

# Rom 3,21 and the Deuteronomistic Theology of the ברית (*Berith*)

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VIENA

**RESUMEN** Rm 3,21 posee una tensión interna debido al uso de la palabra νόμος (Ley) con dos significados aparentemente distintos. Esta dificultad es acrecentada por la preposición χωρὶς, que normalmente es traducida por “sin” o “separadamente”. Una posible solución puede ser propuesta si se entiende mejor la teología deuteronomística de la alianza, la cual nos permite de entender esta preposición como un término técnico que significaría “fuera de”.

**PALABRAS CLAVE** Alianza, Promesa, Justificación, Ley, Territorio.

**SUMMARY** *Rom 3,21 has an inner tension due to use of the word νόμος (Law) with apparently two different meanings. This difficulty is increased by the preposition χωρὶς, which normally is translated as “without” or “apart from”. A possible solution could be provided by a better understanding of the Deuteronomistic Theology of the Covenant, which would allow us to understand this preposition as a technical term with the meaning “outside of”.*

**KEYWORDS** *Covenant, Promise, Justification, Law, Territory.*

## I. INTRODUCTION

Is there room for more reflection on Paul and the Law? Faced with the mass of monographs and articles on this subject, the answer appears to be negative<sup>1</sup>;

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1 John Barclay poses the same question in his introduction to a collective work on Divine and Human Agency in Paul, and gives an affirmative answer, saying that there is still room for new contributions; cf. J. M. G. BARCLAY, “Introduction”, in: J. M. G. BARCLAY – S. J. GATHERCOLE (eds.), *Divine and Human Agency in Paul and his Cultural Environment* (London – New York, NY 2008) 2.

yet, new contributions to the theology of the *berith*<sup>2</sup> provide fresh insight into this essential aspect of Christian belief. In particular, these contributions may reveal a new understanding of the difficult passage of Rom 3,21<sup>3</sup>:

Νυνὶ δὲ χωρὶς νόμου δικαιοσύνη θεοῦ πεφανέρωται μαρτυρουμένη ὑπὸ τοῦ νόμου καὶ τῶν προφητῶν

Now, then, without the law the justification of God has been manifested witnessed by the law and the prophets.

This verse contains an inner tension, which was noted by Origen<sup>4</sup>, and has not been fully resolved. How can the law and the prophets be witnesses to the justice or justification of God which happens *χωρὶς νομοῦ* (without or apart from the law)? Is Paul speaking of two different laws within the same sentence, as Origen suggests<sup>5</sup>? This is one possible solution. Yet the tension in this verse is created not only by the repetition of the word *νόμος* (law/torah), but also by the use of the word *χωρὶς*, particularly when translated as “without” or “apart from”, as is most commonly rendered. The law would simultaneously witness the justification and be excluded from it, a seeming contradiction. Perhaps the theology of the *berith* can give new light to this paradox.

## II. LATEST DEVELOPMENTS ON THE THEOLOGY OF THE *BERITH*

It is challenging to express the richness of the theology of the *berith* in a few short paragraphs<sup>6</sup>. It is not our object here to do so. Moreover, the

2 I will use the word *berith* instead of covenant, because it encompasses a variety of meanings such as promise or oath, which are not expressed by any of the modern western translations (bund, covenant, alianza, etc.); cf. L. PERLITT, *Bundestheologie im Alten Testament* (WUANT 36; Neukirchen – Vluyn 1969) 2-3.

3 Biblical and other primary sources abbreviations according to P. H. ALEXANDER *et al.* (eds.), *The SBL Handbook of Style. For Ancient Near Eastern, Biblical, and Early Christian Studies* (Peabody, MA 1999).

4 Cf. Origen, *Comm. Rom.* 3,7 (PG 14:512).

5 Origen proposes that Paul speaks about the natural law every time he does not use the definite article, *ibid.*

6 I would like to thank Prof. Gianluigi Prato for having introduced me to the theology of the *berith* very early on in my theological studies. He also gave me valuable suggestions for this paper, which remains for better or for worse my own responsibility. Scholars approach this topic in different ways according to the methods and premises they adopt. The bibliography presented by Steven D. Mason is eloquent enough to indicate the importance of this topic and the special interest given to

different strata of redaction that brought about this beautiful theology are still the subject of much debate<sup>7</sup>. Nevertheless, there seems to be a growing consensus among scholars about the importance of the *berith* in the Old Testament period and the so-called Second Temple Judaism<sup>8</sup>. It is instructive, then, to explore briefly the origin of the *berith* and its use in the Ancient Middle East.

Christopher Koch thoroughly analyzes this institution and its influence on Deuteronomy and the theology of the covenant<sup>9</sup>. He proposes that the theology of the *berith* developed progressively. The prophets of the eighth century borrow certain images from the treaties and the oaths of fidelity in use in the Middle East, such as God as the most powerful judge of history<sup>10</sup>.

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it in the last decades; cf. S. D. MASON, "Eternal Covenant" in the Pentateuch. *The Contours of an Elusive Phrase* (London – New York, NY 2008) 4 n. 12. Also J.-L. SKA, *The Exegesis of the Pentateuch. Exegetical Studies and Basic Questions* (FAT 66; Tübingen 2009) 212-214.

7 This debate has occupied scholars since the beginning of the critical studies of the Pentateuch. There are several synthetic presentations of the history of this research; a very accessible one can be found in J.-L. SKA, *Introduction to Reading the Pentateuch* (Winona Lake, IN 2006) 96-164. In the last decades the Documentary Hypothesis has lost supporters and new trends have emerged. Two books with almost identical titles have appeared recently declaring the Yahwist defunct and advocating for new paradigms; J. Ch. GERTZ – K. SCHMID – M. WITTE (eds.), *Abschied vom Jahwisten. Die Komposition des Hexateuch in der jüngsten Diskussion* (Berlin – New York 2002); T. B. DOZEMAN – K. SCHMID (eds.), *A Farewell to the Yahwist? The Composition of the Pentateuch in Recent European Interpretation* (SBLSymS 34; Atlanta, GA 2006). Even Campbell and O'Brien, who were strong defenders of the Documentary Hypothesis, have abandoned it; cf. A. F. CAMPBELL – M. A. O'BRIEN, *Rethinking the Pentateuch. Prolegomena to the Theology of Ancient Israel* (Louisville, KY 2005). Attention today is focused on the Priestly and Deuteronomistic sources, and there is still much debate about their interaction and development. However, the recent work of Joel S. Baden shows that the Documentary Hypothesis is slow to die; cf. J. S. BADEN, *J, E, and the Redaction of the Pentateuch* (FAT 68; Tübingen 2009).

8 This nomenclature is not really accurate even if very common. It is well known that the final redaction of the Old Testament actually took place after the exile, practically at the beginning of the Second Temple period. The book edited by Römer and Schmid shows clearly how important it is to consider the role of the theology of the *berith* in every attempt to reconstruct the process of redaction of the Pentateuch and Historical books; cf. Th. RÖMER – K. SCHMID (eds.), *Les Dernières Rédactions du Pentateuque, de l'Hexateuque et de l'Ennéateuque* (BETL CCIII; Leuven 2007). For the importance of the theology of the *berith* during the Second Temple period cf. S. E. PORTER – J. C. R. DE ROO (eds.), *The Concept of Covenant in the Second Temple Period* (JSJSup 71; Leiden – Boston, MA 2003); G. W. E. NICKELSBURG, *Jewish Literature between the Bible and the Mishnah*, (Minneapolis, MN 2005) 57-58.

9 Ch. KOCH, *Vertrag, Treueid und Bund. Studien zur Rezeption des altorientalischen Vertragsrechts im Deuteronomium und zur Ausbildung der Bundestheologie im Alten Testament* (BZAW 383; Berlin – New York, NY 2008). He presents a brief history of the research in his introduction; cf. *ibid.*, 2-14. A more concise presentation can be found in N. WEEKS, *Admonition and Curse. The Ancient Near Eastern Treaty/Covenant Form as a Problem in Inter-Cultural Relationships* (London – New York, NY 2004) 5-6.

10 KOCH, *Vertrag*, 318.

However, the relationship of God and his people was more likely expressed through the *berith* only after the fall of Jerusalem in 587 B.C.E.<sup>11</sup> This theology gives primary importance to the first commandment; in fact, its breach was the cause of the Israelites' exile<sup>12</sup>. Koch shows clearly that all these ancient traditions have collectively influenced the biblical authors<sup>13</sup>. Hence, it is not possible to date the biblical texts that speak of the *berith* by comparing them directly to a given Hittite, Assyrian or Canaanite document. Koch ventures further, proposing that those responsible for the transmission (*Trägerkreis*) of this theology of the *berith* are a group of scribes; in particular, the scribal family of Shaphan<sup>14</sup>.

These conclusions are significant for the study of later texts related to the *berith*. If Koch's results are correct, it is no longer possible to speak about unilateral/unconditional and bilateral/conditional *berith*, as if there were two theologies of the *berith*<sup>15</sup>. This duality, which clearly derives from a certain interpretation of Paul's theology, is very common in scholarly discourse and will be difficult to eradicate<sup>16</sup>. Nevertheless, it is obvious that Paul's theology should be interpreted under the light of the *berith*, and not the *berith* in the light of Paul's theology.

It is clear —according to Koch's analysis— that the theology of the *berith* is founded on an institution that has always been bilateral. Even if *berith* in the Old Testament can and should be translated occasionally as “promise” (Gen 15,18) or “oath” (Deut 4,31), this unilateral initiative from God has to be accepted by the other party; if not, the promise or oath is an imposition and not a gift. Similarly, election shares the same condition. The person elected has to accept the election for the relationship intended by the one who elects to

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11 *Ibid.*, 319.

12 KOCH points out the fact that this causality was present in Hittite as well as Assyrian documents; cf. *ibid.*, 322 n. 14. WEEKS seems to suggest that covenant theology should come from an early phase of the history of Israel, because it uses history as pedagogy to motivate fidelity to the covenant. He is very prudent in his proposal, having warned several times about rushing to conclusions, but it is also interesting that he does not think that the exilic period fits well with his description. WEEKS, *Admonition*, 180.

13 Koch speaks of an amalgam that combines genuine Judaic, western Aramaic and neo-Assyrian traditional elements; cf. KOCH, *Vertrag*, 315.

14 *Ibid.*, 319

15 David N. Freedman and David Miano still speak about conditional and unconditional covenants, but they recognize that both are interrelated; cf. D. N. FREEDMAN – D. MIANO, “People of the New Covenant”, in: PORTER – DE ROO, *The Concept of Covenant*, 9.

16 Regarding this influence in the study of the Old Testament since the time of Wellhausen, cf. SKA, *Introduction*, 109-110.

become effective. This is true even in the case of the most tyrannical election, that is, when a king appoints a vassal as a puppet king (2 Kgs 24,17). This relationship is absolute, that is, the puppet king loses all rights if he is unfaithful to his master, and is totally at his mercy (2 Kgs 25,6-7)<sup>17</sup>.

Ironically, this seems to be the kind of relationship that inspired the theology of the *berith*. The difference is that God remains faithful and re-establishes his people by bringing them back from exile (Deut 4,29-31). Nevertheless, the language used to express the consequences of his people's unfaithfulness is quite strong, especially when enumerating the curses which will derive from it (Lev 26,14-46; Deut 28,15-68).

To demonstrate the impossibility of a *berith* that is merely unilateral, we can compare the promises made in Gen 15 and Ex 19–24. Even if Gen 15 is commonly considered the ultimate expression of the unconditional *berith* and Ex 19–24 the conditional *berith*<sup>18</sup>, both contain the same promise from God, i.e. the possession of the land (Gen 15,18; Ex 23,31). This gift of the land, if accepted, will allow the survival of the people of Israel. Therefore, Israel has to demonstrate its acceptance by following certain prescriptions, expressed in collections of laws<sup>19</sup>. Hence, these laws are essential to the *berith* between God and his people<sup>20</sup>.

17 It is worth noting that even if both kings, Jehoiachin and Zedakiah, were brought into exile, when the political situation started to change, it was Jehoiachin who was somehow restored (2 Kgs 25,27-30).

18 Cf. G. VON RAD, *Old Testament Theology. The Theology of Israel's Historical Traditions* (New York, NY – Hagerstown, MD – San Francisco, CA 1962) 130-131; R. J. BAUTCH, *Glory and Power, Ritual and Relationship. The Sinai Covenant in the Postexilic Period* (Library of Hebrew Bible/Old Testament Studies. Formerly JSOTSup 471; London – New York, NY 2009) 10-15. In his review of Christoph Koch's book, Jean-Louis Ska mentions the work of Walter Zimmerli, who proposes that for P the *berith* of Sinai —with its blessing and curses— has been removed and in its place the big building of God's liturgy has been established in connection with the *berith* of Abraham. Ska and Zimmerli consider that this covenant with Abraham is unilateral and unconditional, but the very fact that the people are supposed to perform the liturgy makes it bilateral and conditional. W. ZIMMERLI, "Sinaibund und Abrahambund: Ein Beitrag zum Verständnis der Priesterschrift": TZ16 (1960) 268-280. J.-L. SKA, "review of Ch. KOCH, *Vertrag, Treueid und Bund*": CBQ71 (2009) 868-870.

19 The Hammurabi code seems to be a similar attempt by a king to propose the government's program. This sort of propaganda appears to be a secondary use of the ancient collections of laws, which actually seem to be the product of ancient academic work; cf. N. LOHFINK, "Gesetz, Gerechtigkeit und Erbarmen in Alten Testament und in Alten Orient": *Euntes Docete* 52 (1999) 251-265. The conclusions of Martha T. Roth propose that the Hammurabi code was not meant to be juridical; M. T. ROTH, "The Hammurabi's Wronged Man": JAOS 122.1 (2002) 38-45. There are scholars who continue to see these ancient codes as juridical, cf. R. WESTBROOK, "Biblical and Cuneiform Law Codes": RB 92 (1985) 247-264. For a brief presentation of the different positions cf. B. WELLS, "What Is Biblical Law? A Look at Pentateuchal Rules and Near Eastern Practice": CBQ70 (2008) 223-243.

20 Similarly, the Middle Assyrian Laws appear to express the content of a program for socio-political reform, which had to be accepted by the people.

The Deuteronomistic code does not seem to be juridical but the basis for a reform, which probably took place in the 7<sup>th</sup> century B.C. This reform was a reinterpretation of the Covenant code as a reaction to the Assyrian influence<sup>21</sup>. As the Assyrians promised fidelity to their rulers based on this collection of laws, so Israel promised fidelity to YHWH based on the *Shema* and the centralization of the cult<sup>22</sup>. This fidelity was not abstract or merely subjective; it was clearly manifested through the torah and the land.

Therefore, it is highly improbable that Paul can conceive of an intervention of God that excludes the torah, as most translations of Rom 3,21 imply.

### III. *BERITH*, TORAH AND PROMISED LAND

Two aspects of the *berith* make the relationship between God and his people concrete: the torah and the promised land<sup>23</sup>. The first has been the object of much study, but is frequently misinterpreted because of cultural distance or a bias of the authors<sup>24</sup>. The second is less contentious and has not attracted much attention<sup>25</sup>, apart from the geopolitical dimension that it has acquired or reacquired in modern times<sup>26</sup>.

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21 Barry L. Eichler proposes that the Hammurabi code was also influenced by the Laws of Eshnunna, or that both derive from a common source; cf. B. L. EICHLER, "Examples of Restatement in the Laws of Hammurabi", in: N. SACHER FOX – D. L. GLAT GILAD – M. J. WILLIAMS (eds.), *Mishneh Todah. Studies in Deuteronomy and Its Cultural Environment in Honor of Jeffrey H. Tigay* (Winona Lake, IN 2009) 365-400.

22 E. OTTO, "The Pre-exilic Deuteronomy as a Revision of the Covenant Code", in: E. OTTO (ed.), *Kontinuum und Proprium. Studien zur Sozial- und Rechtsgeschichte des Alten Orients und des Alten Testaments* (Wiesbaden 1996) 112-122. *Id.*, *Das Deuteronomium. Politisch Theologie und Rechtsreform in Juda und Assyrien* (BZAW 284; Berlin – New York, NY 1999) 364-378. The opposite view is held by J. VAN SETTERS, "Revision in the Study of the Covenant Code and a Response to my Critics": *SJOT* 21 (2007) 5-28.

23 Jean-Louis Ska points out that the torah is received in the desert, which by definition is not a territory because no one claims it. He thinks, then, that the final redaction of the Pentateuch happened in a historical moment in which Israel did not have dominion over a territory. Nevertheless, there are enough passages indicating that the possession of the land is a consequence of the faithfulness to the *berith*, and that the exile is a consequence of Israel's unfaithfulness (Gen 15,18; Ex 6,4; Lev 20,24; 26,42-45; Deut 1,8,21; 2,12; 30,5; Josh 23,16; Judg 2,1; Is 24,5; 49,8; Neh 9,8). SKA, *The Exegesis*, 209.

24 Jean-Louis Ska regrets a deep-seated prejudice against the law among readers of the Bible, which he thinks can be traced to Paul's statements about the law; cf. SKA, *The Exegesis*, 220.

25 W. C. KAISER Jr., "The Promised Land: A Biblical-Historical View": *BSac* 138 (1981) 302-312; É. LEVINE, "The Promised Land

The torah can be interpreted in a juridical<sup>27</sup>, political<sup>28</sup>, or pedagogical way<sup>29</sup>. These interpretations can occur simultaneously and by the same person or community. This ambiguity appears to be at the root of every debate, ancient and new.

The juridical and pedagogical interpretations are by far the most common. The juridical approach interprets the torah as the sum of specific regulations, which constitute a code without reference or relation to the *berith*. The meaning of the regulations is not the object of much debate, rather, trespassing a particular commandment is the principal concern<sup>30</sup>. Transgressing the commandments will result in punishment, while not transgressing the commandments will be rewarded by God<sup>31</sup>.

The pedagogical interpretation sees the torah as the Wisdom of God revealed to Israel so that she can live and prosper within the *berith* (Sir 24,23).

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of Milk and Honey": *EstBib* 58 (2000) 145-166. D. W. Davies vehemently complains that this topic did not raise much interest in scholarly debate and little has been done since; cf. D. W. DAVIES, *The Territorial Dimension of Judaism* (Berkeley, CA – Los Angeles, CA – London 1982) xv-xviii; K. KEITA, *Gottes Land. Exegetisch Studien zur Land-Thematik im Hoseabuch in Kanonischer Perspektive* (Theologische Texte und Studien 13; Hildesheim 2007); B. HALPERN-AMARU, *Rewriting the Bible. Land and Covenant in Post-Biblical Jewish Literature* (Valley Forge, PA 1994); K. J. WENELL, *Jesus and Land. Sacred and Social Space in Second Temple Judaism* (London – New York, NY 2007); J. VAN RUITEN – J. CORNELIS DE VOS (eds.), *The Land of Israel in Bible, History and Theology. Studies in Honour of Ed Noort* (Leiden – Boston, MA 2009).

26 Ph. GUILLAUME, *Land and Calendar. The Priestly Document from Genesis 1 to Joshua 18* (London – New York, NY 2009).

27 F. CRÜSEMANN, *The Torah. Theology and Social History of Old Testament Law* (Minneapolis MN 1996). Even if Crüsemann clearly affirms that the "Torah is at home only within the covenant", his work does not reflect this statement; cf. *ibid.*, 3.

28 J. W. WATTS, "The Torah as the Rhetoric of Priesthood", in: G. N. KNOPPERS – B. M. LEVINSON (eds.), *The Pentateuch as Torah. New Models for Understanding Its Promulgation and Acceptance* (Winona Lake, IN 2007) 319-321.

29 SKA, *The Exegesis*, 198-220; 216-217.

30 This view is epitomized in the famous statement of the men of the great assembly: "make a fence for the torah" (*m. 'Abot* 1,1). It seems that this is exactly what the *Temple Scroll* does to the laws in Leviticus and Deuteronomy; cf. S. W. CRAWFORD, "The Use of the Pentateuch in the *Temple Scroll* and the *Damascus Document* in the Second Century B.C.E.", in: KNOPPERS – LEVINSON, *The Pentateuch*, 307-312.

31 Certainly a juridical system can be compiled from the different legal codes of the Pentateuch, but only as the result of interpretation. It is interesting that God never reveals himself as a judge in the Pentateuch. Only Sarah, Abraham, and Jacob invoke him as judge (שופט) (Gen 16,5; 18,25; 31,53). Moreover, the more juridical root for judge (דן) is rarely used (Gen 30,6; Deut 32,36). Though it seems that God is part of a juridical process (דין) in Deut 19,17, the priest and judges are immediately called as his representatives. In English, the terms 'legal' and 'juridical' can be used synonymously, but in fact 'legal' is a much larger category, which includes everything related to the law. The lack of distinction between these two terms makes the work of Buchanan of little use; cf. G. W. BUCHANAN, "The Covenant in Legal Context", in: PORTER – DE ROO, *The Concept of Covenant*, 27-52.

This wisdom helps Israel to interpret the boundaries inside and outside the *berith*. These boundaries are defined by concrete regulations, but these regulations are not isolated. They are expressions of the sole wisdom of the torah, and for this reason they can change according to different historical moments. Moreover, the particular commandments can be synthesized into one or two rules, which demonstrates that they do not pertain to the juridical field but to the realm of wisdom (Mt 22,34-40)<sup>32</sup>. The pedagogical interpretation seems to better reflect the Deuteronomistic theology of the *berith*.

It is difficult to determine whether a person or a community interprets the torah in a juridical or pedagogical way, because it depends on their intention and internal disposition<sup>33</sup>. Externally, there is not a noticeable difference, because both interpretations presuppose the performance of commandments, but the intention with which they are performed makes a difference in the way God's law is experienced. It could be a mere burden, if imposed as a juridical regulation, or a gift, if given as pedagogical directions.

Judgment of intentions is necessarily inconclusive, particularly if we are dealing with ancient documents or people who are known only by their opponents. This fact notwithstanding, it is certain that the torah has been and will be interpreted in one of these two ways<sup>34</sup>, excluding the political interpretation, which did not play a significant role since the last Jewish revolt.

Despite their fundamental though subtle difference, both interpretations imply boundaries, which separate those inside from those outside<sup>35</sup>. This se-

32 E. P. Sanders is credited as the initiator of the so-called New Perspective, which has made clear that Judaism is not a legalistic religion by nature, but is rather what he terms a "covenantal nomism". Much has been written about the New Perspective on Paul, which was possible because of a new perspective on Judaism. This view of Judaism has its roots in the correct understanding of the Deuteronomistic theology of the *berith*.

A good synthesis can be found in E. P. SANDERS, *Paul* (Oxford – New York, NY 1991).

33 Watson asserts this difficulty from another point of view. He affirms that different soteriologies found in 4QMMT, 4 Macc and Paul cannot be compared directly, since they all have different perspectives, which should be understood against the background of the Deuteronomistic theology; cf. F. WATSON, "Constructing an Antithesis: Pauline and Other Jewish Perspectives on Divine and Human Agency", in: BARCLAY – GATHERCOLE, *Divine and Human Agency*, 99-116.

34 The gospels are good witnesses of this difficulty of interpretation and can be taken as historical witnesses of Second Temple Judaism (Mt 12,1-8; 15,1-9; 19,3-9.16-22; 22,15-22). Rabbinic tradition also mentions this difficulty (cf. *b. Ber.* 22b).

35 It is true that different groups during the Second Temple period expressed different levels of concern about separation, but it seems obvious that all of them somehow draw a line of separation between Jews and non-Jews; cf. J. BLENKINSOPP, *Judaism. The First Phase. The Place of Ezra and Nehemiah in the Origins of Judaism* (Grand Rapids, MI – Cambridge 2009) 189-227.



paration has a deeper dimension, that is, the division between life and death<sup>36</sup>. The theology of the *berith* is full of references to these two realms (Dt 4,1; 6,24; 8,1; Lv 18,5; Ez 20,11; Neh 9,29)<sup>37</sup>.

The promised land is the other fundamental aspect of the Deuteronomistic theology of the *berith* and serves to reveal the true intention of the chosen people towards God<sup>38</sup>. The people will inherit and possess the land as long as they keep the torah (Lev 20,22; 25,18; Deut 8,1; 11,8-9; 30,16; 1 Chr 28,8)<sup>39</sup>. The exile is the proof of Israel's infidelity (Bar 3,9-13), and Israel's return shows God's faithfulness to his *berith* (cf. Jer 33,17-26). In this way the connection between *berith* and boundaries is even clearer. To abandon the Lord by not listening to his commandments means to put themselves at the mercy of their enemies, who will certainly bring them out of the land that the Lord has promised them (Deut 28,63-68).

Hence, sin acquires a very concrete dimension. It is not an infraction of a rule, but it is a fundamental break with the *berith*. Its consequence is to go into exile. This territorial dimension of the *berith* makes the relationship between God and his people existential<sup>40</sup>. The boundaries are not just markers of identity, but a real separation between life and death, between possession of the land and exile, between observance of the torah and sin<sup>41</sup>.

36 This is one of the major criticisms of the New Perspective on Paul, especially in its presentation by N. T. Wright, i.e. the regulations would only be instrumental for the separation between Jews and non-Jews. Watson expresses this criticism of J. D. G. Dunn's presentation; cf. F. WATSON, "Constructing an Antithesis", 107 n. 20; J. C. R. DE ROO, "*Works of the Law*" at Qumran and in Paul (New Testament Monographs 13; Sheffield 2007) 219. Despite the accusations, Dunn seems to affirm very clearly that the law sets the limits between life and death; cf. J. D. G. DUNN, *The Theology of Paul the Apostle* (Grand Rapids, MI – Cambridge 1998) 150-155. For instance, Ellen Christiansen interprets the covenant as an identity marker; cf. E. J. CHRISTIANSEN, *The Covenant in Judaism and Paul. A Study of Ritual Boundaries as Identity Markers* (AGJU 27; Leiden – New York, NY – Köln 1995).

37 This list could be much longer, especially if references to the blessings and curses are added.

38 KAISER, "The Promised Land", 308.

39 Some of the cited texts belong to the so-called Priestly source, or theology. It is not possible here to debate the existence, role, and date of P, and its related literature. However, it seems clear that in these aspects of the theology of the *berith* there is agreement between the Deuteronomistic and priestly traditions; cf. G. BOCCACCINI, "Inner-Jewish Debate on the Tension between Divine and Human Agency in Second Temple Judaism", in: BARCLAY – GATHERCOLE, *Divine and Human Agency*, 11-12. Patrick D. Miller, Jr. affirms that there is no real contradiction between the idea of the land as a gift from God and something that Israel should possess; cf. P. D. MILLER, Jr., "The Gift of God: The Deuteronomistic Theology of the Land": *Int* 23 (1969) 455.

40 By "existential" I am not referring to any particular philosophical system, but simply to the concreteness of a given "life situation".

41 MILLER, "The Gift of God", 458.

The experience of the exile and the return certainly shaped Judaism from its beginning<sup>42</sup>. As God took a people for himself out of Egypt, he now takes his people back from Babylon (cf. Jer 16,14-15). Even at the height of the Diaspora expansion, the Jewish people held in great regard the land that the Lord has promised them and the place that he had chosen to set up his Sanctuary. The very fact, however, that not all Diaspora Jews chose to come back to the Land—indeed they increased and prospered outside the land—makes it clear that the relationship between the land and obedience to the law was reinterpreted<sup>43</sup>.

Actually, the land acquired a transcendental meaning during the Second Temple period<sup>44</sup>. The actual geographical land becomes subordinate to the expectation of a new creation and a world to come. The relationship between law and land, though, does not disappear, because of their intimate connection<sup>45</sup>. The law has a territorial dimension that is not essentially political, in the sense of modern law, which is connected to a territory and a government to enforce it<sup>46</sup>; but this territorial dimension is existential. It is within the boundaries of the law that life is possible.

It seems probable, then, that in the mind of a first-century C.E. Jew, such as Paul, the torah is the means to stay within a territory defined by the relationship with God, i.e. the *berith*<sup>47</sup>. The unilateral gift of the torah has to be

42 NICKELSBURG, *Jewish Literature*, 8.

43 W. D. Davies offers an articulate explanation and shows that there are different models of interpretation and relationships between the Diaspora and the land; cf. DAVIES, *The Territorial Dimension*, 95-100.

44 Davies clearly affirms that in the literature of the Second Temple period the references to the land are much less frequent than in the Old Testament, which could be an indication that this theme was not central during this period. Betsy Halpern-Amaru and Katell Berthelot are of a similar opinion, but Davies gives compelling explanations for this apparent lack of pre-eminence of the land; among them, the growing appreciation of the individual and the transcendental meaning of the land. *Ibid.*, 29, 33-34, 76-91. HALPERN-AMARU, *Rewriting the Bible*, 116-127. K. BERTHELOT, "The Biblical Conquest of the Promised Land and the Hasmonaean Wars according to 1 and 2 Maccabees", in: G. G. XERAVIS – J. ZSENGELLÉR (eds.), *The Books of the Maccabees. History, Theology, Ideology. Papers of the Second International Conference on the Deuterocanonical Books, Pápa, Hungary, 9-11 June 2005* (JSJSup 118; Leiden – Boston, MA 2007) 45-60.

45 According to W. D. Davies the torah was considered as a "portable land". W. D. DAVIES, *The Gospel and the Land. Early Christianity and Jewish Territorial Doctrine* (Berkeley, CA 1974, repr. 1994) 219. Emanuel Maier as a geographer calls the torah a "movable territory". E. Maier, "Torah as Movable Territory", *Annals of the Association of American Geographers* 65/1 (1975) 18-23.

46 DAVIES, *The Territorial Dimension*, 37.75.

47 It is possible that the expression נביל תורה (territory of the torah) in CD XX, 25 implies this concept. Furthermore, Martin

accepted by the people to remain within the *berith* and have life. I would like to show, then, that the understanding of the law as a sort of territory where the *berith* of God is active and life-giving —if accepted and kept by the people— might help us to comprehend better Rom 3,21 and other related passages.

#### IV. WHAT DOES *χωρίς* MEAN IN ROM 3,21 AND RELATED PASSAGES?

In scholarly debates about Rom 3,21, the meaning of the word *χωρίς* does not seem to be at issue to my knowledge. Its common meaning according to Liddle & Scott is “without”, “separate from”, “apart from”, “independently of”, “without reckoning”, “differently from”, “otherwise than”. Even if this dictionary’s definition does not include the meaning “outside of”, such a translation seems more fitting at least in some of the examples that the dictionary provides, such as *χωρίς ἀνθρώπων στίβου* (outside of human path) or *ἡ ψυχὴ χωρὶς τοῦ σώματος* (the soul outside the body). In fact, Walter Bauer’s dictionary translated into English by William Arndt and F. Wilbur Gingrich (2<sup>nd</sup> ed.) provides 2 Cor 12,3 as an example of *χωρὶς* with the meaning “outside of”, in the same expression *χωρὶς τοῦ σώματος* (outside the body). This same dictionary, however, suggests for Rom 3,21 the translation “without relation to or connection with”.

Among the most common translations of the Bible in English, the Jerusalem Bible is the only one that translates *χωρὶς* in Rom 3,21 as “outside”<sup>48</sup>. It is difficult to know what guided the translator in making this decision<sup>49</sup>; but it is certainly a good one, since it reduces the apparent tension of this verse. According to all other translations, the *δικαιοσύνη θεοῦ* (Justice/justification of God) is manifested “without” or “apart from” νόμου (law/torah), but at the same time it is witnessed by τοῦ νόμου καὶ τῶν προφητῶν (the law/torah and the prophets). This is why some translations add an adversative conjunction, such as “though” (REB; NAB); or “although” (RSV), which is not in the Greek text<sup>50</sup>. Other translations just keep the tension of the text as it is in the original

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G. Abegg’s evenhanded analysis of the covenant of the Qumran sectarians mentions many aspects of the presentation of the covenant that are geographical. For example, the converts “entered” (בָּרָא) or “crossed into” (עָבַר) the covenant; cf. M. G. ABEG, “The Covenant of the Qumran Sectarian”, in: PORTER – DE ROO *The Concept of Covenant*, 81-97. Josephus seems

(NRSV<sup>51</sup>; NIV; ASV; KJV), or try to use the *νυνὶ δέ* (now, then) as adversative between the two parts of the verse (JB<sup>52</sup>; NJB). The major commentaries confirm the direction and the choices of these translations, and none, to my knowledge, propose to read *χωρὶς* as “outside”<sup>53</sup>.

Now, Paul presents a variety of uses for the word *χωρὶς*. First of all, he uses this word with the most common meaning of “without or apart from” in passages that are unequivocal (1 Cor 4,8; 11,11; Phlm 14). Second, he uses this word with the clear meaning “outside” in 2 Cor 12,3. Third, other texts could be translated in either manner, according to preference or usage in the target language (Phil 2,14; 2 Cor 11,28). This word in Rom, however, seems to have a more technical meaning, which I would like to highlight.

Certainly, Paul knows other words to express the idea of “outside” such as *(παρ)ἔκτος* (1 Cor 6,18; 15,27; 2 Cor 11,28; 12,2)<sup>54</sup>, or *ἔξω(θεν)* (1 Cor 5,12-13; 2 Cor 4,16; 7,5; 1 Thess 4,12)<sup>55</sup>. He does not know the word *ἄνευ* (without) (1 Pet 3,1; 4,9) or *ἄτερο* (without), which does not appear in the NT.

If we would interpret the expression *χωρὶς νόμου* with the majority as “without law”, Paul uses a similar expression, i.e. *ἄνομος* (lawless or without

to express a similar idea when he says that God gives a life of happiness to those who follow him, but surrounds *(περιβάλλει)* with great calamities those who walk outside (*ἔξω*) of virtue (cf. *Ant.* 1,21).

- 48 Other English translations use “without” (KJV), “apart from” (NRSV, NAB, NJB), and a very emphatic “quite independently of” (REB).
- 49 Professor Prosper Grech, one of the contributors to the JB translation, in a phone communication, said that the redactor’s committee substantially changed the work of the contributors, so it is difficult to say who is responsible for what. The thesis of this article was conceived independently from this translation.
- 50 The conjunction *δέ* (but) could have an adversative meaning in this verse, but in this instance it seems to naturally follow the word *νυνὶ* (now), and so cannot have an adversative meaning; cf. J. VON WOYKE, “‘Einst’ und ‘Jetzt’ in Röm 1–3? Zur Bedeutung von *νυνὶ δέ* in Röm 3,21”: *ZNW* 92 (2001) 185-206.
- 51 This translation just adds an “and” in between the two participles to slightly diminish the contrast between *πεφανέρωται* (manifested) and *μαρτυρουμένη* (witnessed).
- 52 The rendering of *μαρτυρουμένη* by “made known” is somewhat far from the original meaning.
- 53 Commentaries on Romans are exceedingly numerous; a few references are provided here to illustrate the major trends of interpretation. E. LOHSE, *Der Brief an die Römer. Übersetzt und erklärt* (KEK 4; Göttingen 1952) 128-130; E. KÄSEMANN, *An die Römer* (HNT 8a; Tübingen 1974) 85-95; P. GRELOT, *L’Épître de saint Paul aux Romains. Une lecture pour aujourd’hui* (Ver-sailles 2001) 48-49; P. STUHLMACHER, *Paul’s Letter to the Romans. A Commentary* (Louisville, KY 1994) 57-60; B. BYRNE, *Romans* (SP 6; Collegeville, MN 1996) 122-124; D. J. MOO, *The Epistle to the Romans* (NICNT; Grand Rapids, MI – Cambridge 1996) 218-223; R. JEWETT, *Romans. A Commentary* (Minneapolis, MN 2007) 272-274.
- 54 Note the parallelism with *χωρὶς* in 2 Cor 12,3
- 55 However, he does not use this word as a preposition.

law)<sup>56</sup>. He also uses the verb ἀφορίζω (separate or set apart), but not in connection with νόμος (Rom 1,1; 2 Cor 6,17; Gal 1,15; 2,12). The verb χωρίζω (to divide or separate) (Rom 8,35.39; 1 Cor 7,10-11.15; Phlm 15); and the verb χωρέω (to make room) (2 Cor 7,2) are also part of his vocabulary<sup>57</sup>.

After this brief analysis we can conclude that there is no compelling reason to translate χωρὶς νόμου as “without (the) law” (KJV), “quite independently from law” (REB), or apart from (the) law (RSV; NAB; NIV; NJB). In fact, the rendering “outside the law” could be more understandable if we take into consideration the background presented in the first part of this article and treat it as a technical expression typical of the letter to the Romans.

If this hypothesis is true, the tension noticed in this verse disappears. The justice/justification of God could be manifested outside the realm of the law and be witnessed by the law and the prophets without contradiction. How these two actions relate to each other is not yet clear. First, in order to explain this relationship, it is essential to see Rom 3,21 within its context. For this purpose we need to define the limits and the structure of this text<sup>58</sup>.

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56 Ironically, many translations render ἄνομος in 1 Cor 9,21 as “outside the law” (RSV; NRSV; REB; NAB; NJB)

57 These two verbs as well as χωρὶς seem to be related to the word χῶρα (land as defined territory); cf. X. JACQUES, *List of Septuagint Words Sharing Common Elements. Supplement to Concordance or Dictionary (SubBi 1; Rome 1972)* 229.

58 For another proposed structure cf. M. THEOBALD, *Studien zum Römerbrief* (WUNT 136; Tübingen 2001) 32-33.

A	{	{	<p>Νυνὶ δὲ χωρὶς νόμου δικαιοσύνη θεοῦ πεφανέρωται μαρτυρουμένη ὑπὸ τοῦ νόμου καὶ τῶν προφητῶν,</p>
B	{	a	<p>α δικαιοσύνη δὲ θεοῦ β διὰ πίστεως Ἰησοῦ Χριστοῦ γ εἰς πάντας τοὺς πιστεύοντας.</p>
		b	<p>οὐ γὰρ ἐστὶν διαστολή, πάντες γὰρ ἡμαρτον καὶ ὑστεροῦνται τῆς δόξης τοῦ θεοῦ</p>
	{	a'	<p>α δικαιούμενοι δωρεὰν τῇ αὐτοῦ χάριτι διὰ τῆς ἀπολυτρόσεως τῆς ἐν Χριστῷ Ἰησοῦ· ὃν προέθετο ὁ θεὸς ἰλαστήριον β διὰ [τῆς] πίστεως ἐν τῷ αὐτοῦ αἵματι     { εἰς ἔνδειξιν τῆς δικαιοσύνης αὐτοῦ     { διὰ τὴν πάρεσιν τῶν προγεγονότων ἁμαρτημάτων     { ἐν τῇ ἀνοχῇ τοῦ θεοῦ,     { πρὸς τὴν ἔνδειξιν τῆς δικαιοσύνης αὐτοῦ     { ἐν τῷ νῦν καιρῷ,</p>
		γ	<p>εἰς τὸ εἶναι αὐτὸν δίκαιον καὶ δικαιούντα τὸν ἐκ πίστεως Ἰησοῦ.</p>
B'	{	a	<p>Ποῦ οὖν ἡ καύχησις; ἐξεκλείσθη. διὰ ποίου νόμου; (διὰ νόμου) τῶν ἔργων; οὐχί, ἀλλὰ διὰ νόμου πίστεως.</p>
		b	<p>λογιζόμεθα γὰρ δικαιοῦσθαι πίστει ἄνθρωπον χωρὶς ἔργων νόμου.</p>
	{	a'	<p>ἢ Ἰουδαίων ὁ θεὸς μόνον; οὐχί καὶ ἔθνῶν; ναὶ καὶ ἔθνῶν,</p>
		b'	<p>εἴτερον εἶς ὁ θεὸς ὃς δικαιοῦσει περιτομὴν ἐκ πίστεως καὶ ἀκροβυστίαν διὰ τῆς πίστεως.</p>
A'	{	<p>νόμον οὖν καταργούμεν διὰ τῆς πίστεως; μὴ γένοιτο· ἀλλὰ νόμον ιστάνομεν.</p>	

The limits of the text seem to be clear. On one end, the expression *Νυνὶ δέ* is a clear beginning of an explanation in connection with Rom 1,17, as Johannes Woyke demonstrates<sup>59</sup>. On the other end, v. 31 seems to be the con-

59 Woyke, "Einst' und 'Jetzt'", 206. Dierk Starnitzke thinks that this passage begins at v. 19 instead. However, he acknow-

clusion of this argument, and in 4,1 a new section clearly begins, in which Paul will use the life of Abraham as an illustration of his thesis.

Rom 3,21 fits well in the context, but there is some room to believe that this statement might have been an apothegm, which circulated in the church before Paul<sup>60</sup>. Even if this were the case, Paul appears to make it his own and develops it in the following verses<sup>61</sup>. It is beyond the scope of this discussion to give a complete explanation of this section, but it is important to concentrate on the use and function of the expression χωρὶς νόμου and the other expressions closely related to it.

According to the structure suggested, v. 21 relates to v. 31 (“is the law, then, nullified through faith? By no means! But confirmed”). The statement about νόμος in v. 21 and the explanation which Paul proposes in the following verses could be interpreted as an attempt to nullify the law. For this reason, in v. 31 Paul insists that this negative opinion of the law is not his own; on the contrary, his argument does not nullify (καταργοῦμεν) the νόμος but confirms (ιστάνομεν) it. Thus, it is unlikely that Paul understood the word χωρὶς as “without” or “apart from”.

Again in v. 28 χωρὶς is used in combination with νόμος, and in this case νόμος is qualified by the genitive ἔργων (deeds or works). It is difficult to determine whether Paul is speaking here of the “works of the law” or the “law of works”, but given that in v. 27 he opposes νόμου τῶν ἔργων (law of works) to νόμου πίστεως (law of faith) it might seem natural that he is still speaking of the law of works, even if in this case the noun ἔργων precedes the noun νόμου. At any rate, it makes little difference for our proposal. The three other instances in this letter where Paul uses χωρὶς as a preposition are: in one occasion with ἔργων (Rom 4,6), and the two others with νόμου (Rom 7,8,9)<sup>62</sup>. Hence, it seems probable that the expression χωρὶς νόμου, χωρὶς ἔργων, and χωρὶς ἔργων νόμου are equivalent.

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ledges that no other scholar accepts this interpretation. D. STARNITZKE, *Die Struktur paulinischen Denkens im Römerbrief. Eine linguistisch-logische Untersuchung* (BWANT 3; Stuttgart 2004) 134.

60 The fact that Paul repeats the expression δικαιοσύνη δὲ Θεοῦ (justification then of God) in v. 22 seems to indicate that v. 21 has a certain independence. At any rate, this type of hypothesis is difficult to prove and does not alter our proposal.

61 The only purpose of this structure is to show that Rom 3,21 is well connected with its context. Other structures could be proposed, but it seems improbable that they can challenge the integration of Rom 3,21 within its context.

62 Paul uses χωρὶς in Rom 10,14 as an adverb, which can only be translated as “without”.

Second, it is necessary to clarify the territorial dimension of the torah in Paul's theology to see that there is no contradiction between the manifestation of the justice/justification of God outside the torah and the witness of the torah and the prophets of this action of God.

#### V. THE TERRITORIAL DIMENSION OF THE TORAH AND PAUL'S THEOLOGY

According to the conclusions of the first half of this paper, the torah is the gift from God that delimits the borders within which life is possible. Outside of these limits there is death, sin and exile.

What Paul seems to say is that the δικαιοσύνη θεοῦ (justice/justification of God) has been manifested in this territory outside the boundaries of the torah. The same torah and the prophets announce this fulfillment; this is why they are witnesses to this event<sup>63</sup>. Not only is there no longer tension between these two verbs "manifested" (πεφανερώται) - "witnessed" (μαρτυρουμένη), but now a clear logic unites them.

Let us briefly take into consideration the language involved in this debate to unfold the logic that Paul seems to presuppose.

This δικαιοσύνη θεοῦ happened through the release or redemption (ἀπολύτρωσις) of those who are in Christ Jesus (ἐν Χριστῷ Ἰησοῦ) (Rom 3,24). These two expressions have an original territorial meaning. The release/redemption (ἀπολύτρωσις) implies a place from which one is set free. Moreover, ἐν could mean sometimes "with", but in this case (ἐν Χριστῷ Ἰησοῦ) clearly means "in". Thus, the release/redemption is from the territory of death, sin and exile in order to live without sin in Christ (cf. Rom 6,11).

The word ἔργον appears very frequently in Paul's writings<sup>64</sup>. He uses it both in the plural and in the singular and this variation in number might have special significance. In the plural he clearly affirms that there will be a judgment

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63 This is the only place where Paul uses the technical expression "the law and the prophets". His letters, however, are filled with quotations of the Pentateuch and Prophetic books. Regarding Paul's use of Scriptures cf. S. E. PORTER – C. D. STANLEY (eds.), *As it is Written. Studying Paul's Use of Scriptures* (Atlanta, GA 2008). In particular, S. MOVISE, "Quotations", in: *ibid.*, 15-28.

64 References to the letters whose authenticity have been questioned will be added in the notes.



according to our works (Rom 2,6; 2 Cor 11,15). On one occasion the plural is used to express the works of the flesh (Gal 5,19)<sup>65</sup> and on another the works of darkness (Rom 13,12). In all other instances, this noun is used in the plural with the preposition *ἐκ* (Rom 4,2; 9,12.32; 11,6), and sometimes in combination with the noun *νόμος* (Gal 2,16; 3,2.5.10)<sup>66</sup>. The use of *ἔργον* in the singular frequently characterizes the product of the evangelization or the work of faith (Rom 2,7; 14,20; 15,18; 1 Cor 3,13-15; 9,1; 15,58; 16,10; Gal 6,4; Phil 1,6.22; 2,30; 1 Thess 1,3; 5,13)<sup>67</sup>.

Paul uses the word *νόμος* even more frequently. The territorial understanding of *νόμος* that is proposed here seems to be confirmed by the use of the expression *ἐν νομῷ* (Rom 2,12.23; Gal 3,11; 5,4; Phil 3,6), *ἐν τῷ νομῷ* (Rom 2,20; 3,19; 7,23) or *ἐν ᾧ* (Rom 7,6; 8,3). Certainly the preposition *ἐν* could be translated as “under” or “by”, but in all these passages it makes more sense to use the most common meaning, “in”. In general, these passages play a role in the argument about the incapacity of the law to justify<sup>68</sup>.

Paul seems to use the preposition *ἐκ* (from) with *νόμος* in a more cautious way. It is not always used in a negative way, as in the expression *ἐξ ἔργων νόμου* (from the works of the law); sometimes it retains a certain positive value. For instance, though Paul in Rom 4,13-16 uses very strong language against the law as a means to inherit the promise (*Οὐ γὰρ διὰ νόμου ἡ ἐπαγγελία*), in v. 16 he says that not only (*μόνον*) to those *ἐκ τοῦ νόμου* (from the law) belongs the promise, but also to those *ἐκ πίστεως* (from faith). Also, in Rom 10,5 he

65 It is interesting that Paul opposes the plural “works of the flesh” to the singular “fruit of the Spirit” (Gal 5,22-23), which actually unfolds into many gifts: love, joy, peace, patience, kindness, generosity, faithfulness, gentleness, self-control.

66 The expression *ἐξ ἔργων* has the same value in Eph 2,9 and Tit 3,5. But Eph 2,10 speaks about the good works (*ἔργους ἀγαθοῦς*) that have been preordained by God for the Christians. Several other references to good (*ἀγαθός*) or beautiful (*καλός*) works can be found in other letters (1 Tim 2,10; 5,10.25; 6,18; Titus 1,16; 2,7.16; 3,8.14). Eph 5,11 speaks about fruitless works of darkness (*τοῖς ἔργοις τοῖς ἀκαρποῦς τοῦ σκότους*). Col 1,21 speaks about the bad works (*τοῖς ἔργοις τοῖς πονηροῦς*) of the Colossians’ previous life. 2 Tim 1,19 clearly states that we were not called *κατὰ τὰ ἔργα ἡμῶν* (according to our works), but 2 Tim 4,14 says that the Lord will repay Alexander *κατὰ τὰ ἔργα αὐτοῦ* (according to his works).

67 Rom 2,15 is a very special case, since the expression *τὸ ἔργον τοῦ νομοῦ* seems to oppose the plural *ἔργων νομοῦ*. It is written in the hearts of those who did not receive the law at Sinai but have a conscience that directs them. This natural law appears sufficient to guide the non-Jews toward God, and for this reason, there is no excuse for them when they fail to seek him (Rom 1,18-32).

68 Actually, Paul recognizes a certain justice or justification in the law (*κατὰ δικαιοσύνην τὴν ἐν νόμῳ*), but he chooses justification through faith and not from the law (*ἐκ νόμου*) (Phil 3,6-9).

seems to accept that in principle it is possible to have life ἐκ νόμου, accepting thus the theology of the *berith* mentioned before. Paul does not reject this theology, but he is convinced that no one can fulfill the *berith* (cf. Rom 2,13); so everyone is under a curse (Gal 3,12). Moreover, the real problem is that the law is not able to vivify (ζωοποιέω); otherwise, one could be justified ἐκ νόμου (Gal 3,21).

The use of the preposition διά (through) with νόμος seems to be an even more precise way to express the incapacity of the law to achieve justification; otherwise, the death of Christ would have been in vain (Rom 4,13; Gal 2,21). Instead, the law is necessary to make us aware of sin (Rom 3,20; 7,7); but it can also be the means to arouse sinful passions, due to the human inclination to sin (Rom 7,5).

This analysis seems to confirm the hypothesis that the expression χωρὶς νόμου has a territorial value, which fits well with Paul's understanding of the *berith*. Now, it is true that Paul uses the word διαθήκη (covenant/*berith*) in Romans two times only and later in the letter. Nevertheless, the following section will show that the theology of the *berith* is essential to understand Paul's theology.

## VI. OTHER ASPECTS OF THE *BERITH* IN PAUL'S THEOLOGY OF THE LAW

It is not possible to develop here a full theology of the law in Paul, but a few remarks are adequate to underscore the influence of the theology of the *berith* in Paul. He speaks about the law in connection to life, death, sin and exile, just as the Deuteronomistic theology of the *berith* does. For instance, in Rom 8,2 Paul says that there are two laws: the law of the spirit of life in Christ Jesus, and that of sin and death. Actually, this entire passage (Rom 8,1-11) seems to be a clear development of what he has already affirmed synthetically in Rom 3,21. First of all, he affirms that there is a fulfillment of the justice of the law (τὸ δικαίωμα τοῦ νόμου πληρωθῆ). This shows that he really believes what he affirms in Rom 3,31, that is, that the law is confirmed (ιστάνομεν) by what he has said in Rom 3,21 and not nullified (καταργουμέν).

This fulfillment occurs through the death and resurrection of Jesus Christ, who condemned sin (ἁμαρτία) in his flesh and opened for those who believe in him the possibility to live according to the spirit (κατὰ πνεῦμα) (Rom 8,3-8).

In Rom 8,9 the territorial image is reversed, because it is in the Christian where the spirit of Christ dwells. Also, Christ is in the Christian, and through justification (διὰ δικαιοσύνην) the spirit of the Christian lives, even if his body is dead through sin (διὰ ἁμαρτίαν) (Rom 8,10). This is what Paul in another passage will call the new *berith* (καινῆς διαθήκης) (2 Cor 3,6).

The influence of the theology of the *berith* on Paul's theology also appears in many passages where Paul speaks about life, death, and sin in connection with justification (Rom 1,32; 4,17.24; 5,10.12.17.21; 6,13.16; 1 Cor 15,20-21)<sup>69</sup>. The expression ἐν Χριστῷ (in Christ) and similar phrases express the territorial dimension of Christian life (Rom 3,24; 6,11.23; 8,1.2.39; 15,17; 1 Cor 1,2.4; 2 Cor 3,14; 5,17.19; 12,2; Gal 1,22; 2,4; 2,17; Phil 4,7; 1 Thess 4,16), just as ἔξω Χριστοῦ (outside Christ) expresses the opposite (Eph 2,12)<sup>70</sup>.

Among the curses that the book of Deuteronomy enumerates for those who do not keep the *berith* is exile or captivity (αἰχμαλωσία) (Deut 28,41). Paul speaks about this in the difficult text of Rom 7, where he describes the incapacity of human beings to live according to God's law (Rom 7,23). Moreover, when Paul speaks about redemption (τὴν ἀπολύτρωσιν τοῦ σώματος ἡμῶν) in Rom 8,23 and other passages (Rom 3,24; 1 Cor 1,30), he understands this redemption as freedom from captivity or exile. Finally, Paul shows that he takes the theology of the *berith* seriously: first, by speaking about the curses (κατὰρα)<sup>71</sup>, which will befall those who do not follow the law; and second by underscoring that Christ, by becoming a curse himself, has redeemed (ἐξηγόρασεν) us from it (Gal 3,13).

The theology of the *berith* also establishes a clear separation between those who are within and those who are outside. Paul says in Rom 3,22 that there is no more διαστολή (distinction or separation), because all have sinned and are lacking the glory of God<sup>72</sup>. In Rom 10,12 Paul uses the same expression (διαστολή) to say that all have access to salvation in Christ. In this way, he seems to assume the theology of the *berith*, but expresses a novelty in the fact that the justice/justification of God has been manifested outside of the law, reaching everyone who was outside the law.

69 This list could continue, but these examples should suffice.

70 Though the authenticity of this letter is disputed, it is certainly in line with the theology of Paul.

71 Cf. Deut 11,26.28; 28,15.45; 29,27; 30,1.19

72 The LXX uses this word (διαστολή) in Ex 8,19 when God says that he makes a distinction between his people and the Egyptians.

The new creation in Christ has destroyed the separation (διαστολή) between Jews and non-Jews (Gal 6,15; 2 Cor 5,17). There is no longer room for this separation in him who is the fulfillment of the law (Gal 3,28), as there was in the time of God's patience (Rom 3,26).

Paul shows, however, a very strong sense of separation between believers and non-believers, and cautions his communities in their relationships with them (1 Cor 5,12-13; 2 Cor 6,14; 1 Thess 4,12)<sup>73</sup>. He knows, however, that the Jews and non-Jews who did not believe in Christ are not to be judged (1 Cor 5,13).

## VII. FRUITFULNESS OF THE TERRITORIAL UNDERSTANDING OF THE TORAH

If reading χωρῆς as a territorial preposition is fruitful, it should help us to understand other difficult passages. Certainly Rom 7,7-25 is a difficult text, and within it vv. 8b-9 are a *crux interpretum*<sup>74</sup>. What does it mean: χωρῆς νόμου ἄμαρτία νεκρά (outside the law sin is/was dead) (Rom 7,8b)<sup>75</sup>, and that Paul (ἐγὼ) lived (ἔξων) χωρῆς νόμου (outside the law) once (ποτέ) (Rom 7,9)<sup>76</sup>? It is highly problematic to imagine a time when Paul lived without law<sup>77</sup>. He himself affirms that he is unblemished according to the law (Phil 3,6). It is true that in

73 However, in 1 Cor 7,12-16 Paul gives clear instructions for mixed marriages, i.e. among a believer and a non-believer. He is also open to the possibility of sharing the table with them (1 Cor 10,27).

74 Rom 7 has been the object of much controversy. It is not necessary to engage in every aspect of this debate, because the attempt of this paper is to show that a clearer non-biased understanding of the theology of the *berith* makes Paul's statements less complicated. It might suffice to mention a recent work of H.-K. Chang, who contradicts some of J. D. G. Dunn's proposals on Rom 7-8. Chang gives good bibliographical references about Rom 7's history of interpretation in n. 2 and supports the opinion that the "I" in this passage is rhetorical. Nevertheless, he admits that Paul might also be speaking of his experience as a Pharisee; cf. H.-K. CHANG, "The Christian Life in a Dialectical Tension? Romans 7:7-25 Reconsidered": *NT* 49 (2007) 274. Also S. Romanello works extensively on this passage; cf. S. ROMANELLO, *Una legge buona ma impotente* (Supplementi RivBib 35; Bologna 2000); *Id.*, "Rom 7,7-25 and the Impotence of the Law. A Fresh Look at a Much-Debated Topic Using Literary-Rhetorical Analysis": *Bib* 84 (2003) 510-530.

75 Rom 7,8b-10 appears as a parenthesis, because Paul repeats the same sentence in v. 8a and 11. Therefore, it is advisable to interpret vv. 8b-10 as a small unit, which shows a clear parallelism, particularly in vv. 8b-9a.

76 If a probable life situation of Paul can be identified, it seems that the simpler explanation of ἐγὼ (I) would be biographical.

77 For this reason most modern commentators think that Paul is speaking of Adam or Eve. L. A. Jervis presents a summary of most common modern interpretations; cf. L. A. JERVIS, "The Commandment which is for Life' (Romans 7.10): Sin's Use of the Obedience of Faith": *JSNT* 27 (2004) 193-216. For a presentation of some patristic interpretation of this verse cf. A. ORBE, "S. Metodío y la exégesis de Rom 7:9: 'Ego autem vivebam sine lege aliquando'": *Greg* 50 (1969) 93-139.

1 Cor 9,21 Paul says that he became “lawless” (ἄνομος) to win those who were lawless, but in the same verse he clearly states that he was not lawless towards God but ἐννομος Χριστοῦ (in the law of Christ). Is it possible that, in these short, mysterious sentences, Paul is speaking about his first encounter with Christ, when God revealed his Son in him (Gal 1,16)? Let us look at his description of this event (Gal 1,12-16)<sup>78</sup>.

He says in this passage that his gospel comes through the revelation of Jesus Christ (Gal 1,12), when he was persecuting and destroying the church (Gal 1,13), more zealously even than his companions (Gal 1,14). He also implies that this life-changing experience happened in Damascus (Gal 1,17). After this description, we can safely assume that this encounter with Christ made him aware of his actual reality, i.e., that he was ἄνομος, though he believed himself to be excelling in the fulfillment of the law.

Then, the verb ζάω in Rom 7,9 could be simply interpreted as “to live”, or it might imply that he received new life in Christ through this revelation<sup>79</sup>. Actually, both readings of the verb ζάω are possible, because the two revelations —i.e., that he lived outside the law, and that Christ was alive and life giving (1 Cor 15,45)— happened simultaneously in the one encounter with Christ. Clearly Paul has difficulties speaking about the event in Damascus (2 Cor 11,21–12,1), and if this paragraph reflects his personal experience, this could be the reason for its complexity. Following the reading proposed for ἄνομος, this is a possible reconstruction.

Paul sees now, after his encounter with Christ, that sin (ἁμαρτία) is dead (νεκρὰ) (Rom 7,8b), because Christ has died and has destroyed sin in his flesh, bringing to fulfillment the justice/justification of the law (Rom 8,3-4). Sin in Christ —whom Paul encountered ἄνομος (outside the law)— has no more power; it is dead (Rom 6,14). While Paul believes himself to be alive, with the life that comes from living within the law (Gal 3,12), in actuality he finds Christ outside the law. There, where there is no possibility of life, Christ is alive (Rom 4,24). Death has been overcome (Rom 6,9). Christ has destroyed death and has brought life there where only death was present (1 Cor 15,21)<sup>80</sup>. This

78 The accounts in Acts reflect the same basic facts despite their differences (Acts 9,1-19; 22,5-16; 26,10-18).

79 Paul uses the simple verb ζάω several times to express life after death cf. Rom 6,11.13; 14,9; 2 Cor 13,4; Gal 2,19.20.

80 2 Tim 1,10 says this very clearly too. There is also in Paul an eschatological dimension that is clearly presented, which does not ignore that the battle is still raging and that the last enemy to be defeated is death (1 Cor 15,26).

is why Paul “lived”, i.e., received life *χωρὶς νόμου* (Rom 6,4) and sin was dead for him in the same realm, when shortly after his encounter with Christ he was baptized into his death and resurrection (Rom 6,1-14).

At the same time, in Christ there is the law of faith (Rom 3,27)<sup>81</sup>, because Jesus Christ has fulfilled the law of God (Rom 8,4). He offers life to everyone through his victory over death, because everyone is actually in this territory *χωρὶς νόμου* (Rom 3,23; 5,12). In Christ there is the possibility of eternal life (Rom 5,21; 6,23; Gal 6,8).

This new possibility of life in Christ has to be accepted by faith (Rom 1,16). The expression of this acceptance has to be manifested by the obedience to the commandments (1 Cor 7,19). The commandment is love, which is the fulfillment of the law (Rom 13,8-10; Gal 5,13-14). The commandment is not a new one; the newness is that in Christ it is possible to fulfill it (Rom 8,2)<sup>82</sup>.

Still, the commandment remains a commandment with all the intrinsic difficulties that it presents to the finite nature of human beings (Rom 7,9b-11). Thus, when he says that the commandment came and sin was revived (Rom 7,9b), he could be speaking of the new commandment of the law of faith<sup>83</sup>. After the first profound experience of new life in Christ, Paul, as every other Christian, finds that he is not always faithful and he has most probably sinned again.

Even if not every difficulty of Rom 7,7-25 is solved, it seems that the territorial understanding of these passages sheds some light on Paul's theology and may reduce the difficulties of these verses.

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81 Paul calls it also the obedience of faith (*ἀκοή* or *ὑπακοή πιστεως*) (Rom 1,5; 16,26; Gal 3,2.5).

82 This is in continuity with the right understanding of the theology of the *berith*, which is always unilateral/unconditional because of God's initiative, but also bilateral/conditional because it has to be accepted by the people.

83 L. A. Jervis is of the same opinion and develops this insight thoroughly. She even has the intuition that “Paul uses the phrase *χωρὶς νόμου* ... not to describe a time *before* the giving of the law, but rather to signify a realm of revelation” (her emphasis); but she does not pursue this insight and continues to translate *χωρὶς νόμου* as “apart from the law”; JERVIS, “The Commandment”, 200.

### VIII. CONCLUSION

It is the hypothesis of this article that the preposition  $\chi\omega\sigma\tau\varsigma$  in Rom has a technical meaning, which Paul uses to express his understanding of the salvation given in Jesus Christ in a more precise manner than in other letters. This preposition should be translated as “outside”, and in the case of Rom 3,21 “outside of the law”. This preposition is based on the understanding of the theology of the *berith* in the Deuteronomistic tradition.

The *berith* is the relationship between God and his people, which is made concrete through the law and the land. The concept of territory evolves and is combined with the law to the extent that the law is conceived as a sort of territory. This territory is the land of life; outside of it is the land of death. The Jews are the chosen people who should remain within the law in order to live. Paul, when persecuting the church, finds himself outside of the law, because at the height of his zeal he is persecuting the body of Christ, who appears to him and shows himself alive outside of the law, i.e., in the territory of death. Christ has brought life into the land of death through his death and resurrection and offers to everyone, Jews and non-Jews alike, this new possibility of life.

This experience shapes Paul’s ministry and his evangelizing impulse. In Christ there is a new creation, because he is the fulfillment of the law. For this reason, the law and the prophets are witnesses to his death and resurrection, which brought about this new creation. Now, there is the law of faith, that is, to believe in Christ Jesus and be baptized in him. The new commandment is ‘new’ insofar as there is a new possibility in Christ to fulfill God’s law.

It seems that a clearer understanding of the theology of the *berith* in the Deuteronomistic tradition and its evolution within the Second Temple Judaism can help us to better understand Paul and his kerygma.

