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## The Trial of Korihor

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## CHAPTER NINE

# THE TRIAL OF KORIHOR



Fifty years after King Benjamin's unifying covenant speech and seventeen years after King Mosiah's legal reforms, a man named Korihor appeared in the land of Zarahemla. The text gives no indication whatever of his ethnic or tribal origin, his city or land of residence, or his religious or political affiliations. All these omissions cannot be accidental. Indeed, the text wants readers to see Korihor as an isolated individual defying the foundation of collective responsibility that undergirded the concepts of justice, ethics, prosperity, and well-being in Nephite and Israelite societies. In the Book of Mormon array of typologies, Korihor represents the radical individual thinker, detached from community and unconcerned about the consequences of his ideas, who is bound and determined above all to speak his mind. Speech was his stock-in-trade.

As encountered above in the trial of Nehor and in the case of Alma and Amulek, the law reform of Mosiah included several provisions against which the righteousness of a judgment could be measured. The trial of Korihor tested particularly, for the first time, the limits of free speech under the system of justice established by King Mosiah's reforms.

For many reasons (not the least of which was to ensure broad popular support for the new regime), the new law had promised that everyone would have "an equal chance," granting all people "liberty" but also making them accountable (Mosiah 29:38–39). This guarantee was actualized initially in the legal maxim that "the law could have no power on any man for his belief" (Alma 1:17), and eighteen years into the reign of judges it was stated, "There was no law against a man's belief; for it was strictly contrary to the commands of God that there should be a law which should bring men on to unequal grounds. . . . If [a man] believed in God it was his privilege to serve him; but if he did not believe in him there was no law to punish him" (30:7–9). More than creating social or economic equality, the law of Mosiah made all people under its jurisdiction equal in the sense that they could not

be punished for what they believed. While it was clear that “if [a man] murdered he was punished unto death; and if he robbed he was also punished; and if he stole he was also punished; and if he committed adultery he was also punished . . . nevertheless, there was no law against a man’s belief; therefore, a man was punished only for the crimes which he had done; therefore all men were on equal grounds” (vv. 10–11).

The case of Korihor put to the test the question of what it meant to be “equal” under Nephite jurisprudence. Did equality mean that a person could not only believe whatever he wanted but also say whatever he wanted? If a person did not believe that Jehovah was God, could he be punished for profaning the name of Jehovah or speaking insolently against him? In other words, did freedom of belief (or disbelief) entail freedom of expression specifically articulating or reflecting that belief? This important question had been neither contemplated nor addressed in the law originally established by King Mosiah a generation earlier.

It was a difficult question. As a result, Alma 30:1–60 contains a relatively lengthy and detailed account of the trial of Korihor. In many ways, the outcome of this fascinating case established a crucial precedent in Nephite religious and legal history, involving important issues concerning religious freedom, blasphemy, and leading others into apostasy.

### **Did Korihor Have Nehorite or Other Such Connections?**

The record does not disclose the place of Korihor’s personal or intellectual origins (Alma 30:6). He may, however, have been associated with people in Ammonihah, since some of his arguments seem to build upon those of the radical Nehorites of that city as well as upon the teachings of Nehor that were still being promoted by the Amulonites, the former priests of Noah who had become affiliated with the order of Nehor (21:5–6). For example:

- The people in Ammonihah had a fundamental, but unspecified, antipathy toward the Nephite political system, as a result of which they did “study . . . [to] destroy the liberty of [the] people [of Alma]” (Alma 8:17). Korihor similarly opposed the Nephite rulers (30:31–32), claiming that Alma’s people were in political subjection, not liberty (vv. 23–24).
- Nehor taught that it ultimately did not matter what people did, since all would be saved in the afterlife (Alma 1:4; 21:6); still they “durst not” commit actual crimes (1:17–18). Korihor went one step further, insisting that “whatsoever a man did was no crime” (30:17), denying any afterlife.

- Nehorism apparently rejected the doctrine of the fallen state of mankind (Alma 1:4). Korihor did likewise (30:25). While Alma had called the people in Ammonihah “a lost and a fallen people” (9:32), Korihor raised a similar charge against the Nephite leaders but broadened it to a theological argument in opposition to the fall of Adam, criticizing the Nephites for saying that their own people are “a guilty and a fallen people, because of the transgression of a parent” (30:25).
- Although Nehor declared belief in God the Creator (Alma 1:3–4), Zeezrom (who represented the leaders in Ammonihah) claimed to reject “the existence of a Supreme Being” and offered Amulek a bribe to deny the existence of an all-powerful God (11:22). Korihor agreed, not only rejecting the idea of an omnipotent God but also denying the possibility of any human knowledge about God, “a being who never has been seen or known, who never was nor ever will be” (30:28).

Since Ammonihah had been left desolate by the war that had ended only a few years before Korihor entered the land of Zarahemla (Alma 16:9–11), his base of operation or closest allies may well have been destroyed by the Lamanite invasion that left Ammonihah in ruins. That loss could explain Korihor’s apparent homelessness as he moved from city to city, from Zarahemla to Jershon to Gideon. The similarity between the names Nehor and Korihor might also suggest, even if only faintly, some group connection between them as well.<sup>1</sup> If Korihor was somehow associated with Nehorism and if he had even intensified and radicalized Nehor’s teachings, that would also account, to some extent, for his rapid success in Zarahemla. Nehor had attracted a following there only seventeen years earlier, and strong currents of religious and social dissension were gathering strength among the Zoramites that would soon bring about further factional wars led by local rebels such as Zerahemnah (43:3–5) and Amalickiah (46:3). Those tensions, together with certain wickedness or indifference among the people, the difficulty of the law getting hold of him, or the possibility that Korihor, like Nehor, could become yet another martyr to an infamous cause, explain much of the reticence of the people in Zarahemla to press charges against Korihor.

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1. It may be more than coincidental that another Corihor once lived in the land of Nehor, where Corihor drew away many people after him (Ether 7:4). To a Nephite audience familiar with this detail in Jaredite history, the connection between the later Korihor and the man Nehor may have gone without saying.

Korihor's case, as a legal matter, arose in the latter part of the seventeenth year of the reign of the judges, when he went from the city of Zarahemla into the land of Jershon. It is unclear why Korihor went to Jershon. Jershon had recently been settled by the ultrafaithful Ammonites, some of whose fellow converts had been put to death in the land of Nephi at the instigation of the Amulonites, who, ironically enough, were "after the order of Nehor" (Alma 21:4; 24:8–9). Perhaps Korihor was unaware of this background, or perhaps he believed that these converts might be vulnerable because they were a displaced people and were young in the gospel. It is also possible that he believed that, as former Lamanites, the Ammonites would be as receptive to his message as some of their former kinsmen had been to Nehorism (21:4, 24:28). In any event, spurred on by his unchallenged success in the city of Zarahemla, Korihor went to Jershon and began preaching there against the prophecies about the coming of Christ (30:6, 19), a long-standing plank in the platform of the Nephite dissenters (Mosiah 26:2). Korihor, however, went further, speaking out sharply against the commandments of the Lord, the religious leaders of the people, and the very being of God.

### **Legal Backgrounds and Political Challenges**

Before the institution of the reign of judges, Nephite law punished false prophets, false preachers, and false teachers "according to their crimes" (Words of Mormon 1:15). There is no reason to think that sincerity could exonerate an accused false teacher during Benjamin's time. Legal support for taking action against such speakers before the time of Mosiah was probably drawn from provisions in the law of Moses that forbid several forms of impious speech, including false prophecy (Deuteronomy 13:1–5; 18:20–22), blasphemy (Exodus 20:7; Leviticus 24:10–16), reviling the gods (Exodus 22:28), and leading people into apostasy or idolatry (Deuteronomy 13:1–18). Hebrew prophets placed a curse on those worthless shepherds who do not take care of the people but will eat of the meat of the best sheep (Zechariah 11:16–17).<sup>2</sup>

With the reforms of Mosiah and the shift to the reign of the judges, however, came several changes in the Nephite legal system—innovations that particularly accommodated the needs of a society that had become

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2. These early Hebrew passages decrying such inappropriate conduct came to be seen in later Jewish circles as the behavior of the anti-Christ, as discussed by G. W. Lorein, *The Antichrist Theme in the Intertestamental Period* (London: T&T Clark, 2003); and L. J. Lietaert Peerbolte, *The Antecedents of the Antichrist: A Traditio-Historical Study of the Earliest Christian Views on Eschatological Opponents* (Leiden: Brill, 1996).

home to Mulekites, Nephites, Zoramites, Nehorites, king-men, the followers of Alma, and Limhi's refugees. These reforms, as discussed above, brought some significant changes in both the substantive and the procedural Nephite law. Because the law of Mosiah had been promulgated only seventeen years before Korihor began preaching in Zarahemla, his case would have arisen at a time when Nephite judges and society were still working out the practical implications of those changes. Indeed, it appears that Korihor's case, like Nehor's case, raised some legal issues that arose for the first time in interpreting the meaning of the law of Mosiah. For example, who was to have jurisdiction over cases of false preaching and blasphemy—the chief judge or the high priest? Was unruly or erroneous speech ever to be punishable under the new law, or could a person only be punished for his overt actions? Without prior experience to direct the judgment of the court, these questions became an issue of first impression for the highest courts in Gideon and Zarahemla.

After briefly reporting the principal themes of Korihor's preaching, the account of his trial begins by stating the main provisions in Nephite law "established" (Alma 1:1) by Mosiah that were relevant to Korihor's case:

Now there was no law against a man's belief; for it was strictly contrary to the commands of God that there should be a law which should bring men on to unequal grounds. For thus saith the scripture: Choose ye this day, whom ye will serve. Now if a man desired to serve God, it was his privilege; or rather, if he believed in God it was his privilege to serve him; but if he did not believe in him there was no law to punish him. (Alma 30:7–9)

As stated at the beginning of the book of Alma, with respect to legal conditions in the first year of the reign of judges eighteen years earlier, "now the law could have no power on any man for his beliefs" (Alma 1:17). Nevertheless, "liars were punished" if it were known that they were prevaricating; and as a result, "for fear of the law" some speakers "pretended" to believe what they preached (v. 17). This set of new rules in particular must have spawned several questions in Nephite civil law. How would such terms as *belief* or *liar* be defined? What was the underlying rationale behind this new law? How was this law to be understood and applied?

The picture is further complicated by the fact that the Nephites divided human conduct into three categories: words, actions, and thoughts (Mosiah 4:30). Alma's teachings made it clear that God would impose punishments on people with respect to all three of these categories (Alma 12:14). The right of humans to inflict punishment on others, however, was

limited. While people could be punished under the law for their actions (30:10),<sup>3</sup> it was unlawful for the government to punish people for their sincere beliefs (1:17; 30:7, 11).

That much was straightforward. Much more difficult, however, were two problems that had to be faced sooner or later under the law of Mosiah. One problem was evidentiary: how should a court determine whether a person sincerely believed what he taught? In other words, what evidence would be required to prove a person guilty? The second issue was conceptual: how were speech acts to be treated? Should speech be considered merely to be an assertion of one's *beliefs* and therefore protected under the civil law and punishable only by divine justice, or should some speech acts be viewed as a type of overt *action* punishable by civil or religious authorities? Speech is a hybrid between thoughts and actions, and the law of Mosiah did not provide a ready answer for how some of the old laws, such as prohibitions against blasphemy or leading people into apostasy, should be treated under the new regime.

Korihor was clever. He was smart enough to understand these issues and bold enough to assert his right to "equality" under the law (Alma 30:7, 11). Moreover, unlike Nehor, Korihor scrupulously avoided acting in any way that was expressly forbidden. All he did was preach. But this had disturbing consequences for the Nephites, for thus it seemed that "the law could have no hold upon him" (v. 12). Korihor exploited this situation to the limit: he preached openly (v. 12), encouraging others to commit sins (v. 18); he went "about perverting the ways of the Lord" and taught "people that there shall be no Christ," seeking thereby "to interrupt their rejoicings" (v. 22). Eventually he was found to be reviling, falsely accusing, and blaspheming public figures (vv. 30–31). Yet still the civil law took no hold upon him. Had the law of Mosiah gone too far in allowing people to speak openly about their beliefs? Under the new law, were no forms of speech punishable? The trial of Korihor would supply God's answers to these questions.

Another background factor that seems to have complicated this case was an issue of jurisdiction. Before the time of the reign of judges, the king and his priests worked closely together on legal problems like the ones created by Korihor, as evidenced by the collaboration of Benjamin

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3. Jewish law typically requires an overt, completed action before punishment can be imposed; see Haim H. Cohn, "Penal Law," in *The Principles of Jewish Law*, ed. Menachem Elon (Jerusalem: Keter, 1975), 471. "Mere talk does not amount to an overt act"; see Cohn, "Slander," in Elon, *Principles of Jewish Law*, 513. See generally Bernard S. Jackson, "Liability for Mere Intention in Early Jewish Law," in *Essays in Jewish and Comparative Legal History* (Leiden: Brill, 1975), 202–34.

and “the holy prophets who were among his people” (Words of Mormon 1:16–18) and of Noah and his priests (Mosiah 12–17). With the establishment of a church and a separate civil administration in Zarahemla, priests were no longer involved in civil matters,<sup>4</sup> which were instead heard by the judges. This, of course, raised the question of whether Korihor’s case should be considered a church matter or a public matter. He had directly attacked the teachings of the church, repudiating the prophecies concerning the coming of the Messiah (Alma 30:6), and thus he may well have been an apostate member of the church (speaking to Korihor, Alma called the righteous Nephites “thy brethren,” 30:44; but when speaking himself, Korihor disowned close connections with the Nephites, speaking of “your fathers,” vv. 14, 16). Should he thus be taken to the high priest? On the other hand, he had also created a public disruption and incited others to break the civil law. Should he thus be taken to a civil judge? The fact that he was eventually taken to both may indicate that this point remained a preliminary issue in such a case.

Those Nephites who contemplated apprehending Korihor in Zarahemla were probably also inhibited by at least two additional factors. First, memories of the civil strife and violent encounters with Nehor’s followers five years after his trial and execution (Alma 2–3) must have made the Nephites in Zarahemla wary of confronting Korihor, since making him another martyr would perhaps fan the flames of smoldering political animosities and controversies.<sup>5</sup> Second, under the law of Moses, witnesses had to take the initiative and responsibility of bringing a case before the priests or judges. Accusing someone under such a system was a risky proposition because of the burden it placed on the accuser, who would normally have needed to buttress his claim with a true oath; losing the case could lead people to view his oath as false, thus exposing him to the same consequences he had intended for the accused (Deuteronomy 19:15–19).

Thus, considering the difficult legal and political issues that Korihor’s case would have necessarily involved, as well as the courage and righteous determination it would have required to stand up against this potent

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4. Alma the Elder, for example, was given authority “over the church” (Mosiah 26:8), but Mosiah retained power over the affairs of the state. Similarly, Alma the Younger gave legal authority to Nephihah (Alma 4:17) but retained authority to ordain priests and elders “to preside and watch over the church” (6:1). As discussed above, even the people of Ammonihah recognized the jurisdictional divide between political and religious leaders (8:11–12).

5. It was important in ancient law to do justice, “but at the same time” to maintain “social unity.” Robert R. Wilson, “Israel’s Judicial System in the Preexilic Period,” *Jewish Quarterly Review* 74, no. 2 (1983): 235–36, stating that if “unhappy individuals or groups . . . refuse to accept the verdict, . . . the result will be a split . . . that may ultimately endanger the entire social structure.”



demagogue, it is hardly surprising that no one in Zarahemla came forward to take the risk of accusing Korihor of violating the law.

### **Korihor's Expulsion from the Land of Jershon**

After enjoying a fair amount of success in the land of Zarahemla, Korihor carried his preaching to the Ammonites in the land of Jershon, "who were once the people of the Lamanites" (Alma 30:19). As he did so, however, they "took him, and bound him, and carried him before Ammon, who was a high priest over that people," and "he caused that he should be carried out of the land" (vv. 20–21).<sup>6</sup> In essence, Korihor was apprehended by members of the general population, as would have been normal under their law; he was tied up, taken to the priest by these witnesses, and then banished from the territory by their high priest.

Because the Ammonites had taken this action, Alma praised them and called them "more wise than many of the Nephites" (Alma 30:20). Since it would have been unusual for Alma to praise the scrupulously righteous people of Jershon for doing anything that was in violation of the law or that ran roughshod over Korihor's civil rights (even in the name of religion), it is reasonable to assume that these people in Jershon acted in a perfectly legal manner by turning Korihor away. This legal episode prompts several prospects and considerations.

First, it is significant that Korihor was taken to the high priest over the Ammonites. No civil judge is mentioned here at all, as happens when Korihor is prosecuted in Gideon and in Zarahemla (Alma 30:21, 29). In other words, the Ammonites perspicaciously framed this case as a religious matter and took Korihor directly to their high priest. In retrospect that was a wise move, since the case was eventually resolved primarily as a religious matter.

Second, it is also possible that the legal system of the Ammonites in Jershon was somewhat different or somewhat independent from the laws in the land of Zarahemla.<sup>7</sup> Nothing in the record indicates that the

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6. The exercise of jurisdiction over an offender from outside a community is known in Hebrew as *herem bet din*. In ancient Hebrew law, this right applied only to the Sanhedrin and other high courts. It seems the Nephites, like their Old World counterparts, extended this right to local communities. See Isaac Levitats, "Herem Bet Din," in *Encyclopaedia Judaica*, ed. Fred Skolnik and Michael Berenbaum, 2nd ed. (Jerusalem: Keter, 2007), 9:16.

7. The Ammonites stood apart from those in the land of Zarahemla because of their distinctive oath against taking up arms and their rare but legally justifiable exemption from military duty. Moreover, when the land of Jershon was given to the Ammonites (Alma 27:22), the conveyance was conditioned only upon the Ammonites' commitment to "give . . . a portion of their substance" (v. 24) to help support the Nephite armies; it was not combined with any overt moves by the people in Zarahemla to annex this group. See John W. Welch, "Law and War in the Book

Ammonites ever agreed to be bound by the law of Mosiah. Formal popular adoption of that law, essential for it to become binding upon the people, had occurred several years before the Ammonites arrived in Zarahemla (Alma 1:14). It follows that the Ammonites may not have been bound by the progressive law of Mosiah and that, in carrying Korihor out of their independent land of inheritance, they were simply exercising a typical, traditional prerogative of excluding Korihor, as a foreigner, from taking up residence in their city without some local patron host.<sup>8</sup> The Nephites, by contrast, would not have had that option of denying him residence if he had been a lifetime citizen of part of their land.

Taking yet another tack, perhaps the Ammonites were subject to the law of Mosiah but argued that expulsion or banishment was not a form of punishment that was prohibited by that law. In other words, they may have held that a person could be ostracized or banished, but not beaten or executed, for disruptive speech.

### **Taken, Bound, and Carried to the Priest and Judge in Gideon**

After his expulsion from the land of Jershon, Korihor continued his preaching in the land of Gideon. As had happened in the land of Jershon (Alma 30:20), Korihor was “*taken and bound and carried*” before the highest officials in the land of Gideon (v. 21; emphasis added).<sup>9</sup> The consistent repetition of the three terms in Nephite arrests has been noted above.<sup>10</sup> Because the people of Limhi had entered into a public agreement to take “upon themselves the name of Nephi, that they might be called the children of Nephi and be numbered among those who were called Nephites” (Mosiah 25:12), the legal practice in the city of Gideon would have undoubtedly followed the same rules and regulations as were found generally in the land of Zarahemla.

Korihor was taken before two officials in the land of Gideon: the high priest, named Giddonah, and the chief judge (Alma 30:21). This duality

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of Mormon,” in *Warfare in the Book of Mormon*, ed. Stephen D. Ricks and William J. Hamblin (Salt Lake City: Deseret Book and FARMS, 1990), 63–65; and “Exemption from Military Duty,” in *Reexploring the Book of Mormon*, ed. John W. Welch (Salt Lake City: Deseret Book and FARMS, 1992), 189–92.

8. Without hotels or other public accommodations for travelers in ancient towns, foreigners typically needed to have a local patron who would house them, vouch for their integrity, and represent them in the local courts. Christiana van Houten, *The Alien in Israelite Law* (Sheffield, England: JSOT Press, 1991), 36–42.

9. The seizure of offenders sometimes constituted the formal initiation of legal proceedings against them in the ancient Near East. Raymond Westbrook, *A History of Ancient Near Eastern Law* (Leiden: Brill, 2003), 1:31–32.

10. See the treatment of arrest in the trial of Abinadi, in chapter 6 above.

again seems to reflect uncertainty over who (if anyone) had power to do anything to restrain Korihor.

### **Reviling God**

Neither the high priest nor the chief judge in Gideon, however, had any desire to reply to Korihor's words. As Giddonah and the chief judge in Gideon interrogated Korihor, it became clear that Korihor "would revile even against God" (Alma 30:29). At that point "they would not make any reply to his words" (v. 29). Perhaps they viewed his language as so impious and irreverent that they did not want to hear or be contaminated by his words profaning Deity. Such conduct was clearly against the law of Moses given centuries before: "Thou shalt not revile the gods" (Exodus 22:28).<sup>11</sup>

Apparently it was unclear whether this rule had been overridden by the law of Mosiah; otherwise one would assume that Giddonah and the chief judge would simply have found Korihor guilty of reviling God and would have handled the case without further delay (as in the cases of the blasphemer in Leviticus 24 and Naboth in 1 Kings 21:10). The question of whether the grant of equal status and freedom of belief under the law of Mosiah had superseded the law of Moses in this regard, however, would have been a significant issue, and on this ground I would conclude that Korihor's case needed to be referred to higher legal and ecclesiastical authorities.

### **Transferal to the Authorities in Zarahemla**

"They [the high priest and chief judge in the land of Gideon] caused that he should be bound; and they delivered him up into the hands of the officers, and sent him to the land of Zarahemla" (Alma 30:29). The reference to "officers" here is a clear but rare reference in an actual legal proceeding to the functioning of officers in a Nephite court. The law of Mosiah had called for the establishment of officers to transport people in custody (11:2). Here those officers are seen in action, performing their legal duty (compare 14:17). One may assume that their functions, in addition to their title, were somewhat similar to the "officers" (*shoterim*) of the Deuteronomic courts: "Judges and officers shalt thou make thee in all thy gates" (Deuteronomy 16:18), although little is known about those officers.<sup>12</sup>

It is apparent, however, that Korihor's case was not sent to the higher authorities for judicial review in a modern legal sense. The officials in Gideon did not reach a decision and so had no ruling to send for review

11. See the treatment of reviling in the trial of Abinadi, in chapter 6 above.

12. Haim H. Cohn, "Practice and Procedure," in Elon, *Principles of Jewish Law*, 581; and Ludwig Köhler, "Justice in the Gate," in *Hebrew Man* (New York: Abingdon, 1956), 127–50.

by another body of judges. Alma and the chief judge in Zarahemla took original jurisdiction over the case and initiated their own inquiry *de novo*, beginning the case from scratch and not merely reviewing the decision of the lower court. The law of Mosiah provided that the lower judges be judged of a higher judge if the lower judges “do not judge you according to the law which has been given” (Mosiah 29:28). From that language, which gave the higher judges authority to judge *the lower judges* (not their judgments), as well as from the fact that no decision regarding Korihor was actually reached by the lower court in the city of Gideon, one may conclude that the Nephite reign of judges did not utilize substantive appellate review as such, but rather used impeachment or discipline of judges for misconduct or capriciousness. Allowing appeals would have been inconsistent with the ancient idea that God’s will was manifested through the judicial process, and therefore once a verdict had been reached, second-guessing the decision itself would have been problematic.<sup>13</sup>

The idea of not getting a second hearing on judicial determinations of law or fact is consistent with what is known about the court system in ancient Israel, which featured no practice of judicial review.<sup>14</sup> The local courts were expected to handle routine matters and to refer the hard cases directly to the central authorities. For example, during the period of the exodus, important cases could be referred directly to Moses (Exodus 18:22; Leviticus 24:11); in such cases, the popular courts did not reach a decision that would then have been sent to Moses for affirmation or reversal. Similarly, it appears that Jehoshaphat’s central courts in Jerusalem were established to hear hard cases referred to them from the cities of Judah in order to decide “between blood and blood, between law and commandment, statutes and judgments” (2 Chronicles 19:10); but one assumes that the local courts had sole jurisdiction over common disputes or causes of action.

Korihor’s case was apparently viewed as a difficult one, arising out of an alleged conflict or uncertainty between the law of Mosiah and the

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13. “Guilt cannot be negotiated, and a divine oracle cannot be appealed.” Wilson, “Israel’s Judicial System in the Preexilic Period,” 237.

14. “Special judges appear to have been commissioned by the central authorities to sit as courts of first instance.” Zeev W. Falk, *Hebrew Law in Biblical Times: An Introduction*, ed. John W. Welch, 2nd ed. (Provo, UT: Brigham Young University Press; Winona Lake, IN: Eisenbrauns, 2001), 58. “There was no possibility of appeal to a court superior to or other than the local one, because there was no such court.” Hans Jochen Boecker, *Law and the Administration of Justice in the Old Testament and Ancient Near East*, trans. Jeremy Moiser (Minneapolis: Augsburg, 1980), 40. See Raymond Westbrook, “Punishments and Crimes,” in *The Anchor Bible Dictionary*, ed. David Noel Freedman et al., 6 vols. (New York: Doubleday, 1992), 5:546–56.

commandments of God, and so this matter was referred without any further proceedings to the two most prestigious authorities in the land. Moreover, by taking Korihor both to Alma the high priest and to Nephihah, the chief judge (Alma 30:30), the people of Gideon finessed the issue of whether this case should be viewed as a “matter of the Lord” or as a “matter of the king”—a distinction that influenced the procedures in the trial of Abinadi and was as old as the reforms of Jehoshaphat (2 Chronicles 19:11).

### **Blasphemy and Further Reviling**

Appearing before Alma and Nephihah, Korihor actually “went on to blaspheme” (Alma 30:30).<sup>15</sup> He may have flagrantly defamed, cursed, or uttered the sacred name of Jehovah (Leviticus 24:11), or his crime may have been a more general act of irreverence or disrespect, such as denying the existence of God.<sup>16</sup> Either way, Korihor’s language now became even more offensive, escalating his conduct from reviling to blasphemy, the latter traditionally being a capital offense (v. 16). Once again, at least to some extent, it must have been unclear to this new set of judges in Zarahemla to what extent, if at all, the law of Mosiah had changed the traditional law of blasphemy. Absent some uncertainty of that nature, one would have expected the judges to have simply executed Korihor at this point in the trial.

In addition, Korihor also “did revile against the priests and teachers” (Alma 30:31). This created issues similar to those regarding his blasphemy and reviling of God. The ancient law required “Thou shalt not . . . curse the ruler of thy people” (Exodus 22:28). Since Korihor had launched an attack in the city of Gideon against the established rulers in Zarahemla, accusing them of “usurp[ing] power and authority” and of extorting and oppressing the people (Alma 30:23, 27), it was clear that he had reviled the rulers of the people. In Zarahemla, Korihor went further to “revile against the priests and teachers, accusing them of leading away the people after the silly traditions of their fathers, for the sake of glutting on the labors of the people” (v. 31). Nephite priests and teachers were consecrated as officials “over the land” (2 Nephi 5:26); and though their functions were religious, it would appear that they would qualify as “rulers” entitled to

15. This might have put Korihor beyond forgiveness because, under ancient Hebrew law, an offender who “persist[ed] in claiming to be in the right and carri[ed] on with arrogant and overbearing behavior” would have to be subject to a court in order to protect the “unjustly oppressed.” Pietro Bovati, *Re-Establishing Justice: Legal Terms, Concepts and Procedures in the Hebrew Bible* (Sheffield, England: JSOT Press, 1994), 169.

16. See the sources on blasphemy, discussed in connection with the cases of Sherem and Abinadi, in chapters 5 and 6 above.

protection against reviling, although this point may have been somewhat unclear. Once again, however, it must also have been fundamentally unclear whether such repeated and cumulous contemptuous speech was punishable at all under the law of Mosiah. Otherwise the chief judge could have readily disposed of Korihor's case on the additional basis of reviling.

### **Korihor Accuses the Priests and Teachers of Priestcraft**

In addition to reviling against the priests and teachers, Korihor specifically accused them of teaching falsehoods in order to get gain—a sort of priestcraft. By making such an accusation, Korihor took legal initiative against the Nephite priests and teachers, assuming the conventional composite role of accuser, plaintiff, and witness. Such accusers, as has been seen consistently in biblical and Book of Mormon cases, bore the burden of supporting their claims—or facing serious consequences (Deuteronomy 19:15–21).

### **Alma's Refutation**

Alma began by denying the accusations that Korihor had made against the Nephite priests and teachers. He rebuffed the notion that Nephite leaders had glutted themselves “upon the labors of this people” (Alma 30:32) with his own testimony that he had never received payment for his labors in the church (v. 33), thus disproving Korihor's argument that Alma had preached to get gain (v. 35). Then he probed Korihor's statement about the alleged “silly traditions” (v. 31) taught by Nephite priests. He asked Korihor if he believed in the existence of God. Korihor said he did not. In this way, Alma strategically laid the groundwork for accusing Korihor of two offenses: (1) initiating false accusations against the Nephite priests and teachers, and (2) lying about the nonexistence of God.

### **Warning Korihor**

After Korihor denied the existence of God, Alma gave him a final chance to withdraw his claim. Alma warned him by naming the witnesses that would stand against him: Alma himself was a witness, testifying that he knew “there is a God, and also that Christ shall come” (Alma 30:39); and in order to give further evidence in support of that testimony, Alma asserted that “all things [are] a testimony that these things are true” (v. 41),<sup>17</sup> and he also cited the testimonies “of all these thy brethren” (v. 44). By contrast,

17. Bovati, *Re-Establishing Justice*, 40n12, 81–82, cites times when mountains, the cosmos, heaven, and earth have been called upon as witnesses. Haim Hermann Cohn, “Witness,” in *Encyclopaedia Judaica*, 21:115, explains that “lasting inanimate objects, such as stones (Gen. 31:48) [and] the moon (Ps. 89:38), . . . [could] be invoked as witnesses.”

Korihor lacked any support for his accusations (v. 40), a serious deficiency. Alma also expressly warned Korihor that by denying the existence of God, he was lying, being “possessed with a lying spirit” (v. 42), thus putting Korihor on notice that he could be punished under the law of Mosiah, which required people to believe sincerely what they taught (1:17).

By warning Korihor, Alma fulfilled one of the traditional legal duties of a priest in Israel. Centuries before Alma’s time, Jehoshaphat had commanded the priests and judges whom he installed in Jerusalem during his reforms in the eighth century BC to “warn [the people] that they trespass not against the Lord” (2 Chronicles 19:10). Similarly, the Lord told Ezekiel that if he failed “to warn the wicked from his wicked way, . . . the same wicked man shall die in his iniquity; but his blood will I require at thine hand” (Ezekiel 3:17–19). Thus an affirmative duty rested upon Alma to warn Korihor properly one final time.

Such warnings were essential so that the wicked could not use ignorance of the law as a defense. By the time of the Mishnah, the necessity of warning was so firmly embedded in Jewish law that it was “incumbent upon the prosecution to show that the accused was, immediately before the commission of the offense, expressly warned by two competent witnesses that it would be unlawful for him to commit it, and that if he committed it he would be liable to that specific penalty provided for it by law.”<sup>18</sup> One school of rabbis even taught that a good judge should ask a prosecuting witness, among other things, “Did ye warn him? Did he accept your warning?”<sup>19</sup> Korihor seems to have eventually been somewhat sobered by the warning, and Alma cautioned him concerning what the exact punishment would be if he denied God again: “If thou shalt deny again, behold God shall smite thee, that thou shalt become dumb” (Alma 30:45–48).

### **The Problem of a Sole Accuser**

As part of the substantive warning to Korihor that he was lying, Alma also pointed out to him that he had only one witness for his position, namely, Korihor himself. In contrast, Alma had rebutted Korihor’s assertions and called a host of witnesses: “Behold, I have all things as a testimony that these things are true” (Alma 30:41). By doing this, Alma rhetorically showed that Korihor had failed, even nominally, to produce the minimum number of witnesses required by law—two (Deuteronomy 19:15). Alma’s query, “What evidence have ye that there is no God, or that Christ cometh not?” effectively turned the tables on Korihor, who

18. Cohn, “Penal Law,” 473; and Babylonian Talmud (hereafter TB) *Sanhedrin* 8b, 9b, and 40a.

19. TB *Sanhedrin* 40b.

suddenly found himself running the risk of being convicted of bearing false witness under Deuteronomy 19:16–21. In this way, Alma was able to expose an objectively provable defect in Korihor’s case. Alma’s legal logic is based implicitly on the reasonable presumption that bearing sole witness was a form of judicial speech that Nephite law could still punish and, thus, was an act not insulated from prosecution by the law of Mosiah. In addition, Alma’s strategy throws at Korihor the same argument that the Nehorite lawyers and judges in Ammonihah had thrown at Alma a decade earlier: “Suppose ye that we shall believe the testimony of one man?” (Alma 9:2). Especially if Korihor had Nehorite ties, this turnabout was, more than ironically, fair play.

### Diligent Inquisition

The law regarding false witnesses and accusers, found in Deuteronomy 19, most literally applies to cases in which only one witness (namely, the plaintiff himself) testifies on the side of the plaintiff.<sup>20</sup> The law of Moses required that the two opposing parties in such a controversy “stand before the Lord” so that the accusation could be settled after diligent questioning by the priests and the judges. It seems that this procedure applied exactly to Korihor’s situation, for Alma next conducted an inquisition as required by Deuteronomy 19:17–18, asking Korihor a series of questions. Alma’s inquiry fully satisfied the spirit of Israelite and Jewish jurisprudence. Later Jewish jurists required that, in order to refute the testimony of a false witness, the challenged position had to be tested by seven inquiries, a requirement that the Talmud implied from the text of Deuteronomy.<sup>21</sup> The refuting witnesses were to pose questions to the accused false witness such as, “How can you assert that you have seen the accused commit this act . . . when at that very time you were with us at such-and-such a place?”<sup>22</sup> Alma asked Korihor similarly phrased questions—twelve of them (Alma 30:34–45).<sup>23</sup> To these questions Korihor responded adamantly and incorrigibly (vv. 36, 38, 43, 45).

20. Haim H. Cohn, “Perjury,” in Elon, *Principles of Jewish Law*, 517, points out that under talmudic law “no single witness could be convicted of perjury,” but this relates to witnesses, not accusers.

21. Hyman E. Goldin, *Hebrew Criminal Law and Procedure* (New York: Twayne, 1952), 119n4: “That the number of these inquiries must be seven, is derived in the Talmud (*Gemara*, 40a) from the seven Biblical words or expressions used in connection with the examination of witnesses in matters involving capital punishment.” The seven questions sought specification regarding the time and place of the alleged offense.

22. Goldin, *Hebrew Criminal Law*, 119n4.

23. Five of them seem to be rhetorical questions: Alma 30:34 (What doth it profit us?), 35a (Why sayest thou that we preach to get gain when thou knowest that we receive no gain?), 44a (Will ye tempt your God?), 44b (Will ye say, show me a sign?), and 45a (Yet do ye go about leading



### **Korihor's Request for a Sign**

Korihor probably realized that the weight of evidence was stacking up against him. As in the case of Sherem, his request for a sign was an extraordinary step, a last resort, and a sort of voluntary request for an ordeal.<sup>24</sup> Korihor, who found himself on the defensive, was now willing to submit the matter to God, who he claimed, of course, did not exist. Korihor's overall position basically compelled him to assume that this was a low-risk tactic and that he would survive the judgment of God, a being who he believed was nonexistent. After Alma and Korihor challenged each other's testimonies, and after Alma finally accepted Korihor's challenge, the outcome of the case rested entirely in God's hands.<sup>25</sup>

### **Better One Should Perish**

Quoting the words of the angel to Nephi five hundred years earlier (1 Nephi 4:13), Alma affirmed that Nephite justice was not offended by the prospect that God should smite Korihor: "But behold, it is better that thy soul should be lost than that thou shouldst be the means of bringing many souls down to destruction by thy lying and by thy flattering words" (Alma 30:47).

The idea that it is better for one to perish than an entire city to be destroyed runs sharply contrary to modern liberal jurisprudence but was part of biblical law. Among the Old Testament narratives that presuppose or utilize this principle, 2 Samuel 20 is pivotal, involving the killing of the rebel Sheba in order to preserve the city of Abel. Likewise, Jehoiakim, the king of Judah, was turned over to Nebuchadnezzar by the Jews in order to save Jerusalem from destruction.<sup>26</sup> Over the years, striking a proper bal-

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away the hearts of this people testifying?). These five questions expected and received no answer. The other seven questions were more specific interrogatories addressing Korihor's beliefs (three times), evidence (once), and denials (three times): Alma 30:35b (Believest thou?), 37 (Believest thou?), 39 (Will ye deny?), 40 (What evidence have ye?), 41a (Will ye deny?), together with 41b (Believest thou?), and 45b (Will ye deny?). These seven questions either received answers from Korihor or were supplied answers by Alma. See Bovati, *Re-Establishing Justice*, 77–79, which discusses the function of dialogue in the *rib*.

24. Ironically, making this request, Korihor was both appealing and subjecting himself to a being he claimed did not exist; see Herbert Chanan Brichto, "Blessing and Cursing," in *Encyclopaedia Judaica* 3:750–51 (referring to a man-invoked curse as a "prayer" and explaining that "such invocation is implicitly an acknowledgment of the Deity's sovereignty"). Ordeals were a "widespread method of ascertaining God's judgment" in Hebraic law. Haim Hermann Cohn, "Ordeal," in *Encyclopaedia Judaica*, 15:462 (citing examples). Compare the request for signs and the role of ordeals in the cases of Sherem and Abinadi, discussed in chapters 4 and 5 above.

25. For the use of divine judgment at a similar impasse in the case of Sherem, see chapter 4 above.

26. *Genesis Rabbah* 94:9 on 46:26; see also 2 Chronicles 36:6–10.

ance between the rights of the individual and the needs of the community was debated in Jewish law,<sup>27</sup> but it is not hard to see why Alma would have invoked this basic rubric of Israelite jurisprudence to remind Korihor of the vulnerability of his position.

Alma, however, did not anticipate that Korihor would “perish” in death (1 Nephi 4:13), but rather that his “soul should be lost” (Alma 30:47). Just as Korihor had threatened to lead people into sin and spiritual damnation, so his punishment would likewise be at the hands of God unto the destruction of his soul. God’s curse upon Korihor, taking away his soul or spoken breath (in Hebrew, *nefesh* is the word for both soul and breath), would be a definitive sign to the people that Korihor was guilty.

### **Korihor Struck with Speechlessness**

Alma invoked a curse upon Korihor: “If thou shalt deny again, behold God shall smite thee, that thou shalt become dumb” (Alma 30:47). This follows the typical ancient formula for pronouncing such a curse: “God do so to thee, and more also, if . . .” (e.g., 1 Samuel 3:17). Such a curse has been called “an oath to do evil.”<sup>28</sup>

In addition to evidencing divine approval of Alma’s position, Korihor’s punishment provides another good example of divinely executed talionic justice: his curse befits his crime. Because he had spoken evil, he was punished by being made unable to speak. Even more literally than those whose mouths had uttered false doctrines during the time of Benjamin (Words of Mormon 1:15), Korihor’s mouth was physically shut. In the ancient Near East, talionic justice was the rule: Assurbanipal once boasted that, in a case where two men had spoken gross blasphemy against the god Assur, “I ripped out their tongues and skinned them alive.”<sup>29</sup>

Interestingly, Korihor’s punishment was considerably lighter than Nehor’s. Of course, Korihor had not tried to enforce his beliefs with the sword and had not killed anyone, and in addition, perhaps Alma had grown more patient after seventeen years of the reign of judges. No doubt

27. TJ *Terumot* 8:10, 46b; and Roger David Aus, “The Death of One for All in John 11:45–54 in Light of Judaic Traditions,” in *Barabbas and Esther and Other Studies in the Judaic Illumination of Earliest Christianity*, ed. Jacob Neusner et al. (Atlanta: Scholars Press, 1992), 29–63. See also TB *Terumot*, 8:12; TB *Makkot*, 11a; *Genesis Rabbah* 94:9; *Leviticus Rabbah* 19:6; Saul Lieberman, *Tosefta ki-feshutah: A Comprehensive Commentary on the Tosefta* (New York: Jewish Theological Seminary, 1955), 422n141; and David Daube, *Collaboration with Tyranny in Rabbinic Law* (London: Oxford University Press, 1965), 18–27.

28. Falk, *Hebrew Law in Biblical Times*, 52, citing Leviticus 5:4; Psalm 15:4.

29. Ernst F. Weidner, “Assyrische Beschreibungen der Krieger-Reliefs Aššurbânâplis,” *Archiv für Orientforschung* 8 (1932–33): 184:28, quoted in Shalom M. Paul, “Daniel 3:29—A Case Study of ‘Neglected Blasphemy,’” *Journal of Near Eastern Studies* 42, no. 4 (1983): 293.

he would want to avoid any repetition of the aftermath of Nehor's execution. In any event, the Nephite government was more secure now during Korihor's time than it had been during its first, shaky years, and so Alma and his colleagues could well afford to wait on the Lord and allow divine justice to take its own course.

### **Cursing a Party with Speechlessness**

When Alma pronounced a curse on Korihor, "In the name of God, ye shall be struck dumb, that ye shall no more have utterance" (Alma 30:49), he utilized a venerable ancient practice. When the curse materialized, divine disapproval was so clear that Korihor was compelled to yield the case.

While the use of such a curse may seem somewhat unusual or sensational to modern readers, the pronouncing of curses or spells was common in the ancient Mediterranean world,<sup>30</sup> and their most frequent use was in fact in the legal sphere. In recent decades more than one hundred Greek and Latin "binding spells"—curses inscribed on small lead sheets that were folded up and pierced through with a nail—have been recovered from tombs, temples, and especially wells near the law courts, where they were placed in hopes that a deity from the underworld would receive them.<sup>31</sup>

These spells are known as *defixiones* because their words and powers were intended to "defix"—to restrain or hinder—an opponent. The opponent targeted by these quasi-religious petitions or incantations in ancient Greece could be a commercial, athletic, or romantic rival or one's adversary in litigation.<sup>32</sup>

The largest body of these Greek binding spells deals with litigation, with sixty-seven different *defixiones* having been discovered containing pleas that curses fall on a legal opponent.<sup>33</sup> These lead curse tablets "became popular in the fifth century B.C. and continued in use in Mediter-

30. For more information on curses, see Douglas Stuart, "Curse," in *Anchor Bible Dictionary*, 1:1218–19.

31. Such texts have been studied most recently by Christopher A. Faraone; see his study "The Agonistic Context of Early Greek Binding Spells," in *Magika Hiera: Ancient Greek Magic and Religion*, ed. Christopher A. Faraone and Dirk Obbink (New York: Oxford University, 1991), 3–32. I am grateful to James V. Garrison for assisting me in this area of research.

32. Faraone, "Early Greek Binding Spells," 11.

33. See R. Wünsch, *Defixionum Tabellae Atticae*, in *Inscriptiones Graecae*, vol. 3.3 (Berlin: Reimer, 1897), numbers 25, 38–39, 63, 65–68, 81, 88, 94, 95, 103, 105–7, and 129; A. Audollent, *Defixionum Tabellae* (Paris: Fontemoing, 1904), numbers 18, 22–35, 37, 39, 43–44, 49, 60, 62–63, 77, and 87–90; and D. R. Jordan, "A Survey of Greek Defixiones Not Included in the Special Corpora," *Greek, Roman, and Byzantine Studies* 26, no. 2 (1985): 151–97, numbers 6, 9, 19, 42, 49, 51, 61, 68, 71, 89, 95, 99, 100, 108, 133, 162–64, 168, 169, 173, 176, and 179.

anean lands” for at least a millennium.<sup>34</sup> Of the more than a thousand “judicial defixiones,” thirteen, most of which come from Cyprus, ask the gods specifically to bind the tongue of a legal opponent in such a way that the speechless adversary would lose the case. They employ such language as “make him cold and voiceless and without breath,” “make him cold and dumb,” “seize control of his voice,” “muzzle/silence my opponents,” and “bind his tongue” or “put his tongue to sleep.”<sup>35</sup> An additional twenty-one known curses from Cyprus, Attica, and Epirus make reference to the voice, tongue, or words of the legal opponent, and many of these probably imply complete silencing of the accuser as well.<sup>36</sup> Similar curses are also found in Hellenistic Jewish texts: “Silence . . . the mouth of all people who stand against me”;<sup>37</sup> “Let none of the children of Adam and Eve be able to speak against me.”<sup>38</sup>

Evidence shows that people believed that these curses were sometimes actually fulfilled. A third-century BC stele from Delos expresses the gratitude of a victorious litigant who had been helped in court by a god: “For you bound the sinful men who had prepared the lawsuit, secretly making the tongue silent in the mouth, from which (tongue) no one heard a word or an accusation, which is the helpmate in a trial. But as it turned out by divine providence, they confessed themselves to be like god-stricken statues or stones.”<sup>39</sup> Other evidence of divinely induced speechlessness is found in ancient literature. Aristophanes, in his play *The Wasps*, speaks of a litigant who became speechless:

Bdelycleon: Come forward and defend yourself. What means this silence?

Philocleon: No doubt he has nothing to say.

Bdelycleon: Not at all, I think he has got what happened once to Thucydides in court; his jaws suddenly set fast.<sup>40</sup>

34. Jordan, “Survey of Greek Defixiones,” 151. See also Faraone, “Early Greek Binding Spells,” 16. The use of curses and spells in general has roots that run much earlier throughout the ancient Near East.

35. Audollent, *Defixionum Tabellae*, numbers 22–24, 26–29, 31, 33, 34, and 37.

36. Wunsch, *Defixionum Tabellae Atticae*, numbers 49, 50, 68, 88, 94–95, and 105–107; Audollent, *Defixionum Tabellae*, numbers 30, 32, 35, 49, and 87; and Jordan, “Survey of Greek Defixiones,” numbers 51, 95, 99, 100, 107, 108, and 164.

37. Israel Museum, bowl, item no. 8.1.2.

38. *Sepher ha-Razim*, First Firmament, lines 134–41.

39. Faraone, “Early Greek Binding Spells,” 19.

40. Aristophanes, *The Wasps* 946–48.

A scholiast attributes the silence to magic.<sup>41</sup> Libanius tells of a time when he fell mute and could not be cured until a dead chameleon was found in his classroom with its mouth bound shut. When the chameleon was removed, his voice returned.<sup>42</sup> The famous Roman jurist Cicero speaks of a number of times when his legal opponents either fell dumb or lost their memory at the moment of trial, some attributing the affliction to magic potions or incantations.<sup>43</sup>

Obviously, the speechlessness of Korihor—and to an extent also the stunning of Sherem—was precisely the kind of sign or restraint that people in the ancient world expected a god to manifest in a judicial setting, especially in the face of false accusations, as in the cases of Korihor and Sherem, or when one party to a lawsuit was placed at a distinct disadvantage by some unfair ploy of his opponent. In such cases, resorting to curses or appealing to supernatural intervention was perfectly acceptable and perhaps even expected. Indeed, what was most important to avoid when calling down a curse on another was invoking the power of the wrong god. Leviticus 19:31 and 20:5–6 were a reminder to the Israelites that there was only one power to which they should subscribe: “I am the Lord your God.” Thus, although there were strong scriptural prohibitions against the Israelites using magic by invoking the names of other gods or powers, under biblical law Jews were permitted to properly and appropriately invoke the power of the one true God against their enemies (see the curses invoked in Deuteronomy 27:14–26, the curse of bitter waters in Numbers 5:21, and the sign called down from heaven by Elijah in 1 Kings 18:38). Although Israelites were religiously and legally restricted in the use of evil incantations to impose spells upon people, the overall objective of any judicial proceeding in Hebrew society was to silence one of the parties, one way or the other. As Bovati clearly explains, silence means defeat: “The keeping silent . . . is the prosecution’s (or defence’s) inability to carry on the debate, which is equivalent to saying there are no more arguments and therefore one’s adversary is right.”<sup>44</sup>

When a litigant was stricken by the gods in such cases, it was not uncommon for that person to erect a confession stele. These confession inscriptions appear to have served several purposes. One was “a confession

41. Fr. Dübner, *Scholia Graeca in Aristophanem* (Hildesheim: Verlag, 1969), 156, discussed in Christopher A. Faraone, “An Accusation of Magic in Classical Athens (Ar. WASPS 946–48),” *Transactions of the American Philological Association* 119 (1989): 149–60.

42. Libanius, *Autobiography* 245–50, discussed in Faraone, “Early Greek Binding Spells,” 15–16, and 16n70.

43. Cicero, *Brutus* 217; *Orator* 128–30; and Faraone, “Early Greek Binding Spells,” 15.

44. Bovati, *Re-Establishing Justice*, 342.

of guilt, to which the author has been forced by the punishing intervention of the deity, often manifested by illness or accident.”<sup>45</sup> In addition, these inscriptions appeased the god who had taken action against the confessor, who would often include a clear profession of his newly admitted faith in the god and would warn others not to disdain the gods.<sup>46</sup>

In the same manner, Sherem’s confession revoked what he had previously taught, confessed the truth of the god who had intervened against him, admitted his error, and expressed concern that he would never be able to appease God (Jacob 7:17–19). In Korihor’s case, the chief judge turned immediately to the task of obtaining a confession from Korihor acknowledging the power of God, probably in part to ensure that the curse would not afflict any others, as well as to terminate the dispute (Alma 30:51). Such reactions are similar to the typical responses of others in the ancient world whose judicial perfidy or false accusations had been exposed and quashed by the intervention of a god responding to a restraining curse invoked by a beleaguered litigant.

### Korihor’s Confession

After Korihor was struck dumb, the chief judge asked him if he was now convinced of the power of God or if he would dispute further. Evidently, the extraction of the legally required confession was viewed at this time as a duty of the chief judge, for Alma the high priest plays no official role in the concluding phases of this trial. The chief judge asked four specific questions:

1. Art thou convinced of the power of God?
2. In whom did ye desire that Alma should show forth his sign?
3. Would ye that he should afflict others, to show unto thee a sign?
4. Behold, he has showed unto you a sign; and now will ye dispute more? (Alma 30:51)

In reply Korihor wrote the following:

I know that nothing save it were the power of God could bring this upon me; yea, and I always knew that there was a God. But

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45. H. S. Versnel, “Beyond Cursing: The Appeal to Justice in Judicial Prayers,” in Faraone and Obbink, *Magika Hiera*, 75.

46. Versnel, “Judicial Prayers,” 75. See also Bernard S. Jackson, “Ideas of Law and Legal Administration: A Semiotic Approach,” in *The World of Ancient Israel: Sociological, Anthropological and Political Perspectives*, ed. R. E. Clements (Cambridge: Cambridge University Press, 1989), 189–92; and Paul Douglas Callister, “Law’s Box: Law, Jurisprudence and the Information Ecosphere,” *University of Missouri–Kansas City Law Review* 74, no. 2 (2005): 263–334, for more on the ancient use of monuments and steles and on the physical dimensions of legal records.

behold, the devil hath deceived me; for he appeared unto me in the form of an angel, and said unto me: Go and reclaim this people, for they have all gone astray after an unknown God. And he said unto me: There is no God; yea, and he taught me that which I should say. And I have taught his words; and taught them because they were pleasing unto the carnal mind; and I taught them, even until I had much success, insomuch that I verily believed that they were true; and for this cause I withstood the truth, even until I have brought this great curse upon me. (Alma 30:52–53)

As discussed above, the law of Moses emphasized the importance of confession after conviction. For example, Leviticus 5:5 requires, “When he shall be guilty in one of these things, that he shall confess that he hath sinned in that thing.” Joshua required Achan to “make confession unto [God]; and tell me now what thou hast done” (Joshua 7:19; see Leviticus 26:40; Numbers 5:6–7; Psalm 32:5, 51:3; Proverbs 28:13). Facilitating and obtaining a confession of guilt was so important that later Jewish law even required judges to assist the convict in making his confession.<sup>47</sup>

As in the case of Sherem, Korihor’s confession was somewhat specific as to his crimes, and his statement was appropriately made a matter of public record.<sup>48</sup> First he openly acknowledged the power of God, an issue that had become a main point of contention in his trial; and he added that he “always knew that there was a God,” thus admitting that he had deliberately lied (Alma 30:52). Under biblical law, a confession had to “be verbalized because it is the act that counts, not just its intention.”<sup>49</sup> Korihor further confirmed Alma’s accusations by admitting that he had been misled by the devil and was carnally motivated in his teachings. Indeed, confession is not required under biblical law “for inadvertencies, but only for deliberate sins.”<sup>50</sup> By confessing in such a manner, Korihor undoubtedly fulfilled the court’s hopes that his statement would deter the people from engaging in such conduct in the future and that he might help himself spiritually as much as possible.

The fact that Korihor’s confession was taken down in writing is interesting. The chief judge assisted Korihor by writing his questions and by

47. For discussions of confession, see the analysis of the trials of Sherem and Nehor in chapters 5 and 7 above.

48. “The biblical postulate seems to have been that confession is made to the injured party.” Jacob Milgrom, *Leviticus 1–16*, (New York: Doubleday, 1991), 303. Here Korihor’s sin was against both God and the public, so his confession could not be silent, before God alone.

49. Milgrom, *Leviticus 1–16*, 301.

50. Milgrom, *Leviticus 1–16*, 301.

allowing Korihor to write back in reply. Korihor was probably not deaf and could have heard the questions of the chief judge, but by putting his questions in writing, the chief judge created a full and precise written record of what he had asked and of how Korihor had responded. The words of that official document could be read, posted, or broadcast by messengers throughout the land.

Although confessions were strongly desired under Nephite law, confessing did not stay the execution of the punishment—in this case, divine punishment. Moreover, in Korihor’s case there is no reason to believe that his confession was complete or sincere. While he responded in detail to the chief judge’s first question, Korihor glaringly ignored the other three: Korihor’s confession does not disclose the identity of the person upon whom he had wanted the sign of God’s judgment to fall, it is silent on whether he had harbored evil designs that Alma should afflict someone else, and it makes no explicit promise that Korihor would cease and desist from further disputations. Moreover, Korihor’s confession rationalizes his misconduct rather than taking responsibility for it: he blames his errors on the devil and on the people who encouraged him by acclaiming him a success. His confession, therefore, was not entirely satisfactory, even though he went so far as to admit, “I have brought this great curse upon me” (Alma 30:53). Accordingly, when he appropriately asked the high priest if he would take the curse off him, Alma refused, noting that if the Lord removed the curse, Korihor would “again lead away the hearts of this people” (v. 55).<sup>51</sup> Confession was “the legal device . . . to convert deliberate sins into inadvertencies, thereby qualifying them for sacrificial expiation,”<sup>52</sup> but the confession needed to be genuine for Alma to intercede in his priestly capacity. Korihor’s insincerity in connection with his confession also gave the chief priest ample reason to doubt that Korihor’s preaching had been motivated by a sincere belief. Moreover, even if it was sincere, it was not always appropriate to forgive an offender to the point of staying a punishment.<sup>53</sup>

### Korihor’s Punishment

The curse was not taken from Korihor, and he was “cast out” (Alma 30:56), which may mean at least two things: (1) Korihor could have been

51. “Sometimes it is wiser to punish than to tolerate, because forgiveness may encourage the habit of evil.” Bovati, *Re-Establishing Justice*, 169–70.

52. Milgrom, *Leviticus 1–16*, 301–2.

53. Such an act of forgiveness in these circumstances might have “ma[de] light of the crime committed.” Bovati, *Re-Establishing Justice*, 169.



physically transported from the land, just as he had been deported from Jer-shon and forbidden to return, or (2) he could simply have been socially ostracized and banned from engaging commercially with anyone in the land, which might explain why he had to beg for food from house to house.

A severe penal option available to judges in antiquity was to banish or expel the offender from the community.<sup>54</sup> In many ways, this was a fate worse than death, for an ancient person could not easily relocate in another city, and life outside settled lands was rugged. A severe banishment (or *herem*) was pronounced publicly, with a “warning not to associate with the anathematized.”<sup>55</sup> According to Josephus, outcasts often died miserable deaths.<sup>56</sup>

Evidence of the use of banishment can be found in “the records of all ancient nations,”<sup>57</sup> and the Israelites and Nephites are no exception. The basic principle behind the practice of banishment was a desire to purge the people of contagious iniquities. Such separation of unrighteous and impure people and things from pure and sacral ones can be traced, in the Hebrew mind, back to the beginning when God drove Adam and Eve out of the Garden of Eden (Genesis 3:23–24). In Old Testament times, *herem* occurred in widely varying forms ranging from complete annihilation to a mere seven-day separation from the community. Jeremiah appears to have been pronouncing a *herem* on behalf of the Lord when he cursed the fallen prophet Hananiah, who had falsely prophesied unto the people: “Therefore thus saith the Lord; Behold, I will cast thee from off the face of the earth: this year thou shalt die, because thou hast taught rebellion against the Lord” (Jeremiah 28:16). Hananiah died within the year. A milder form of expulsion from God’s people was imposed upon Moses’s sister, Miriam, when she spoke against Moses: “Let her be shut out from the camp seven days, and after that let her be received in again” (Numbers 12:14). This incident is the first recorded instance in the Bible of a person being separated from the community but being allowed to

54. For more information, see Adela Y. Collins, “The Function of ‘Excommunication’ in Paul,” *Harvard Theological Review* 73, nos. 1–2 (1980): 251–63; and Moshe Weinfeld, “The Ban of the Canaanites and Its Development in Israelite Law,” *Zion* 53, no. 2 (1988): 135–48.

55. Haim H. Cohn, “*Herem*,” in Elon, *Principles of Jewish Law*, 544.

56. Flavius Josephus, *The Wars of the Jews* 2.143 (“But for those that are caught in any heinous sins, they cast them out of their society; and he who is thus separated from them, does often die after a miserable manner; for as he is bound by the oath he hath taken, and by the customs he hath been engaged in, he is not at liberty to partake of that food that he meets with elsewhere, but is forced to eat grass, and to famish his body with hunger till he perish”).

57. William D. Morrison and Janet I. Low, “Banishment,” in *Encyclopaedia of Religion and Ethics*, ed. James Hastings, John A. Selbie, and Louis H. Gray (New York: Charles Scribner’s Sons, 1981), 2:346.

live. This temporary banishment was later termed *niddui*, meaning the “punishment of an offender by his isolation from, and his being held in enforced contempt by, the community at large.”<sup>58</sup> Other forms of social and religious banishment (resembling ostracism and excommunication) appear to have first developed at the time of Ezra in the fourth century BC to meet the needs of Israel at that time, when they lived in a heterogeneous world and needed to reestablish and maintain their religious identity in a pluralistic society.

It is unclear from Alma 30:56 whether Korihor began begging in Zarahemla and then, seeing no success there, went among the Zoramites or whether he started to beg outside the land of Zarahemla. But whether by physical deportation or social anathematization, the effect was the same: Korihor was banned from the community, a commensurate punishment for one who had effectively rejected the community by reviling so openly against the integrity of its leaders and values.

#### **Proclamation of Sentence and Warning to Others**

The result of Korihor’s trial “was immediately published throughout all the land; yea, the proclamation was sent forth by the chief judge to all the people in the land, declaring unto those who had believed in the words of Korihor that they must speedily repent, lest the same judgments would come unto them” (Alma 30:57). This action by the chief judge completed the process outlined in Deuteronomy 19:16–21 regarding the case of a false witness or false accuser: “And those which remain shall hear, and fear, and shall henceforth commit no more any such evil among you.” This provision was the basis of the rabbinic rule requiring that the outcome of notorious cases, such as Korihor’s, be publicly heralded.<sup>59</sup> By publicly announcing the verdict in such a case, the local officials fulfilled their obligation, imposed explicitly in the historical record of the law reform of Jehoshaphat, to “warn [the people] that they trespass not against the Lord” (2 Chronicles 19:10).

In addition to issuing a general warning to the people against committing the same sins that Korihor had committed, the chief judge may have been making his people aware that Korihor had been stigmatized. Just as one of the main purposes of punishment in biblical times was to “put the evil away from among you” (Deuteronomy 19:19), so likewise in later Jewish law in Europe “the proclamation [of a *herem*] contained

58. Cohn, “Herem,” 540.

59. TB *Sanhedrin* 6:2, 43a.

a public warning not to associate with the anathematized and concluded with a plea for the welfare of the congregation of the faithful.”<sup>60</sup>

### **Korihor’s Rejection among the Zoramites**

Korihor’s outcast status forced him to go to another land where the anathema would have no force, and Antionum was apparently the only place open to him. Korihor had been expelled from Jereshon, Gideon, and Zarahemla; the followers of Nehor had been ejected from the land of Nephthi (Alma 24:28; 25:8); and the city of Ammonihah had been destroyed. The Zoramites who inhabited Antionum, on the other hand, “had separated themselves from the Nephthites” (30:59) and would not have considered themselves bound by any proclamation from the Nephthite chief judge. Korihor also might have hoped for a sympathetic reception in Antionum, since the Zoramites also denied Christ and rejected the law of Moses (31:16). Nevertheless, Korihor’s antiestablishment political views undoubtedly would have been unwelcome among the leaders of the truly oppressive oligarchy in Antionum, who burdened the poor mercilessly and notoriously. Accordingly, “as he went forth amongst [the Zoramites], behold, he was run upon and trodden down, even until he was dead” (30:59).

Korihor’s death may have been accidental. Mishaps were often viewed anciently as a manifestation of God’s judgment.<sup>61</sup> However, God’s justice, it would seem, had been fully satisfied by the silencing of Korihor. There was also probably no legal basis for a judge to require Korihor’s death at that time. Therefore, it seems more likely that Korihor’s death was extralegally caused by the Zoramites. As the text says, he was “run upon . . . until he was dead” (Alma 30:59). Elsewhere, when the Book of Mormon text uses passive verbs to say that Korihor was “carried out” or “bound,” it is obvious that human agents were actively involved. If Korihor’s death was deliberately caused, then one may assume that the people of Antionum intentionally rejected Korihor, either (1) because he was a political agitator, (2) because he was a Nephthite, or (3) because he had been cursed by a god and was therefore a pariah, or one marked with evil spirits. When trampling or treading is mentioned in the Old Testament, it usually has to do with trampling an evil or wicked person (2 Kings 7:17; 9:33; Job 40:12;

60. Cohn, “Herem,” 544.

61. For example, Abimelech was mortally wounded when a woman threw a piece of millstone and it broke his skull, and “thus God rendered the wickedness of Abimelech” (Judges 9:53, 56). In later times, “people were warned that premature death (at the age of 50), or death without leaving issues, were signs of the divine *karet*, . . . and that every undetected murderer would meet with ‘accidental’ death at the hands of God.” See Haim H. Cohn, “Divine Punishment,” in Elon, *Principles of Jewish Law*, 524.

Isaiah 14:19; 28:3, 18; 63:3–6; Malachi 4:3), lending credence to the likelihood that Korihor's death was more than merely accidental and was based on a concern or fear about receiving into the city someone who had been cursed by God.

### **Legal Outcomes**

Two powerful precedents were set by the trial of Korihor. First, this proceeding established that some forms of speech were still punishable under the law of Mosiah. Korihor had lied, falsely accused the leaders of Zarahemla, reviled against the priests and teachers, and blasphemed against God, and for his words he was divinely smitten (revealing God's will regarding such cases) and then cast out by the people.

Second, it became the law that any person who persisted in believing in the words of Korihor was equally subject to such punishments: the proclamation of the chief judge made it clear that any of Korihor's followers who would not change their minds would be subject to both of "the same judgments" (Alma 30:57), namely, divine punishment and human banishment. In effect, no longer could anyone honestly claim to believe the words or ideologies of Korihor, and therefore those who persisted in promulgating such beliefs could be punished as liars under the law (1:17). This is a significant exception to the law of Mosiah that protected people from being punished for their beliefs (1:17; 30:7, 11). Indeed, the rule in Korihor's case was apparently observed in Nephite law from that time forward, for his case is the last time that such sophism or doctrinal errors surface in Nephite history as far as the Book of Mormon indicates. The record itself concludes with the strong assertion that this case "put an end" not only to Korihor himself but also "to the iniquity after the manner of Korihor" (30:58).

This case also reinforced several long-standing principles of righteous judgment among the Nephites. The wisdom and patience of Alma and the Nephite judges yielded good results, promoting the cause of human and divine justice, protecting the well-being of the community, dutifully warning possible transgressors, and allowing persistent offenders ample opportunities to change.

