"Standing on the Shoulders of Giants": Re-tuning John O'Neill's Theory of the Blasphemy Charge against Jesus.

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ABSTRACT

The late John O'Neill repeatedly argued that a Jewish Law about claiming to be the Messiah lay at the root of the charge against Jesus. This demanded that Jesus never speak of himself as Messiah. O'Neill elaborated an elaborate series of arguments to show that Jesus maintained silence about his status. This paper summarises and analyses O'Neill's various writings and suggests that this thesis, as it stands, that Jesus was condemned for breaking a law about claiming to be the Messiah does not hold up. An examination of some Philonic evidence, however, yields traces of a legal charge based on self testimony -which might form the basis of a charge against Jesus. The charge focuses on the nature rather than substance of the claim, as O'Neill asserted, and gains some support from recent research on identity formation.

Introduction

John O'Neill's controversial views about the charge of blasphemy levelled against Jesus are a recurring feature in his studies of the Gospels. Starting with his 1968 article, he returned to this theme in 1970, 1980, 1995 and 2000[1]. He engages in particular with two

[1] John C .O'Neill, "The Silence of Jesus", *NTS* 15 (1968), 153-67; "The Charge of Blasphemy at Jesus' Trial before the Sanhedrin". Pages 72-83 in Bammel, E. (ed), *The Trial of Jesus: Cambridge Studies in Honour of C.D.F. Moule* [Studies in Biblical Theology : Second Series- 13], London: SCM, 1970; *Messiah: Six Lecture of the Ministry of Jesus*, Cambridge: Cochrane Press, 1980, 103-115; *Who Did Jesus Think He Was?*, Leiden: Brill, 1995, 52-4, 150-53, 172-4; *The Point of It All: Essays on Jesus Christ*

traditions, one recorded in Mark (Mark 14:62), and the other in John (19:7, 21) about the charge for which Jesus was put to death. However, this exact claim must first be set in the wider context of O'Neill's handling of Jesus' silence.

O'Neill & the Silence of Jesus

In his first treatment of this theme, O'Neill typically places himself within a critical tradition in which he marks his respect for his predecessors[2]. From William Wrede's "messianic secret" he worked through Rudolf Bultmann's development of this hypothesis, grounded in the axiom that Jesus neither claimed nor thought himself to be the Messiah. He finds crucial the problem raised by Bultmann, namely, that whilst Jesus cannot be divorced readily from the message which he proclaimed, there are few points at which he either claims or accepts a messianic title. Furthermore, the bulk of these are of dubious authenticity. His conclusion is this:

> 'I do not think the occasions where Jesus claimed Messiahship or accepted the confession of others are authentic reports: nor do I think that Jesus used any other messianic title with the intention of conveying another view of Messiahship.'[3]

He then addresses the uses of χριστός and ὁ υἱος τοῦ ἀνθρώπου (hereafter, 'Christ' and 'Son of Man'). O'Neill concludes that Jesus never taught his disciples he was the Messiah (otherwise the question at Caesarea Philippi would be redundant) and accepted any such

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(Theological Seminar Series, 1), Leiden: Deo, 2000, 54-58, 73-96, esp.89-92.

[2] This is the reason for the title of this essay. It is an aphorism cited variously by Bernard of Chartres, Isaiah di Trani, Isaac Newton and Samuel Coleridge. In private correspondence to the author, O'Neill used it once to describe his own place in relation to the critics of previous ages. It seems fitting therefore to re-apply it to a critique of his own work.

[3] O'Neill, "Silence", 156-7.

description in the third person only, not directly[4]. In the trial before the Sanhedrin, O'Neill's approach is more contentious arguing that the shorter and more familiar text is not original and that the 'I am' of verse 62, should be preceded by 'You say that [I am]' following a minority textual tradition, supported by the longer responses found in Matt 26:63 and Luke 22:70, and claiming that neither would have an independent reason to add to the shorter Marcan answer[5]. Thus O'Neill eliminates the direct uses of Christ from the equation.

A similar strategy informs his treatment of Son of Man, noting that the phrase may be used as a self-designation, or a title. When these are examined closely, the titular uses refer, with a couple of exceptions, to the Son of Man as judge, and the self-designations refer to Jesus' earthly mission and future. He concludes that:

> ' "son of man" is not a title in the genuine sayings, and cannot be used to support a theory that Jesus deliberately adopted a new and perhaps unusual title in place of messiah to indicate that he interpreted his messianic role differently from his contemporaries.'[6]

From this rather bleak assessment of the Messianic significance of Jesus' sayings, O'Neill then argues that three of his actions are Messianic in nature: his Baptism by John, the meals at which he presided in the desert places (Mark 6:32-44 and par.; Mark 8:1-10 and par.; John 6:1-15; Luke 24:13-35; Acts 2:42), and his decision to go to Jerusalem at the Passover. This leads him again to question why he chose to remain silent, if his actions showed a Messianic self-understanding. He proposes that a genuine Messiah would avoid

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[4] In his recording of the tradition two dominical statements are conflated, but these do not amount to explicit assertions of Jesus' Messiahship, but, instead, reaffirm Mark's theory that Jesus could not be openly confessed as Messiah until he had suffered died and been exalted. See further O'Neill, "Silence", 157.

[5] O'Neill, "Silence", 158.

[6] O'Neill, "Silence", 161-2.

making such a claim. First, contemporary accounts of various "messianic" leaders of various stripes all share a common feature: the lack of any claim to be the Messiah[7]. Second is the rabbinic idea that only God could announce and enthrone the Messiah, implying it is not appropriate for the Messiah to identify himself (*Beth ha-Midrah* iii.73.17). The third is Acts 5:34-9- essentially a repeat of the Theudas tradition found in Josephus. Fourth, John 19:7 claims that to make oneself the son of God was a blasphemy.

The 1970 article revisits a number of these themes, with a particular focus on the charge brought against Jesus at the Sanhedrin trial. Such charges cannot relate to prophecies to destroy the temple, or a claim to be equal to God[8]. Other potential blasphemous identifications are explored and rejected as unfit for the purpose of the trial[9].

John 19:7 is presented as a 'cold legal fact': effectively the only possible charge[10].The blasphemy thus consisted in the pronouncer taking to himself God's prerogative to declare the identity of the Messiah, echoing the rabbinic tradition of *Beth ha-Midrah* (above). In the final section of this article, O'Neill brings further external

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[7] O'Neill, "Silence", 165-66.

[8] O'Neill, "Charge", 73.

[9] The forgiving of sins (Mark 2:7 and par) does not fit when the scribal reaction is seen as an editorial interpretation of the scribes' views than an historical one , see further O'Neill, "Charge", 73. John 8:58 is ruled out as an editorial device rather than an authentic saying. Similarly 5:9b-18, the claim to have the right to work on the Sabbath, is considered unlikely to be based on an actual dispute. John 10:33, a claim to be God's son, is also ruled out on the grounds that the reduced claim (which would see all who receive God's word as son of God) is an editorial gloss, and the real issue, with its suggestion that the blasphemy is to call the Messiah God's son is shown to be irrelevant given some of the promises of Scripture (2 Samuel 7:14a; 1 Chronicles 17:13).

[10] O'Neill, "Charge", 75. Given the remarks of John 10:36 , it is not the claim that the Messiah is God's Son which could be considered blasphemous, but rather a claim to be that person.

evidence in support of his claim from contemporary literature[11], and concludes:

> 'the technical charge upon which Jesus was condemned to death by the Sanhedrin may well have been that he blasphemed in making himself God (John 10:33) by presuming to say he was the Son when the Father alone knew who the Son was (Matt 11;27; Luke 10:22).'[12]

In *Messiah*, the printed versions of the Cunningham lectures delivered at New College in the University of Edinburgh, O'Neill revisits two issues: what John the Baptist thought of Jesus (Chapter 1) and Son of Man (Appendix 2). He restates his position that John points to the Jesus as the one to come (the Messiah)[13].

The review of Son of Man takes into consideration more recent research on the phrase and the recognition of both titular and non-titular uses. He directs his attention again to showing the titular Son of Man is not used by Jesus, but the reliable instances of its use which can be attributed to him are rather to be translated as "a man", either himself, or one about whom a question is raised[14].

In 1995's *Who Did Jesus Think He Was?*, O'Neill returned to the question for a fourth time. The familiar elements are again present: that Jesus made no direct claim to be the Messiah and Son of Man[15].

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[11] Ps. Sol. 17.22, cf. Matthew 11:25-7; Luke 10:21-2.

[12] O'Neill, "Charge", 77.

[13] He suggests that both Acts 19:24-8 and 19:3-5 suggest that the followers of John were baptised and given information about Jesus. He further argues that accounts of both the baptism of Jesus and the sending of the delegation to Jesus record respectively John's estimate of what happened and an historically reliable account.

[14] O'Neill, *Messiah*, 103-15.

[15] On this occasion, the treatment of Son of Man uses Richard Horbury's article as its launching point: O'Neill proposes that the titular usages which appear in the Gospel are not authentic because they are Jewish in origin

He then details his methodology. First, he wishes to discount arguments that would see his case stand or fall on the weakest evidence. Second, he argues that sayings are not simply authentic or not: authentic sayings may have been reworked into inauthentic forms by the writers of the material in our possession. Third, he identifies "rules of thumb" rather than precise rules mechanically applied. It is worth quoting these in full:

> '*Suspect of inauthenticity any saying that expresses a prominent belief of the early church, and, Regard with favour as a saying likely to be authentic any saying that uses terms or expresses ideas not found in the writings of the early church.*'[16]

The end result, to cut through 22 pages of densely argued findings, is:

> 'Jesus never did in fact state in so many words that he was the Messiah, nor did he ever deny that he was the Messiah.'[17]

This theme makes its final appearance in 2000's *The Point of It All.* Here, O'Neill addresses a key question raised by Craig Evans and Graham Stanton: where can the law of which he speaks be found.

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rather than arising from the later Christian traditions. However, in Chapter 8, O'Neill expands the material under consideration far beyond his previous focus on the title. He identifies 7 categories of saying: use of exalted titles apparently used as self-references, Jesus' words used against him by his enemies, implicit claims which are the equivalent of Messiah, hints of being the Christ, sayings about "me/my Father" which might indicate his status as the Messiah, apparent denials that he was the Son of God, and occasions when he did not directly questions about status. O'Neill then advances his case by arguing the (in)authenticity of the sayings in the first five groups, showing that the sixth group are not, in fact, denials of being the son of God, and that the evasive answers are genuine records.

[16] O'Neill, *Who?*, 140.

[17] O'Neill *Who?*, 163.

The immediate text cited is John 19:7[18], the second is 1 En. 62:7, which is considered to imply the rule[19]. This is backed up by the assertion that one mark of the Antichrist is to claim to be God[20]. O'Neill goes further and argues that Mishnah *Sanh.* 11.5 implies a prohibition on speaking what may be true but not yet released by God, and this includes Messianic claims[21]. Finally, Hebrews 5:4-5 in which the Aorist is translated as a gnomic: the Messiah is not to glorify himself. O'Neill takes this as proof for the existence of the law he claims in Jerusalem before 70 CE.

With this, our summary of O'Neill's thesis is complete. It has moved progressively through a number of stages, often through engagement with his critics. It would appear his final verdict is that there is a law that the Messiah could not make such a self-claim, and that Jesus took care to avoid so doing by a careful use of the son of man titles which are considered self-referential rather than titular.

Objections to the Theory

Objections to the theories presented are numerous. For, at almost every point, we are dealing with matters of interpretation whose resolution is far from clear. Let us consider them under the following headings:

i) the titles

ii) the "Trial" of Jesus

iii) external evidence

iv) limited focus.

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[18] O'Neill, *Point*, 89.
[19] O'Neill, *Point*, 90
[20] O'Neill, *Point*, 90.
[21] O'Neill, *Point*, 90-91.

i) The Titles

Space does not permit, in an article of this type, a case by case statement of the possible alternative readings of each of the Son of Man sayings, but it suffices to say that those who argue strongly for titular uses of the saying in which Jesus is seen to declare himself the Messiah will find themselves at odds with O'Neill's interpretation of the sayings as a whole. Thus for example, in his monograph on the charge of blasphemy, Darrell Bock argues for conclusions very different from O'Neill's. Citing the criterion of multiple attestation, he argues there is no doubt that Jesus spoke of himself as the apocalyptic Son of Man, that it is inconceivable that the titular usage was retrojected onto the lips of Jesus by the early church, and that it makes little or no appearance outside of the non-Gospel NT literature[22]. Raymond Brown, too, whilst admitting the possible influence of later Christian language states that the final form of Mark 14:62 (and that means Jesus' self-identification with the Son of Man) '*may be* (italics mine) close to the mindset and style of Jesus himself'[23].

O'Neill's use of text-criticism will also not convince some. At several points, his argument hangs on disputed readings of text and the identification of phrases as glosses or editorial remarks, which will weaken his thesis in the eyes of those who tend towards the majority readings[24]. His preference for the longer, disputed variant reading of Jesus' reply in Mark 14:62 not only may be questioned by the manuscript evidence which weighs decisively against him, but also by the basis principle of *lectio difficilior potior*, where the

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[22] Darrell L.Bock, *Blasphemy and Exaltation in Judaism : The Charge against Jesus in Mark 14:53-65*, Grand Rapids: Baker, 2000 , 224-7.

[23] Raymond E.Brown, *The Death of the Messiah*.2 Vols. The Anchor Bible Reference Library, ed. David Freedman. NY: Doubleday, 1994, 515.

[24] E.g., Martin Hengel, *Studies in Early Christology*, London: SCM, 1995, 187 who thinks that Matthew has altered the shorter version, and thinks that the shorter text is a pre-Marcan Passion Narrative.

longer text might be seen as removing a theological problem *and* synthesizing variant traditions. It must also be asked whether this preference is not driven by his thesis: after all, it removes significant problems.

In addition to this further difficulties arise within O'Neill's own account. He stresses that the titular Son of Man is an unlikely option, on the grounds that it was not used by the early church. Yet, in admitting titular usages within Matthew and John[25], he has to concede that the title was used more frequently by the early church than the two occasions he has previously allowed[26]. Further, it is odd that O'Neill in 1995 re-jigs his argument to suggest that titular usages have a strong Judaic provenance[27]. This is problematic for two reasons. First, there is a major shift in saying first that such sayings come from the environment of the early church, and then from then from Judaism. There is an inconsistency here: which environment exactly is being claimed as the source?

Then, secondly, we note that such statements assume that these different contexts may be discrete and clearly demarcated. Is this really so? Consider the three slices of culture which are involved here: Jesus, Judaism and early Christianity. We cannot pretend that these can be isolated from each other. Jesus, after all, was a Jew, and the early church started as a movement within Judaism which later evolved into a distinct religious tradition. This suggests that these are interlinked, and that common elements or terms may be found in any or all of these in their various combinations. Add to that modern theories about culture which suggest that these might be considered sub-cultures (if not full-blown cultures in their own right), and that such social groupings (culture or sub-culture) are marked by porous

[25] O'Neill, *Messiah*, 111.
[26] O'Neill, *Messiah*, 104.
[27] O'Neil, *Who?*, 126-27.

boundaries, overlap and interlink, and are not free-standing or distinct[28], and the claims appear even weaker.

As such, O'Neill's methodology appears to be an outdated application of the criterion of dissimilarity. This tool of form criticism has been roundly criticised by the dogmatic theologian, Eric Mascall, drawing in turn on the work of Morna Hooker[29]:

> 'It would be one thing to say that a statement attributed to Jesus is probably authentic if it inconsistent with Judaism before him and with the Church after him, though even this would be hazardous. But to say that *no* statement attributed to Jesus can be authentic *unless* it is inconsistent with Judaism before him and with the church after him is another matter, for it is logically equivalent to saying that Jesus could never have agreed with Judaism and that the Church could never have agreed with him.'[30]

Further, in light of the misunderstandings arising from those who shared far more in terms of culture and context with Jesus than we ever can, it must raise questions about whether the critic can really claim to work with such precision, especially given that the rules by which he operates can only be described as 'rules of thumb'.

There is also the issue of whether such precision can really be exercised given our gaps in knowledge of the environments of Jesus and the gospel writers. When O'Neill talks of 'prominent beliefs',

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[28] Kathryn Tanner, *Theories of Culture: A New Agenda for Theology*, Minneapolis: Fortress 1997, 53-6; Abram Kardiner & Edward Preble, *They Studied Man*, Cleveland: World Publishing Co., 1961, 193; Loius J. Luzbetak, *The Church and Cultures*, Maryknoll, NY: Orbis, 1998, 171-2.

[29] Morna Hooker, "On Using the Wrong Tool". Pages 570-81 in *Theology* LXXV (1972).

[30] Mascall, Eric, *Theology and the Gospel of Christ: An Essay in Reorientation*, London: SPCK, 1984,88.

the phrase bears a huge load in terms of (a) what the beliefs were, and (b) which were, indeed, prominent. The criticism which Dale Allison remembers being told by W.D. Davies is apposite:

> "We just do not know enough about first century Judaism or early Christianity to make the criterion very reliable. Why pretend to prove a negative? I remember W.D. Davies once advising me never to use the word *unique* in connection with Jesus. His reason was very simple: How can we claim anything to be without parallel when so little is known about antiquity?"[31]

O'Neill's methodology, contrary to this, appears to demand a radical discontinuity between Jesus and the early church which begs a number of questions. It also raises questions about how reliable any tradition could be, given his views of editing and redaction. Put crudely, how could the early church have consistently misunderstood Jesus so much? In light of the recent work of writers like Bauckham who have done much to rehabilitate the veracity of the Gospels and indeed the claim that they are based on eye-witness tradition[32], we are left, if we follow O'Neill, assuming that those closest to Jesus were unable to record authentic traditions without amending and confusing them. This in turn appears unlikely given that the transmission of tradition seems to have been governed by careful rules about how material might or might not be altered and amended[33]. Research such as this suggests that O'Neill is working

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[31] Allison, Dale, *Jesus of Nazareth: Millenarian Prophet*, Minneapolis: Fortress, 1998.

[32] Bauckham, Richard, *Jesus and the Eyewitnesses: The Gospels as Eyewitness Testimony*, Grand Rapids: Eerdmans, 2006.

[33] Birger Gerhardsson, *Memory & Manuscript: Oral Tradition and Written Transmission in Rabbinic Judaism and Early Christianity.* Published together in one volume with *Tradition and Transmission in Early Christianity.* Grand Rapids: Eerdmans, 1998 make such claims by comparing the Gospels with rabbinic transmission. This volume includes a rehabilitation of Gerhardsson's thesis by Jacob Neusner in the introduction.

with an understanding of tradition and transmission which may be divorced from the actual reality.

The way in which he handles the material is also contentious. For O'Neill, every usage of the title is clear-cut: different instances can be set into distinct groups, headings or pigeon-holes. But is the son of man material really used in such a clear-cut way? A number of scholars would argue differently, the might suggest that the phrase is ambiguous[34], and/or developmental[35], and messianic on occasion[36]. This second description is particularly enlightening when compared to O'Neill's use of the title. It suggests that the shape of the title alters as Jesus uses it, that it leaves behind its historical antecedents and morphs into something new[37]. All this echoes with linguistic patterns which have more in common with Bakhtin ('re-

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For updated comments on oral tradition, and the subsequent debate, see Bauckham, *Eyewitnesses*, 240-89.

[34] Darrell L. Bock, "The Son of Man in Luke 5:24", *Bulletin for Biblical Research* 1 (1991), 109-21.

[35] Thus, among others, Darrell, L. Bock, "The Son of Man", 4Truth.net, 2007. Accessed 21/08/2009 at http://www.4truth.net/site/c.hiKXLbPNLrF/b.2902829/k.328F/Jesus_The_Son_of_Man__Apologetics.htm. Oscar Cullmann, *The Christology of the New Testament*, Philadelphia: WJKP, 1980, 154, Larry W. Hurtado, *Lord Jesus Christ: Devotion to Jesus in Earliest Christianity*, Grand Rapids: Eerdmans, 2003, 298 for a description of Moule's description of the phrase and Anthony J. Saldarini, "Matthew". Pages 1000-63 in Dunn, J.D.G., & Rogerson, J. W., (eds), *Eerdmans Commentary on the Bible*, Grand Rapids: Eerdmans, 2003, esp. 1003a.

[36] Craig A. Evans, "In What Sense 'Blasphemy'? Jesus Before Caiaphas in Mark 14:61-64. Pages 407-34 in Evans, C.A. (ed.), *Jesus and His Contemporaries: A Comparative Study*. Leiden: Brill, 1995, see esp. p.414-17.

[37] See, for example, Gerd Theissen, & Annette Merz,*The Historical Jesus: A Comprehensive Guide*, Minneapolis: Fortress, 1998, 552 for the combination of the everyday idiom and the heavenly title in a new construct.

accentuation')[38] and Wittgenstein[39] than O'Neill's static set of meanings, which have more in common with the European lexigraphical work so roundly criticised by James Barr[40].

All that said, he leaves one particular conundrum which is especially difficulty for those who would see Caesarea Philippi as an historical event. The difficulty lies not in "who do men say that I am?"- which could be a straw poll conducted just to see how things were going, but in 'who do you say that I am?' and the resulting dialogue which strongly suggest a scenario which is not answered by saying, 'Well done, for you remember what I have taught you!'. All of which suggests a strong argument that Jesus had not declared, historically- by that point, *in so many words*, his identity directly to the disciples. But even this is not to admit that Jesus had never declared himself to be the Messiah, only that the disciples had not, as depicted at that point, yet grasped the significance of what he might (or might not) have said[41].

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[38] For definitions of "re-accentuation" in Bakhtin, see Carol A. Newsom, "Apocalyptic Subjects: Social Construct of the Self in the Qumran Hodayot". Pages 3-35 in *Journal for the Study of the Pseudepigrapha*, 12/1 (1995), esp. pp. 6-7 and L. Juliana M. Claassens, "Biblical Theology as Dialogue: Continuing the Conversation on Mikhail Bakhtin and Biblical Theology". Pages 127-144 in *Journal of Biblical Literature*, 122/1 (2003), see p. 132, where we might envision Jesus or any other developer of the idiom and title thus actualising potential meaning.

[39] In the *Philosophical Investigations*, Oxford: Blackwell, 1986 esp. aphorism 43, Wittgenstein pursues the idea that words have meaning from their location rather than inherently.

[40] James Barr, *The Semantics of Biblical Literature*, Oxford: OUP, 1961.

[41] Whilst it may be controversial to use an element from John to illuminate what is an episode in the Synoptic tradition, we might note the recurring motif in the fourth gospel in which Jesus' interlocutors, including, on occasion, the disciples, with remarkable constancy, fail to grasp Jesus' true meaning. Consider the following: John 2:22 (disciples?); 3:4 (Nicodemus); 4:15,25 (Samaritan Woman),33 (Disciples); 6:26 ,35ff,42 ff, 52ff (the

O'Neill produces a picture of Jesus in which potential titular usages Son of Man are judged inauthentic primarily because they do not fit with the theory expounded, and his reading of contemporary literature which, he suggests, allow for messianic actions, but not explicit claims. Without these buttresses, the isolated claims for Son of Man appear much less convincing. Part of the methodology which produces that result is based on this 'wrong tool' of dissimilarity, in which, at various points, either origins in Judaism of 'being made up by later Christians' rules them as inadmissible for the authentic Jesus. The fact that both Judaism and early Christianity, by O'Neill's own admission, used Son of Man as a title does not in itself constitute sufficient evidence for saying that it was impossible for Jesus to speak this way.

ii) The trial of Jesus

O'Neill's thesis demands a formal legal charge and this in turn is based on a number of assumptions which are highly contentious. Three spring to mind.

The first is his well-nigh exclusive focus on the Marcan trial and preference for a longer variant reading of the text. These appear to start from the assumption that the Marcan account is the most accurate account of the trial. However, we must note that this should not be assumed automatically. Thus Catchpole, writing in the same volume as O'Neill, would see the Lukan version as based predominantly on a more Semitic and primitive account including Luke 22:70 (the 'you say' reply, rather than Mark 14:62's 'I am'),

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Jews);8:33ff (the Jews), 11:11-14 (disciples),23-4 (Martha); 12:5ff (Judas); 13:6-11 (Peter). It is possible that this may be a literary motif contrasting the readers with the participants in the narratives, see further Francis J. Moloney, *Glory Not Dishonor: Reading John 13-21*, Minneapolis: Fortress, 1998, 14-5.

but not Luke 22:69 which appears dependent on Mark[42]. The net effect is that a case can be made for the reading O'Neill prefers without resorting to his text critical gymnastics.

The Matthean account also supports the longer reading. Sanders' reading of the trial, which starts from the Matthean wording (26:63-64), raises objections to Jesus identifying himself both as the Christ ('you say' rather than the Marcan 'I am') and as the heavenly son of man (πλὴν- 'but, on the other hand')[43]. It is possible to argue that Jesus' reply in Mark 14:62 (as per the majority text) suggests an assent to the designation as Christ and son of the blessed one, and a separate statement about the son of man: we do not need grammatically to conflate the characters, but even this becomes an unnecessary step if we follow Catchpole's line.

So, we find that this is not so much an objection to, but validation of, the claim that a 'charge' centred on a self-claim is really the point at issue. The criticism of O'Neill's thesis is more of the route he has taken to reach that same conclusion.

Second, the idea of a formal legal charge implies a formal legal trial, and there is strong evidence to argue that the so-called trial of Jesus was not a formally constituted, official or legal gathering: it may be

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[42] David R, Catchpole, "The Problem of the Historicity of The Sanhedrin Trial". Pages. 47-65 in Bammel, E., (ed), *The Trial of Jesus: Cambridge Studies in Honour of CF.D. Moule* [Studies in Biblical Theology : Second Series- 13], London: SCM, 1970. See also I. Howard Marshall, *The Gospel of Luke* [NIGTC], Exeter: Paternoster, 1978, 850-1. Note that Hengel, *Studies*, 187, with its claim that the Marcan text retains an earlier tradition, means that the point at issue may be the validity of pre-gospel traditions, rather than the gospel texts themselves, or text vs. pre-text.

[43] Ed P. Sanders, *The Historical Figure of Jesus*, London: Penguin, 1995, 247-48. See also Joseph Fitzmyer, *The Gospel According to Luke X-XXIV* [AB], NY: Doubleday, 1985, 1467 for the distinction of Christ and Son of God.

described as an informal hearing rather than a formal hearing[44]. It seems that what is being presented is a legal fiction to justify the condemnation of someone who has rubbed a number of people up the wrong way: the trial and its associated charges are more of a legal fiction and justification rather than the whole story. Jesus is not the first or last person in history to find himself condemned for failing to conform to either popular convention or an overbearing ideology. Hanging a claim for a properly constituted legal charge on such a gathering may not be appropriate.

Third and last, there is a potential problem in the way in which the material is handled. One might question whether or not it is good practice to conflate the Synoptic trial , and here we essentially mean the Marcan version with the Johannine crucifixion, especially as there are significant differences within the Synoptic traditions which raise questions as to whether an exact record is recoverable. O'Neill ends up creating a meta-narrative of trial and crucifixion based on at least two distinctive traditions. Note I do not suggest that this is an insurmountable problem, nor even an invalid proposal, but it is, nonetheless, one which hangs on a number of assumptions about the historical reliability of the respective traditions, and how they might be combined, and all this is open to debate.

Let us consider just one simple but significant example, confining the following remarks simply to the Marcan and Johannine accounts. The trial scene in Mark focuses on a number of questions: the destruction of the Temple (Mark 14:57-58), the Christ/exalted Son of Man (Mark 14:61-62) as well as a number of unspecified and, it is claimed by the evangelist, fraudulent claims (Mark 14:56). The equivalent passage in John 18:19-24 focuses on Jesus' teaching and a perceived insult to the high priest. There are surely major problems in reconciling these two accounts which are simply not addressed.

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[44] Christopher Rowland, *Christian Origins: The Setting and Character of the Most Important Messianic Sect of Judaism*, London: SPCK, 2002 (2), 169.

That said, it may be noted that both Luke 22:69 and John 19:21 support the idea that a self-claim lies at the heart of the matter.

iii) External Evidence

What happens when O'Neill goes beyond Son of Man and the trial? His 1995 article, after all, cast the net much further. Again, we face a number of assumptions. Consider the broader picture of Jesus' statements as recorded in the gospels and how they are described. O'Neill, for example, talks about Jesus implying he is the Messiah[45]. On the face of it this is a neutral comment, but when is an implication an implication? Mark 2:17 is for O'Neill an implication, but 'more than a prophecy' to O'Collins[46]: 'implicit claims'[47] and 'more than prophecies' do not appear to be equivalent turns of speech.

What about the blasphemy charge itself? Immediately, O'Neill's theory has to face a question about documentary evidence. Scholars such as Craig Evans argue that the lack of evidence for a specific charge is grounds enough to reject the hypothesis[48]. Two different responses could be made.

The first I have alluded to before, namely, that the evidence of John 19:7, 21 might itself be construed as the wording of such a charge[49]. The question here would not then be a complete lack of evidence, but why critics demand that the charge as worded in John can only be accepted as historically accurate if it is supported by evidence from some other source. To argue that the NT itself is inadmissible evidence for the period is a mark of prejudice against

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[45] O'Neill, *Who?*, 153.
[46] Gerald O'Collins, *Jesus: A Portrait*, Maryknoll: Orbis, 2008, 24.
[47] O'Neill, *Who?*, 153.
[48] Evans, "In What Sense?", 407, esp. fn.1.
[49] Fergus J. King, *More Than A Passover: Inculturation in the Supper Narratives of the New Testament* [New Testament Studies in Contextual Exegesis Vol 3], Frankfurt: Peter Lang, 2007, 9 esp. fn. 26.

these texts rather than scepticism. Let me ask the question more bluntly: would such evidence occurring in, say, Philo or Josephus been accepted as evidence in a way it is not when found in John? If the answer is 'yes', there is a bias in the treatment of the sources. That said, it is possible that the verse still does not bear the interpretation O'Neill puts on it, and we will return to it later.

For the moment, even if my remarks about John 19:7,21 and its treatment by the critics are so unpalatable as to be unacceptable, the apparent lack of direct evidence need not itself end the matter.

Second, the problem thus far is, as Evans noted, the lack of source material[50]. But does there need to be a specific legal act recorded to support the thesis? Bock is more generous, commenting that:

> 'What we lack are sources that give us details of the *legal* practice before 70 CE. However, we do have...a significant amount of material that describes Jewish views of blasphemy in this period as a cultural matter, and with a consistency that suggests it was a widely held view, even among Judaism's religious leaders.'[51]

In other words, it is not necessary to possess the 'letter of the law', but there needs to be contemporary contextual evidence to support any claim. From this perspective, Bock has the confidence to argue that Jesus' opponents could declare his words enough to constitute a blasphemous claim. Of course, merely, arguing that there are grounds for blasphemy does not mean that O'Neill's version is immediately acceptable, for any such claim will need to explore exactly what constituted blasphemy, and this may turn out to be different, more variegated or more indistinct than the charge he claimed, for his focus is very much on the claim that it was

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[50] Thus Donald Juel, *Messiah and the Temple: The Trail of Jesus in the Gospel of Mark* [SBLDS 31], Missoula: Scholars Press, 1977, 97-8.
[51] Bock, *Blasphemy* 184.

blasphemy to claim to be the Messiah, and blasphemy was very much wider in scope[52].

What of the other evidence cited by O'Neill as evidence for his claim? We find is that there is not as much detail as might be wished. For example, Mishnah *Sanh.* 11.5 (a codification of Deuteronomy 13:5) deals with 'false prophecy' rather than a distinct Messianic claim[53], and adds a phrase to the translation [to tell][54]. His revision of this text in 2000 argues from a general proposition to a specific proposition which is not explicitly mentioned. Can such a manoeuvre really justify the specific claim? A number of accounts from Josephus describing messianic pretenders are also cited (*Ant.* 17.271-84, 18:85-89; *J.W.* 2:433-34,444; 4:510; 6:300-09) but these do not really give a comprehensive account of all that these characters may have said or done. Here O'Neill's own qualification that we do not know how many claimed or thought themselves to be the Messiah must raise major questions about their value as evidence for Messianic claims: some even, by his own admission, rule out even actions, a factor which goes against own thesis that Jesus could not speak, but could perform[55].

Darrell Bock (noting the Akiba texts cited by O'Neill) argues that these do not involve direct self-claims, but records of experiences[56]. Evans, too, notes the significance of the Akiba traditions in defining Christology, but at no points entertains 'claiming' within that

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[52] Bock, *Blasphemy*, 111 notes that the official rabbinic position was that use of the divine Name was the only clear case of blasphemy, but there was a wider category of acts of blasphemy including idolatry, disrespect for God, insulting His leaders, and , by extension, involves a wide range of insulting speech and activity (112-3).

[53] O'Neill, *Who?*, 53.

[54] Bock, *Blasphemy*, 25. Note that O'Neill amends the translation to omit "to tell" in *Point*, 90, but the text still does not appear convincing.

[55] O'Neill, "Silence", 165.

[56] *B Hag* 14a, *b Sanh* 38b, *1 En.* 53:6, 90:28-29, 91:13, *Exagogue of Ezekiel* 67-89. See O'Neill, *Who?*, 52 and Bock, *Blasphemy*, 24.

tradition: for him, the focus is on the substance of messianic figure portrayed[57]. Ps Sol 17:22, when interpreted as an idea better seen in light of Matthew 11:25-7; Luke 10:21-2, depends on another controversial textual reading, in which 'No one knows the Son save the Father' is taken as a textual gloss, and as a traditional Jewish maxim. It also raises a major issue of definition: it may be that the claim to speak for God is not technically blasphemous, but presumptuous[58].

None of the external texts conclusively proves O'Neill's point, about a specific blasphemy charge about claiming to be the Messiah. At best they argue for a potential charge which might be extrapolated from more general principles, and some imply that self-claiming might be important[59].

iv) Limited Focus

O'Neill's focus on the Son of Man, Christ and the trial seemingly omits from the picture other potential reasons for his death. The breadth of the other charges and claims against him can be seen in McKnight and Modica's *Who Do My Opponents Say I Am?*: law-breaker, false prophet, demon-possessed, glutton and drunkard, blasphemer, illegitimate son as well as King of the Jews[60]. O'Neill's thesis is restricted to Jesus as law-breaker, blasphemer and King of the Jews, and substantial portions of the gospel narratives appear

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[57] Evans, "In What Sense?", 423-29. Hengel, *Studies* similarly focuses on the substance of the claim, esp. 186-87.

[58] Evans 1995, 407, fn.1.

[59] Bock, *Blasphemy*, 24-5.

[60] McKnight, S., and Modica, J. B.,(ed.s) *Who Do My Opponents Say I Am? An Investigation of the Accusations Against the Historical Jesus*, London: T&T Clark, 2008. Even their list is not exhaustive: John 11:45-53 would appear to associate the plan to kill Jesus with the signs he had performed, and more specifically with his raising of Lazarus.

redundant. It even excludes factors as mundane as envy, explicitly mentioned in the Marcan account[61].

v) Summary

On the basis of these objections, it would seem that O'Neill's thesis suffers a number of drawbacks:

1. his claims about the silence of Jesus are highly contentious and methodologically suspect,
2. the trial scenario may not fit a legal assembly even if attempts are made to give it such a flavour[62],
3. his text-critical approach seems to shape the texts to suit the thesis,
4. what evidence may be extracted from external sources is contested even by himself,
5. and he does not address the full variety of charges made against Jesus.

These criticisms appear fairly comprehensive, but it is still possible to argue that some points of the thesis remain valid, but in a much reduced form. This reduced form puts aside the Marcan material and focuses solely on the Johannine material. As such the focus is on the changing of the words in the title placed on Jesus' cross (John 19:21), and it demands some reflection on the nature of Jesus' claims as presented in that gospel.

The nub of the problem is that O'Neill has argued for a very definite thesis, a self-claim about being the Messiah, and has placed great

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[61] Jerome Neyrey, "'It Was Out of Envy That They Handed Jesus Over' (Mark 15:10): The Anatomy of Envy and the Gospel of Mark." *Journal for the Study of the New Testament* 69 (1998):15-56.

[62] Franz Kafka's *The Trial* has a "legal flavour", and may satirise legal practice, but does not become literal historical truth.

weight on the charge of blasphemy being connected with the substance of the claim (to be the Messiah) at the expense of the nature of the claim (a self-claim). There is evidence to suggest that self-claiming is a known legal issue, and this might mean that the thesis can in part be rehabilitated.

Re-Tuning the Thesis

With these *caveats* made, there are still grounds to argue that the wording of John 19:21 might constitute a legal charge against Jesus according to contemporary convention, even if the exact words of the charge remain unknown. Evans' claim (above, see fn. 57) that speaking on behalf of God is presumptuous will still need to be addressed, as it implies a cultural convention rather than a legal proscription.

I have previously suggested that John 19:21 is an incidental historical detail (above, fn. 42) as there were no grounds to suggest why such a detail might be added: Winter describes the inscription as ' the one solid and stable fact which should be made the starting point of any historical investigation dealing with the Gospel accounts of his [Jesus'] trial'[63]. In addition to this, it can be noted that, amidst all the variety of the practice of crucifixion[64], there are records of such plaques (Greek πίναξ; Latin *tabula*) being posted, principally, as a deterrent to others rather than a precise legal record[65]. Historically, the posting of a warning is possible, but again caution needs to be taken against assuming that it might be a precise legal charge. Nevertheless, it will make a statement about what the person has

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[63] Paul Winter, *On the Trial of Jesus.* Studia Judaica: Forschungen zur Wissenachaft des Judentums. Band 1. 2nd edition revised and edited by T.A. Burkill and Geza Vermes. Berlin/ NY:Walter de Gruyter, 1974, 156.

[64] Martin Hengel, *The Cross of The Son of God*, London: SCM, 1986, 116-18.

[65] Brown, *Death*, 963- 8 concludes that there is a historical basis for the title centred on the "King of the Jews" . Cf. Hengel, *Cross*, 148.

done wrong, to deter others from acting in a similar way. In such a case, we might say that the plaque gives a warning about claiming to be the King of the Jews.

However, that previous claim needs to be examined, for it is arguable that a reference to claiming might fit well with the literary character of the gospel, and this might be an alternative to its being an incidental detail as similar claims occur on several occasions (e.g., John 5:31-40; 8:12-20; 10:36).

Does a literary origin rather than an historical origin provide an objection to reflection on the legal status of the tablet? Not necessarily, for surely a literary creation of this kind needs some plausibility: it needs to correspond to what was possible- and to that extent, contain an element of historical veracity. This axiom holds good not just for the tablet, but, I reckon, for the substance of the words in the trial scene. It is on this basis that we now turn our attention to the wider issue of Jesus' claims in John, and focus particularly on Per Jarle Bekken's work on self-testimony[66].

Bekken notes that a legal principle undergirds the controversies of John 5 and 8. In many ways, his assertions are open to the same criticism as those made of O'Neill: there is no existing statute. However, Bekken is able to extract the substance of his arguments not only from the Johannine literature but from passages in Philo whose *Legum Allegoriae* includes a discussion on self-testimony and its applicability to God. Philo concludes that it is possible, if not necessary, for God to bear witness to himself, since no-one else is fit

[66] Per Jarle Bekken, "The Controversy on Self-Testimony according to John 5:31-40; 8:12-20 and Philo, *Legum Allegoriae* III. 205-208". Pages 19-42 in Holmberg, B., and Winninge, M. (ed.s), *Identity Formation in the New Testament* [Wissenschaftliche Untersuchungen zum Neuen Testament 227], Tübingen: Mohr Siebeck, 2008.

to do so[67]. In a survey of previous research he notes the wide body of evidence cited by Beutler and others that there is a controversy over self-testimony in Jewish, Greek and Latin sources, and proceed to elaborate, following Borgen, that this includes forensic evidence, and concludes that there is a 'Jewish referential tradition' for self-authenticating testimony in John[68]. Both Philo and John apply a concept of valid self-testimony to God. In John this becomes the basis for the authenticity of Jesus' claims about himself. They take us to the heart of the controversy: to Jesus as depicted (and presumably those who wrote and read the Gospel) his claims are true, because they work from the assumption that he is God, and thus able to give valid self-testimony. To his interlocutors, his claims are perceived as false inasmuch as they do not share the assumption of his divinity.

In this context, we have a legal setting for the words found in John 19:21. But whilst the earlier accounts in the Gospel present Jesus making such claims on his own behalf, this verse is a report by others of what he did: he said he was the King of the Jews. The implication is of course, that they do not believe him, hence his crucifixion. The irony, for the evangelist and his readers, is that the claim is true.

What happens to O'Neill's thesis here? Let us restate his position briefly: there was a law which forbade anyone to *claim* to be the Messiah. Such a detailed claim does not appear sustainable given the objections raised in terms of documents and method. But there is a legal point involved which is more difficult to dismiss: self – testimony. Jesus is breaking a legal principle, according to his accusers, inasmuch as he speaks on his own behalf. There is a shift here from O'Neill's emphasis on the content of the claim (*to claim to be the Messiah*) to the act of self-claiming. *It is the act of self-claiming which is at the centre of any charge*. This act of claiming as

[67] Philo, *Leg.* 3.205-208. See Colson, F.H. and Whitaker, G.H., *Philo*, Vol1 [LCL], Heinemann: Harvard, 1971, 440-43. Also translated in Bekken 2008, 20-22.

[68] Bekken, "Controversy", 25-29.

a basis for the charge is supported by the Lukan and Johannine accounts, supported by the Philonic material. Further, the claim is no longer dependent on the more contentious theories advanced about the silence of Jesus, the son of man and the Marcan trial scene. Nor does there need to be evidence for a claim specifically about being the Messiah: the data about self-claiming suffices in itself.

Whilst this re-tuning renders huge swathes of O'Neill's thesis redundant, it still fits with his wider christological programme. O'Neill, in his later writing, held that much post-Reformation and critical scholarship of the gospels had fallen unwittingly under the pernicious influence of Socinian views which effectively led to the denial of Jesus' own Messianic self-understanding[69]. His views on the silence of Jesus were part of his reclaiming of such a self-understanding, influenced by his view that the motif of silence was problematic[70]. The re-tuning proposed in this article upholds that claim about self-understanding, but without the scholarly gymnastics involving silence. Put simply, titular usages of Son of Man which can be ascribed to the historical Jesus become evidence for a divine self-understanding simply on the basis of the nature of the claim. Instead of excising sayings and producing a conclusion based on a truncated reading of what might or might not be historical, the same conclusion may be reached and still include the relevant authentic sayings.

There is an additional gain: an ironic twist. If my proposals are correct, the Lukan response (22:70) reflects this context and becomes two-edged: 'you say' suggests that Jesus' questioner is actually unfit to hand down any verdict about God. Only God may judge God. With a further twist of irony, Jesus' words are described as a

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[69] O'Neill, *Who?*, 1.

[70] It is possible that O'Neill has been overly concerned with the idea of "Messianic silence" expounded by Wrede and his followers which Schwietzer had identified as flawed many years earlier. Albert Schweitzer, *The Quest of the Historical Jesus*, London: SCM, 1981, 340.

testimony μαρτυρίας - the same word used by Philo[71]) which comes from Jesus' own lips (ἀπο τοῦ στόματος αὐτοῦ - Luke 22:71).

O'Neill has been vindicated in part: there seems to be enough evidence to suggest that there is forensic dimension to the charges brought against Jesus, congruent with contemporary thinking. However, to say this is the sole reason for Jesus' death is to overplay its significance.

Might this legal principle still be called 'blasphemy'? The Marcan and Matthean accounts appear to do so (Mark 14:64[72]; cf. Matt 26:65[73]), but not the Lukan or Johannine narratives (Luke 22:71; John 19:7). The evangelists appear divided.

Let us consider the wider context. Bock, after an extensive investigation, notes the extent of offences considered blasphemous, and, most importantly, includes within the category 'comparing oneself to God'[74]. It does not seem unreasonable to suggest that self-testimony, in which one abrogates to oneself a right only held by God would be an instance of blasphemy[75]. But what if the one who so speaks is God? Then what appears legally prohibited is actually permissible. Jesus is able to testify about himself, because his divine status accords him this privilege. That he is so presented is a claim for his divinity being made by the evangelists. Blasphemy is, in part, in the ear of the beholder, and the evangelists depict God unrecognised despite the truth of his own testimony.

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[71] Philo, *Leg*, 3.205

[72] Evans, Craig A., *Mark 8:827-16:20* [Word Biblical Commentary 34b], Nashville: Nelson, 2001, 453—58, but does not include self-testimony within the definition.

[73] Donald A. Hagner, *Matthew 14-28* [Word Biblical Commentary 33b], Nashville: Nelson, 1995, 801.

[74] Bock , *Blasphemy*, 111.

[75] Hanger, *Matthew*, 801 appears to concur.