

Defending Susanna: Reexamining Judicial Silence in an Apocryphal Courtroom

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The book of Daniel is a unique biblical book. The latest dated book in the canon, it stands at the historical threshold between Ancient Israel and Second Temple Judaism.¹ It is the only biblical book to be categorized as apocalyptic.² It is one of only two biblical books to be written in both Hebrew and Aramaic.³ And it is one of the few to which apocryphal stories were appended in the Septuagint.⁴

* While I did not choose to focus on the text because of its name, it does seem very fitting that in honoring the contributions of our teacher, Suzanne Last Stone, I have chosen to write about another legally knowledgeable Susanna. My time spent with her as a graduate student many years ago was formative in how I approach Judaism and the law. Most significantly, through her breadth of knowledge and openness to new ideas, she inspired me to use legal theory to deepen my reading of non-legal texts. I hope that my treatment of the narrative of Susanna does justice to her profound influence.

1 Although Daniel 1–6 is commonly dated earlier than Daniel 7–12 to the third or second century BCE, the final form of the redacted text is dated to 167–163 BCE due to historical allusions to the Maccabean Revolt. For examples of such references, see John J. Collins, *Daniel with an Introduction to Apocalyptic Literature* (Grand Rapids: Eerdmans, 1984), 34; Richard J. Clifford, “History and Myth in Daniel 10–12,” *BASOR* 220 (1975): 23–26.

2 The scholarly consensus is that apocalyptic thinking was established by the Second Temple period and characterized by several Second Temple texts. See Paul D. Hanson, *The Dawn of Apocalyptic: The Historical and Sociological Roots of Jewish Apocalyptic Eschatology* (Philadelphia: Fortress Press, 1975); M. A. Knibb, “Prophecy and the Emergence of the Jewish Apocalypses,” in *Israel’s Prophetic Tradition: Essays in Honour of Peter Ackroyd*, ed. R. Coggins et al. (Cambridge: Cambridge University Press, 1982), 155–80.

3 The other book is Ezra.

4 The other book is Esther, although apocryphal texts relate to canonical books like the Letter of Jeremiah and Wisdom of Solomon.

Yet, within this peculiar book, the addition of the Greek apocryphal story of Susanna stands out as even more remarkable.⁵ The narrative relates how Susanna, a married woman among the exiles in Babylon, falls victim to two Jewish elders. These men lust after her, entrapping her in her garden and forcing her to choose between actual sex with them or a false accusation of sex with someone else. She chooses the latter and faces a trial for adultery. It is the only Danielic story to feature a woman,⁶ the only story that positions Jews in contest with other Jews (and not gentiles),⁷ and the only story to depict a judicial trial.⁸

- 5 The date and provenance of Susanna is uncertain. The earliest citation of Susanna is in Ireneaus's *Haer.* 5.26 from the end of the second century CE. Collins places the origin of the text, which he thinks was most likely a Hebrew composition in Palestine, no later than the second century BCE, because the text exhibits little familiarity with the proto-canonical Daniel. John J. Collins, *A Commentary on the Book of Daniel*, Hermeneia (Minneapolis: Fortress Press, 1993), 438. Others place the text more firmly in the first century BCE. See, for example, the early work of Nehemiah Brüll, "Das apokryphische Susanna-Buch," *JJGL* 3 (1877): 1–69, who argued that the story alludes to the dispute between Pharisees and Sadducees at the time of Alexander Jannaeus (103–76 BCE) concerning the application of Deut 19:16–19 (see m. *Avot* 1:10). More recently, Tal Ilan proposed that Susanna, along with Judith and the Greek Esther, was written as propaganda for Salome Alexandra (76–67 BCE); see Ilan, "'And Who Knows Whether You Have Not Come to Dominion for a Time Like This?' (Esther 4:14): Esther, Judith and Susanna as Propaganda for Shelamzion's Queenship," in *Integrating Women into Second Temple History*, TSAJ 76 (Tübingen: Mohr Siebeck, 1999), 127–53. For a thorough overview of the dating and provenance issues, see Dan W. Clanton, Jr., "Re(dating) the Story of Susanna: A Proposal," *JSJ* 34 (2003): 121–40. Clanton ultimately supports a first century BCE date in Palestine for Susanna's composition.
- 6 There are tangential references to women in Dan 5:2–3, 23 (i.e., wives and concubines at an imperial banquet) and in Dan 6:24 (i.e., the wives of Daniel's accusers are thrown into the lions' den).
- 7 Collins, *Commentary*, 437. The intra-Jewish conflict has prompted some scholars to place the text's provenance in Palestine when, under the Hasmoneans, the Jews had self-rule and would not have been as concerned with foreign threats. See Carey A. Moore, *Daniel, Esther and Jeremiah: The Additions* (Garden City, NY: Doubleday, 1977), 91–92.
- 8 Joseph Scales gives a thorough review of Susanna as a courtroom drama in "Susanna and Callirhoe: Female Bodies, Law, and Novels," *Lectio Difficilior* 1 (2022): 1–26 (10–12) (<https://www.lectio.unibe.ch/en/archive/joseph-scales-susanna-and-callirhoe-female-bodies-law-and-novels.html>).

Historically, most interpreters have read the story as a moral fable about a virtuous woman who resists the sinfulness of seduction.⁹ In contrast, more recent feminist scholars highlight the objectification of a woman who is a victim of sexual assault.¹⁰ Despite this difference in perspective, both approaches focus on the sexuality of Susanna. She becomes a body to be sacrificed to piety or to patriarchy.

Yet, in what follows, I suggest that we read this story not as one of seduction, but as one of legal maneuvering. If we reconsider the garden as a judicial site and Susanna not only as a victim but as a legal defendant, then her perceived passivity is rendered normative and even prescriptive. In this way, she is no different than any man on trial.¹¹

- 9 For examples of how early Christians viewed Susanna as a paradigm for the righteous oppressed like Christ or the Church, see Amy-Jill Levine, "Hemmed in on Every Side': Jews and Women in the Book of Susanna," in *A Feminist Companion to Esther, Judith and Susanna*, ed. Athalya Brenner (Sheffield: Sheffield Academic Press, 1995), 303–23 (306). See, for example, Hippolytus of Rome's *Commentary on Daniel* (1.4) from the third century CE. Modern scholars have similarly seen her in this positive light. For the ways in which the piety of Susanna is understood to reverse the actions of Eve, see Sarah J. K. Pearce, "Echoes of Eden in the Old Greek of Susanna," *Feminist Theology* 4 (1996): 11–31; for the ways that her innocence reworks the adulterous wife metaphor for Israel as seen in the prophets, see Jennie Grillo, "'You Will Forget Your Ancient Shame': The Innocence of Susanna and the Vindication of Israel," in *Women and Exilic Identity in the Hebrew Bible*, ed. Martien A. Halvorson-Taylor and Katherine E. Southwood (London: Bloomsbury T&T Clark, 2017), 7–22.
- 10 The most common theme in feminist criticism of Susanna is the focus on her as an object of the male gaze, both in the eyes of the story's figures and of the reader. See Jennifer A. Glancy, "The Accused: Susanna and Her Readers," in *A Feminist Companion to Esther, Judith and Susanna*, ed. Athalya Brenner (Sheffield: Sheffield Academic Press, 1995), 288–302; Athalya Brenner, "Introduction," in Brenner, *Feminist Companion*, 11–25 (11); Caryn Tamber-Rosenau, "Biblical Bathing Beauties and the Manipulation of the Male Gaze: What Judith Can Tell Us about Bathsheba and Susanna," *Journal of Feminist Studies in Religion* 33 (2017): 55–72. Jennie Grillo distinguishes between the Old Greek and the Theodotion texts, the latter of which "resists the elders' sexualized gaze and works to pull the reader away from that voyeuristic viewpoint." See Grillo, "Showing Seeing in Susanna: The Virtue of the Text," *Prooftexts* 35 (2015): 250–70 (253).
- 11 My argument comes closest to that of D. M. Kanonge, who argues that Susanna defies patriarchal norms because "according to the story, true Jewishness depends entirely on commitment to the Law, regardless of gender"; see "Gender and Jewishness: A Greimassian Analysis of *Susanna*," *Acta Theologica* 34 (2014): 68–90 (69).

Susanna's Legal Knowledge

From the outset, the story of Susanna follows biblical law closely.¹² As such, the narrative depends on the reader having a thorough knowledge of legal biblical texts to be effectively understood.¹³ In the Old Greek version the introduction sets the stage for judicial concerns with a quote from the Lord that “lawlessness came forth from Babylon, from elders, judges, who seemed to guide the people, and lawsuits came to them from other cities” (OG v. 5).¹⁴ Everything that follows, then, is best understood as an example of this lawlessness.¹⁵ The Theodotion text elaborates on the legal theme by adding a biographical note about Susanna:¹⁶ She is the wife of Joachim (Th v. 2) and “her parents were righteous and taught their daughter according to the law of Moses” (Th v. 3). Thus, both textual versions draw our attention

- 12 In what follows, I will refer to both Greek texts of Susanna, the shorter Old Greek (OG) and the longer Theodotion (Th), to emphasize their shared judicial concerns. The scholarly consensus is that the Theodotion presupposes the Old Greek (Collins, *Commentary*, 426–27). For a brief overview of the manuscript evidence for these two versions, see Pearce, “Echoes,” 11–13.
- 13 Those scholars who rejected Brüll’s first century BCE dating of Susanna did so because they viewed the story as concerned more with theological issues than legal issues. See, for example, Helmut Engel, *Die Susanna Erzählung* (OBO 61; Göttingen: Vandenhoeck & Ruprecht, 1985), 68–69, 76–77; Marti J. Steussy, *Gardens in Babylon: Narrative and Faith in the Greek Legends of Daniel* (Atlanta: Scholars Press, 1993), 49–50. My argument is that the legal and theological emphases are intertwined.
- 14 All translations of Susanna are from Collins, *Commentary*. Michael Segal argues that the Old Greek paraphrases Isa 2:1–4, which is used as an introduction because it is similarly concerned with judicial corruption. Thus, the story of Susanna is presented as evidence of such corruption amongst Babylonian Jewish leadership (and, thereby, a critique of diaspora life). See Michael Segal, “‘For From Zion Shall Come Forth Torah . . .’ (Isaiah 2:3): Biblical Paraphrase and the Exegetical Background of Susanna,” in *New Approaches to the Study of Biblical Interpretation in Judaism of the Second Temple Period and in Early Christianity*, ed. Gary Anderson et al. (Leiden: Brill, 2013), 21–39 (30–39).
- 15 Segal compares this to a rabbinic *midrash* or a homily which quotes a verse and then explains it (“Biblical Paraphrase,” 39). Likewise, Scales argues that the narrative in its entirety “functions as a midrash on adultery legislation” (“Susanna,” 10).
- 16 While the Theodotion version includes this quotation about the lawlessness it serves as a direct commentary on the two elders themselves, “about them the Lord said . . .” (Th v. 5).

immediately to the preponderance of lawsuits coming to Babylon and the necessity of knowing (and being taught) the law.

In the Theodotion text, the more specific location of the lawsuits appears to be the very home of Susanna (Th v. 4). The narrative reveals that when the crowds dispersed from Joachim's house, Susanna would go and walk in her garden, and this is where the two judges saw her. Not only has she learned the law from her parents, but she also lives in a court of law.¹⁷ It is not surprising, then, that her actions are rooted not in piety, but in judicial savviness, when she encounters the legal manipulations of the judges.

In both versions, the men function separately at first and do not know that the other feels the same lust toward Susanna as "they did not let on to each other the evil that had hold of them on her account" (OG v. 10).¹⁸ However, even before they each know what the other is up to, they are in sync. We are meant to understand them as a unit—they do not even have distinct names!—and they appear together as the subject of all of their separate actions: "They desired her and turned their mind and deflected their eyes so as not to look to heaven or remember righteous judgements. Both were smitten over her" (OG vv. 8–10). Only when they separately come to her house to look at her and see one another do they realize that they both desire her (Th v. 14). They then develop their plan to assault her together. The joint nature of their plot dooms Susanna, not because they are men and she is a woman, but because their synchronicity ensures the believability of what will be their shared testimony. To fully understand what happens next, the reader must know that capital crimes are only convicted based on corroborating witnesses: "Only on the evidence of two or three witnesses shall a charge be sustained" (Deut 19:15).¹⁹

17 Although the OG does not say that the lawsuits took place at Joachim's home, the fact that verse 6 ("and lawsuits came to them from other cities") is immediately followed by verse 7 ("These saw a woman charming in appearance") suggests proximity. For aspects of spatiality related to the garden, see Adele Reinhartz, "Better Homes and Gardens: Women and Domestic Space in the Books of Judith and Susanna," in *Text and Artifact in the Religions of Mediterranean Antiquity: Essays in Honour of Peter Richardson*, ed. Stephen G. Wilson and Michel Desjardins (Waterloo, ON: Wilfrid Laurier University Press, 2006), 325–39 (333–37).

18 The Theodotion text specifies that they do not tell one another because they are "ashamed" (v. 11).

19 All translations of the Hebrew Bible are NRSVUE. See also Num 35:30 and Deut 17:6–7 for the necessity of multiple witnesses for cases of capital punishment. For

The elders try to coerce her. In the longer Theodotion text they proposition her with a specific threat: “Consent to us and be with us. But if not, we will testify against you that there was a young man with you” (Th vv. 20–21).²⁰ At stake is adultery. The biblical text states, “If a man is discovered lying with the wife of another man, both of them shall die, the man who lay with the woman as well as the woman (Deut 22:22).”²¹ This is a capital crime.

It appears that Susanna knows the force of these two laws—after all, she has been taught the law by her parents and she dwells in a court of law—because of what she does after the two elders threaten her. When faced with the dilemma to submit to the two men or allow them to falsely accuse her of having sex with another man, she says, “I am hemmed in on all sides. For if I do this thing, it is my death, and if I do not do it, I will not escape your hands. I must choose not to do it and fall into your hands rather than sin before the Lord” (Th vv. 22–23). The certainty with which she expresses the outcomes of her dilemma—either death or falling into the elders’ hands—assumes her knowledge of the law of two witnesses. She realizes that she will die regardless of whether she is forced to commit adultery or is only falsely accused of adultery.

The two versions differ in what she does with the law next. In the Old Greek, the trial immediately follows. She offers no objection to her community before it happens. She does not see a way to get out of the legal bind using legal means.²² The same is not true in the Theodotion version. There she seems to know that there is one caveat to an accusation of adultery—if the

an extensive treatment of the rule of two or more witnesses in the Greco-Roman and Early Jewish contexts, see Richard Hidary, “A Tale of Two or Three Witnesses: Witness Testimony in Greco-Roman, Qumranic and Rabbinic Court Procedure,” in *From Scrolls to Traditions: A Festschrift Honoring Lawrence H. Schiffman*, ed. Stuart S. Miller et al. (Leiden: Brill, 2021), 296–324.

- 20 In the OG they do not threaten her, but she somehow intuits that “if I do not do it, I will not escape your hands” (v. 23), and they do indeed later accuse her of being with another man (vv. 36–41).
- 21 See also the punishment for adultery in Lev 20:10 and the proscription against adultery in the Ten Commandments (Exod 20:15; Deut 5:18).
- 22 In this regard, I disagree with Glancy that “an implicit premise of her statement is that any rape victim is by definition guilty” (“Accused,” 298). Susanna does not think she is guilty, only that she is legally stuck.

woman is the victim of rape.²³ However, the rape must be demonstrated by protest on the part of the woman:

If there is a young woman, a virgin already engaged to be married, and a man meets her in the town and lies with her, you shall bring both of them to the gate of that town and stone them to death, the young woman because she did not cry for help in the town and the man because he violated his neighbor's wife. (Deut 22:23–24)

The presumption (albeit a problematic one for our contemporary understanding of sexual assault) is that if a woman resists, then she will cry out for help and, if she is in town, then someone will hear her.²⁴ Susanna appears to know this as she “crie[s] out with a loud voice” (Th v. 24), aware that she is close enough for others to hear her. Prior to the men approaching her, she had commanded her maids to get her oil and ointments for her bath (Th v. 17). She must know that they are nearby and will return soon. Indeed, her shout prompts the elders to shout in return (Th v. 24) and the people “from the house heard the shouting in the garden” and immediately, “they rushed in through the side gate to see what had happened to her” (Th v. 26). To no avail, the elders still accuse her, and the next day there is a trial. Susanna has now become a defendant.

Precedents for Defense

In viewing Susanna as a defendant on trial, there are notably very few examples of defendants offering a defense in biblical literature to which to compare her. Instead, biblical law seems to be more preoccupied with how to set up the judicial system with a proper distribution of judges. For example, Jethro practically advises Moses on how to choose capable men to appoint as judges for easy cases so that Moses can save time for himself to

- 23 Here I do agree with Glancy, who argues against the common reading of the text that sees it as a seduction. Instead, she reclassifies it as “attempted rape” (“Accused,” 288).
- 24 Nyasha Junior, “Susanna,” in *The Apocrypha: Fortress Commentary on the Bible Study Edition*, ed. Gale A. Yee et al. (Minneapolis: Fortress Press, 2016), 1047–50 (1048); George J. Brooke, “Additions to Daniel,” in *The Apocrypha: The Oxford Bible Commentary*, ed. Martin Goodman et al. (Oxford: Oxford University Press, 2012), 120–28 (125).

decide the more difficult cases (Exod 18:24–26).²⁵ There are also parameters for where to hold trials: the appropriate setting is in public. The prophet Deborah sits under a palm tree so the Israelites can bring their disputes to her for settlement (Judg 4:4–5). In the trial of Naboth, charges against him on the crime of blasphemy are brought up “in the presence of the people” (1 Kgs 21:13). For decisions about the fate of a murderer in the cities of refuge, there must be a trial “before the congregation” (Num 35:12).

Others present during the court proceedings are the two necessary, corroborating witnesses mentioned above. The decision of the judge rests almost entirely on these witness testimonies.²⁶ The two accusers simply say, “Naboth cursed God and the king,” and then Naboth is killed (1 Kgs 21:13). Despite the fact that the narrative reveals that Naboth has been set up by Ahab and Jezebel in order for them to steal his vineyard, Naboth himself offers no defense of his innocence. This lack of defense is characteristic of much of the biblical text:

[I]t is surprising to see that, in the Bible, [the defence speech] does not receive an attention comparable to that given to testimony against someone. The legislative texts, for example, make no mention of it; even in the case of false witness, they emphasize the judge’s task and duty, but do not suggest how the accused can and should conduct a defence. On the other hand, the search for a specific and technical Hebrew term meaning ‘defence’, which would allow an investigation of this semantic field, is an investigation that ends without any satisfactory results.²⁷

This is true even when there are no witnesses, and one would expect the defendant to play more of a role.

When there are no witnesses, there is still silence from the accused. In the case of a suspected adulterous wife in Numbers 5, the law provides an expedient solution for determining her guilt.²⁸ A priest will perform the

25 Judicial systems are also discussed in Deut 16:18 and 2 Chr 19:4–5.

26 According to Pietro Bovati, corroborating witnesses are both reasonable and necessary when dealing with the discretionary decision making of judges; see *Re-Establishing Justice: Legal Terms, Concepts and Procedures in the Hebrew Bible*, trans. Michael J. Smith (Sheffield: Sheffield Academic Press, 1994), 269–70.

27 *Ibid.*, 329.

28 *Ibid.*, 272–73.

sotah ritual which involves the woman ingesting bitter waters that will curse her womb if she is guilty. The only words she speaks is to give an assenting “Amen, Amen” (Num 5:22) after the priest reads an oath to her stating the veracity of the outcome of the ritual. To find examples of legal defenses (and to identify the specific defense strategies), we must look more broadly outside of the judicial context to situations when someone is directly accused of wrongdoing.²⁹

First, the most expected response of someone who is innocent is a declaration of innocence. For example, after being falsely imprisoned for assaulting Potiphar’s wife, Joseph tells his cellmate, “I have done nothing that they should have put me into the dungeon” (Gen 40:15). We might also call this declaration a type of complaint, or a “procedure of someone speaking in the name of the law . . . addressing a judge as a judge, that is, as a court of appeal with authority to decide in favour of the one who is (in the) right.”³⁰ As in the case of Joseph, the complainant might already be unjustly convicted, and the complaint would serve as a form of appeal to one with more judicial power.³¹ Joseph, for example, hopes that his cellmate will repeat this appeal to Pharaoh (Gen 40:14). His inferior position means that he has only a few weapons: “the cry of desperation, the repeated invitation to listen and help, and the detailed description of one’s own wretchedness, proving the right to pity and aid in flesh and voice.”³² However, at times, the judging body is also the one guilty of the wrongdoing. For example, the prophet Jeremiah is imprisoned as a traitor by King Zedekiah to whom he later complains that he has been falsely punished, “What wrong have I done to you or your servants or this people, that you have put me in prison?” (Jer 37:18) and then appeals to the king to be freed, “Now please hear me, my lord king: be good enough to listen to my plea” (Jer 37:20).³³

29 Some of these occur within what we would term a civil dispute. In biblical Hebrew this is a *riv*.

30 Bovati, *Re-Establishing*, 312.

31 This is not to say that the appeal/complaint is always made by a defendant, but only by one with less power. Take, for example, the case of the Shunamite woman who appeals to the king to return her land after she has been out of the country during a famine (2 Kgs 8:1–6). Other examples of what we would term plaintiffs crying out include Deut 15:9, 24:14–15.

32 Bovati, *Re-Establishing*, 312.

33 Discussed in Shalom E. Holtz, *Praying Legally* (Providence: Brown University, 2019), 32–33.

Sometimes the superior judicial authority is God and, in this regard, some prayers can be considered defense appeals.³⁴ For example, Lamentations 3:57–59 reads:

You came near when I called on you, you said, “Do not fear!”
 You have taken up my cause, O Lord; you have redeemed my life.
 You have seen the wrong done to me, O Lord; judge my cause.³⁵

In this way, the defendant—here a collective Israel—shifts the defense to the divine courtroom.³⁶ Similarly, in Numbers 5, when the ritual was supposed to determine guilt, the court was “transferring the responsibility for ensuring that justice was done to the divine court, which would be certain to punish anyone who happened to swear falsely.”³⁷ The divine courtroom is rooted in the worldview that God is the king of a royal court full of a heavenly council, and “whenever the cosmic order is violated, whether by human or divine transgressors, the council is convened in order to judge and condemn the transgressors and thus to restore the proper operation of the cosmos . . . complete with judges, advocates, accusers, testimony, and judicial procedure.”³⁸ We see this depicted in the divine throne scene of Daniel 7 in which “the court sat in judgment, and the books were opened” (v. 10). Although the vision does not detail a trial, judgment is delivered to

34 This is Holtz’s main argument (*Praying*, 36).

35 Other examples include Jer 12:1, Hab 1:2–4, Ps 26, 35, 43, 119:154.

36 As Holtz asserts, “When speakers pray by ‘calling out’ to God, they present themselves as appellants in the divine courtroom. Their situation is analogous to that of the oppressed workers in the biblical laws, who call out to God for justice. This analogy extends beyond the terminology about prayer to features of prayers themselves, specifically to speakers’ self-presentation as plaintiffs” (*Praying*, 37). As with human kings, God can also be the judicial authority who is at fault. This is best expressed in Job’s struggle to understand his suffering. If he is being punished, then what are the charges? (e.g., Job 10:2). And if he is not being punished, why is he suffering? The executor of justice—God—must be held to account (e.g., Job 19:7).

37 Bruce Wells, “The Cultic Versus the Forensic,” *JAOS* 128 (2008): 205–32 (207). Other examples of oath-swearing include Exod 22:10–11, Deut 21:1–9, 1 Kgs 8:31–32. Although Wells does not characterize Numbers 5 as such, others have depicted the *sotah* as a ritual ordeal, which functions as a “special means to solicit a verdict from the divine court” (208).

38 Job Y. Jindo, “The Divine Courtroom Motif in the Hebrew Bible: A Holistic Approach,” in *The Divine Courtroom in Comparative Perspective*, ed. Ari Mermelstein and Shalom E. Holtz (Leiden: Brill, 2014), 76–93 (82).

a ferocious beast representing the Seleucid Empire by the Ancient of Days, or God (v. 11).³⁹ It will be slain and burned up.

The innocent might also choose to plead ignorance of the wrongdoing. In Genesis 21 Abraham accuses Abimelech's servants of stealing a well, but Abimelech protests, "I do not know who has done this; you did not tell me, and I have not heard of it until today" (v. 26).⁴⁰ Another method appears in 1 Samuel 22 when Saul accuses the priest Ahimelech of conspiring against him by helping David. Ahimelech denies not the facts themselves but their interpretation:

Who among all your servants is so faithful as David? He is the king's son-in-law and is quick to do your bidding and is honored in your house. Is today the first time that I have inquired of God for him? By no means! Do not let the king impute anything to his servant or to any member of my father's house, for your servant has known nothing of all this, much or little. (vv. 14–15)

Ahimelech reasons that he did help David, but this is not a guilty action, since David, and thus Ahimelech, support Saul.⁴¹ This defense, however, fails, and Ahimelech is killed.

A final defense approach is evident in 2 Samuel 19, when David accuses Saul's grandson Mephibosheth of disloyalty for not joining him when he was away from Jerusalem. As a response, Mephibosheth counters the charge using a different account of the facts: he did not come only because he was lame and had no donkey to ride (v. 27).⁴² Charges of disloyalty are simply slander by his servant Ziba. This is arguably the best defense in that it is a reversal of the accusation that "also takes the shape of a new accusation (of

39 Joseph L. Angel, "The Divine Courtroom Scenes of Daniel 7 and the Qumran *Book of Giants*: A Textual and Contextual Comparison," in *The Divine Courtroom in Comparative Perspective*, ed. Ari Mermelstein and Shalom E. Holtz (Leiden: Brill, 2014), 25–48; Helge S. Kvanvig, "Throne Visions and Monsters: The Encounter Between Danielic and Enochic Traditions," *ZAW* 117 (2005): 249–72. See also allusions to the judicial function of the divine court in Isa 41:1–5, 21–29, 42:18–24, 43:8–13, 22–28, 44:6–8, 45:18–25.

40 Bovati, *Re-Establishing*, 109n32 also includes 1 Sam 22:5, 25:25.

41 Bovati, *Re-Establishing*, 332.

42 Judg 11:12–28 also presents a different set of facts in a dispute over land.

falsehood, wicked intent, attempted crime) against the accuser."⁴³ Mephibosheth succeeds, and David grants him land.

In other instances, when the accused is guilty there are still responses that might be considered defenses. King Solomon decides a dispute between two women who both claim the same baby as theirs. The accuser testifies that another woman's son died and she stole hers. The accused retorts that it is her son who is living (1 Kgs 3:22). The defense tactic here is simply to lie.⁴⁴ As with the *sotah* ritual, Solomon must use a test to determine the truth. In addition to lying, there is the tactic of apologizing while admitting to guilt. In 2 Samuel 19 Shimei recognizes that he has wronged David by cursing him and, thus, hurries (v. 16) to meet David, confessing:

May my lord not hold me guilty or remember how your servant did wrong on the day my lord the king left Jerusalem; may the king not bear it in mind. For your servant knows that I have sinned; therefore, see, I have come this day, the first of all the house of Joseph to come down to meet my lord the king. (vv. 19–20)

Preemptively asking for pardon successfully leads to his acquittal.⁴⁵

Finally, there is silence. In the community of returned exiles, Nehemiah steps in to settle an economic dispute, accusing an assembly of Jews of selling their own kin into slavery. In response, "they were silent and could not find a word to say" (Neh 5:8).⁴⁶ Silence in this case is not so much a strategy as a failure to formulate a response. As such, it serves as an admission of guilt. This is further confirmed by the conclusion of the episode in which the people agree to Nehemiah's economic plan to restore property and end charging interest (Neh 5:12–13).

Just as with the defense of the innocent, sometimes the silence of the guilty also hinges on a belief in a divine court. Take, for example, Daniel's three friends who are accused of not worshipping the idol of the Babylonian emperor in Daniel 3.⁴⁷ Shadrach, Meshach and Abednego tell King Nebu-

43 Bovati, *Re-Establishing*, 331.

44 For more on how kings served as judges see Keith Whitelam, *The Just King: Monarchical Judicial Authority in Ancient Israel* (Sheffield: University of Sheffield, 1979).

45 Bovati, *Re-Establishing*, 330.

46 Another example is Gen 44:16.

47 Here they are guilty, but we, as readers, are meant to understand that the law itself is bad since it is instituted by the evil emperor Nebuchadnezzar (Dan 3:1–6).

chadnezzar, “We do not need to defend ourselves before you in this matter. If we are thrown into the blazing furnace, the God we serve is able to deliver us from it, and he will deliver us from your majesty’s hand” (vv. 16–17). Silence (or talking) does not matter because God is ultimately the final judge.

What this survey of biblical defense reveals is that there are very few examples of judicial defenses set in anything resembling a court of law. Instead, people protest their guilt or their conviction in royal courts, in prisons, in communal meetings, in the countryside, in the middle of battles, on the banks of the Jordan river, and even in heaven. As such, defenses can look very different—they can be addressed to anyone from kings to priests, cellmates to God. Most significantly, silence is a viable option, both for the innocent and the guilty.

Susanna’s Defense

Many scholars have characterized Susanna as silent. Take, for example, Richard Pervo, who simply states, “At her trial she is silent”;⁴⁸ or Elise Dubravec, “The most striking characteristic about Susanna is her silence.”⁴⁹ Nyasha Junior writes, “Susannah’s cry is the last time she speaks in the text. She does not speak in her defense here or during the trial.”⁵⁰ George Brooke puts the blame more squarely on the community in the narrative: “There is no cross-examination, nor is Susanna allowed to testify.”⁵¹ Thus, at first glance, Susanna’s circumstances seem most like those of Naboth. Two false witnesses conspired against Naboth to have him killed for blasphemy. Indicative of his innocence is the fact that the text does not use the word *ed*, witness, for the accusers, but just calls them men (1 Kgs 21:13).⁵² However, in what follows I want to complicate Susanna’s silence. Her response might be mute, but it is not moot.

48 “Aseneth and Her Sisters: Women in Jewish Narrative and in the Greek Novels,” in *Women Like This”: New Perspectives on Jewish Women in the Greco-Roman World*, ed. Amy-Jill Levine (Atlanta: Scholars Press, 1991), 145–60 (148).

49 “Women’s Silenced Anger: A Feminist Reading of Susanna,” *New Horizons* 5 (2021): 15–29 (20). Dubravec explores whether the silence is due to pragmatism stemming from gender norms, a trauma response, or a response to shame (21).

50 “Susanna,” 1048.

51 “Additions to Daniel,” 126.

52 Bovati, *Re-Establishing*, 278.

Much like Naboth, Susanna in the Old Greek does not speak during the trial to defend herself (OG v. 41–44).⁵³ However, prior to being convicted she weeps to herself and petitions God, “Lord, eternal God, who knows all things before they happen, you know that I did not do that of which these lawless men maliciously accuse me” (OG v. 35). She *speaks!* She just is not *heard* by anyone around her. But the Lord hears her petition and intervenes by sending Daniel after she is convicted (OG v. 35, 44–45).⁵⁴

In the Theodotion text prayer comes after the trial. During the trial Susanna is “uncovered for she was veiled, so that they might be sated with her beauty” (Th v. 32) and the two elders put their hands on her head (Th v. 34). The detail of the removed veil (which is not in the Old Greek) means that her hair is visible. This bears a striking resemblance to the step in the *sotah* ritual in which, “The priest shall set the woman before the Lord, dishevel the woman’s hair, and place in her hands the grain offering of remembrance, which is the grain offering of jealousy. In his own hand the priest shall have the water of bitterness that brings the curse” (Num 5:18).⁵⁵ This ritual is needed when there is an accusation of adultery, but “there is no witness against her since she was not caught in the act” (Num 5:13). If indeed this is an allusion to the *sotah*, the inclusion of her disheveled appearance, while it might satisfy the men’s lust, also indicates that their testimony might not be as convincing as they had hoped. Another form of proof and prosecution is needed.

- 53 Ilan also draws the parallel between the story of Naboth and Susanna, but sees them as indistinguishable (“‘And Who Knows,’” 143, as cited in Clanton, “[Re] dating,” 131).
- 54 Collins suggests that the outcry “seems misplaced because she has not yet been accused” (*Commentary*, 431). However, I would argue that given her knowledge of the law, her expectation of capital punishment is not made too hastily.
- 55 Scholars who connect the elders’ actions to *sotah* include Levine, “Hemmed In,” 318; Scales, “Susanna,” 11; Brooke, “Additions,” 125; Dalia Marx, “The Prayer of Susanna (Daniel 13),” in *Ancient Jewish Prayers and Emotions*, ed. Stefan C. Reif and Renate Egger-Wenzel (Berlin: De Gruyter, 2018), 221–37 (228). Levine references more specifically *m. Sotah* 1:5 where the priest goes further and uncovers the accused woman’s nakedness. There is also the matter of the elders putting their hands on her. While the priest does not do this in Numbers 5, there is a lot of attention on the priest touching her and handing her things to place in her hands. Collins offers Lev 24:14, in which the witnesses to blaspheming lay their hands on the condemned, as a parallel (*Commentary*, 432).

Even more significantly, this suggestion of the *sotah* shifts the focus away from the accusers/witnesses and to the ritual's expectation that God will determine guilt. It is not surprising, then, that in the very next verse, Susanna "cried out and looked up to heaven, because her heart was trusting in the Lord" (Th v. 35). It is as if she knows that she cannot defend herself in a human court, but a separate, divine court will ultimately decide her fate.

After the men testify and she is condemned to death, she cries out again and utters a prayer:

Eternal God, you who are privy to what is hidden and know all things before they happen, you know that they have testified falsely against me, and behold, I die, having done none of the things of which these men maliciously accused me. (Th v. 42–43)

This prayer, which focuses on her innocence, inaugurates a defense—she protests the truth of the evidence much as Joseph did with Potiphar's wife's accusation (Gen 40:15).⁵⁶

Yet, unlike Joseph, she does not protest to another human. Instead, the prayer resembles the biblical prayers of appeal that we saw above.⁵⁷ Like other defendants, she is not permitted to defend herself in the human court but must turn to the divine court. Her cries for divine justice are like those of Job, using legal language:

O earth, do not cover my blood;
let my outcry find no resting place.
Even now my witness is in heaven,
and my advocate is on high. (Job 16:18–19)⁵⁸

- 56 Isabel Gómez-Acebo characterizes her prayer as "a cry before injustice" and one that "simply presents [God] with the facts." See "Susanna, Example of Virtue and Daniel's Female Counterpart," in *The Writings and Later Wisdom Books*, ed. Christl M. Maier and Nuria Calduch-Benages (Atlanta: SBL Press, 2014), 275–87 (282). Perhaps not coincidentally, Potiphar's wife's sexual attack on Joseph has been seen as an antecedent to Susanna's story. See André LaCocque, *The Feminine Unconventional: Four Subversive Figures in Israel's Tradition* (Minneapolis: Fortress Press, 1990), 23.
- 57 Marx assigns her prayer to the formal genre of confession. Unlike confessional prayers that are penitential or acknowledge sinfulness, however, Susanna's declares innocence. She also calls it a lament, "a passionate cry toward Heaven without a request," but one that is performed publicly and, thus, indirectly addresses her community ("Prayer," 229–30).
- 58 See the following examples in which God is depicted either as judge or as the

And like Job, God responds to Susanna, not from a whirlwind, but by “rousing the holy spirit of a young boy, named Daniel” (Th v. 45). It is also possible to translate the end of her prayer as a rhetorical question: “Must I now die, being innocent of what they have so maliciously charged against me?”⁵⁹ Susanna’s prayer of defense has earned her a divine answer—the answer is Daniel.

Daniel’s Defense

At first glance, Daniel seems like an odd choice for a defense counsel. Although Daniel is repeatedly described as wise, he is not depicted as legally wise. In Daniel 1, God gives him “knowledge and proficiency in all literature and wisdom” and “insight into all visions and dreams” (1:17). When he uses his wisdom, it is to interpret dreams in Daniel 2, 4, and 5. However, if we look at the Old Greek of Daniel 6, we see Daniel in a situation remarkably like that of Susanna that makes him well suited to be her divinely appointed judge.

Daniel is a high-ranking official in the kingdom of Darius alongside two young men. When Darius promotes Daniel, the two men, presumably jealous, “Deliberated among themselves, speaking to each other, since they found no charge of sin or ignorance against Daniel concerning which they might accuse him to the king” (OG v. 4). Despite the difference in circumstances (and age and gender of those involved), both Susanna and Daniel are the objects of a conspiracy by two men who act together. The two men trick the king into establishing an edict against praying to anyone but the king. The ploy is different, but the intention is the same—they want to trap Daniel, just as the two elders trapped Susanna. Even more specifically, in both narratives the trap hinges on the fact that conspirators have been stealthily observant. For Susanna, the two men know that she walks in the garden in the evening (OG v. 7), and, for Daniel, the two men know that he prays to God three times

accused: Job 9:17, 13:18, 23:4–5, 27:2. Carol Newsom, “The Invention of the Divine Courtroom in the Book of Job,” in *The Divine Courtroom in Comparative Perspective*, ed. Ari Mermelstein and Shalom E. Holtz (Leiden: Brill, 2014), 246–59, writes, “Thus Job has provided a model in which one could imagine God appearing, hearing Job’s complaint, and acknowledging both Job’s innocence and the injustice of his suffering” (257).

59 This is the translation of Moore, *Daniel*, 106. Marx, “Prayer,” 229n38, prefers to read the ending in the indicative rather than subjunctive form because it fits better with the character of Susanna.

a day (OG Dan 6:5). Daniel is aware of the new edict and prays anyway (OG Dan 6:10), just as Susanna is aware she cannot avoid the law.

Like Susanna, Daniel combines silence with an assertion of innocence to redeem himself. Between his arrest and being thrown into the lions' den, Daniel is silent and only the king speaks to reassure Daniel that his God will rescue him (OG Dan 6:16). Only after he survives the night does Daniel speak: "O king, I am still alive, and God has saved me from the lions as I was found righteous before him. Before you also, O king, I was found guilty neither of ignorance nor of sin. But you listened to men who mislead kings and threw me into the lions' den for destruction" (OG Dan 6:21). Unlike Susanna, though, Daniel asserts his innocence not in a prayer of appeal, but directly to the king. More significantly, the condemnation targets the dangers of "men who mislead," or men who give false testimony. Daniel, whose name after all means "God is my judge," seems primed to enter the Susanna narrative as the legal hero who will challenge false witness testimony.⁶⁰

According to some scholars, when God sends Daniel to Susanna, Susanna disappears from the narrative.⁶¹ However, in reading this story through a judicial lens, I would argue that is not the case.⁶² They are two, distinct protagonists. God responds to Susanna's prayer in a way that echoes what she has been doing all along—she is focused on how the law works, so God follows suit. God does not miraculously save her from execution (as he does

60 The danger of shared testimony given at the same time is highlighted in Bernard S. Jackson, "Susanna and the Singular History of Singular Witnesses," in *Essays on Halakhah in the New Testament*, ed. David Golinkin et al. (Leiden: Brill, 2008), 89–110. Jackson reviews later rabbinic literature that sought to refine the judicial process (91–92). For example, *m. Sanh.* 3:6, 5:4 advocates for the separate examination of witnesses, something that Daniel does indeed do later in the story. In this emphasis, Jackson follows the brief treatment of Susanna by David Daube, who argues that the story provides support for changing Pharisaic laws that sought to separate witnesses; see "Texts and Interpretations in Roman and Jewish Law," in *Essays in Greco-Roman and Related Talmudic Literature*, ed. Henry A. Fischel (New York: Ktav Publishing House, 1977), 249–50.

61 For example, Glancy sees the narrator as minimizing "the subjective role of Susanna who finally disappears from the action" ("Accused," 301). Ilan asserts that she is not required for the story ("And Who Knows," 143).

62 Although she does not see Susanna as a subject in her own right, Glancy acknowledges that her prayer "shapes the direction of the plot" and serves as a vehicle for establishing Daniel ("Accused," 302). Similarly, Marx argues, "The prayer of Susanna herself is the singular act that causes what seems to be the inevitable plot to be reversed" ("Prayer," 222).

Daniel in Daniel 3 and 6) but instead responds in a way that is tailored to the judicial proceedings already occurring—and to which she has been integral. God has Daniel reopen the case.

The story functions to illustrate Daniel's heroism, so he picks up where Susanna left off.⁶³ However, since he is not a defendant himself, but a new judge, he can take a more active role in the trial. The first thing he does is cry out like she does: "He shouted in a loud voice, 'I am innocent of this blood'" (Th v. 46). While both cry to stress their respective innocence, Daniel's cry is immediately heard by the people. He convinces them that they have not followed the judicial process by condemning Susanna without "cross-examining or attaining clarity" (Th v. 48) and they return to court to review the evidence (Th vv. 46–49). Like Susanna, Daniel alludes to biblical law: "Judges shall make a thorough inquiry. If the witness is a false witness, having testified falsely against another . . ." (Deut 19:18).⁶⁴ Daniel then saves her by interrogating the witnesses separately and, when they give contradictory information about what type of tree Susanna was having sex under, trapping them in their lie (Th vv. 52–59).⁶⁵ When they are put to death, the law is once again applied as "they did to them as they maliciously tried to do to their neighbor" (Th v. 62), which is in keeping with the biblical law about the punishment of false witnesses (Deut 19:16–19).⁶⁶ Daniel appears as legally well-versed as Susanna, but to better effect.

Daniel is more successful not only because he is not the defendant, but also because he acts on behalf of God.⁶⁷ Daniel accuses the first judge of

63 Moore, *Daniel*, 90–91, proclaims, "Daniel is not the hero of the Susanna story: Susanna is!" While I would argue that Susanna is integral in setting the stage for Daniel's heroism, the story clearly works to establish the reputation of Daniel. The Theodotion text, for example, ends with, "And Daniel became great before the people from that day on" (v. 64) before placing Susanna prior to Daniel 1, so that it serves as an introduction to the book of Daniel. See Segal, "Biblical Paraphrase," 37n34.

64 Junior, "Susanna," 1049.

65 Defense of the innocent entails offering up a new charge, which is like the example above of Mephibosheth challenging Ziba's facts. See Bovati, *Re-Establishing*, 333–35.

66 Scales ("Susanna," 10) and Grillo ("You Will Forget," 11) both point out that the Theodotion version begins and ends with references to the Laws of Moses.

67 Levin calls Daniel the "deity's proxy" ("Hemmed In," 310). In this way, Daniel is unlike prophets who act as judicial intercessors praying or interceding on behalf of the condemned Israel *in front of* God, the judge (e.g., Exod 32:7–14; Amos 7; Jer

falsely deciding cases and violating God's commandment, "You shall not kill the innocent and the righteous" (Th v. 53), an allusion to Exodus 23:7.⁶⁸ When Daniel condemns the second man, he declares, "For the angel of God has already received the sentence from God and will split you down the middle" (Th v. 55). While in the Theodotion version their deaths are not detailed, in the Old Greek an angel of the Lord throws fire at them after they have been thrown into a ravine (OG v. 61).⁶⁹ Moreover, the people give credit to God for the outcome of the trial as they "cried out in a loud voice, and they blessed God, who saves those who hope in him" (Th v. 60). This is the fifth time that there has been a cry—Susanna three times, Daniel once, and now the congregation. This final, communal cry signifies their agreement in both Daniel's legal victory and Susanna's innocence. But, more significantly, it reestablishes God's power.

This makes sense, because if we briefly return to the opening of the story, we realize that divine power has been at stake since the beginning. The two false witnesses are judges who are supposed to be subordinate to God; their ability to act justly is dependent on remembering the ultimate arbiter of justice. When the two elders decide to commit their wrongdoing, "they suppressed their consciences and turned away their eyes from looking to heaven or remembering their duty to administer justice" (v. 9).⁷⁰ By violating Susanna, they have violated God. By defending Susanna, Daniel has defended God.

14–15, 18; Hab 1). Daniel acts as an intercessor *for* God. For the legal interpretation of prophetic prayer, see Yochanan Muffs, *Love and Joy: Law, Language, and Religion in Ancient Israel* (New York: JTS, 1992), 9–48; Holtz, *Praying*, 107–10.

68 Collins, *Commentary*, 434.

69 Jackson ("The Singular History," 92–93) proposes that the execution of the judges as false witnesses would have made later Jews uncomfortable and led to the exclusion of Susanna from the canon. Rabbinic law, instead, required more than just a disagreement in the details of the testimony (e.g., as in the type of tree under which the crime occurred) to prove they were false, but rather proof that they were not even witnesses to the crime in the first place (see, for example, *m. Mak.* 1:4). Much earlier, Abraham Geiger also used Susanna to understand the development of rabbinic law on Deut 19:16ff. See *Urschrift und Übersetzungen der Bibel: in ihrer Abhängigkeit von der innern Entwicklung des Judentums* (Frankfurt am Main: Mada, 1928), 195–96.

70 Brooke, "Additions," 125 notes that the use of "heaven" as a surrogate for God also appears in Dan 4:31, 34.

Conclusion

Susanna is not the epitome of feminine piety and passivity. Rather, she is the paradigm of a biblical defendant. Susanna does not launch a spoken legal defense of her own, but it is not because she is a woman; instead, silence directed towards the human accuser and prayer directed towards God are viable biblical precedents for the innocent. She, as a learned woman, proceeding as best as she legally can. And her legal stance is not for naught. God sends a new, equally knowledgeable, judge—Daniel—to save her.

Susanna's legal knowledge, thus, sets the tone for the narrative and its resolution. Likewise, Daniel, entering the scene only in verse 44, follows in her legal footsteps to save her. He must act with the judicial wisdom that is first hinted at in the Old Greek version of Daniel 6. This apocryphal story, thus, adds to the figure of Daniel and cements his legal skills alongside his dream interpretation abilities as divinely given. By making legal victory the act of heroism that defines Daniel (not, as in the rest of Daniel, dream interpretation, prayer, keeping *kashrut*, or outwitting a king), the writer of this narrative underscores the importance of biblical justice to maintaining faith while in exile.⁷¹

The writer assumes that the reader of this story, probably also a Jew living under empire, will be as well-versed in the law as both Susanna and Daniel are. Without that knowledge, the reader could not understand the legal nuances of the narrative. At the same time, the story expresses the realization that the human judicial process is not always enough—Daniel is successful, and Susanna is saved, because of God. One could easily imagine that this was a fear felt by many Jews in imperial contexts, and so Susanna provides hope for when human justice fails—God, the ultimate judge, will intervene to ensure a just legal outcome. The legal is theological for Susanna.

71 In this conclusion, I differ from Jackson ("The Singular History," 91) who states, "the story has a pronounced anti-judicial flavour."