

Introduction

For the hanged and beaten.
For the shot, drowned and burned.
For the tortured, tormented, and terrorized.
For those abandoned by the rule of law.

We will remember.

With hope because hopelessness is the enemy of justice.
With courage because peace requires bravery.
With persistence because justice is a constant struggle.
With faith because we shall overcome.

Equal Justice Institute

The National Memorial for Peace and Justice, in the capitol of my home state of Alabama, is a remarkable site. The memorial structure at the center of the site is constructed out of over 800 corten steel monuments. On each are the names of victims of a racial terror lynching. Each monument collects the names of the victims from a county in the United States where racial terror lynching took place, including my home county of Madison, Alabama. As I navigated this heart-wrenching and emotionally fatiguing memorial, I came across the quotation that is the epigraph for this introduction.

The words arrested my attention, because they are not bound by time. With the first stanza as a heuristic, I pondered: How far back could we make the promise of remembering? How can this contemporary story of lynching and state terror impact our analyses of ancient stories in which both legal and extrajudicial means are used to terrorize, criminalize, subjugate, and execute bodies? These questions animate this book, which focuses on criminalization in antiquity. *Criminalization in Acts of the*

Apostles examines the question of criminality and criminalization in the biblical book Acts of the Apostles.

I am not the first to consider how lynching in America could be fecund ground for interrogating ancient, canonical texts. W. E. B. DuBois draws a parallel to Jesus' cross and Southern lynching in his essay, "Jesus Christ in Texas."¹ Poets such as Langston Hughes in "Christ in Alabama" and Gwendolyn Brooks in "The Chicago Defender Sends a Man to Little Rock" described how, "on a cross in the South,"² "the loveliest lynchee was our Lord."³ From a Black liberation theology perspective, James Cone in *The Cross and the Lynching Tree* posits Jesus as the consummate victim of lynching. Cone writes: "The cross places God in the midst of crucified people, in the midst of people who are hung, shot, burned, and tortured."⁴

Although Cone's analysis is not exegesis, he does appeal to Acts 10:39 on several occasions. In that passage, Acts places these words on Peter's lips to the God-fearer Cornelius: "They put him (Jesus) to death by hanging him on a tree." Luke-Acts scholar Shelly Matthews takes up Cone's work to comparatively analyze how Gospel of Luke and Acts of the Apostles (Luke-Acts) imagined a violent act such as crucifixion that bears numerous similarities to lynching.⁵ Both crucifixion and lynching

¹ W. E. B. Du Bois, *Darkwater: Voices from Within the Veil* (New York: Oxford University Press, 2007), 59–64.

² I put Langston Hughes' whole poem here and I did not exclude the modifier that Hughes uses for Christ, because I wanted to leave it in the full context of the poem below. *The Collected Poems of Langston Hughes*, ed. Arnold Rampersad (New York: Vintage Books, 1994), 143.

Christ is a Nigger,
Beaten and black –
O, bare your back.

Mary is His Mother
Mammy of the South,
Silence your Mouth.

God's His Father –
White Master above
Grant us your love.

Most holy bastard
Of the bleeding mouth:
Nigger Christ
On the cross of the South.

³ Gwendolyn Brooks, "The Chicago 'Defender' Sends a Man to Little Rock Fall, 1957," in *Beyond the Blues: New Poems by American Negroes*, ed. Rosey E. Pool (London: The Hand and Flower Press, 1962), 52–3.

⁴ James H. Cone, *The Cross and the Lynching Tree* (Maryknoll, NY: Orbis Books, 2011), 26.

⁵ Shelly Matthews, "The Lynching Tree and the Cross: James Cone, Historical Narrative, and the Ideology of Just Crucifixion (Luke 23:41)," in *The Narrative Self in Early*

sit at the intersection of state-sponsored and mob-endorsed killing, at the crossroads of court-sanctioned and extrajudicial death.

Matthews analyzes how Luke-Acts' portrayal of a criminal demonstrates the author's artistic but problematic imagination and ideology. She explores the statement of the crucified criminal (*kakourgos*) in Luke 23:41, who announces from a cross that he deserves an asphyxiating, excruciating, torturous public execution. Matthews finds such a statement untenable. She argues that Luke-Acts has invented this dialogue and that these words in the criminal's mouth in many ways display the text's privileged status and sympathy to Roman power.⁶

Various interpreters use this scene created by Luke-Acts to reconstruct ancient attitudes toward judicial processes and justice, and the aspects of the scene they focus on are linked to their hermeneutical priorities. Interpreters who identify with the characters possessing power and authority have read this scene in a way that says, "I see us in the authority figure."⁷ Those who have been on the underside of judicial and extrajudicial punishments – those such as Hughes, Brooks, Du Bois, and Cone – identify with the criminalized. This book emerges from the questions raised by the Equal Justice Institute and those who empathize with the criminalized. *Criminalization in Acts* demonstrates that those who are portrayed in Acts as criminals are criminalized by the text – rendered criminals in its prose – and it seeks to understand that criminal status within larger ancient notions of law and justice.

CRIMINALIZATION IN ANTIQUITY AND IN THE ACTS OF THE APOSTLES

The Acts of the Apostles, an early second-century text⁸ in the New* Testament,⁹ is particularly fertile territory for considering how the

Christianity: Essays in Honor of Judith Perkins, ed. Janet E. Spittler (Writings from the Greco-Roman World Supplement Series 15; Atlanta: SBL Press, 2019), 147–70.

⁶ Matthews, "The Lynching Tree," 164–5.

⁷ Matthews, "The Lynching Tree," 164.

⁸ This dating relies heavily on the idea that Josephus' work influenced the author of Acts. See Rubén R. Dupertuis and Todd C. Penner, *Engaging Early Christian History: Reading Acts in the Second Century* (New York: Routledge, 2013); Richard I. Pervo, *Dating Acts: Between the Evangelists and the Apologists* (Santa Rose, CA: Poleridge Press, 2006), 161–6; Ernst Haenchen, *The Acts of the Apostles: A Commentary* (Philadelphia: The Westminster Press, 1971), 621–2; and Carl Holladay, *Acts: A Commentary* (Louisville, KY: Westminster John Knox Press, 2016), 418.

⁹ I use "New* Testament" following Elisabeth Schüssler Fiorenza's usage in *1 Peter: Reading Against the Grain* (London: T&T Clark, 2016) and her course "Advanced New*

criminalized were constructed and remembered and how such memories impact our contemporary understandings of the criminalized. This book explores the narrative of Acts and how it characterizes figures and groups as criminalized. Interpreters have attributed a number of roles to the author of Luke-Acts that include historian, theologian, and popular writer.¹⁰ Yet Luke-Acts defies the limits of our modern genre categorizations. Within the genre hybridity of Acts, Acts writes criminals into existence using historical, theological, and popular tropes. In this way, the author takes on the role of a criminographer: one who creates criminal characters.

While scholars from Martin Dibelius to Matthew Skinner have noted the role that trial scenes and speeches play in disclosing Acts' agenda,¹¹ and others from Otto Weinreich to John Weaver have analyzed the importance of prison-breaks for Acts' narrative,¹² no one has yet assessed how

Testament/Early Christianity Seminar" offered at Harvard Divinity School in 2017. I use this term to trouble the supersessionist and anti-Jewish implications of the designations "New" and "Old" Testaments. The legacy of the designations cannot be easily dismissed or erased, and the asterisk signifies the complicated history behind describing a collection of writings in Christian bibles as "new."

- ¹⁰ For an example of readings of Luke as historian see William Ramsay, *The Bearing of Recent Discovery on the Trustworthiness of the New Testament* (1915; repr. Grand Rapids: Baker Book House, 1953). Gregory Sterling assesses Luke-Acts as "apologetic historiography": Gregory Sterling, *Historiography and Self-definition: Josephos, Luke-Acts, and Apologetic Historiography* (New York: Brill, 1992). For examples of Luke as theologian see Henry Cadbury, *The Book of Acts in History* (New York: Harper & Brothers, 1955) and Martin Dibelius, *Studies in the Acts of the Apostles*, ed. H. Greeven, trans. M. Ling and P. Schubert (New York: Charles Scribner's Sons, 1956). For an example of Luke as a popular, even novelistic, writer, see Richard Pervo, *Profit with Delight: The Literary Genre of the Acts of the Apostles* (Philadelphia: Fortress Press, 1987). There are also perspectives that note that Acts demonstrates genre hybridity. See Laura S. Nasrallah, *Christian Responses to Roman Art and Architecture: The Second-Century Church amid the Spaces of Empire*. (Cambridge: Cambridge University Press, 2010). This last perspective is the one with which I most align.
- ¹¹ Martin Dibelius, *The Book of Acts: Form Style, and Theology* (Minneapolis: Fortress Press, 2004) and Matthew Skinner, *The Trial Narratives: Conflict, Power, and Identity in the New Testament* (Louisville, KY: Westminster John Knox Press, 2010). These speeches include Stephen's (Acts 7:1-53), Gamaliel's (Acts 5:33-9), the Philippian slave owners' (Acts 16:20, 21), the Jewish plaintiffs' in Corinth (Acts 17:12-17), the Jews from Asia in Jerusalem (Acts 21:27-36), Jewish opposition to Paul before Roman officials (Acts 24:1-9), and Paul's speeches before Roman officials (Acts 21:37-23:10; 24:10-20; 25:6-12; 26:1-32). Along with these speeches, the speeches at Jesus' trial in Luke 23:1-4 are relevant for Acts because they serve as a model.
- ¹² Otto Weinreich, "Gebet und Wunder," in *Genethliakon: Wilhelm Schmid zum siebsigstend Geburstag*, ed. Friedrich Focke et al., (Tübingen Beiträge zur Altertumswissenschaft, 5; Stuttgart: Kohlhammer, 1929), 309-41; John B. Weaver, *Plots of Epiphany: Prison-Escape in Acts of the Apostles* (BZNW 131; Berlin: De Gruyter, 2004).

Acts portrays Paul and the Jesus followers in Acts as criminalized. This is particularly worthwhile because Roman elites who discussed Christians in the first centuries often viewed them as criminals.¹³ Acts, aware of this disposition, argues that the members of the messiah movement were not criminal but were instead made out as criminals by others.

Analyzing the portrayal of the criminalized in Acts and in antiquity more broadly requires a hermeneutic of suspicion. I suspend judgment on what constitutes a crime and my approach is suspicious of judgments that deem activity criminal. Our understandings of crime and criminality are contemporary and often anachronistic, but they also carry presuppositions that obscure how criminals were depicted legally and socially in antiquity.¹⁴ An example of this is murder. Although killing someone is now generally recognized as criminal,¹⁵ in many contexts in Roman antiquity, murder was not always considered criminal. For example, an owner could kill an enslaved person that they possessed with impunity.¹⁶ Definitions of criminality were – and are – intertwined with complicated networks of power relationships, status, and social discourses.

Roman legal scholar Jill Harries argues that Roman criminal law must be understood in terms of both a social discourse and a legal discourse in the Roman Empire.¹⁷ On the one hand, she characterizes the legal discourse as what can be gleaned from explicitly legal documents and materials such as the compilation of jurists' opinions from the second century CE and beyond, collected in the sixth-century Justinian's *Digest*. The social discourse, on the other hand, is found in other materials,

¹³ Justin Taylor, "Why Were the Disciples First Called 'Christians' at Antioch? (Acts 11, 26)," *Revue Biblique* 101, no. 1 (January 1994): 75–94. This discussion includes remarks from Dio, Tacitus, and Pliny the Younger.

¹⁴ Sandra Walklate, *Understanding Criminology: Current Theoretical Debates* (Philadelphia: Open University Press, 1998), 16–33 notes that the modern study of crime developed at the same time as new theories of the human that relied on nineteenth-century understandings of biology, sexuality, race, and class.

¹⁵ Note how even in contemporary times this does not hold when we consider how many think of war scenarios, death penalties, etc.

¹⁶ For further information on this example, especially the term *patria potestas* (father's rule over members of the house, including slaves), see the work of Roman criminal law pioneer Theodor Mommsen, *Römisches Strafrecht* (Systematisches Handbuch der deutschen Rechtswissenschaft; Leipzig: Duncker & Humblot, 1899) and James Leigh Strachan-Davidson, *Problems of the Roman Criminal Law*, 2 vols. (Littleton, CO: Fred B. Rothman & Co., 1912). For more contemporary conversations, see Olivia F. Robinson, *Criminal Law of Ancient Rome* (Baltimore, MD: Johns Hopkins University Press, 1995) and Jill Harries, *Law and Crime in the Roman World* (New York: Cambridge University Press, 2007).

¹⁷ Harries, *Law and Crime*, 4.

particularly novels, rabbinic literature, and martyrdom narratives. They fill in gaps that sources such as the *Digest* cannot.¹⁸

I propose that one must critically assess how ancient social discourses portray individuals and groups as criminals in order to learn about the world that produced Acts, on the one hand, and Acts' own characterizations of criminals and criminality, on the other. *Criminalization in Acts of the Apostles* takes Acts as its starting point in order to reconsider how we conceive the first communities that followed Jesus as messiah. Often those communities – frequently called early Christians, or the Jesus movement – are considered persecuted. This book shifts the lens from religious persecution and instead examines how Acts portrays the communities as *prosecuted* and criminalized.¹⁹ This shift allows us to ask questions about ancient justice and the state.

Raising new questions allows for interpreters to glean fresh evidence from overinterpreted passages such as Acts 9:4 where Acts' Jesus asks Paul, then called Saul, “*ti me diōkeis*.” Almost universally this phrase is translated as “why do you persecute me?” However, another translation lies within the semantic range of *diōkō*. This term can also mean “prosecute.”²⁰ This translation is particularly relevant for the context of

¹⁸ See Ari Bryen, “Martyrdom, Rhetoric, and the Politics of Procedure,” *Classical Antiquity*, 33, no. 2 (October 2014): 243–80 and “Criminals: Imagining Criminals in the Roman Provinces,” in *A Global History of Crime*, Vol. 1, *Antiquity*, ed. Adriaan Lanni (New York: Bloomsbury, forthcoming), 81–114; Saul Lieberman, “Roman Legal Institutions in Early Rabbinics and in the Acta Martyrium,” *JQR* 35 (1944): 1–57; Leib Moscovitz, “Legal Fictions in Rabbinic Law and Roman Law: Some Comparative Observations,” in *Rabbinic Law in Its Roman and Near Eastern Context*, ed. Catherine Hezser (Texts and Studies in Ancient Judaism; Tübingen: Mohr-Siebeck, 2003), 105–32; Sandra Schwartz, “The Trial Scene in the Greek Novel and in Acts,” in *Contextualizing Acts: Lukan Narrative and Greco-Roman Discourse*, ed. Todd Penner and Caroline Vander Stichele (Boston: Brill, 2004). Also, see Carly Daniel-Hughes and Maia Kotrosits discuss how the profile of a Christian included juridically defined delinquency and how Tertullian's imagination of Roman interaction with Christians in judicial scenes is a part of his fantasy of power, which is already at work in Acts (Carly Daniel-Hughes and Maia Kotrosits, “Tertullian of Carthage and the Fantasy Life of Power: On Martyrs, Christians, and Other Attachments to Juridical,” *Journal of Early Christian Studies* 28, no. 1 (Spring 2020): 1–31, 28).

¹⁹ Candida Moss, *The Myth of Persecution: How Early Christians Invented a Story of Martyrdom* (New York: HarperOne, 2013), 163–87 makes a similar argument regarding Roman officials trying Christians for insolence and refusing to comply. My argument differs in that I am less sympathetic to the Romans' logics for punishing. I also noted this distinction between prosecution and persecution in my dissertation prior to reading her important work.

²⁰ LSJ s.v. “διώκω.” I quote the relevant entry here for reference: IV. as law-term, prosecute, ὁ διώκων the prosecutor, opp. ὁ φεύγων, the defendant, Hdt.6.82 (pl.), A.Eu.583, etc.;

Acts 9:4, in which Saul receives letters from the high priest to criminalize Jesus' followers,²¹ arrest them, and bring them back to Jerusalem for trial. Translating the term *diōkō* as prosecution highlights the legal processes involved with arresting, trying, convicting, and punishing criminalized people. Of the eleven times that the term is used in Luke-Acts, eight are direct references to Paul prosecuting Jesus' followers, and one of the two references in Luke involves Jesus communicating to his followers that they will be brought before synagogues, kings, and rulers for trials (Luke 21:12).²² In Acts 9:5, Jesus discloses that it is he whom Paul is prosecuting. By attacking the followers, Paul attacks the leader.²³ In Luke 10:16, Luke's Jesus states that "whoever rejects you rejects me." Paul prosecutes Jesus. This is not strange for Acts, because, for Acts, Jesus the Just One died a criminal's death after being prosecuted according to Roman and Jewish legal processes.²⁴

Translating and thinking with *diōkō* as "to prosecute" allows us to focus on the legal processes that produce and prosecute criminals in Acts. Such a focus allows for an analysis of those processes in terms of prosecution rather than as persecution, which is usually understood as a religious phenomenon where the judicial aspects function merely as incidental to the narrative. This reading also highlights the legal aspects of the term

ὁ διώκων τοῦ ψηφίσματος τὸ λέγειν ... he who impeaches the clause in the decree ... D.18.59; "γραφὰς δ." Antipho 2.1.5; "γραφὴν δ. τινά" indict, D. 59.69; "δ. εἰσαγγελίαν" Hyp.Eux.9; "δ. τινὰ περὶ θανάτου" X.HG7.3.6: c. gen. criminis, accuse of ... prosecute for ... "δ. τινὰ τυραννίδος" Hdt. 6.104; "δειλίας" Ar.Eq.368; "παράνομων" And.1.22, cf. "διωκᾶσθαι; ψευδομαρτυρίων" D.29.13, etc.; "δ. ἀπάτης εἴνεκεν" Hdt.6.136; φόνον τινὸς δ. avenge another's murder, E.Or.1534 (anap.), cf. Arist.Pol.1269a2; δίκην δ. pursue one's rights at law, D.54.41; "δίκας μὴ οὔσας δ." Lys. 32.2: c. acc. et inf., accuse one of doing, App.BC4.50: - Pass., "ὁ διωκόμενος" Antipho2.1.5; "θανάτου ὑπὸ τινος -εσθαι" X.Ap.21; with play on 1.1, Ar.Ach.698 sq.

²¹ *P.Tebt.* 315.29–32 is a papyrological formal parallel for an Egyptian official receiving letters authorizing them to send criminals to the high priest (Pervo, *Acts*, 240 n.57).

²² Another relevant use is in Acts 7:52, which places Stephen before the judiciary condemning the Jewish leadership for prosecuting prophets including Jesus the Just One.

²³ This concept of linking an attack against followers to an attack against the leader is also evidenced in *Bacchae* with Dionysus; see Chapter 6. The Textus Receptus includes attestations to the following phrase in Acts 9:4 or 9:6: σκληρόν σοι πρὸς κέντρα λακτίζειν (emphasis added): "It is hard to kick against the goads." (The phrase is most likely an interpolation from when Paul tells the story in Acts 26:14.) This phrase directly aligns with *Bacchae* 794–95: Δι. θύοιμι' ἄν αὐτῶι μᾶλλον ἢ θυμούμενος πρὸς κέντρα λακτίζοιμι θνητὸς ὦν θεῶι. In that passage, Dionysus chastises King Pentheus for prosecuting his followers.

²⁴ Jesus is ascribed the title *dikaïos* in Luke 23:47; Acts 3:14; 7:52; 22:14. I discuss how Luke-Acts uses this title for Jesus in trial scenes when Jesus' followers are unfairly tried in Chapter 5.

witness (*martus*), which is used throughout Acts and has a significant afterlife.²⁵ The translation of *diōkō* as “to prosecute” also allows us to see how Acts invites those who seek to participate in the movement to recognize that they too will be criminalized, especially because they choose to show solidarity with the criminalized, including Jesus the Just One. Referring to the early Jesus followers in Acts as a movement facilitates a reading of Acts that tends to how they are criminalized by Roman and Jewish powers. Such a framing raises questions regarding how ancient sociopolitical processes of criminalization functioned.

Rhetoric plays a significant role in the sociopolitical processes both as a formal discipline and more importantly for this book as an analysis of power. Acts 24 provides a relevant example. There the Jerusalem leaders have hired a Roman *rhētor* named Tertullus to criminalize Paul before the court of an incompetent provincial procurator named Felix.²⁶ In Tertullus’ speech, Acts appeals to textbook rhetorical strategies evidenced in texts such as *Rhetorica ad Herennium*, and those of Cicero and the first-century rhetorician Quintilian.²⁷ Acts also appeals to Roman

²⁵ The term *martus* overwhelmingly refers to those who are witnesses of Jesus’ resurrection and can provide legal testimony to the same: Acts 1:22; 2:32; 3:15; 5:32; 10:39, 41; 13:31; 22:20. In comparison, the term is less frequently used to refer to false witnesses, and in the two cases it is used in this way, it is used to refer to those who oppose the messiah movement’s witness (Acts 6:13; 7:58). Acts applies the term *martus* to Paul in ways that suggest that Paul is to provide a legal witness concerning his vision of the resurrected Jesus and of other encounters he has experienced (Acts 22:15; 22:16). Later, this term becomes linked to those who give up their lives for their Christian witness. Cf. Candida Moss, *Ancient Christian Martyrdom: Diverse Practices, Theologies, and Traditions* (New Haven: Yale University Press, 2012), 2–6.

²⁶ For the use of the term *rhētor* see Allison Trites, “The Importance of Legal Scenes and Language in the Book of Acts,” *Novum Testamentum* 16, no. 4 (1974): 278–84. For more on Felix’s mismanagement of provincial affairs see Steve Walton, “Trying Paul or Trying Rome? Judges and the Accused in the Roman Trials of Paul in Acts,” in *Luke-Acts and Empire: Essays in Honor of Robert Brawley*, ed. David Rhoads, David Esterline, and Jae Won Lee (Eugene, OR: Pickwick Publications, 2011), 133. Also see, Babu Immanuel, *Acts of the Apostles: An Exegetical and Contextual Commentary* (India Commentary of the New Testament: Minneapolis: Fortress Press, 2017), 250–1.

²⁷ Bruce Winter, “The Importance of the ‘Captatio Benevolentiae’ in the Speeches of Tertullus and Paul in Acts 24:1–21,” *The Journal of Theological Studies*, New Series, 42, no. 2 (1991): 518–19. Also see, Bruce Winter, “Official Proceedings and the Forensic Speeches in Acts 24–26,” in *The Book of Acts in Its Ancient Literary Setting* (Vol. 1 of *The Book of Acts in Its First Century Setting*, ed. Bruce Winter and A. D. Clarke (Grand Rapids: Eerdmans/Carlisle: Paternoster, 1993), 305–36. The rhetorical strategies include incorporating *exordium* (praise for the judge), *narratio* (summary of the charges), *confirmatio and peroratio* (evidence for the charges) in the *captatio benevolentiae* (attention-grabbing introduction). See Jerome Neyrey, “The Forensic Defense Speech and Paul’s

legal petitions such as those found in Egyptian papyri.²⁸ Most useful for our study are the charges raised in the narratio against Paul. He is accused in the following way in Acts 24:5–6: “We have, in fact, found this man a pest, an agitator among all the Jewish people throughout the Roman Empire, and a party leader of the Nazarenes’ sect. He even tried to profane the temple, and so we seized him.” Tertullus accuses Paul of agitation or stirring up an insurrection (*stasis*) among Jewish people across the Roman Empire (*oikoumenē*). In reference to this passage, Bruce Winter writes that “according to the rhetorical handbooks, agitation or sedition, *stasis*, was the right charge to bring against an opponent in criminal proceedings.”²⁹ It is beyond the scope of this section to analyze all of the claims in Tertullus’ speech; to some extent that is the project of the book. What is worth noting here is that Paul is criminalized as an agitator and for being a leader of a sect of Nazarenes. Paul challenges the validity of the claim that he caused a stir (Acts 24:12, *epistasin*) among the crowd in the Temple; however, he does admit that he is member of the Way (*hē hodos*) that Tertullus and his opponents from the Jerusalem court call a sect (*hairesis*, Acts 24:14). Paul claims to be of “this Way” (*hodos*) and a follower of Jesus, who he prosecuted as I explained earlier.

The exchange between Tertullus and Paul before Felix epitomizes how Paul goes from prosecutor to prosecuted as part of the Jesus-following, protagonist community in Acts, which I call “the messiah movement.” Acts uses *hē hodos* to refer to the sect that trusts Jesus the Nazarene as messiah.³⁰ I translate *hē hodos* as “the movement,” to capture how the term reflects people on a shared journey toward a destination, which is a dominant theme for Luke-Acts.³¹ This movement in Acts 24:14 to which Paul refers is the same movement from Acts 9:2. At that time,

Trial Speeches in Acts 22–26: Form and Function,” In *Luke-Acts: New Perspectives from the Society of Biblical Literature Seminar*, ed. Charles H. Talbert (New York: Crossroad Publishing Company, 1984), 210–24, and Winter, “The Importance of the ‘Captatio Benevolentiae,’” 505–31.

²⁸ Winter, “The Importance of the ‘Captatio Benevolentiae,’” 505–31 persuasively makes the case for similarities between Egyptian papyri like those found at Oxyrhynchous and the opening speeches of Tertullus and Paul in Acts 24.

²⁹ Winter, “The Importance of the ‘Captatio Benevolentiae,’” 518. He helpfully cites *Ad Herennium* 2.2.3–3.4 and Cicero, *De inventione* 2.5.16–8.28 and “The Forensic Defense Speech,” 211 n35. I will discuss this type of charge in more detail in chapters two and seven.

³⁰ Cf. Acts 9:2; 19:23; 22:4; 24:14, 22.

³¹ See Pervo, *Acts*, 11. This is also Pervo’s preferred way of translating ἡ ὁδός. Also note Weaver uses the term “Christian movement” in *Plots of Epiphany*, 11.

Paul receives letters from the high priest to arrest them, which is before Jesus reveals that it is he whom Paul prosecutes. Furthermore, in Acts, whenever the followers of Jesus are described as *hē hodos*, it is in a context in which someone wants to arrest, try, and execute them. As noted earlier, referring to Jesus' followers in Acts as a movement takes seriously the potential for them to be criminalized by authorities who consider themselves legitimate and are threatened or annoyed by the "movement of salvation" (Acts 16:17, *hodon sōtērias*).³² Maia Kotrosits argues that the messiah movement "is defined not only by the unity and faithfulness of its followers, but also by coalitions that are brief and dubious, often formed under strained political, economic, and social circumstances."³³ The value of movements depends on the eyes of the beholder, and the messiah movement is no different. Those in power are often suspicious of movements. My use of "messiah movement" intentionally both works to recognize the undeniable significance of how Acts shaped Christ-followers' (messiah-followers') stories about their origins and marks my participation in the scholarly tradition that troubles the understanding of Acts as church history.

Studying the criminalization of the messiah movement in Acts, which has been understood as the first church history, can reset the tables for how Christians tell stories of their origins.³⁴ *Criminalization in Acts* uses the term "messiah movement" to avoid "early Christians" in an effort both to demonstrate historical accuracy and to provide an alternative point of departure for "Christian" history. Often the terms "early Christians" and "early Christianity" presume a proto-orthodoxy in the first and second centuries that did not exist prior to the Council of Nicaea

³² This verse is not normally included in accounts of Acts' use of the term, but these words placed by Acts on the mouth of enslaved girl with a Pythian spirit can align with the other uses that depict the movement.

³³ Kotrosits, *Rethinking Early Christian Identity*, 108. She uses the term "the Way" rather than messiah movement. She also states: "'The Way' in Acts manages, then, to be not only an imagination of an ideal route of diasporic togetherness, but also the passage to a kind of 'monstrous family of reluctant belonging,' to quote Jacqueline Rose. In monstrous belonging, togetherness is formed not out of volition or even fondness, but out of the tense, ongoing, and irrevocable entanglements brought into being through violence and its many potent afterlives – a kind of belonging that might knit conflicting groups, victims and perpetrators, and even their kin in uncomfortable and unconscious binds."

³⁴ For more on how readings of Acts directly impact Christian historiography see Maia Kotrosits, *Rethinking Early Christian Identity: Affect, Violence, and Belonging* (Minneapolis: Fortress Press, 2015), 85–115, and Richard Ascough, "Bringing Chaos to Order: Historical Memory and the Manipulation of History," *R&T* 15, no. 3–4 (2008): 280–303.

in 325 CE.³⁵ The term “Christian” does not even become a relatively popular designation until the second century, and even then it does not possess the imperial, colonizing, and homogenizing implications that it will later possess.³⁶ Even within the New* Testament, we find competing understandings of what it means to be a follower of Jesus, so much so that it is better to consider the texts that become canonized as portraying a variety of understandings for following the Christ/messiah, or put in another way, the texts capture early Christianities.³⁷ Among those early Christianities is Acts’ representation that depicts a messiah movement that is prosecuted. Acts only uses the term “Christian” to refer to Jesus followers twice, and in those places it is used by outsiders in a way that is generally derogatory, which is in line with most other early recorded usage of the term.³⁸ The term “messiah movement” helps to draw attention to the fact that the protagonists of Acts are criminalized by imperial,

³⁵ Walter Bauer, *Orthodoxy and Heresy in Earliest Christianity*, trans. Philadelphia Seminar on Christian Origins, ed. Robert A. Kraft and Gerhard Krodel (Philadelphia: Fortress Press, 1971) is a pioneer in this discussion. Daniel J. Harrington discusses the far reaching influence of Bauer’s thesis in “The Reception of Walter Bauer’s ‘Orthodoxy and Heresy in Earliest Christianity’ during the Last Decade,” *HTR* 73, no. ½ (1980): 289–98. A small sample of scholars indebted to Bauer’s work include Marcel Simon, “From Greek Hairesis to Christian Heresy,” In *Early Christian Literature and the Classical Intellectual Tradition: In Honorem Robert M. Grant*, ed. W. R. Schoedel and R. L. Wilken (*Theologie historique* 54; Paris: Beauchesne, 1979), 101–16; Martin Elze, “Heresie und Einheit der Kirche im 2. Jahrhundert,” *ZThK* 71 (1): 389–409; Elaine Pagels, *The Gnostic Gospels* (New York: Random House, 1979); Karen L. King, *What Is Gnosticism?* (Cambridge, MA: Harvard University Press, 2003); Bart Ehrman, *Lost Christianities: The Battles for Scripture and the Faiths We Never Knew* (New York: Oxford University Press, 2003).

³⁶ See Ignatius, *Letter to Ephesians* 11:2 and *Didache* 12:4. See Erin K. Vearncombe, Bernard Brandon Scott, and Hal Taussig, eds. *After Jesus before Christianity: A Historical Exploration of the First Two Centuries of Jesus Movements* (New York: HarperOne, 2021).

³⁷ For example, Ehrman, *Lost Christianities*. For examples of scholars noting that Acts is in conversation with other Christianities, especially one that would develop into what has been called Marcionite Christianity, see Joseph B. Tyson, *Marcion and Luke-Acts: A Defining Struggle* (Columbia: University of South Carolina Press, 2006) and Shelly Matthews, *The Perfect Martyr: The Stoning of Stephen and the Construction of Christian Identity* (New York: Oxford University Press, 2010).

³⁸ See Josephus, *Antiquities* 18.64; Tacitus, *Annals* 15.44; Pliny, *Letters* 10.96–7. Pervo, *Acts*, 295. See Edwin A. Judge, “Judaism and the Rise of Christianity: A Roman Perspective,” *TynBul* 45 (1994): 355–68. Henry J. Cadbury (“Names for Christians and Christianity in Acts,” in *The Beginnings of Christianity, Part 1: The Acts of the Apostles*, ed. F. J. Foakes Jackson, Kirsopp Lake, and Henry J. Cadbury (London: Macmillan, 1933), 383–5) suggests that the New* Testament uses of “Christian” are not necessarily negative but a nickname. Also note Elias J. Bickerman, “The Name of Christians,” *HTR* 42 (1949): 109–24.

provincial, and local forces making criminalization a key component of how some “early Christians” considered their identity.

Another goal of studying the criminalization of the messiah movement is to trouble how Acts juxtaposes its protagonists against Jewish leadership and how Acts’ use of “the Jews” (*hoi Ioudaioi*) has certainly contributed to the legacy of how Acts has been used for anti-Jewish purposes. I use “messiah movement” to move beyond anti-Jewish readings that portray Judaism as particular and negative in contrast to portrayals of Christianity as universal.³⁹ Similar to how Christian identity was not stable in the first centuries CE, nor was Jewish identity.⁴⁰ Jewish identity was under debate both in the time period narrated by Acts and in the time period when Acts was written. Acts presents at least two divergent interpretations of what it means to be a faithful Jew.⁴¹ Acts juxtaposes and elevates the messiah movement against the Jews who do not trust in Jesus, and Acts places Paul in the first-century contest of defining what it meant to be Jewish or a *Ioudaios*.⁴² While Acts focuses on Jews who trust

³⁹ Cynthia Baker, “From Every under Heaven’: Jewish Ethnicities in the Greco-Roman World,” in *Prejudice and Christian Beginnings: Investigating Race, Gender, and Ethnicity in Early Christian Studies*, ed. Elisabeth Schüssler Fiorenza and Laura Nasrallah (Minneapolis: Fortress Press, 2009), 79–100 carefully argues how ancient *Ioudaioi* were ethnically diverse. Therefore, the “particular” versus “universal” contrast between Judaism and Christianity is a production by ancient writers and modern scholars, and this contrast does not accurately depict *Ioudaioi*.

⁴⁰ This is not to say that either identity ever became completely stable, but it is to highlight how the later versions that are antecedent to contemporary practices were nowhere near concretized in the first centuries CE.

⁴¹ Christopher Stroup argues that Acts presents the Jesus followers as Jewish in ways that would make sense to audiences familiar with how religious practices and ethnic identity functioned in Roman cities (*The Christians Who Became Jews Acts of the Apostles and Ethnicity in the Roman City* (New Haven: Yale, 2020), 1–16, 41–69).

⁴² See Eric Barreto, *Ethnic Negotiations: The Function of Race and Ethnicity in Acts 16* (WUNT 2/294; Tübingen: Mohr Siebeck, 2010), 73–93. Barreto helpfully summarizes much of the interpretation of this difficult-to-define term and the variety of scholarly interpretation strategies for it within New* Testament and Second Temple Judaism scholarship. I agree with his conclusion that there is not one simple way to define *Ἰουδαῖοι* in Acts of the Apostles. Instead, each usage should be evaluated in its context. For uses of the term outside of Acts in broader Greco-Roman literature see Baker, “From Every under Heaven” and her work *Jew* (Keywords in Jewish Studies; New Brunswick: Rutgers University Press, 2017), 1–46, for a survey of the copious discourse and its contemporary relevance. Also see Adele Reinhartz, *Cast out of the Covenant: Jews and Anti-Judaism in the Gospel of John* (Lanham: Lexington Books – Fortress Academic, 2018). In this latter text she focuses on the Gospel of John, and in it she discusses the debate on translating *Ἰουδαῖοι* as Jews vs. Judeans and concludes that “Jews” is a better translation. Mitzi J. Smith carefully argues how the term “the Jews” does not appear until Acts 9 and it becomes a main category until Paul’s turn to gentiles

Jesus as God's messiah (the messiah movement), at the same time, Acts negatively portrays groups such as Jews from Asia in Acts 21:27 who have not subscribed to the idea that Jesus who was lynched as a criminal by Roman police is the messiah. This juxtaposition still leaves room for violent interpretations, but I offer it to present how the contested nature of the term *Ioudaioi* in the first and second centuries is much more in view than a delineation between Christianity and Judaism.⁴³ In turn, I focus on how Acts' rhetoric argues that the messiah movement was not criminal but that it was criminalized by others, especially Jewish leadership in Jerusalem. Analyzing how criminalization functions provides tools for reading Acts in its historical context, and it can provide strategies for critiquing how Acts and other anti-Jewish discourses have been wielded throughout history, especially in the Occident.

At this point, I want to flag that analyzing rhetoric as formally displayed in speeches has drifted out of focus in order to emphasize rhetorical analysis as an assessment of public discourses that attempt to persuade audiences to accept their version of a narrative.⁴⁴ Acts wields Jewishness, Jerusalem institutions, Roman legal frameworks, stories about Greek gods, and novelistic court scenes to narrate the origins of the messiah movement. I contend that a significant component of Acts' project is the rhetorical portrayal of the messiah movement as criminalized

(*The Literary Construction of the Other in the Acts of the Apostles: Charismatics, the Jews, and Women* (Eugene, OR: Pickwick Publications, 2011), 61). She chooses to use the term *Jews*, with italics, to remind us of the contingency and constructedness of the term. In light of these conversations, I will use "Jews" but tread with caution.

⁴³ Barreto, *Ethnic Negotiations*, 73–93. Barreto identifies seven uses of the term in Acts and from those I distill four primary uses. Although each usage is not completely mutually exclusive, it is helpful to see the passages where the term activates different parts of the expanse of the term Ἰουδαῖοι. The four uses of Ἰουδαῖοι in Luke-Acts are as follows:

1. geographic reference to people from Judea ("Judean") (Acts 2:14; 9:22, 23; 10:22, 28, 39; 11:19; 12:3; 13:6; 16:1, 3; 18:2, 5, 24, 28; 19:13, 14, 34; 22:3; 22:30, 23:27, 24:24, 25:2, 7);
2. religious use; knowing the complexity of the term "religion," I use it here to refer to people in groups that meet in synagogues to discuss the holy texts related to the God of Judea/Israel (Acts 2:5, 10; 9:22; 10:28, 39; 11:19; 13:5, 6, 42, 43; 14:1, 2; 16:1, 3; 17:1, 5, 10, 17; 18:2, 4, 19, 28; 19:10, 14, 17, 34; 20:21; 21:20, 21, 39; 22:3, 12; 24:5, 24; 26:3, 4; 28:17, 29);
3. antagonistic use for those who oppose the messiah movement (Acts 9:23; 12:3; 13:45, 50; 14:4, 5, 19; 16:20; 17:13; 18:5; 21:27; 24:18; 17:13; 18:5, 12, 14; 18:12, 14; 19:13, 33; 20:3, 19; 21:11; 23:12, 20; 23:20; 24:9, 27; 25:7, 9; 25:10, 24, 26; 28:19);
4. as political power in conversation with other political powers (Acts 12:3; 18:12, 14; 22:30; 23:27; 24:5, 27; 25:2; 8:9, 15; 10:24; 26:2, 3, 4, 7, 21; 28:17).

⁴⁴ See Matthews, "The Lynching Tree," as discussed at the start of Chapter 1.

by its opponents. Within Acts' rhetorical strategy, I focus on how criminalization functions in Acts, whether it is Jews criminalizing other Jews, Romans criminalizing Jews and members of the messiah movement, or Luke-Acts criminalizing Romans and Jews who do not support the messiah movement.

ORGANIZATION OF THE BOOK

This book is divided into two parts. The first three chapters capture my approach to criminalization and my assessment of Roman and Jewish criminal procedures. In Chapter 1, I discuss my framework, which involves the analysis for rhetorical criminalization (ARC) that provides four categories to study Acts and other Roman and Jewish legal materials. This chapter will lay the groundwork for the four categories of the ARC: (1) classification of humans and racializing assemblages, (2) confines of judicial structures, (3) critical analysis of myths and stories, and (4) commitments of the elite. These four categories contribute to two primary types of analysis: one of structures and another of stories. These categories raise questions inspired by critical race theory (CRT), Black feminism, womanism, and myth criticism. Although those frameworks are contemporary, I argue that they are useful for analyzing ancient scenes and narratives where characters are criminalized. Chapter 2, "Analyzing Structures in Ancient Roman and Jewish Criminalizing Discourses," and Chapter 3, "Analyzing Stories and Myths in Ancient Roman and Jewish Criminalizing Discourses," explore the Roman and Jewish legal notions of criminality and their utility for the study of Acts. I engage Roman legal texts such as Justinian's *Digest* and the Mishnah to survey the notions of criminal justice operating in the first centuries of the Common Era. I take up two of the categories of the ARC in each chapter to demonstrate how they contribute to analyzing social and legal discourses in Roman and Jewish sources. By tending to those notions, I argue that readers can more carefully observe how Acts portrays the messiah movement as criminalized.

Chapter 4 and the subsequent chapters form the second part of the book. Each of these chapters engage one of the four categories laid out in the ARC. In the four chapters, I directly apply one of the four categories and its questions to two passages from Acts freshly translated with attention to the ARC. Both passages involve Paul and the messiah movement: one passage from the beginning of Acts' story about Paul's work in Philippi in Acts 16:16–40, and another at the end of his

freedom in Jerusalem in Acts 21:27–23:10. I begin with the end, and in Chapters 4 and 5, I discuss Acts 21:27–23:10 and Paul’s appeal to his Roman humanity and the judiciary’s role in criminalizing him. Chapter 4, “‘I am a Human’: Criminal Classification of Humans and Racializing Assemblages in Acts,” explores how the hierarchization of humans in ancient understandings contributes to how Paul and other members of the messiah movement were criminalized. This chapter argues that tending to the sociopolitical processes around militarized policing, politics of respectability, and ethno-political invective against Egyptianness exposes ancient taxonomies in which some humans are considered fully human, others as not-quite-human, and some as nonhuman in Acts and other texts entangled in the Roman hegemonic imagination. Such texts include the works of Josephus, Cicero, Philo, Plutarch, Cassius Dio, Juvenal, Tacitus, and Pliny the Younger. Exploring how these texts hierarchize humans provides resources for how humanity was measured and the types of justice that different humans could anticipate.

Chapter 5, “‘Before the Court’ and the Confines of Judicial Structures in Acts and *Callirhoe*,” focuses on the institution of the court (*sunedrion*) in Acts 23:1–10. I contrast Acts’ depiction of the first-century judiciary in Jerusalem as a criminalizing force against Chariton’s portrayal of the Persian court in the Greek novel *Callirhoe*. Both texts wield courts to concretize their view of who should be criminalized and how the judicial processes function to reveal the values of a society, who belongs in it, and who is excluded from it.

Chapter 6 and 7 examine Acts 16:16–40 in which Paul and the messiah movement are criminalized by Roman officials and by slave masters.

Chapter 6, “‘The Foundation of the Prison Shook’ and the Critical Analysis of Apollo’s, Dionysus’, and Acts’ Myths,” assesses how Acts 16:16–40 critically wields mythology and ideology to criminalize. I refer to that ideology as the Roman hegemonic imagination and use it to discuss how Greek stories about gods are used to criminalize. Womanist Emilie Townes’ framework of the fantastic hegemonic imagination informs this approach and helps us to understand how Euripides’ depiction of Dionysus and the enslaved girl with the Pythian spirit are used to criminalize.

Chapter 7, “‘Not Lawful for Romans’ and the Commitments of Roman Elites in Acts,” illuminates how the Roman masters (*kyrioi*) and law enforcement criminalized Paul and the messiah movement in Acts 16 in Philippi. This chapter explores three key elements of the rhetorical strategy of Acts 16:16–24, 35–40. First, it finds that Roman logics,

especially those that criminalized religious alterity and the charge of *vis*, were deployed against messiah movement (Acts 16:20, 21). Second, masters aligned with government officials violate not only enslaved but also citizens' bodies (Acts 16:16, 19–24). Third, Roman officials themselves act criminally (Acts 16:23, 24, 37–9), and their behavior should make them afraid of consequences (Acts 16:38).

My engagements with these scenes in Acts seek to demonstrate how attention to criminalization and the aforementioned theoretical frameworks help to reconstruct the history of the Roman Empire and early Christianities. My analysis can be applied more broadly in Luke-Acts, the New* Testament, and beyond. Through the ARC, these chapters explore how criminals were made in the Roman Empire during the first and second centuries CE. By exploring how individuals and groups were rhetorically portrayed as criminals in the Roman Empire, this book examines the operational and organizing logics of justice functioning within Roman and Jewish texts. I conclude by arguing that the criminalization of Black humans in the West and particularly in the United States provides an unparalleled heuristic for analyzing how ancient legal and social processes construct criminals. Furthermore, the ancient texts can provide a serious launching pad for critical reflection on criminality across time.