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Heusler, Erika
***Kapitalprozesse im Lukanischen Doppelwerk: Die Verfahren Gegen Jesus und Paulus
in Exegetischer und Rechtshistorischer Analyse***

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In this exploration of the structure and content of the judicial action against Jesus and Paul in Luke-Acts, Erika Heusler offers a thesis that buttresses the familiar theory of the Lukan writings as an *apologia pro ecclesia*. As many have noted, the Lukan account of Jesus' trial diverges significantly from the Markan version, and numerous elements of the prosecution of Paul in Acts 21-26 resemble parts of Luke 22-23. Heusler believes that knowledge of legal history explains these phenomena better than hypotheses about Lukan theology or soteriology. She asserts that the author of Luke-Acts—who acted to provide not accurate biographical information but, for a particular apologetic purpose, a sense of assiduous attention to legal detail—structured these trial accounts to correspond to formal elements of a Roman judicial process, thereby correcting the Gospel of Mark's procedural infelicities and suggesting that Jesus and Paul received from the Romans all the benefits and protection of a fair legal process. The Lukan perspective, therefore, contends that, despite their ultimate fates, nothing less than a thorough and just legal system judged Jesus and Paul innocent of sedition against Rome.

Heusler's work, which is her University of Würzburg dissertation (1999), minimally revised, divides into two parts. The first is an exegetical analysis of the legal elements of the Lukan proceedings. Each of four chapters treats a scene from Jesus' trial in Luke and a parallel from Paul's in Acts: an interrogation by the Jewish high council (Luke 22:66-71; Acts 22:30-23:10); a hearing before a Roman governor (Luke 23:1-7; Acts 24:1-22); a consultative meeting before a Jewish king (Luke 23:6-12; Acts 25:23-26:32); and a second hearing before a governor (Luke 23:13-25; Acts 25:1-12). Comparisons with Mark 14:55-15:15, where applicable, contribute by isolating Lukan peculiarities. In aligning the two Lukan trials as parallels, Heusler must negotiate some obstacles—such as the position in which the sessions with Herod and Agrippa stand within the sequence of hearings and Pilate's capitulation to the will of the people in Luke 23:24-25—but in the end she discerns in both trials a four-step procedure governed by various principles of

order. First, in advance of the trials proper, Jesus and Paul are interrogated in preliminary hearings to clarify the political charges against them. Next, each receives three hearings: two before a Roman governor and one presided over by an expert charged with advising the governor. In each case the governor does not rush to make decisions and provides opportunities for the defendant to answer the formal charges of the Jewish plaintiffs.

Part 2, which is half the length of part 1, compares the process evident in Luke-Acts to observations on Roman law and judicial procedure. Heusler acknowledges both the dearth of first-century sources on the topic and the reality that Roman judicial standards varied across eras, provinces, and social strata. She nevertheless depends nearly exclusively on Theodor Mommsen's *Römisches Strafrecht* (Leipzig: Duncker & Humblot, 1899) in the claim that the criminal procedure *accusatio* from the late republican and early imperial periods likewise involved a preliminary inquiry, formal presentation of charges, interrogation, rebuttals, and the provision for multiple hearings to eliminate doubt before a passing of judgment. Heusler contends that the various sessions of Jesus' and Paul's trials in Luke-Acts generally satisfy the procedural and legal demands of *accusatio* as Mommsen presents them (distilled primarily from some of Cicero's speeches and Pliny's correspondence to Trajan). One point of significant divergence from this criminal procedure, however, involves the role of the crowd in Jesus' capital trial. Several verses indicate that the public plays a central role in these proceedings (Luke 23:4, 13, 18-23), and Pilate's final decision is to hand over Jesus, despite his obvious innocence, to the murderous will of the people. Heusler cannot fit this notion of popular authority into the *accusatio* procedure but suggests that it reflects an older, republican ideal of a public trial, when the *provocatio ad populum* appeal was a safeguard against arbitrary rulings of magistrates.

Other scholars have looked to legal history, and to Mommsen's study in particular, to explain the Lukan trial accounts. In contrast to those who stress that Luke-Acts reports a legally realistic narrative of the cases against Jesus and Paul (e.g., A. N. Sherwin-White, *Roman Society and Roman Law in the New Testament* [Oxford: Clarendon, 1963]; Harry W. Tajra, *The Trial of St. Paul: A Juridical Exegesis of the Second Half of the Acts of the Apostles* [WUNT 2/35; Tübingen: Mohr Siebeck, 1989]), Heusler believes that the legal knowledge of the biblical author serves an apologetic interest. The Lukan heroes are defendants (and repeatedly recognized as innocent) in a judicial process that represents the *ideals* of Roman justice. Heusler is aware that Jesus, as one of the *peregrini*, would not have received the judicial rigor and security of a formal procedure usually reserved for citizens facing charges in the capital. If the Roman governors in Luke-Acts find Jesus and Paul not guilty through the course of such exceptionally fair and thorough trials, the emphasis is that Rome should realize that these men and their movement pose no threat to the state. The failure of the trials to end in acquittal for Jesus and Paul is, Heusler maintains, astonishing in light of the governors' judgments, and it lays blame upon the hostility of the Jewish plaintiffs (thus the role of the people in Jesus' trial) and upon some conciliatory gestures by certain governors to Jewish interests.

The exegetical discussions are the greatest contribution of this book. With a clear focus on the judicial questions at stake, on the roles and interests of each participant, and on the legal terminology, Heusler handles the texts well and with a thoroughness that befits a dissertation, offering countless insights on the legal logic of the narrated action. The most helpful of her comments involve the illumination of Synoptic parallels and deviations. Although the exegesis clearly anticipates the legal-historical comparison that follows, the fact that the analysis of biblical texts comes first privileges questions of Lukan tendencies over questions of the roots or purposes of those tendencies. Whether this is a strength or a weakness depends upon the interests of Heusler's readers.

In its systematization of exegetical observations into a particular judicial procedure, the book provokes some questions. To support the notion of a discernible process undergirding the Lukan trials, Heusler appeals to patterns in interrogations, delays in rendering final verdicts, verses that may acknowledge standard legal principles (e.g., Acts 23:34-35; 24:19; 25:6, 16-17), technical terminology, and a vague sense of formality and order that she considers generally absent from Mark 14:55-15:15. The latter two measures are occasionally problematic in that little discussion of other ancient texts appears in the analysis of what is often quite common and multivalent terminology, and the criteria for a "formal" or "official" occasion usually remain unstated or unsubstantiated from a historical perspective.

The lack of sources illuminating actual legal jurisdiction in the Roman provinces of the first century makes it difficult to speak too strongly about a real-life parallel to the Lukan judicial process that Heusler reconstructs. At the same time, her focus on the fairness of Jesus' and Paul's trials and on the repeated pronouncements of their innocence impels the question of the real-life purpose behind these idealized accounts. Heusler does not pursue very far her suggestion that the composition of the capital trials serves an agenda of Luke-Acts as political apologetic, but her comments toward this end raise additional questions about exactly which first-century audiences would find such accounts convincing. Furthermore, Heusler tends, as have others who advance an *apologia pro ecclesia* position (e.g., Hans Conzelmann), to depict a Lukan apologetic agenda in predominantly if not exclusively political colors. Surely, however, the content of Paul's defense speeches and the willingness of Pilate, Felix, and Festus to make concessions to Jewish interests suggest that the trials are about more than the threat of sedition, understood in purely political terms.