a settlement with mills capable of producing fine flour rather than the coarse grade most people used for their daily needs. In 1975, I learned of a *Galilean* Bethlehem near Nazareth from study of Talmudic geography published during the nineteenth century. I was disconcerted at the dearth of discussion about this place as the possible site of Jesus' birth.

I was intrigued but wary (conscious of how easily a new idea can be rejected out of hand just because it *is* new.) The Talmud was composed centuries after Jesus lived, so one can't assume it accurately reflects ancient Galilee's geography. I appended my findings to my Ph.D. thesis and let the matter rest. Now, however, archeological excavations show that Bethlehem in Galilee is a first-century site just seven miles from Nazareth, so my former reserve can be put aside.[22] There is good reason to surmise that the Bethlehem which Matthew and Luke remember, dimly and distantly (and through the lenses of scripture and legend) was actually in Galilee. With the evidence of excavation reports, an idea from the nineteenth century crosses the threshold of probability.

Matthew 1:18, as interpreted here, provides us with a clue to why Jesus' parents were in Galilean Bethlehem in the first place. Had Joseph been domiciled there, that would explain both that Mary's pregnancy in Nazareth was a scandal and why Joseph took her away from Nazareth to Bethlehem for Jesus' birth. (Such a change of site is, of course, much more plausible than having Joseph and Mary traveling to Judea for the birth, a journey which in any case would have violated the custom mentioned in Ketuboth 13:10 in the Mishnah.) The conditions of Jesus' conception *as Matthew refers to them* made him a *mamzer* in the eyes of Mary's neighbors in Nazareth. Cultural preoccupation with sex before marriage in the West has caused scholarship to convert the issue of Jesus' status in Israel into the anachronistic question of his legitimacy and to ignore one of the most powerful influences on his development. Pressed into the caste, apart which being a *mamzer* or "silenced one" (*shetuqi*) made him, Jesus from the beginning of his life negotiated the treacherous terrain between belonging to Israel and the experience of ostracism within his own community. The aspirations of a restored Israel can only have been particularly poignant to those branded with the reputation of *mamzerut*.

Conclusion

In the case of Jesus' *mamzerut*, then, the sources of Judaism, literary and anthropological (insofar as archaeological study has evinced Judaic anthropology), a plausible social reality behind the genesis of the birth narratives, as well as other explanations of Jesus' birth in the New Testament, has emerged. In a recent book, I worked the implications of that status into an account of Jesus' life. [23] What is involved in that case is an inferential narrative. The narrative form was selected because it is the sole means by which development may be traced; without tracing development, there can be no biography, and no justice can be done to dynamic factors such as *mamzerut* itself.

That this status was understood to carry profound significance is attested by the discussion concerning how exclusion until the tenth generation might be avoided.[24] Because such issues were debated, attempts to suggest that *mamzerut* did not carry much by way of stigma[25] or that the category did not exist in Jesus' time,[26] appear strained. Indeed, eschatology seems to have been the only cure for *mamzerut* in the view of Tosefta Qiddushin (5:4):

Netins and *Mamzers* will be clean in the world to come, the words of Rabbi Yosé. Rabbi Meir says, They will not be clean. Said to him R. Yosé. But has it not truly been said, I will sprinkle clean water upon you, and you shall be clean (Ezekiel 36:25)? Said to him Rabbi. Meir, And you shall be clean from all your uncleanness, and from all your idols I will cleanse you (Ezekiel 36:25). Said to him R. Yosé, Why then does Scripture say, I shall clean you? It means, Even from the *Netins* and the *mamzers*.

Rabbi Jesus would apparently have agreed.[27]

NOTES

[1] See my essay, "Biblical Authority, Canonical Criticism, and Generative Exegesis," *The Quest for Context and Meaning. Studies in Biblical Intertextuality in Honor of James A. Sanders: Biblical Interpretation Series 28* (Leiden: Brill, 1997) 343-355.

[2] This is well expressed in Mishnah Qiddushin 3:12: "And in any situation in which a woman has no right to enter betrothal with this man but has the right to enter into betrothal with others, the offspring is a *mamzer*."

[3] Here the exclusion is as explicit as one could ask: "The male Ammonite and Moabite are prohibited [from entering the congregation of the Lord], and the prohibition concerning them is forever....Mamzerim and Netin are prohibited, and the prohibition concerning them is forever, all the same being males and females."

[4] See the now classic treatment of Jacob Neusner, *Introduction to Rabbinic Literature: The Anchor Bible Reference Library* (New York: Doubleday, 1994).

[5] See the translations of Philip Blackman, *Mishnayoth* (Gateshead: Judaica, 1983) and Jacob Neusner, *The Mishnah. A New Translation* (New Haven: Yale University Press, 1988), which I have here adapted.

[6] This text states, "He who says, This, my son, is a mamzer is not believed. And even if both parties say concerning the foetus in the mother's womb, He is a mamzer, they are not believed. Rabbi Judah says, They are believed." Although it may seem odd to wish the status of *mamzerut* upon one's son, that attests the evolution of its meaning, as explored below.

[7] So that relatively speaking the status of *mamzerut* lifted (hence the apparently odd stance of Mishnah Qiddushin 4:8, cited above).

[8] Cf. Shaye J. D. Cohen, *The Beginnings of Jewishness. Boundaries, Varieties, Uncertainties* (Berkeley: University of California Press, 1999) 273-307.

[9] Cf. H. Freedman, *Kiddushin* : The Babylonian Talmud (London: Soncino, 1936); Jacob Neusner, *Bavli Tractate Qiddushin*:: The Talmud of Babylonia (Atlanta: Scholars, 1996); *Qiddushin min Talmud Bavli* (Jerusalem: Vagshal, 1980).

[10] I owe this formulation to William Horbury, during discussions in the seminar on the Gospels and Rabbinic Literature which I chaired for the Studiorum Novi Testamenti Societas (August 2000 in Tel Aviv). I am grateful for the encouraging, engaged discussion that took place; my presentation there is available as "Jésus, le *mamzer* (Mt 1.18)," *New Testament Studies* 46 (2001) 222-227.

[11] Dismissed by Johann Maier in *Jesus von Nazareth in der talmudischen Überlieferung*: Erträge der Forschung 82 (Darmstadt: Wissenschaftliche Buchgesellschaft, 1978), this legend which Celsus circulated c. 178 CE had recently been championed by John J. Rousseau and Rami Arav, *Jesus and His World. An Archaeological and Cultural Dictionary* (Minneapolis: Fortress, 1995) 223-225. They maintain that an epitaph in Bingerbück, probably from the time of Germanicus and bearing the name of a soldier whose sobriquet was "Panther," attests the identity of Jesus' real father. But if "Panther" was a common cognomen, that better explains the phraseology of the Talmudic legend than anything about Jesus' paternity. Otherwise, why not ask whether Milne's Tigger might be the true progenitor of Tiger Woods?

[12] See Marianne Sawicki, *Crossing Galilee. Architectures of Contact in the Occupied Land of Jesus* (Harrisburg: Trinity Press International, 2000), 171-173; Jane Schaberg, *The Illegitimacy of Jesus. A Feminist Theological Interpretation of the Infancy Narratives* (San Francisco: Harper & Row, 1987).

[13] See Shaye J. D. Cohen, *The Beginnings of Jewishness*, 276-280. But he goes too far when he says on p. 276, "M. Yevamot 7:5 states that the offspring of a Jewish mother and a gentile or slave father is a *mamzer*." This text in fact relates to a woman of priestly descent: "An Israelite girl married to a priest, a priestly girl married an Israelite, when she produced a daughter with him, and the daughter went and married a slave or a gentile and produced a son from him, this son is a mamzer." This may well have been a

precedent for the later, broader rule, but the two should not be confused. The pertinent text, which Cohen cites and explains on pp. 277-280, is Talmudic, b. Yebamot 45b.

[14] Sotah 2:6 establishes by consensus that this only applied between the time of betrothal and divorce, not before or after.

[15] Raymond E. Brown, *The Birth of the Messiah* (London: Chapman, 1993) 124, "According to later Jewish commentary [*sic*] (Mishnah *Ketuboth* 1:5; TalBab *Ketuboth* 9b, 12a), in parts of Judea it was not unusual for the husband to be alone with his wife on at least one occasion in the interval between exchange of consent and the move to the home (and so interim marital relations were not absolutely condemned). But in Galilee no such leniency was tolerated and the wife had to be taken to her husband's home as a virgin."

[16] John P. Meier, *A Marginal Jew: Rethinking the Historical Jesus* (New York: Doubleday, 1991) 245-246.

[17] Hermann L. Strack et Paul Billerbeck, *Das Evangelium nach Matthäus erläutert aus Talmud und Midrasch: Kommentar zum Neuen Testament aus Talmud und Midrasch I* (München: Beck, 1922). W. D. Davies and Dale C. Allison, *A Critical and Exegetical Commentary on The Gospel according to Saint Matthew 1: The International Critical Commentary* (Edinburgh: Clark, 1988) 199-200 cite comparable texts (m.Yeb. 4.10; m. Ketub. 1.5; 4.12; b. Ketub. 12a), and draw the same distinction between Galilean and Judean custom. See also Craig S. Keener in *A Commentary on the Gospel of Matthew* (Grand Rapids: Eerdmans, 1999) 92; he makes reference to S. Safrai, "Home and Family," *The Jewish People in the First Century 2: Compendia Rerum Iudaicarum ad Novum Testamentum* (eds S. Safrai and M. Stern; Assen: Van Gorcum, 1976) 728-792, 756-757 and to Louis Finkelstein, *The Pharisees: The Sociological Background of Their Faith 1* (Philadelphia: The Jewish Publication Society of America, 1962) 45. These citations support Billerbeck's observation, but Tosefta remains crucial to any discussion of regional difference. Davies and Allison are less speculative when they observe: "To judge from the rabbinic sources (which may be late), betrothal or engagement (*'erusin* or *qiddushim*) in ancient Judaism took place at a very early age, usually at twelve to twelve and a half years (b. Yeb. 62b; SB 2, p. 274). Following courtship and the completion of the marriage contract (Tob 7:14), the marriage was considered established: the woman had passed from her father's authority to that of her husband. But about a year typically passed before the woman moved from her parents' house to her husband's house (m. Ket. 5.2; m. Ned. 10.5; b. Ket. 57b). During that time, although marriage was not yet consummated, the woman was 'wife' (Deut 20.7; 28.30; Judg 14.15; 15.1; 2 Sam 3.14), and she could become a widow (m. Yeb. 4.10; 6.4; Ket. 1.2) or be punished for adultery (Deut 22:23-4; 11QTemple 61). Thus betrothal was the legal equivalent of marriage, and its cancellation divorce (m. Ket. 1.2; 4.2; m. Yeb. 2.6; m. Git. 6.2)."

[18] But the formulation is actually that of Louis Finkelstein, *The Pharisees: The Sociological Background of Their Faith 1* (Philadelphia: The Jewish Publication Society of America, 1962) 45.

[19] See Sean Freyne, *Galilee, Jesus and the Gospels* (Philadelphia: Fortress, 1988), Richard A. Horsley, *Archaeology, History, and Society in Galilee: The Social Context of Jesus and the Rabbis* (Valley Forge, Pa.: Trinity Press International, 1996), James F. Strange, "First Century Galilee from Archaeology and from the Texts," *Archaeology and the Galilee. Texts and Contexts in the Graeco-Roman and Byzantine Periods: South Florida Studies in the History of Judaism* 143 (Atlanta: Scholars Press, 1997) 39-48, Marianne Sawicki, *Crossing Galilee*; Jonathan L. Reed, *Archaeology and the Galilean Jesus. A Re-examination of the Evidence* (Harrisburg: Trinity Press International, 2000).

[20] *Évangile selon Saint Matthieu: Études Bibliques* (Paris: Gabalda, 1941) 10.

[21] *Bible Review* 16.1 (2000) 31-51.

[22] See Adolf Neubauer, *La Géographie du Talmud* (Paris, 1868) 189-191, discussed in Chilton, *God in Strength. Jesus' announcement of the kingdom: Studien zum Neuen Testament und seiner Umwelt 1*

(Freistadt: Plöchl, 1979), reprinted in "The Biblical Seminar" (Sheffield: JSOT, 1987) 311-313. For a recent, critical treatment of Bethlehem of Galilee in relation to other Jewish settlements, see James F. Strange, "First Century Galilee from Archaeology and from the Texts," *Archaeology and the Galilee. Texts and Contexts in the Graeco-Roman and Byzantine Periods: South Florida Studies in the History of Judaism* 143 (Atlanta: Scholars Press, 1997) 39-48.

[23] *Rabbi Jesus. An Intimate Biography* (New York: Doubleday, 2000).

[24] See Mishnah Qiddushin 3:13: "Rabbi Tarfon says, *Mamzerim* can be purified. How so? A mamzer who married a slave girl -- the offspring is a slave. [If] freed, the son turns out to be a free man. Rabbi Eliezer says, This is a slave who also is in the status of a mamzer."

[25] See Scot McKnight, "Calling Jesus *Mamzer*," *Journal for the Study of the Historical Jesus* 1.1 (2003) 73-103.

[26] See Charles Quarles, "Jesus as *Mamzer*: A Response to Bruce Chilton's Reconstruction of the Circumstances Surrounding Jesus' Birth in *Rabbi Jesus*," *Bulletin for Biblical Research* 14.2 (2004) 243-255.

[27] Since I identified Jesus as a *mamzer* in *Rabbi Jesus*, 3-23, a considerable literature on this subject has emerged: Meir Bar Ilan, "The attitude toward *mamzerim* in Jewish society in late antiquity," *Jewish History* 14.2 (2000) 125-170; Shaye D. Cohen, "Some thoughts on 'The attitude toward *mamzerim* in Jewish society in late antiquity,'" *Jewish History* 14.2 (2000) 171-174; Marianne Sawicki, *Crossing Galilee*, 171-173; Andries van Aarde, *Fatherless in Galilee. Jesus as child of God* (Harrisburg: Trinity Press International 2001); Chilton, "Jésus, le *mamzer* (Mt 1.18)," *New Testament Studies* 46 (2001) 222-227; Chilton, "Recovering Jesus' *Mamzerut*," *Ancient Israel, Judaism, and Christianity in Contemporary Perspective: Essays in Memory of Karl-Johan Illman* (ed. J. Neusner: Lanham: University Press of America, 2005).