LAWSUITS IN PAUL'S THEOLOGICAL ETHICS: A HISTORICAL AND LITERARY INTERPRETATION OF 1 CORINTHIANS 6:1-11

by

JUNGHWAN OH

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Supervisor: Prof. Jeremy Punt

Faculty of Theology

Department of Old and New Testament

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Declaration

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ABSTRACT

As human society develops, people often face unpleasant affairs in their daily lives. However, when they do not solve matters, they might resort to solving such matters through lawsuits. In the same way, serious problems sometimes appear in the church, so that Christians are forced to rely upon lawsuits. Different opinions can be suggested regarding going to the court to solve problems in Christian communities. Many people use 1 Corinthians 6:1-11 to support that Christians should not have lawsuits against fellow Christians. The question this dissertation investigates is, did Paul really say that Christians should not have lawsuits and should not go to the secular court?

In the first century C.E. a situation occurred in the Corinthian community where believers tried to solve trivial matters among themselves in a secular court, rather than within the community (1 Corinthians 6:1-11). In chapter 2, a general understanding of litigation in the first century C.E. is treated in different categories, focusing on the first century Roman society. This chapter sketches the Roman legal context for understanding civil lawsuits that happened in the Corinthian community. Chapter 3 concentrates on the interpretation of 1 Corinthians 6:1-11 as the text in focus in this study, in the light of its historical context. In particular, this chapter investigates various factors pertaining to the nature of lawsuits in Corinth with regard to the historical context. In chapter 4, 1 Corinthians 6:1-11 is examined in a literary analysis and subjected to an exegetical study. These literary devices allow for in depth investigation of the text, and structural and hermeneutical findings regarding Paul's argument is presented. In chapter 5 the lawsuit is investigated in the light of two theological aspects, namely eschatology and ethics. Paul uses these two important notions to instruct the Corinthian believers regarding their new identity as God's people and suggest the significant principle how to live as Jesus followers in their lives.

In sum, according to 1 Corinthians 6:1-11, Paul argues that lawsuits are not appropriate in the community of the faithful because it is harmful to the unity and the purity of the community. However, Paul's concern is not for the lawsuits as such, but for how believers should behave and live ethically as Jesus followers before God. Believers as God's people have to reveal the

love of God through their behaviour and in their daily lives.

OPSOMMING

In gemeenskappe, word mense soms gekonfronteer met onaangename ervarings in interaksie met andere in hulle daaglikse lewens. Wanneer hulle sulke sake nie self kan bylê nie, mag hulle besluit om hulle tot geregshowe te wend vir 'n oplossing. Op soortgelyke wyse ontstaan daar soms ernstige probleme in die kerk, wat Christene noop om hulle te wend tot onderlinge hofsake. Verskillende opinies word aangevoer oor die toepaslikheid van hofsake onder Christene. In werklikheid vind vele mense in 1 Korintiërs 6:1-11 ondersteuning vir die siening dat Christene nie hofsake behoort te hê teen mede-Christene nie. Hierdie proefskrif loods ‘n ondersoek na die aard en omvang van Paulus se opdrag tov hofsake tussen gelowiges in 1 Korintiërs 6:1-11.

Tydens die eerste eeu A.J. het 'n situasie in die Korintiese gemeenskap ontstaan, waar gelowiges 'n nietige saak wat onder hulle opgeduik het, probeer oplos het deur hulle tot 'n sekulêre hof te wend, eerder as om dit binne hulle eie gemeenskap op te los (1 Korintiërs 6:1-11). Om Paulus se denke oor hofsake te begryp, word verskeie aspekte rondom hofsake vervolgens ondersoek. In hoofstuk 2 word 'n breë uiteensetting gegee van litigasie in die eerste eeu A.J., in verskillende kategorieë, met die fokus op die eerste-eeuse Romeinse samelewing. Hierdie hoofstuk bespreek die breër Romeinse Regskonteks waarbinne hofsake in die Korintiese gemeenskap verstaan kan word. Hoofstuk 3 konsentreer op die interpretasie van 1 Korintiërs 6:1-11 as die hoofteks in die lig van die historiese konteks en met besondere fokus op regsgedinge. In hoofstuk 4 word 'n literêre analise en eksegetiese studie van 1 Korintiërs 6:1-11 gedoen, met klem op die strukturele aspekte en hermeneutiese belang van die perikoop. In hoofstuk 5 word die hofsake ondersoek teen die agtergrond van twee teologiese aspekte, naamlik eskatologie en etiek, en binne 'n breër perspektief word besin oor hoe Christene, as navolgers van Jesus, behoort op te tree in die huidige tydsgewrig.

Paulus se perspektief op regsgedinge in 1 Korintiërs 6:1-11 beklemtoon Paulus se bekommernis oor die eenheid en die suiwerheid van die gemeenskap. Dit blyk dat Paulus se besorgdheid nie soseer oor die regsgedinge self is nie, maar oor hoe gelowiges eties moet optree en leef soos Jesus se volgelinge. Gelowiges as God se mense moet die liefde van God

openbaar deur hulle gedrag en in hulle daaglikse lewens.

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ABBREVIATIONS

Bible and Versions and others

Am	Amos
AJ	Algemene Jaartelling
ASV	American Standard Version
Col	Colossians
1 Cor	1 Corinthians
2 Cor	2 Corinthians
Dan	Daniel
1 En	1 Enoch
Eph	Ephesians
ESV	English Standard Version
Ex	Exodus
Gal	Galatians
Jub	Jubilees
KJV	King James Version
Lev	Leviticus
Lk	Luke
Mk	Mark
Mt	Matthew
NAB	The New American Bible
NASB	New America Standard Version
Nestle-Aland^{27}	*Novum Testamentum Graece*, 1993. ed. by B. Aland, K. Aland, J Karavidopoulos, C. M. Martini, and B. M. Metzer. 27th edition. Stuttgart: deutsche Bibelgesellschaft.
NET	New English Translation
NIB	New International Version (UK)
NIV	New International Version (US)

NJB	The New Jerusalem Bible
NKJV	New King James Version
NLT	New Living Translation
NRSV	New Revised Standard Version
Num	Numbers
OT	Old Testament
1 Pet	1 Peter
Phil	Philippians
Phlm	Philemon
1QpHab	*Pesher on Habakkuk* from Qumran Cave 1
REB	The Revised English Bible
Rev	Revelation
Rom	Romans
RSV	Revised Standard Version
s.v.	Sub verbo (under the word)
1 Thess	1 Thessalonians
1 Tim	1 Timothy
2 Tim	2 Timothy
Wis	Wisdom of Solomon
Zeph	Zephaniah

Journals and Dictionaries

AGJU	*Arbeiten zur Geschichte des antiken Judentums und des Urchristentums*
ATR	*Anglican Theological Review*
ABD	*Anchor Bible Dictionary*
BDAG	Bauer, W. [1957] 2000. *A Greek-English lexicon of the New testament and other early Christian literature*, rev. by F. W. Danker, W. F. Arndt, and F. W. Gingrich. 3rd edition. Chicago: University of Chicago

	Press.
BDF	Blass, F, Debrunner, A. and Funk, R. W. 1961. *A Greek Grammar of the New Testament and Other Early Christian Literature*. Chicago.
BSac	*Bibliotheca Sacra*
BTB	*Biblical Theology Bulletin*
CQ	*Classical Quarterly*
JBL	*Journal of Biblical Literature*
JTSA	*Journal of Theology for South Africa*
NovT	*Novum Testamentum*
NTS	*New Testament Studies*
TB	*Tyndale Bulletin*
THB	*Tyndale House Bulletin*
TR	*Theological Review*
USQR	*Union Seminary Quarterly Review*
VC	*Vigiliae Christianae*
ZNW	*Zeitschrift für die Neutestamentliche Wissenschaft und die Kunde der älteren Kirche*

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CHAPTER 1
INTRODUCTION

1.1 Problem Statement

As human society develops, people frequently face affairs in their daily lives that are unpleasant. They might resort to solving such matters through a lawsuit, with the aim of triumphing over the opponent. In other words, the lawsuit is used primarily to advance one's own interests. However, disputes occur in the church as well as in society, and Christians sometimes go to court to resolve the disputes. A debate arises: One might say that Christians can go to the court; or that they should refrain from doing so to settle their problems. Sometimes serious problems appear in the church,[1] but again, two different opinions can be suggested regarding going to the court to solve the problems. The one position supports that Christians can go to the court; alternatively perhaps Christians should resolve the problem without going to the court, the latter option being based on 1 Corinthians 6:1-11. In practice, many people use this passage to support that Christians should not have lawsuits against fellow Christians.

However, the Corinthians text must obviously be reconsidered when deliberating on the best

[1] Christians might litigate against each other for financial reasons or violence, bringing their problems to be settled in a secular court even though the case arose between them within the church. For example, in South Korea it might happen that a pastor embezzles money from a church, and is sued by the church or church members. Recently the problem actually occurred several times in Korean churches. Two practical examples illustrate the situation (with the real names withheld in the interests of privacy). The first case was about violence between Christians, in a large church called 'A' church, well known among Christians as well as non-Christians and numbering among its members various politicians, the rich, the plutocracy and intellectuals. However two groups exist in the church, of which only one group supports the senior pastor. One day, an elder who supports the senior pastor met a deacon who belongs to the other group to discuss some problems occurring in the church. During the conversation, the elder became violent towards the deacon because the deacon did not support the senior pastor. As a result the deacon sued the elder, and the case was brought before a secular court. The second is the case of embezzlement by a senior pastor of 'B' church, who had used collection money for his own interests. This case was made known to people and churches by an elder of that church, and the senior pastor was sued for embezzlement in a case also brought before a secular court. These two examples present two cases in point: one is that litigation has been conducted in secular courts, not in the churches. The other one is that such a course of action leads to a split between Christians in a church, and in the process the churches lost the role of being the light and salt of the world.

line of action, and Paul seems to insist that Christians should not litigate against each other. If not, what is Paul then trying to say to the Corinthian believers?

A situation occurred in the Corinthian community in the first century C.E. where believers tried to solve the problems between themselves in a secular court, rather than within the community.[2] Winter (1991:561) suggests that the litigation in 1 Corinthians 6:2 might have concerned civil, rather than criminal law. In this case, what solution did Paul present to the Corinthians for resolving such conflicts? Establishing Paul's perspective in this situation will be the main issue of this dissertation. Through observing the matter of lawsuits among the Corinthian believers in the first century C.E., Paul's theological (eschatological) ethics are presented to the Corinthian community regarding how followers of Jesus should live and behave before God.

Secondly, it could be said that Paul's emphasis on Christian ethics is a focal point in 1 Corinthians 5 and 6, which various scholars understand as a unit with a similar context.[3] The first section of 1 Corinthians 6 (vv. 1-11) deals with the matter of lawsuits between believers, specifically, the issue of litigation among believers who bring their problems to be worked out in a secular court. Examination of the literary structure reveals that 1 Corinthians 6:1-11 is placed between 1 Corinthians 5 and 1 Corinthians 6:12-20, while the whole of 1 Corinthians 5 and the second part of 1 Corinthians 6 (verses 12-20) refer specifically to (sexual) immorality. It seems that 1 Corinthians 6:1-11 interrupts the coherence of the context by referring to immorality. What then is Paul trying to convey to the Corinthians in 1 Corinthians 6:1-11? Why does Paul mention litigation after his mention of immorality? Some scholars insist that the two themes, namely litigation and immorality in chapters 5 and 6 of 1 Corinthians, are connected closely in the structure and the stream of the substance,[4] thus indicating a feature of ethical concern of Christians. Such structural features mean that we

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[2] 1 Corinthians 6:1-11 suggests an event in which two believers try to resolve a problem in a secular court.

[3] These scholars are: Evans (1930), Orr and Walther (1976), Talbert (1987), Kistemaker (1993), and Thiselton (2006), etc. However, this does not imply that they all suggest the same structure in chapters 5 & 6.

[4] For instance, Talbert (1987:12) believes that 1 Corinthians 6:1-11 is related to 1 Corinthians 6:12-20 in ABA' pattern. In addition, Thiselton (2006) treats 1 Corinthians 5 & 6 as the same theme, namely "moral issues that require clear-cut challenge and change". Orr and Walther (1976) also accept 1 Corinthians 5 & 6 as the same theme: "scandals reported in the church."

need further investigation of the structural positioning between the matter of lawsuits and that of immorality (ethics) in chapters 5 and 6 to fathom Paul's instruction to the Corinthians as regards ethics.

Lastly, the issue of the lawsuit should be understood in the light of Paul's eschatological ethics. People generally focus more on the legal action itself than on understanding the event in a broad aspect and in the appropriate socio-cultural context, thereby missing the text's specific purpose, which becomes available when placed against his general argument.

In short, some basic problems are: firstly, how we can understand the matter of lawsuits in Christian communities, especially Paul's community in first century C.E.; and secondly, how we can connect the themes of lawsuits and immorality structurally, and relate these to Paul's ethics; lastly, how we can understand the topic of the lawsuit in Paul's eschatological ethics.

1.2 Aim of the Research Project

Firstly, the main purpose is to understand the scope and nature of lawsuits among believers as presented in 1 Corinthians 6:1-11 by taking cognizance of Paul's theological perspective, since a lawsuit assumes different aspects, whether viewed in a socio-cultural or a theological context. However, given these different backgrounds, viz. a socio-cultural or a theological context, the research aims to examine how Paul understands litigation between believers, and what he instructs to facilitate resolving legal cases in the community of believers. This would allow a more comprehensive grasp of Paul's theological thinking on the matter of how legal issues between believers ought to have been addressed, and an ethical life generally, from these two chapters.

A secondary purpose is to explain the function of 1 Corinthians 6:1-11 in the context of 1 Corinthians 5 and 6. The section on lawsuits is placed structurally in the middle of chapters 5 and 6 which appear to relate to the section on immorality thematically in terms of ethics. A further purpose therefore of this dissertation is to investigate possible thematic links between the texts, over against some apparent inconsistencies, and to discover possible aims with this

structural arrangement of 1 Corinthians 6:1-11 amidst chapters 5 and 6.

Lastly, and more practically, understanding Paul's intention in these chapters will engender proposals regarding how this interpretation can be applied to our current context. As presented as part of the motivation for the project, it is observed that many similar cases occur in the present time. Christians still try to solve their inter-relationship problems in secular courts, thereby diminishing the distinction between Christian and non-Christian. Does 1 Corinthians 6:1-11 provide helpful ideas to contemporary Christians, who want to follow God's word, with direction in their lives, and to live in a way that will mark their lives as Christian? This dissertation will suggest possible appropriations based on Paul's theological interpretation of the text in our own day.

1.3 Hypothesis

The hypothesis consists of three related parts, and which follows the aim explained above.

Firstly, the original readers of this letter (1 Corinthians) were believers in Christ, as Paul wrote specifically to the Corinthian community, to implore them to behave suitably as believers in situations of litigation.[5] Since the letter is not addressed to unbelievers (1 Corinthians 5:10-11), Paul's conviction appears to be that believers should resolve their problems within the incipient Christian community.[6] In this particular instance, the lawsuits referred to in the text concerns civil litigation:[7] Winter (1991:561) asserts that the Greek term κριτήριον ἐλάχιστον in 1 Corinthians 6:2 relates to the actions initiated by "a Christian

[5] Shillington (1986:47) also believes that Paul is addressing the particular matter of a believer bringing a lawsuit against another believer before a non-Christian judge.

[6] 1 Corinthians 6:5-6 would imply that Paul intends to convey to the Corinthians when they have something to work out between themselves in a legal situation is: "Can it be that there is no man among you wise enough to decide between members of the brotherhood, but brother goes to law against brother, and that before unbelievers?" (1 Corinthians 6:5-6, RSV). In this dissertation, terms such as "believers," "the faithful" and "Jesus followers," will be preferred to designate "Christians" in order to avoid possible anachronistic tendencies with regard to Paul's time.

[7] Clarke (1993:60) asserts that the civil litigation in 1 Corinthians 6 provides the correct background to Paul's discussion.

against his fellow believer as coming within the scope of civil and not criminal law."[8] However, the exact nature of the cases is impossible to discern (Horrell 1996:110) because ἐλάχιστος in 1 Corinthians 6 could be understood in many ways. In this regard, Louw and Nida (1988) suggest three possible interpretations, viz. 'the least importance,' 'a small size,' 'the lowest status.'[9] In addition, the term ἐλάχιστος has been described as signifying 'trivial cases' (Bruce 1971:60), 'petty lawsuits' (Conzelmann 1975:105), and 'a small-claims case' (Thiselton 2006:89). Richardson (1983:39) suggests that 1 Corinthians 6:1-8 refers to sexual offences; Fee (1987:241) asserts that the text is dealing with some kind of property or business problems, and Fuller (1986:99) suggests that the term ἐλάχιστος indicates cases involving money matters such as uncollected debts, rather than cases of sexual transgression.

Whatever the exact nature of the case, Paul's concern was not the detail of the cases but with the resolution of the problem between believers. In this sense, Paul did not want believers to bring their (trivial?) problems to a secular court, but insists that the Corinthian believers have to resolve their disputes internally within the developing Christian community (Clarke 1993:69).[10]

Secondly, the text of 1 Corinthians 6:1-11 is connected structurally and contextually with the previous chapter as well as the remainder of chapter 6. This suggests that a function of 1 Corinthians 6:1-11 is more to connect 1 Corinthians 5 and 1 Corinthians 6:12-20, than to separate them – a deduction supported by Shillington (1986:44) who finds the language and idea of all parts of chapters 5 and 6 consistent. For example, forms of speech, the tone, and theme of judgment remain constant in chapters 5 and 6. Richardson (1983:44) insists that the fundamental argument of chapters 5 and 6 is sexual, and people who handle sexual challenges correctly will receive the kingdom of God. In a structural sense, Talbert (1987:12)

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[8] In addition, Winter (1991:561) also enumerates civil actions as "legal possession, breach of contract, damages, fraud and injury." Shillington (1986:47) suggests sexual deprivation or money problems as examples of trivial cases mentioned in 1 Corinthians 6:2.

[9] According to *BDAG*, the Greek term ἐλάχιστος is used to express 'being considered of very little importance, insignificant, trivial' in 1 Corinthians 6:2.

[10] Clarke (1993:70) suggests that "Paul deems that even the 'despised' members of the church are qualified to handle such matters."

understands the structure of 1 Corinthians 5 and 6 as ABA',[11] and Orr and Walther (1976:184) treat 1 Corinthians 5 and 6 as a sequence of ideas amounting to "scandals reported in the community." Thiselton (2006:81) also understands chapters 5 and 6 as "moral issues that require clear-cut challenge and change."[12] Therefore, one can argue that 1 Corinthians 6:1-11 plays the role of a bridge that connects chapter 5 with the rest of chapter 6, resulting in a unique structure to reveal Paul's purpose with these texts.

Lastly, 1 Corinthians 5 and 6 could also present Paul's (eschatological) ethical opinion regarding the Corinthian believers, living as the children of God in God's household, and behaving as early Jesus followers. According to Thiselton (2006:94), Paul uses 'the body image' to emphasise that the Christian lifestyle is more than a private inner state but spans God's created order. Shillington (1986:42) comments that the kingdom of God represents an eschatological designation of behaviour in relationship with God and other people. Children of Christ should live according to the will of God. For Shillington (1986:46) the basic problem in Corinth was the severance of eschatological thinking from their ethical thinking and life. The Jesus followers' community is led by the Holy Spirit; Jesus followers have to live befittingly as children of God. Paul appears to indicate in 1 Corinthians 6 that lawsuits among believers also fit into this ethical framework.

In short, the hypothesis of this dissertation is that the issue of lawsuits between believers is of prominent concern to the Christian ethical framework in Paul's theological thinking. Therefore, in terms of ethics, the lawsuit section in 1 Corinthians 6:1-11 bears connection to the immorality theme in 1 Corinthians 5 & 6.

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[11] Soulen and Soulen (2001:32) call this structure 'chiasm,' or 'inverted parallelism.' They explain a chiastic structure as "A Latinised word based on the Greek letter χ (*Chi*) to symbolize the inverted sequence or crossover of parallel words or ideas in a bicolon (distich), sentence, or larger literary unit." Also they present Mark 2:27 as an example: The Sabbath [a] was made for man [b], and not man [b'] for the Sabbath [a'],"taking the simple form: a b b' a.

[12] In addition, Collins (1999:30) treats chapters 5, 6 and 7 as constituting a coherent theme; and specifically demonstrating the rhetorical presentation.

1.4 Methodology

The two basic methodologies which will be used in this dissertation are a historical investigation used reciprocally with a literary and an exegetical analysis of the text of 1 Corinthians 6:1-11.

Firstly, a historical investigation will be applied in chapter 2 and chapter 3 of the dissertation, to grasp the Roman legal system of the first century C.E. Chapter 2 will be investigated for historical and social insight into how legal litigation was understood and practised in the first century Greco-Roman society. According to Winter (1991:561-566), in the first century lawsuits were conducted generally between social equals or by a plaintiff of superior social power and status, while in civil litigation the jury could sometimes be bribed (Winter 1991:561).

Although the Jewish tradition allowed marriage with a stepmother, the Greco-Roman law forbade marriage between stepparents and stepchildren (Orr and Walther 1976:187). Paul agrees with the Roman tradition, to the extent of suggesting that those who enter such relationships are considered wicked persons and should be expelled from the community (1 Cor. 5:1, 13). Nevertheless, incipient Christian communities observed a different ethos for themselves than the prevailing norms in the Roman Empire society: Jesus followers' community members had to behave with love, forgiveness, and patience, according to God's word, with their distinctive feature being unity in Christ rather than division. In this sense, Paul instructed the Corinthian believers to resolve issues between them in the community of the faithful rather than in civil courts of law. Such practices may not be mirrored altogether in prevailing Jewish traditions or the first-century Roman society. Therefore the investigation of the social context cannot be ignored when trying to understand Paul, because he was exposed to the social environment of those days – by implication, Paul was influenced by Jewish tradition, and he also lived in the first century Roman social context. Thus, various factors regarding lawsuits, such as their original meaning, and specific examples of the practice need to be investigated from the perspective of the first century social context. Subsequently an investigation of the community Paul addressed in Corinth will be attempted, in order to

explore how Paul could have understood and applied ethical issues and values to formulate his theology, as far as can be detected in his 1 Corinthians letter.

Secondly, in chapter 4, a literary and an exegetical analysis will be used to ascertain the meaning of the text, as a tool towards understanding the probable purpose of the Corinthians letter. The whole structural analysis of chapters 5 and 6 of 1 Corinthians, the relationship regarding the context between each chapter, and the interconnection of themes such as immorality and litigation in 1 Corinthians 5 and 6 will be probed by means of literary analysis, with the goal of understanding the theological perspective and ethical framework embedded in the text. As mentioned in a previous section, many scholars assert that 1 Corinthians 5 and 6 are intimately connected to the subject of ethics, thus there is also a need to explore how general social factors such as litigation or immorality may still be relevant to the Christian life today. Even though Paul was well versed in the social matters of the time, Paul expressed a different understanding or way to deal with such social matters within the incipient Christian community, to encourage Christians to live according to God's word. In short a study of the structure of the text, the meaning of terms, and the relationship between chapter 5 and chapter 6 of 1 Corinthians will be attempted towards understanding Paul's theological interpretation of the themes of Christian ethics.

1.5 Delimitation

Various methodologies can be utilized in the interpretation of the 1 Corinthians text; however, it is impossible to study all possible methodologies and their unique contributions in this project. In order to understand the theme of lawsuit and Paul's intention, and what Paul is trying to convey to the original readers in 1 Corinthians 6:1-11, we will focus on the historical background of the first century C.E., and apply an exegetical analysis to understand Paul's intention and to grasp his underlying theological reasoning.

Given the scope of work involved, this project admits to certain limitations, as follows:

Firstly, the primary premise is that Paul is the author, and the Corinthian believers were the

primary recipients. By accepting the authorship as a given, this dissertation will focus on one main subject, viz., a lawsuit in the context of the full scope of chapter 6. In other words this theme will be interpreted and understood in the context of the whole letter to Corinth, but the exegetical focus will be limited to 1 Corinthians 6:1-11.

Secondly, the focal text of the dissertation will be 1 Corinthians 6:1-11, studied to try and understand the gist and purpose of Paul's communication to the Corinthians regarding lawsuits. However chapters 5 & 6 of 1 Corinthians will also receive attention in order to understand the specific ethical frameworks at work, seeing that the principal themes in 1 Corinthians 5 and 6 are lawsuits and (sexual) immorality. These two chapters and their structure in particular will be studied conjunctly in order to understand the connection (if any) between lawsuits and immorality in terms of Christian ethics based on understanding Paul's theological (eschatological) and ethical perspectives. Still, the exegetical study will be limited to 1 Corinthians 6:1-11. Our chief concern is to understand what Paul is teaching the Corinthians and how the text of 1 Corinthians 6:1-11 conveys its message. Thus, grasping the arrangement and structure of the texts, and the meaning of terms used in the texts will be important tools to reveal Paul's instruction to the Corinthian believers. Therefore exegetical work beyond this ambit will not be undertaken, even though various other texts will be referred to in the dissertation.

Thirdly, the historical background will focus on the first century C.E. in which Paul and his community were based. In line with the main concern of the dissertation the focus here will be on the phenomenon of lawsuits in the social world in which the Corinthian community existed.

Fourthly, an interpretation of the texts will focus on what Paul conceivably was trying to communicate to the Corinthians, as believers. From an understanding of the historical background of the lawsuit in the first century C.E., our primary purpose is to understand the first epistle to the Corinthians in terms of Paul's theological perspective rather than merely a restricted historical interpretation.

Lastly, this dissertation will not provide specific solutions to current problems in Korean churches even though some examples of Korean churches are introduced in footnote 1 in this chapter. However, the very existence of Korean churches today recalls what a true Christian life should be in churches and in the world. Through studying Paul's letter to the Corinthians we could find the true image of Christians, and also uncover an applicable model to Christian communities in the present-day. Academically the coherent development of an appropriate ethical framework can be suggested from the perspective of 1 Corinthians 6.

Our concentrations on the text are affected by these delimitations, in our attempt to achieve an adequate understanding of Paul's words in 1 Corinthians 6.

1.6 Possible Value of the Research

The possible value of this dissertation lies at three possible levels. Firstly, the examination of various perspectives on lawsuits and immorality of the first century historical and social background could offer a proper historical perspective on lawsuits of different categories, and through the synthetic understanding of lawsuits we could at least partially retrieve the point of the communication to the community at Corinth in 1 Corinthians 5 and 6.

Secondly, the interrelation of the contents of chapters 5 and 6 at contextual and structural levels may cast both chapters in a new light. The theme of lawsuits which is put at the first section of 1 Corinthians 6 seems misplaced in chapters 5 and 6 where most of the contents concern the theme of Christian ethics, especially sexual problems like incest and fornication. However, ultimately in 1 Corinthians 5 and 6 the thematic connection resides in the Christian's identity as a child of God.

Lastly, insight into possible, appropriate correlations between the "then" of the first century developing Christian community in Corinth and the "now" of the present-day churches should offer more substantial value of the research. Even though the studies of 1 Corinthians 5 and 6 may not provide a solution to specific problems of modern churches, this study may suggest appropriate, ethical starting points for connection between biblical texts and

contemporary communities, particular where relationships between Christians falter. Above all, this study will emphasise Christians' identity as children of God. Obviously Paul insisted that the way of Christians has to be different to that of non-Christians; in addition, God has to be pleased by Christians practising God's love. Paul's theological approach to the matter of lawsuits may provide useful parameters for present-day churches engaged in litigation yet keen to retain their identity as temple of the Holy Spirit.

CHAPTER 2
ROMAN LAW IN THE FIRST CENTURY C.E.

2.1 General Background[13]

By ca. 100 to ca. 30 B.C. the late republican system of Rome had broken down and there was the need for a strong monarchical power to maintain peace and order within the state. The solution was a unique compromise: outwardly it restored the Republic, but in fact it created a new monarchical power which penetrated all departments of government (Spiller 1986:12).[14] Under this regime, Rome endured from about the third century B.C.E. as a great political and economic power, especially in the centre-stream of the Hellenistic world (Kunkel 1973:75).

While it is not denied that the Roman Empire incorporated various peoples and communities, including the Jewish people and the initial small groups of Jesus followers, the Empire formed the canvas on which the New Testament portrait is painted. The Roman Empire reached its maximum size geographically speaking during the Principate (Tellegen-Couperus 1993:66).[15] Thus Kunkel (1973:35) suggests that the Empire and the earth were regarded as equivalent from the end of the Republic onwards. According to Borkowski and Du Plessis (2005:15), Rome also reached the climax of her power and prestige during this period. Thus the period can be described as the golden age of Rome's history (Borkowski and Du Plessis 2005:16). The Principate made possible the peaceful development of the Roman Empire for more than two hundred years (Spiller 1986:11).[16]

From 27 B.C.E. the word 'Empire' has a constitutional meaning, referring to the form of

[13] According to several scholars, the Roman Empire of the first century C.E. belongs to the Principate in Roman history (Tellegen-Couperus (1993); Mousourakis (2003); Borkowski and Du Plessis (2005). In addition, Spiller (1986) named this period as a classical period.

[14] The compromise was reflected in the term given to describe the new constitution: the Principate, by virtue of the emperor's title as *princeps senatus* (Spiller 1986:12).

[15] According to Tellegen-Couperus 1993:66), the Roman Empire included not only the area around the Mediterranean but also large parts of central and Western Europe.

[16] The Principate became an important part of the constitution and the primary feature of the whole political system during the first century C.E. (Kunkel 1973:51).

government that evolved in Rome during Octavian's reign and thereafter (Borkowski and Du Plessis 2005:13). According to Spiller (1986:11), the constitution preserved republican institutions but in it reality also created a new monarchical power and a new dispensation for the provinces.

And there was another characteristic of this period: in the first century C.E. the state of Rome was controlled by one man, the emperor, not by elected representatives (Borkowski and Du Plessis 2005:13).[17] Thus the real power was in the hands of the emperor (Tellegen-Couperus 1993:73).

In general, there were three social classes in this period, namely an upper class, a middle class and the lower class. The senatorial aristocracy and the *equites* normally formed an upper class;[18] the middle class consisted of the urban aristocracy from outside of Rome;[19] the lower class was formed by the rest of the population (Tellegen-Couperus 1993:68). In addition, slaves constituted the lowest class of all in the population (Salmon 1957:70).[20]

The right of Roman citizenship was granted gradually to people in the provinces as well as in Italy (Tellegen-Couperus 1993:67).[21] In fact, numerous individuals and also whole communities were granted Roman citizenship during this period (Spiller 1986:11).

The role of armies was emphasized in the first century C.E. Armies could make, or could unmake emperors (Borkowski and Du Plessis 2005:15). According to Tellegen-Couperus (1993:81), the army might have been quite small but its presence was significant in the Roman Empire. Thus, as Anderson (1987:90) states, the position of emperors and the security

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[17] Borkowski and Du Plessis (2005:13) call this state "an autocratic state."

[18] According to Tellegen-Couperus (1993:68), during the Empire the *equites* played a main role in the imperial administrative organisation, and they also could hold the highest positions in the army or in the administration.

[19] The governors of the towns in the Roman Empire were formed by persons who belonged to a middle class in Roman society (Tellegen-Couperus 1993:69).

[20] Legally they could not have personal rights. Thus they were regarded as things and belonged to their masters (Salmon 1957:70). However, the manumission of slaves was common at Rome, whereby they could receive Roman citizenship (Lintott 2010:92).

[21] At a result, the differences between Italy and the provinces gradually disappeared (Tellegen-Couperus 1993:67).

of the Empire were made sustainable through a military presence.

In particular, the period of the Principate is marked by the progressive Romanisation of the provinces (Mousourakis 2003:262). This means that the inhabitants of the Empire were tutored in Roman ways and generally adapted to Roman culture and adopted Roman clothing (Borkowski and Du Plessis 2005:16).[22] Thus, through progressive Romanisation the differences between Rome and her provinces were gradually minimised. For example, the Roman army began to be dominated by recruits from the provinces, and the governing class of Rome also ceased to be exclusively 'Roman' (Borkowski and Du Plessis 2005:16).[23] In the end, the social, cultural and economic basis of the Roman Empire spread throughout the provinces of the Empire (Spiller 1986:11).

In the early years of the Principate the number of Roman provinces was increased, partly by the introduction of a new system of territorial separation and by the further expansion of Roman territory following the conquest of new lands (Mousourakis 2003:258). As a result, by the second century, the provincials shared in all the privileges of Rome (Spiller 1986:11).

In the provinces, the internal administration was usually in the hands of its governor who attended to problem-cases and heard appeals against judicial decisions of the local magistrates (Mousourakis 2003:261). In particular, in criminal cases he had the authority to impose any type of punishment he saw fit, including the death penalty (*ius gladii*) (Mousourakis 2003:261).[24]

In the capital city of every province, assemblies (*concilia*) took place once a year, and were composed of representatives of the various communities in that province (Mousourakis 2003:261). The original purpose of these gatherings was to carry out certain religious ceremonies associated with the cult of the emperor (Mousourakis 2003:261). The assemblies

[22] They were also encouraged to adopt the life of city or town dwellers (Borkowski and Du Plessis 2005:16).
[23] Rather, the governing class increasingly came to be filled from the ranks of provincials (Borkowski and Du Plessis 2005:16).
[24] During the Principate governors were more closely supervised by the central government, usually through imperial procurators, and could be more quickly and certainly brought to justice if they abused their power (Mousourakis 2003:261).

discussed various matters concerning the administration of the province, assessed actions of the governor and provincial magistrates and submitted petitions to the emperor (Mousourakis 2003:261).

Other provincial communities (*civitates immunes*) enjoyed special privileges, such as exemption from taxation and other burdens regularly imposed upon the inhabitants of the province.

In addition, the various provincial communities (*coloniae*, *municipia* and *civitates peregrinorum*) had their own assemblies, magistrates, and town councils (Mousourakis 2003:262).

In practice, private lands were seldom confiscated by the state and remained in the hands of their owners on payment of a land tax (Mousourakis 2003:263). Potter (2003:56) explains that the income of the Roman state obtained from a variety of taxes such as the land tax, the tax on persons and direct imposts on a wide variety of economic activities, and in particular liability of the land tax was established by censuses that were conducted in each province on a regular cycle.

Nevertheless, with the exception of those territories belonging to communities which had been granted the *ius Italicum*, provincial areas could not be the subject of private ownership according to the rules of the Roman *ius civile* (Mousourakis 2003:263-264).

In the first century C.E. in particular, the Roman provinces could be divided into two categories as imperial provinces (*provinciae principis*) and senatorial provinces (*provinciae senatus*). According to Mousourakis (2003:258), these provinces had self-government and did not pay taxes to Rome. However, they also had some constraints: for instance, their relationship with other foreign countries was under the control of the emperor, and they were also bound to assist the military of Rome (Mousourakis 2003:258).

In the first place, all the frontier provinces belonged to the imperial provinces,[25] and the emperor controlled these provinces and their armies directly; also, military officers governed these provinces (Mousourakis 2003:259).

In the imperial provinces, the governors were usually appointed for a five-year term, and they were normally assisted by lower officials (Mousourakis 2003:260).[26]

Secondly, there were the provinces that were placed under the control of the Senate, known as senatorial provinces. In these provinces the emperor was represented by a *procurator* who was entrusted with the oversight of the emperor's property in the province, and was accountable for the collection of the taxes payable to the imperial treasury (Mousourakis 2003:259).[27] The administration of the senatorial provinces remained with the Senate (Tellegen-Couperus 1993:67).[28]

In contrast to the imperial provinces, the senatorial provinces generally did not require the posting of large forces of troops because of the prevailing peace and security (Mousourakis 2003:259). Most importantly, the chief posts of command in the army were in principle filled exclusively by men from the senatorial class (Kunkel 1973:56).

The governors of these provinces, termed *proconsuls*, were usually appointed for one year, and exercised general jurisdiction in civil and criminal matters, as well as supervising the political and financial administration of their provinces (Mousourakis 2003:259).[29]

To sum up, the first two centuries C.E. have been referred to generally as the *Pax Romana*

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[25] And these provinces constantly required large contingents of troops (Mousourakis 2003:259).

[26] The *legati legionum* assisted in military matters and the *legati iuridici* helped the governors in matters relating to the administration of justice (Mousourakis 2003:260).

[27] According to Dench (2003:123), the payment of taxes to Rome could be one of the most obvious aspects of Roman rule at the provinces.

[28] However, the senatorial provinces in any case did not make serious demands on the administrative abilities of their governors (Salmon 1957:76).

[29] In addition, they were assisted by deputies termed *legati pro praetor* to carry out their duties and helped by quaestors termed as *quaestores provinciales* with the financial administration of the provinces (Mousourakis 2003:259).

(the Roman peace) which often is described as a period of immeasurable majesty and a period of maximal well-being (Spiller 1986:11). In this period, the Roman Empire had great power, and Roman culture also reached its greatest level of accomplishment. An enormous increase in commerce and industry took place as well. The splendid system of roads provided excellent means of communication throughout the Empire (Spiller 1986:11). And Rome also attained its peak politically (Borkowski and Du Plessis 2005:39). In all of these developments, the Roman legal system stood central. Again, the broader spectrum of peoples and traditions, of cultures and religions is not denied, but our focus here will be on the official, Roman litigation system.

2.2 The Roman Legal System

In this period, some of the earlier sources of law, particularly the legislative assembly and the praetorian edicts, gradually lost their importance compared to the previous eras such as the Monarchy and the Republic, while juristic *interpretatio* and imperial decrees became very important (Borkowski and Du Plessis 2005:39).[30]

At that time, elements such as the Senate, the magistrates and the assembly which formed the political structure during the Republic either changed their original functions or disappeared completely (Tellegen-Couperus 1993:73). For example, the Senate retained its administrative function, and acquired an additional task in the field of legislation and the administration of justice (Tellegen-Couperus 1993:73).[31]

The administrative tasks were gradually taken over by imperial officials. In addition, under the Principate the army progressively came to constitute an important element in the political structure of the Roman Empire (Tellegen-Couperus 1993:73).

[30] Especially the second half of the period can be presented as such, in that the imperial decrees became practically the exclusive source of law (Borkowski and Du Plessis 2005:39).
[31] Thus, the functions of the magistrates were gradually eroded (Tellegen-Couperus 1993:73).

2.2.1 Sources

2.2.1.1 Legislation

Obviously, the imperial decree was the most important source of legislation in the Empire. However, the retention of the Republican assemblies and the Senate were significant elements in law reform during the early years of the Principate (Du Plessis 2010:39). Ultimately, the Republican constitutional framework remained basically intact, and the elements of legislation continued performing their traditional role for some time (Borkowski and Du Plessis 2005:15).

2.2.1.1.1 The Assemblies

During the early Principate the assemblies still existed, but their political role was now remarkably diminished (Tellegen-Couperus 1993:250).[32] The assemblies represented the self-governing will of the people and plainly performed the wishes of the emperor (Borkowski and Du Plessis 2005:39).[33] The assemblies were established in an honorary or ceremonial capacity (Spiller 1986:12).

For example, the *comitia curiata* was Rome's oldest assembly, and continued to function as a gathering of thirty lictors representing the thirty *curiae* (Tellegen-Couperus 1993:250).[34]

According to Tellegen-Couperus (1993:251), the *comitia* was still being convened to elect magistrates as late as the second century C.E., but the emperor largely had the choice of the candidates; the role of the *comitia* was restricted to the confirmation of the candidates selected following the formal proposal of their names by the Senate.

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[32] The assemblies in the Empire lost their original function by the extension, and hardly convened at all (Tellegen-Couperus 1993:73).

[33] If the emperors found it more expedient to use other forms of legislation, the assemblies came to lose their function as legislative organs (Borkowski and Du Plessis 2005:39).

[34] However, it seems more likely that during the Principate the special law (*lex de imperio*) was enacted not by the *comitia curiata*, but by the *comitia centuriata* (Tellegen-Couperus 1993:250).

However the role of the *comitia* during the second century C.E. continued to decline with regard to the election of magistrates, and by the end of the third century C.E., their role as political institutions had virtually disappeared (Tellegen-Couperus 1993:251).

2.2.1.1.2 The Senate

In the early Empire the Senate increasingly came to be regarded as the main organ of legislation instead of the Republican assemblies (Du Plessis 2010:39-40),[35] thus the legislative power passed now to the Senate (Nicholas 1962:10).

The Senate theoretically had a considerable legislative and electoral power, even though the Senate was much under the supremacy of the Emperor (Spiller 1986:13).[36] As a result, in the third century C.E. all parts of the empire, except Egypt, were represented in the Senate (Tellegen-Couperus 1993:78).[37]

Tellegen-Couperus (1993:252) explains how the influence of the Senate increased during the early years of the Principate. A vote of the Senate ensured that the emperor could have all the powers and titles of the emperor and in effect, senators acted as the emperor's advisory body.

As Borkowski and Du Plessis (2005:40) explain,[38] during the republican period the Senate had no law-making powers, yet by the close of the Republic, the senatorial decisions already acquired practically the force of law and it came to be acknowledged as a source of law

[35] The Senate was the most powerful body in the Roman Empire until the first century B.C.E. (Tellegen-Couperus 1993:77).

[36] The emperors had a highly effective influence on the powers of the Senate and also involved the Senate in the administration of justice (Tellegen-Couperus 1993:78).

[37] According to Tellegen-Couperus (1993:77), at the very beginning of his reign Augustus purged the Senate at least twice; in 29/28 B.C.E. and in 18 B.C.E.; by virtue of his powers as censor, he removed fifty and 140 senators respectively, reducing their number to 600. At the same time he filled the ranks of the Senate with persons whom he regarded as suitable. He did this not only indirectly by exerting influence on the election of magistrates, but also directly by admitting citizens who had not fulfilled any of the prescribed magisterial functions to the Senate.

[38] Although the Senate had a noticeable influence on legislation in the Republic, it had no powers to make laws directly (Borkowski and Du Plessis 2005:40).

(Mousourakis 2003:287).

In the course of the Principate the Senate continued to administer the public treasury (*aerarium*) and to rule the senatorial provinces through proconsuls, and to perform certain functions of a religious character (Tellegen-Couperus 1993:253).

In the first century C.E. the Senate passed a number of measures which carried the force of law (Borkowski and Du Plessis 2005:40). The formation of the Senate also underwent a noticeable change in the course of the first and second centuries C.E., the implication of which was that the number of senators who were Roman citizens from the provinces continued to increase, while the number of senators descending from Roman and Italian families continued to decline (Tellegen-Couperus 1993:252).[39]

The legislative activity of the Senate was largely under the control of the Emperor (Tellegen-Couperus 1993:252-253). In general, the Senate basically came to be identified with the imperial will, in other words, the Senate appeared to function as a tool of the imperial will and was seen to be merely endorsing the emperor's proposals (Borkowski and Du Plessis 2005:40). For example, elections of officials were always consistent with the wishes of the emperor (Spiller 1986:13).

From the second century C.E. the emperor's proposals were approved by the Senate without discussion in most cases. In general, legislative proposals presented by the *princeps* or his representatives were acknowledged without much argument (Spiller 1986:13). And also in this period, the Senate had only the passive function of registering its consent to decrees (Mousourakis 2003:288).[40]

In particular, from the mid first century C.E. onwards, the *princeps* could hear all important cases before his own tribunal. Most important of all, there now developed an extraordinary jurisdiction of imperial officials who tended increasingly to supplant the 'ordinary' courts

[39] The financial status of the senators also changed in the Principate; most of the senators were large landowners before then (Tellegen-Couperus 1993:68).

[40] The decrees were drafted by the emperor and read to the Senate by its representative (Mousourakis 2003:288)

controlled by the praetors (Kunkel 1973:53).[41]

With respect to its legislative functions, the Senate had jurisdiction concerning criminal cases involving offences of a political nature, such as offences committed by senators, provincial magistrates, and state officials (Mousourakis 2003:288).[42]

In the first two centuries of the Principate a large number of *senatus consulta*, which can be described as *ius novum* (a new form of law) were issued, by which notable changes were effected in the areas of both public and private law (Borkowski and Du Plessis 2005:40; Mousourakis 2003:288). However, senate decisions still retained the label *senatus consulta* (Spiller 1986:18). Spiller (1986:18) states that decrees of the Senate came to be recognised as one of the most important sources of law.[43] In particular, this came about as a result of two factors: firstly, the Senate increasingly took on the task of directing the magistrate in his issuing of edicts; and secondly, the Senate came to replace the popular assemblies as the republican element in the constitution. After all, the Senate's freedom of decision laboured right from the beginning of the Principate under the absolute power of the emperor, so that the *senatus consulta* became increasingly little more than declarations of the imperial will (Kunkel 1973: 126).

Eventually, the Senate underwent a very important extension of its competence compared to the magistracies and the popular assemblies; but during the imperial time the Senate very soon also lost all power of independent representation of opinion, and simply became a mouth-piece for the imperial will (Kunkel 1973:53).

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[41] According to Kunkel (1973:54), the position of the *princeps* had its centre of gravity outside the inherited republican order, in a political ideology which could not be comprised in technical legal terms.

[42] The increase of the Senate's legislative authority was expedited by the people's assemblies and the possession by the Senate of their constitutional and legislative functions (Mousourakis 2003:287). And another reason was that magistrates came to depend increasingly on the Senate's guidance (Mousourakis 2003:287).

[43] Decrees of the Senate (*senatus consulta*) had not had legislative power during the republic, but it started accruing such force with the establishment of the empire (Watson 1991:25).

2.2.1.1.3 The Emperor

Besides the assemblies and the senate, which existed as important legislative bodies, there remained a most significant third element. In the first century C.E. political power gradually transferred to the hands of one person; in fact, true power resided with the emperor (Tellegen-Couperus 1993:70, 77).[44]

During the earliest period of the Principate it was unlikely that the emperor had direct legislative power in the structure of the constitution (Kunkel 1973:126; Mousourakis 2003:242).[45] The emperor never provided jurisdictional edicts like those of the praetors, aediles, and the provincial governors (Kunkel 1973:130).[46]

There were four significant forms of decree, viz., *edicta, decreta, mandata* and *rescripta*.

In the first place, the emperor had the power to issue '*edicta*' (edicts) (Mousourakis 2003:284), and they could make edicts regarding an unlimited range of matters (Borkowski and Du Plessis 2005:41). The *edicta* normally dealt with diverse issues such as the constitution of the courts, private law, criminal law and the granting of citizenship (Spiller 1986:19).[47] According to Du Plessis (2005:41), the range of imperial edicts was very broad, thus the edicts affected almost every area of law. For example, one of the best-known was Augustus's edict supporting the torture of slaves in special circumstances.[48] Imperial edicts were often intended to vary existing rules of law or to introduce new ones (Mousourakis

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[44] Tellegen-Couperus (1993:73-74) introduces the three important leaders at the time. They were Mark Antony, Gaius Lepidus and Caesar's adopted son Gaius Julius Caesar Octavianus, the later emperor Augustus.

[45] His legislative proposals acquired the force of law only after the Senate gave the formal consent to the proposals (Mousourakis 2003:242).

[46] Due to a lack of unity and the various forms of imperial legal creations, imperial law could not be regarded as an independent factor, but similar to the jurists' law as part of the *ius civile* (Kunkel 1973:131).

[47] Mousourakis (2003:285) also states that the emperor carried unrestricted powers and remained in office for life, thus his edicts entailed much more weight, and were commonly broader in scope than those of the magistrates.

[48] "I do not think that interrogations under torture ought to be requested in every case and person; but when capital or more serious crimes cannot be explored and investigated in any other way than by the torturing of slaves, then I think that those [interrogations] are the most effective means of seeking out the truth and I hold that they should be conducted" (D.48.18.8pr.).

2003:284-285).[49] In addition, many advisory bodies appeared in the early Empire, and for example, the judicial council was the one which most profoundly affected legislation (Borkowski and Du Plessis 2005:41).

Secondly, *decreta* (decrees) were known as the judicial decisions (Spiller 1986:19).[50] The *decreta* were issued by the emperor as a judge of the first instance in civil and criminal affairs (Mousourakis 2003:283-284).[51] The emperor, who had considerable judicial powers was generally guided by advisers from his council, even given that he had some expert knowledge in the law (Borkowski and Du Plessis 2005:41). After all, as Kunkel (1973:130) indicates, the *decreta* of the emperors acquired very significant importance as a source of law. In addition, praetorian decrees were made, subject to appeal to the emperor. From the mid-first century C.E., the emperor had the right to hear significant cases before his own tribunal, and new criminal and civil courts were established under the jurisdiction of imperial officials (Spiller 1986:13).

Thirdly, there are *mandata* (instructions).[52] Mousourakis (2003:286) defines the *mandata* as "instructions on administrative and judicial matters given by the emperor to imperial officials in Rome and the provinces"; that is the *mandata* were given by the emperor to the officials (Spiller 1986:19).[53] In other words, the *mandata* were concerned with the achievement of duty of subordinate officials (Du Plessis 2010:42). According to Borkowski and Du Plessis (2005:42), provincial governors and proconsuls particularly were the recipients of the *mandata*. Spiller (1986:19) states that the *mandata* included many stipulations regarding concerns of substantive law and procedure, particularly criminal law. In addition, according to Mousourakis (2003:286), the *mandata* were at first personal and internal, but they

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[49] There was a difference between edicts of magistrates and those of the emperor. Edicts of magistrates could have force only during their term of office, but those of the emperor could have force until his death (Borkowski and Du Plessis 2005:41).

[50] In fact, the *decreta* were authentic judicial decisions declared after an oral proceeding before the emperor's court (Kunkel 1973:130).

[51] The *decreta* could be regarded as authoritative because they emanated from the emperor (Borkowski and Du Plessis 2005:42).

[52]The *mandata* normally consisted of minute administrative instructions (Du Plessis 2010:42).

[53] According to Watson (1991:26), the emperor's instructions (*mandata*) to his officials and especially to the provincial governors came to have binding effect for the future.

progressed to become more public and official, as imperial administration, and various compilations of imperial *mandata* known as *libri mandatorum*, were generated during the period.

Lastly are *rescripta* (correspondence), which were written answers provided by the emperor to queries or petitions addressed to him (Du Plessis 2010:42). These *rescripta* were generally addressed to the emperor by officials and private citizens who were seeking advice concerning matters subject to judicial decision (Mousourakis 2003:285).[54] There are two kinds of *rescripta*, viz., *epistulae* and *subscriptiones*. The *epistulae* were the imperial letters and the *subscriptiones* were the marginal decisions given by the princeps (Kunkel 1973:128). On the one hand, the *epistulae* were answers to questions from officials or public bodies regarding their duties and rights (Borkowski and Du Plessis 2005:42).[55] These answers given by the emperor were clearly set out in a distinct document and were addressed to the officials concerned (Spiller 1986:19). In addition, the princeps retained the epistolary style in the *epistulae* (Kunkel 1973:128). On the other hand, the *subscriptiones* were answers to questions or petitions from private citizens (Du Plessis 2005:43).[56] Eventually, the *rescripta* became significant in the development of the law in the second century C.E. (Spiller 1986:19).[57]

According to Mousourakis (2003:283), the emperor did not have significant power in the legislature in the early years of the Principate. The emperor only obtained indirect legislative authority through enactments of the peoples' assemblies, and controlled decrees of the senate. However, in the early second century C.E., the enactments of the emperors (*consitutiones*

[54] According to Mousourakis (2003:285), the *rescripta* were primarily of an advisory nature. In this sense, the *rescripta* would provide an important source of imperial legislation (Borkowski and Du Plessis (2005:42).

[55] The *epistulae* were associated with officials, provincial communities, provincial assemblies, all being the more important persons and bodies; hence it had the more binding form (Kunkel 1973:128).

[56] Borkowski and Du Plessis (2005:43) states, "As the office of petitions was usually staffed by the leading jurists of the day, the issuing of *subscriptiones* became an ideal medium for the interpretation and development of the law."

[57] The *rescripta* especially became important when it became usual for judges to appeal to the emperors for decisions on uncertain interrogations of law (Spiller 1986:19).

principum) came to be regarded as outstanding sources of law.[58]

In the course of the second century C.E. the jurists regarded the emperor as having the authority of an independent legislator (Borkowski and Du Plessis 2005:41).[59] The performance of the imperial court became essential to the growth of the law (Kunkel 1973:130). Kunkel (1973:79) notes that the imperial laws are chiefly so-called 'rescripts', designated as legal opinions which the various emperors had provided in actual cases in answer to questions posed by private persons, or judges, or officials. Accordingly, the importance of the rescripts increased gradually, and the rescripts became an important factor in the development of private law by the middle of the second century C.E. (Mousourakis 2003:286).

In addition, the emperor could summon the assembly and propose laws by virtue of his position as tribune, and he also could summon the senate, and could reject decisions concluded by the magistrates (Tellegen-Couperus 1993:75).[60]

In particular, the emperor acquired the *tribunicia potestas* which was the power that the tribunes had held in accordance with the constitution of the Republic (Spiller 1986:13).

The emperor also acquired the *imperium proconsulare*, which was the prime authority of a proconsul of the frontier provinces, in which most of the army was stationed. Through this power the emperor could have supremacy over the important provinces and over the army (Spiller 1986:13-14).[61] In addition, as mentioned before, all the frontier provinces belonged to the imperial provinces,[62] and the armies stationed there to control them (Mousourakis 2003:259).

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[58] However, in many cases, the imperial decisions did not come from the emperor himself. They normally came from his advisers in the *consilium principis* which included many lettered jurists from the second century C.E. (Mousourakis 2003:284).

[59] In the end, legislation became the sole sphere of the Emperor in the later Empire (Du Plessis 2010:41). Imperial law-making was of overwhelming importance.

[60] Tellegen-Couperus (1993:76) states that the emperorship was always linked with the magistrature in the course of the Principate.

[61] In this regard, Nicholas (1962:10) explains that the emperor's authority rested ultimately on the army.

[62] As a result, the imperial cult was interwoven with local religious observances (Carter 2011:140).

In addition, the authority of the emperor was also derived from sources quite beyond the old republican institutions. As evidence of this, the emperor was seen to be imbued with *auctoritas*: supreme political prestige and charisma (Spiller 1986:14).[63]

2.2.1.2 The Magistracies

The administration of justice, that is enaction of the legislative decrees, was one of the important functions of the magisterial office according to Kunkel (1973:84), who states that the praetorship's function involved the overall administration of civil and criminal justice in Rome and in all Roman Italy.

Spiller (1986:14) indicates that the weak point in the constitutional system of this era was the failure to provide an admitted legal system of succession to the imperial throne.[64]

In the period of the Principate the magistracies functioned only as weak copies of their earlier greatness. For example, the consuls did not control the political matters of the state, and neither did they have military mastery (Spiller 1986:13).[65] However, even though the praetors lost their influence on legal development (Borkowski and Du Plessis 2005:43), the praetors and other magistrates executing law continued to exercise their traditional judicial functions after the establishment of the Principate (Mousourakis 2003:282). During the period of the later Republic, according to Kunkel (1973:84), after 242 B.C.E. there were two praetors sharing responsibility. On the one hand, the holder of the older praetorship was called *praetor urbanus*, and held jurisdiction over the citizens; on the other hand, *praetor peregrinus* was qualified to preside in cases between foreigners, or between a Roman and a foreigner.

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[63] The emperor was ultimately seen as being a man with great human and religious talents (Spiller 1986:14).
[64] Spiller (1986:14) expresses this feature of weakness as "it was a monarchical regime clothed in republican forms."
[65] Rather these functions related to the political concerns, and the military command moved to the emperor (Spiller 1986:13).

According to Du Plessis (2010:43), in the early years of the Empire praetors continued to provide edicts, to be elected and to manage the pre-trial stages of litigation. The praetors kept the same civil and criminal jurisdiction which they had in the previous era (Spiller 1986:13).

In the Principate, there were various magistracies. Tellegen-Couperus (1993:253-257) provides a good description of the role of each magistracy.

Firstly, the prefects (*praefectus*) were the major imperial officials in this period (Spiller 1986:14). In general, these prefects were divided into two types namely, the *praefectus urbi* and the *praefectus praetorio*. The former, as the prefect of the city of Rome, was charged to keep peace and order in the city, and also to provide the chief criminal court for Rome and her environs (Spiller 1986:14).[66] The latter was the commander of the imperial body-guard**,** and also became the emperor's chief adviser and administrative officer in civil and military matters (Spiller 1986:14).[67]

Secondly, the tribunes maintained their rights of *auxilium* and *intercessio* during the Principate (Tellegen-Couperus 1993:253). According to Tellegen-Couperus (1993:254), in the first century C.E. the tribunes could assemble and lead meetings of the senate, and were entrusted with the general supervision of the regions of Rome.[68] However, their power notably declined because of the disappearance of the *concilium plebis* as the independent political group; eventually, their power could not be effected without the emperor's approval (Tellegen-Couperus 1993:253-254).

Thirdly, the consuls retained their earlier prestige in this period, but they were also brought more under the control of the emperor (Tellegen-Couperus 1993:254).[69] The consulship became substantially a status symbol (Spiller 1986:13). The consuls generally had the authority to summon and to lead the senate and the *comitia centuriata*, and sometimes performed the role of judges in civil cases (Tellegen-Couperus 1993:255).

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[66] He also treated civil cases in matters within his criminal jurisdiction (Spiller 1986:14).
[67] According to Spiller (1986:14), in the second century C.E. they also achieved a mass of judicial work.
[68] Tellegen-Couperus (1993:254) says that in those days, the city of Rome was divided into fourteen districts.
[69] In general, two consuls were appointed and held in high honour (Tellegen-Couperus 1993:254).

Fourthly, the number of the quaestors was increased to forty by Julius Caesar, but was later reduced to twenty by Augustus (Tellegen-Couperus 1993:256). In particular, two quaestors were allocated to the emperor, but the majority worked under the provincial governors (*quaestores provinciarum*) and the consuls (*quaestores consulis*) (Tellegen-Couperus 1993:256). In addition, the quaestorship had some importance to those who aspired to joining the imperial civil service, or wished to achieve a high magistracy (Tellegen-Couperus 1993:256).

Fifthly, the aediles remained to perform as before as independent magistrates during the Principate,[70] even though most of their primary duties were given by imperial officials (Tellegen-Couperus 1993:256). In general, their duties were related to the inspection of streets, baths and other public places and regulating the compliance with sanitary rules (Tellegen-Couperus 1993:256).[71]

Sixthly, censorship was almost absent by the middle of the first century B.C.E. (Tellegen-Couperus 1993:256). In the early years of the Principate, Augustus undertook tasks entrusted to the censors and to the superintendence of public morals as well as to the maintenance of the list of senators (Tellegen-Couperus 1993:256). Finally, their independent office ended during the time of Domitian (Tellegen-Couperus 1993:257).[72]

Lastly, during this period, the praetors continued to practice their judicial functions in the context of the formulary system (Tellegen-Couperus 1993:255). The praetors were divided into two classes according to the character of the jurisdiction. One was the *praetor urbanus*, and the other the *praetor peregrinus*.[73] The urban praetors performed their function as the chief magistrates for civil proceedings between citizens (Spiller 1986:13). However, according to Tellegen-Couperus (1993:255-256), the function of *praetor peregrinus*

[70] Their numbers were increased to six by Julius Caesar (Tellegen-Couperus 1993:256).
[71] According to Tellegen-Couperus (1993:256), the office of the aedile disappeared in the third century C.E.
[72] In addition, according to Tellegen-Couperus (1993:257), it became habitual for the emperors to use censorial powers for life from the time of Domitian (81-96 C.E.).
[73] The jurisdiction of the rest was restricted to certain matters, for instance in the Augustan time the control of the public treasury was entrusted to two praetors, referred to as *praetores aerarii* (Tellegen-Couperus 1993:255).

gradually vanished due to the granting of Roman citizenship to all the free inhabitants of the Empire in the early third century C.E., while the function of the *praetor urbanus* persisted until the middle of the fifth century C.E.[74] According to Borkowski and Du Plessis (2005:43), the importance of the praetors gradually weakened during the first century C.E. The reason was that the prestige of the office was disturbed by corruption on the part of many praetors, the increase of their number, and because the praetorship came to be seen largely as a reward for loyalty to the Emperor (Borkowski and Du Plessis 2005:43).

In addition, from the beginning of this period, the power of the magisterial edict began to weaken under the authority of the emperor (Spiller 1986:19).[75] For example, in the years that followed the codification of the edict, the praetors no longer controlled the content of their edicts, and their role was also curtailed and deprived of any law-making powers (Mousourakis 2003:283).

Thus eventually the jurisdiction of the magistrates finally lost its creative importance; in its place, jurisprudence and, increasingly, imperial legislation now took over the further development of Roman law (Kunkel 1973:93).

2.2.1.3 The Legal Science of the Principate

In the changed atmosphere of the Principate Roman jurisprudence did not disappear; on the contrary, it blossomed even more strongly (Kunkel 1973:105). Kunkel (1973:105-106) formulates in detail the reasons of the flowering of jurisprudence in the Principate. The first reason was its well-timed immunisation against the influence of rhetoric. Up to that time, rhetoric had influenced all other areas of literature and science. The Principate lost interest in rhetoric's real value because it permitted commitment to one's subject to be substituted by the ideal of an artificial and formal presentation of material. The second reason was the peace and economic prosperity of the Empire. The third reason was the enormous enlargement of

[74] However, the *praetor urbanus* and the *praetor peregrinus* with provincial governors continued to issue edicts respectively till the fourth century and the third century (Spiller 1986:20).
[75] By the end of the first century C.E., the praetorian edict, as well as the edicts of the aediles and the provincial governors, became coherent and inflexible (Mousourakis 2003:282).

Roman citizenship and extension of Roman civilisation, including the expansion of the geographical range of Roman legal life to a previously unknown extent. The last factor was contrived by the emperors by means of their careful refinement of the administration of justice and government.

Up until that time, one of the important sources of the Roman legal system was the jurists. In this period the jurists were more active as judges in both civil and criminal cases than they had been during the Republic era (Schulz 1946:118). They gave Roman law its unique colour and promoted its influence on later civilisations (Borkowski and Du Plessis 2005:43).[76] In particular, as members of the emperor's *consilium*, leading jurists considerably influenced the development of the law (Mousourakis 2003:292).[77] According to Borkowski and Du Plessis (2005:43), the jurists were more and more employed by the state,[78] and they conspired to exert a powerful influence on the administration of justice, and on the legal policy of the emperors, through their membership of the imperial council (*consilium principis*) (Kunkel 1973:110).

In general, the jurists of the Principate were leading senators who had acquired a particularly good knowledge of the law (Tellegen-Couperus 1993:94).[79] According to Tellegen-Couperus (1993:94), the jurists of this period could function as magistrates and, from the second century C.E., they could also be imperial officials. The Roman jurists tried to create a legal system within which they sought to find solutions that were as practical and impartial as possible to specific cases, without applying the laws too literally (Tellegen-Couperus 1993:100).

Jurist's groups which practised in private law appeared in Rome from the later republican period, and their main activity was to provide legal opinions (*responsa*) to magistrates, judges

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[76] The jurists were engaged in the systematic exposition and teaching of the law (Mousourakis 2003:292).

[77] In the Principate period there were many leading jurists as follows: *Massurius Sabinus, Proculus, Gaius Cassius Longinus, Iavolenus Priscus, Publius Iuventius Celsus, Salvius Julianus, Sextus Pomponius, Gaius, Aemilius Papinianus, Julius Paulus, Domitius Ulpianus, Herennius Modestinus* (Mousourakis 2003:296-303).

[78] From Hadrian onwards they were regularly employed by the Senate (Borkowski and du Plessis 2005:43).

[79] The jurists became professional lawyers in the true sense. In addition, they came from urban Roman families or from the Italian municipal aristocracy, and so were thoroughly Roman in their background (Spiller 1986:16).

and parties on questions raised (Mousourakis 2003:289).[80]

In general, the jurist did not earn money from the legal practice. As jurists they received some advantages from the increased prestige, an expanding fellowship of friends, and a successful political career (Kunkel 1973:96). Accordingly, many jurists in this period became honoured civil servants and bureaucrats, and were similar to their Republican predecessors in keeping some of the high offices of state (Borkowski and Du Plessis 2005:43-44).

The development of jurisprudence in the early imperial period was precipitated also by the shift in emphasis from politics to administration, the broadening of the scope of Roman law through the gradual extension of Roman citizenship in the provinces, the proliferation of legal transactions that resulted from the growth of trade and commerce, and the increased demand for legal education (Mousourakis 2003:292).[81] In particular, trade with foreigners and contact with foreign legal systems supplied the stimulus for the creation of new rules of law against the nature of the old Roman civil law (Kunkel 1973:77). Therefore, the jurists now became professional lawyers in the actual sense. Eventually, many jurists came to occupy outstanding positions in the imperial civil service (Mousourakis 2003:292).

The scope of Roman law was expanded by the jurists (Mousourakis 2003:289).[82] Legislation was stimulated by the jurists and they continued to help the magistrates in the composition of their edicts (Spiller 1986:14-15). In this period, the jurists were involved in various activities connected with the practice of law and the administration of justice (Mousourakis 2003:292).[83] In other words, the jurists were still participating in *cavere*, *agere* and *respondere* (Tellegen-Couperus 1993:94).[84]

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[80] According to Mousourakis (2003:289), in formulating their *responsa* the jurists were guided by their knowledge of legal judgements and juristic ideas of the past.

[81] According to Schulz (1946:123), it seems that legal education was also continued in the provinces, but the information about the classical period is sketchy.

[82] For instance, jurists invented a systematic rendition of the rules (Mousourakis 2003:289).

[83] These activities of the jurists were influenced by the emperor who had the highest authority in the Roman Empire (Tellegen-Couperus 1993:94).

[84] In general, these factors such as *cavere, agere* and *respondere* were used by the jurists to state their claims and to provide how to argue their cases in court (Mousourakis 2003:292).

Firstly, the c*avere* was used to help citizens in the drafting of legal documents and formalising transactions (Mousourakis 2003:292), but such practices underwent some changes at this time (Tellegen-Couperus 1993:94). In this regard, Tellegen-Couperus (1993:94) states: "developing formulas for the formulary procedure was no longer one of the regular tasks of the jurists because the edicts of the praetors and the curule aediles now contained adequate legal remedies." The Roman jurists of this period showed their ability to draft texts very clearly in the field of the law of succession (Tellegen-Couperus 1993:94).

Secondly, the *agere* was given to litigants by jurists on the suitability of various legal forms (Mousourakis 2003:292). When jurists interpreted formulas and laws in their pleas, it might make little difference to them whether they were taking part in a formulary procedure, or in a lawsuit before the senate or an imperial official (Tellegen-Couperus 1993:94).[85]

Lastly, the *respondere* was opinions on questions of law which were provided to magistrates, imperial officials and judges (Mousourakis 2003:292). Spiller (1986:15) mentions that the classical jurists continued the role of the republican jurists in advising litigants and providing legal opinions.[86] According to Tellegen-Couperus (1993:95), this became the most significant legal activity of the jurists. In addition, at the time there were still no rules about the persons who could give *responsa*, and no rules about the manner in which *responsa* were given (Tellegen-Couperus 1993:95).[87] For instance, in the early second century C.E., the emperor Hadrian made the *responsa* of jurists with the *ius respondendi* legally binding. The result was that the jurist Gaius could say that the force of statute was seized to the unanimous view of the privileged jurists (Spiller 1986:15). However, as the senate lost all its power and authority in the third century C.E., the senators' *responsa* were no longer considered as authoritative (Tellegen-Couperus 1993:98).

At that time, the main characteristic of the jurists' work was the giving of legal opinions.

[85] For example, "*De Institutione Oratoria*" of Quintilian was the standard work on the exercise of orators (Tellegen-Couperus 1993:94).
[86] The *responsa* given by the republican jurists had not been legally binding, but the judge trying the case had normally accepted the opinion of the jurist (Spiller 1986:15).
[87] In addition, there were also no rules about the topic on which *responsa* were given (Tellegen-Couperus 1993:95).

According to Spiller (1986:15), the jurists were basically practical men concerned with arriving at correct solutions to concrete questions, and the practical nature of their interests emerged in their writings, as their major works grew out of legal practice and were written for legal practitioners; this is especially peculiar to the early period of Roman legal science (Kunkel 1973:97).[88]

The jurists' work mainly consisted of advising, teaching and writing.[89] Firstly, the most important advice was that given to the emperors from jurists who were members of the imperial councils (Borkowski and Du Plessis 2005:44). In general, a written response which was given to a judge by a jurist with the *ius respondendi* was expected to be highly persuasive (Du Plessis 2010:44).[90] Secondly, legal education in this period generally followed the tradition instituted by the Republican jurists (Borkowski and Du Plessis 2005:44). While lectures were given by the jurists in a formal way, teaching generally continued to be informal (Du Plessis 2010:44). Lastly, the jurists of this period continued to keep the literary tradition of their Republican predecessors (Borkowski and Du Plessis 2005:46).[91] In terms of the jurists' work, an important aspect was legal writing (Mousourakis 2003:292). According to Kunkel (1973:75-76), writing was very broadly used. The chief categories of the juristic literature for important legal proceedings in the Hellenistic world were problematic literature, commentaries, monographs, notes and epitomes, text books, practitioner materials, etc., but Roman law acknowledged the validity of spoken words arranged in totally explicit formulas.

In addition, Borkowski and Du Plessis (2005:46-47) also note that the feature of legal writing of this period was essentially casuistic**,** entailing comprehensive discussion of cases. Firstly, 'problematic literature' is provided for a group of works that concentrated on the discussion concerning difficult legal questions, cases and disputes (Borkowski and Du Plessis 2005:46).

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[88] Thus, according to Kunkel (1973:97), the historians of Roman law called this period that of 'cautelary' jurisprudence, namely "the drawing up of formulas for litigation and other legal business."

[89] The majority of juristic works were of a casuistic and practical type (Mousourakis 2003:292).

[90] According to Borkowski and Du Plessis (2005:44), in the early Principate, most of the leading jurists were granted the *ius respondende*, and the practice of giving *responsa* to magistrates, judges, litigants and private citizens was maintained.

[91] However, the literature of this age was more modified and more voluminous (Du Plessis 2010:46).

Secondly, 'commentaries' are the most fundamental works provided by the leading jurist, and these extensive commentaries on the *ius civile* represented a highly important category of writing (Borkowski and Du Plessis 2005:46).[92] Thirdly, 'monographs' concerned with the accomplishment of public duties by magistrates and other officials (Borkowski and Du Plessis 2005:47). According to Spiller (1986:15), the monographs were on particular laws or legal institutions, and in these works, hypothetical or actual cases were explained and then analysed logically. Fourthly, 'notes and epitomes' were annotations by jurists on excerpts from published works of other jurists, and they were the reliable juristic works (Borkowski and Du Plessis 2005:47). Fifthly, 'textbooks' were made in accordance with the increased emphasis on legal education, intentionally for the use of students (Borkowski and Du Plessis 2005:47). In addition, at this time the *Institutes* of Gaius written in 160 C.E. became the standard textbook throughout the Empire (Watson 1991:15). (Borkowski and Du Plessis 2005:47). This text is evaluated as very important for various reasons. First of all, Gaius described in a systematic manner the most significant legal concepts of his time together with their history. Secondly, the Institutes are the exclusive juridical work from the Principate which was bequeathed to us in practically its original form. Thirdly, the *Institutes* of Gaius are of indirect significance for later European legal science (Tellegen-Couperus 1993:101).[93] Lastly, practitioner materials were especially intended for legal practitioners and for the use of students. These, generally called *Regulae, Definitiones*, and *Sententiae* were collections of basic rules and procedures, and brief summaries of rules and principles (Borkowski and Du Plessis 2005:47).

Mousourakis (2003:293-294) classifies and explains the literary works of the jurists according to their subject and scope. The first category contains *responsa, quaestiones, disputationes,* and *epistulae*. These are the collections of opinions or replies distributed by

[92] For instance, Pomponius's commentary on the Edict, Ulpian's *Ad edictum* and *Ad Sabinum* were extracted very much by Justinian's *Digest* commissioners (Du Plessis 2010:46). In addition, it took the form of the lemmatic commentary, and the lemma could be the passage in question, or its initial words (Schulz 1946:183).

[93] In the *Institutes* of Gaius the law is dealt with systematically, and is divided into law connecting with *personae* (law of persons), *res* (law of things, law of succession and law of obligations) and *actiones* (law of actions) (Tellegen-Couperus 1993:100).

jurists in the practice of the *ius respondendi* (Mousourakis 2003:293).[94] In particular, these were made for practitioners (Spiller 1986:15). The second category includes r*egulae, definitiones, sententiae.* These are short statements of the law, and were issued as relevant to particular cases (Mousourakis 2003:293).[95] In addition, these were in easy-to-memorise forms, for the use of students or practitioners (Spiller 1986:15). The third category comprises those relating to general works on the *ius civile*. In particular, some of these works were known as *libri ad Sabinum* or *ex Sabino*, because they provided a model based on the related work of the notable jurist Massurius Sabinius (Mousourakis 2003:293). The fourth category contains commentaries concerning the *ius praetorium* (or *ius honorarium*).[96] These commentaries were referred to as *libri ad edictum*.[97] In particular, in these works the edicts of the magistrates were commented on in relation to those aspects of the *ius civile*. The fifth category is *Digesta*. This comprised inclusive works regarding the law dealing with both the *ius honorarium* and the *ius civile* (Mousourakis 2003:293). The last category documented by Mousourakis (2003:294) is *instituiones* or *enchiridia*. These were explanatory textbooks or introductions written for students and beginners. The representative work of this type was the *Institutes* of Gaius which became indispensible in later Roman law (Spiller 1986:17).[98]

In terms of the law-schools, Mousourakis (2003:294) recognises two rival schools of jurists, namely, the Proculians and the Sabinians.[99] In particular, these two schools played an important role in Roman legal practice (Mousourakis 2003:295). According to Mousourakis (2003:295), when dealing with legal problems, the Sabinians would rather focus on the letter

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[94] The *responsa* for publication occasionally required the further development of the position adopted, particularly when the opinions of other jurists argued against each other. The *quaestiones* and the *disputations* dealt with matters which came from actual cases carried by the jurists in their capacity as teachers. The *epistulae* included legal opinions produced in writing by jurists for judges, judicial magistrates, private citizens or other jurists.

[95] However, these were later reformulated in the form of general rules (Mousourakis 2003:293).

[96] The *ius honorarium* which developed from the jurisdiction of the Roman magistrates was distinguished from the *ius civile* of the Twelve Tables, and rights and duties appeared in it always in the form of potential actions (*actiones*), defences (*exceptiones*) and other procedural remedies (Kunkel 1973:94).

[97] The jurists also provided commentaries on the works of earlier jurists and individual *leges* or *senstus consulta* (Mousourakis 2003:294).

[98] Among the juristic literature of this period the *Institutes* of Gaius is the only work that has survived in its original form (Mousourakis 2003:294).

[99] The Sabinians were followers of Stoicism, but the Proculians were those who followed the principles of Aristotelian philosophy called peripatetic (Mousourakis 2003:295).

of the law, while the Proculians tried to find the purpose of the related enactment and decided according to its presumed intention.[100]

The Corinth of Paul's day belonged to a senatorial province which was governed by an appointed proconsul with two annually elected magistrates.[101] In particular, civil litigation in Corinth was within the control of the local honorary magistrates, and those who were appointed by the citizens normally acted as judges together with the juries (Winter 2001:74). Thus, Paul's comments with regard to Corinthian believers making use of civil courts of law should be understood in the context of practicing magistracies, found in important towns and centers of the Empire such as the city of Corinth.

2.2.1.4 Custom

In the Principate, traditional customs such as concerning family or some of the basic notions in Roman property law continued to be treated as the foundation of the law that applied in the provinces (Mousourakis 2003:280).[102] According to Mousourakis (2003:280), the local systems of law which applied in the provinces before the Roman conquest remained in force in the form of custom, and continued to rule the social and economic life of provincial communities. In addition, after the expansion of Roman law in the provinces, many of the earlier local laws continued to apply in the form of custom if approved by imperial legislation (Mousourakis 2003:280).

Accordingly, references to customary law, as it applied in the provinces, could be found in a number of imperial constitutions, as well as in the juristic literature of this period (Mousourakis 2003:280). In the provinces the customary law differed from that of urban Rome (Schiller 1978:263).

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[100] These two schools remained alive and functioning until into the second century C.E., and were more in the nature of aristocratic unions with their own techniques and courses of training (Spiller 1986:16).

[101] One of the important functions of magistracies was the administration of justice (Kunkel 1973:84).

[102] In addition, in this period the custom also continued to affect indirectly both law-making and the application of the law through the interpretations of the jurists (Mousourakis 2003:280).

2.2.2 Roman Litigation

2.2.2.1 General Introduction to Litigation

People who had Roman citizenship sometimes needed to go to court in order to protect their honour and reputation (Borkowski and Du Plessis 2005:63). However, their reputation could suffer further by disclosure in the courts; thus they were often reluctant to be involved in litigation (Du Plessis 2010:63).[103] In addition, Prichard (1961:5) writes that in the first century C.E. the Empire contains negative social aspects, such as bad emperors; murders and revolts; depravity and cruelty.

According to Kunkel (1973:85), the oldest form of Roman court was presumably a bench of several jurors presided over either by the magistrate himself or by a delegate appointed by him.[104] And, in the case of private law, with regard to disputes about matters of high importance a particular type of the court existed at the beginning of the second century C.E., which was a jury-court like the court of the 'hundred men' termed *centumviri* (Kunkel 1973:85).[105]

Advocates existed in the Roman legal system.[106] However, they generally did not have legal expertise, but were skilled in oratory (Borkowski and Du Plessis 2005:63). According to Borkowski and Du Plessis (2005:63), many of Roman advocates were trained in the Greek rhetorical method of oratory, and in court they were encouraged to disparage the name of

[103] The risk of losing reputation was one of the dangers involved in litigation (Borkowski and Du Plessis 2005:63).
[104] In addition, this type of court would continue in the sphere of criminal jurisprudence into the Empire (Kunkel 1973:85).
[105] In the Empire this court too pronounced judgement under the presidency of a magistrate (Kunkel 1973:85). However, in the later Republic the overwhelming majority of civil actions took place not before the *centumviri*, but generally before single judges (Kunkel 1973:86).
[106] Normally, the advocates were wealthy, and had aristocratic backgrounds (Borkowski and Du Plessis 2005:64).

their client's opponent for as long as possible.[107]

In this period, litigation was basically a private arbitration which was arranged with the consent of the state (Buckland and McNair 1952:400).[108] In general, in order to initiate litigation, the plaintiff was responsible for making sure of the presence of the defendant in court, and there were several procedural steps between summons and judgement (Borkowski and Du Plessis 2005:64).

In terms of economic factors, the parties were required to raise an amount of money; they had to deposit a cash sum as a wager on the result of the case (Crook 1967:90). According to Borkowski and Du Plessis (2005:64), the real cost of litigation was not excessive until the later Empire.

With regard to penal actions for damage to and theft of property, claims could only be lodged between Roman citizens according to the law of the Twelve Tables and the *lex Aquilia*, but the procedure was extended to foreigners who had committed theft or had been the victims of theft (Kunkel 1973:89). According to Jolowicz (1932:408), theft, fraud, and damage to property would normally give rise only to civil litigation.

However, any legal system in this age could not be considered as free from corruption. According to Du Plessis (2010:64), the problem concerning corruption became a constant factor in the legal history of Rome even though severe penalties were imposed on corrupt judges in early law. In particular, there were very various forms of corruption such as bribing the judge, the praetor, the jurors or even the opponent's advocate and witness (Borkowski and Du Plessis 2005:64-65).

In addition, the exercise of social, economic or political power also influenced the outcome of

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[107] In particular, Greco-Roman society was basically cultures of the spoken world. So rhetoric was an important means by which political and judicial decisions were reached (Harding 2003:224), and probably applied in Pauline communities as well.

[108] In addition, Levick (1985:46) explains that "arbitration between communities and decisions is administrative rather than legal."

a case. Therefore as Kelly (1966:61) states, the advantages available to the wealthy and powerful over their weaker brothers/sisters were reflected during litigation.[109] However, in spite of the various risks related to litigation, people still went to court to work out their problems (Borkowski and Du Plessis 2005:65).

In general, in the provinces it was the provincial governor who exercised jurisdiction. There are illustrative similarities between the provincial governor's role and that of the praetor at Rome. In the provinces, the reformed jurisdiction was consistent with the governor's edicts (Johnston 1999:120). Also, in the provinces the governor or the quaestor as the governor's deputy, exerted influence on both civil and criminal jurisdiction among Roman citizens, and among foreigners as well (Kunkel 1973:85).[110] In addition, a provincial governor obviously could be a circuit judge and toured around the provinces (Johnston 1999:120).[111]

And, it seems that as a matter of course, litigants would usually be represented by advocates, practitioners of rhetoric rather than law (Johnston 1999:129). In Rome representation was normal in civil, as in criminal, and administrative cases (Johnston 1999:130). According to Johnston (1999:130), success in litigation depended on engaging the best possible jurist in giving advice and the best possible advocate in presenting the case.

Litigation in Rome involved more difficulty than the works of the Roman jurists may suggest. Johnston (1999:131) mentions these difficulties, such as problems of access to knowledge about the law, difficulty in initiating its procedures, and doubts about the quality and fairness of both magistrates and judges.

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[109] On the contrary, cases where the defendant might be wealthier or more powerful than the plaintiff were clearly rare (Borkowski and Du Plessis 2005:65).

[110] In these circumstances, such cases came before him by exercise of the province's law or by the operation of his judgement (Kunkel 1973:85).

[111] According to Johnston (1999:120), provincial jurisdiction seems to have performed under a single-stage procedure in which the governor or a representative appointed by him heard the whole of each case.

2.2.2.2 Civil Law

2.2.2.2.1 Introduction

There was a limit to the application of the law:[112] the law of each state basically applied only to citizens, not to foreigners (Kunkel 1973:75).[113] However, according to Kunkel (1973:76), the Roman *ius civile* remained closed to foreigners in principle.[114] Thus the foreign praetor's obligatory power depended not on the *ius civile* like the law pertinent to Roman citizens, but on the *ius gentium*. Kunkel (1973:76) states that the notion of *ius gentium* affected other areas of the legal system, particularly private law.[115] In the form of the *ius gentium*, Roman legal culture extended in all directions beyond its own limited field, which was appropriately the community of Roman citizens (Kunkel 1973:78). Therefore, contracts generally were recognised by all, and the validity of the law could apply to contractual agreement not only between Romans, but also between Romans and foreigners, and between foreigners as well (Kunkel 1973:76).

Roman law still retained its own national character, even though Romans no longer played the leading role in the cultural and political life of the Empire, so the people lived according to the Roman *ius civile* to receive Roman citizenship regardless of where they were resident (Kunkel 1973:77). In fact, Roman citizenship was being bestowed on individuals, whole communities, and even provinces since the end of the Republic (Kunkel 1973:78).

According to Kunkel (1973:81), the old Roman *ius civile* was fundamentally based on the Twelve Tables, and afterwards on established popular law.

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[112] In addition, old Roman civil law was controlled by the formalistic interpretative work of the '*pontifices*', and was strict, limited (Kunkel 1973:75)

[113] Thus foreigners generally had their 'protector' to make use of the help of a citizen in the case of a legal dispute (Kunkel 1973:75).

[114] According to Spiller (1986:20), in this period jurists retained the two-fold distinction between the *ius civile*, kept for citizens within the Empire, and the *ius gentium*, the law in which citizens and non-citizens of the Empire were involved.

[115] The reason was that it was known that contracts like sale, service, loan, and so on were usually formed and perceived among other nations too (Kunkel 1973:76-77).

The chief role in civil law was given to jurisdictional magistrates; in Rome the jurisdictional magistrates largely meant the two praetors, and they were charged with the administration of civil trials (Kunkel 1973:81). In this regard, Kunkel (1973:94) states that the magistrates' law did not make a separate body of law in contrast to the *ius civile*. On the contrary, it was to extend a close connection with civil law norms in as much as it expanded, limited, supplemented, or transformed these.[116]

The greater part of the magistrates' law particularly was concerned with legal relations with foreigners; thus it was simultaneously connected to *ius gentium* (Kunkel 1973:81). However, in the course of time, the principles of magistrate's law arose and helped to establish the statutory law applying only to citizens, and magistrates' law accordingly came to apply only to citizens, not to foreigners; eventually magisterial jurisdiction maintained its power to create law into the second century C.E. (Kunkel 1973:81).[117] From about the end of the third century B.C.E., the outstanding importance of magisterial jurisdiction for the growth of Roman private law can be evaluated through the examples used to illustrate the skill of creation of law by the magistrates (Kunkel 1973:91).

2.2.2.2.2 Early Civil Procedure: The *Legis Actiones*

The foundation of early civil procedure was based on the actions-at-law (Borkowski and Du Plessis 2005:66). In general, the enforcement of the civil procedure in this system had three main stages, namely summons, trial, and execution.

2.2.2.2.2.1 Summons

In order to initiate litigation a defendant was required to appear in court; getting a defendant into court was basically the responsibility of the plaintiff (Du Plessis 2010:66). Originally a

[116] There was one exception: that was when civil law and magisterial law became clearly opposed, as in the sphere of ownership and inheritance (Kunkel 1973:94).

[117] After all, the idea of both *ius gentium* and *ius honorarium* in *ius civile* overlapped even though they relied on totally different perspectives, for example the *ius gentium* was relevant to the personal range of application of legal norms, but the *ius honorarium* was related to their source (Kunkel 1973:81).

plaintiff got the defendant to court by means of 'calling to law,' termed *in ius vocatio* (Crook 1967:75).[118] In the early Roman legal system, a plaintiff could, if necessary, arrest a disobedient defendant if the plaintiff had the legal power; this was never revoked (Crook 1967:75).

Therefore, the defendant was obliged to obey by appearing in court unless the person, namely the defendant, could find someone to ensure that he/she would appear in court when required. If the defendant refused to follow the plaintiff to court or could not find a guarantor (*vindex*), the plaintiff could call witnesses and then attempt to get the defendant to court by force as proceedings could not continue without the defendant's attendance (Borkowski and Du Plessis 2005:66).[119]

2.2.2.2.2.2 Trial

The trial was the most important part of Roman legal history. In general, the trial phase in civil litigation was divided into two stages: a preliminary hearing, and a full trial (Borkowski and Du Plessis 2005:67).[120]

2.2.2.2.2.2.1 Preliminary Hearing

A hearing generally took place before a magistrate in an attempt to work out the matters between the parties, and to appoint a judge (Borkowski and Du Plessis 2005:67). In addition, Kunkel (1973:86) indicates that, in the system of civil jurisdiction, the exclusive function of the magistrate was to fulfil a preliminary proceeding in which he had to decide on the permissibility of the plaintiff's claim, and to appoint the judge, or judges who would hear the case.

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[118] In the first century legal system, the *in ius vocatio* was a way to begin a lawsuit (Metzger 2005:175).

[119] In the legal system of this period, the general principle was that lawsuit had to be brought in the forum of the defendant (Borkowski and Du Plessis 2005:66). Crook (1967:96) also states, "the principle of 'forum of the defendant' was all very well if the plaintiff was well-off, but even apart from that, litigation meant getting to Rome or to the provincial assize and waiting about in hired rooms."

[120] According to Borkowski and Du Plessis (2005:67), a preliminary hearing was followed by a full trial.

The fixed form of words presented by the parties normally formed the actions-at-law of the trial stage, and this form appeared as three actions known as *sacramentum, postulatio* and *condictio* (Borkowski and Du Plessis 2005:67-68).

Sacramentum was an original form of litigation and began as an appeal by the parties (Prichard 1961:435).[121] These authors also state that the procedure demanded the parties to make formal oaths, and to deposit a sum of money for a wager on the result.[122] The proceeding in *sacramentum* relied upon the action which was *in rem* or *in personam*. An action *in rem*, on the one hand, was an assertion of ownership of an object, or control over a person (Borkowski and Du Plessis 2005:67; Mousourakis 2003:133), but by an action *in personam*, on the other hand, the plaintiff demanded that the defendant carry out responsibilities resulting from a transaction or from causing harm (Mousourakis 2003:133). However, according to Borkowski and Du Plessis (2005:67-68), whatever the form of *sacramentum*, the rule became established that an interval of 30 days had to pass before a judge was appointed, and this provided the parties with an opportunity to resolve the dispute privately.

Secondly, the *postulatio* was considered as a more useful form of action for certain types of cases (Borkowski and Du Plessis 2005:68). In particular, this was much simpler than the *sacramentum* (Prichard 1961:438).[123] This procedure needed no wagers, pledge, and not even formal oaths; thus the *postulatio* could be regarded as a less risky procedure for the litigants because there was less probability of confiscation (Borkowski and Du Plessis 2005:68).

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[121] Gaius (*Institutes*, 4.13) presented *sacramentum* as the 'general' way of initiating a case (Gordon and Robinson 1988:407).

[122] In addition, the *sacramentum* alluded to the oath made to the gods by the parties when insisting the justice of their claims (Borkowski and Du Plessis 2005:67). And the reason for asking a deposit from the parties probably derived from the religious origins of *sacramentum*, and in terms of the practical effect, the demand of a deposit was to prevent trivial litigation (Borkowski and Du Plessis 2005:67).

[123] In this procedure a judge was generally appointed immediately, rather than after the lapse of a month (Borkowski and Du Plessis 2005:68).

Lastly, the *condictio* shows the importance of the consensual contracts such as sale and hire, and the need for a more useful procedure than *sacramentum* (Borkowski and Du Plessis 2005:68). In general, if the defendant did not accept the claim, the plaintiff gave notice termed *condictio* to the effect that the defendant should appear in 30 days for the selection of a judge (Borkowski and Du Plessis 2005:68).

According to Du Plessis (2010:68), whatever the form of proceedings used in the preliminary phase, the decisive moment was reached when the issue was agreed between the plaintiff and the defendant, because litigation could be performed through the agreement of the parties.

The last step of the preliminary hearing demanded the appointment of a judge (Du Plessis 2010:69).[124] In general, many cases were worked out by a single lay judge such as the *iudex* or *arbiter* (Borkowski and Du Plessis 2005:68-69).[125] Cases normally would be heard by *recuperatores* (recovers) who effected jurisdiction mainly over crime, and also some civil cases involving lawless action such as robbery and insulting behaviour (Borkowski and Du Plessis 2005:69).

In addition, judges were generally chosen from an official list (the *album iudicum*) which was composed of senators authorised to adjudicate in legal cases, and they normally were appointed by the magistrate concerned in that stage of the preliminary hearing (Borkowski and Du Plessis 2005:69).

2.2.2.2.2.2.2 Full Trial

Borkowski and Du Plessis (2005:69) indicate that in this period the trial before the judge was evidently more informal than the preliminary hearing, which was the strictest formality. For instance, according to Du Plessis (2010:69), the trial often took place in the open air, and the parties could be absent in exceptional circumstances, such as sickness, even though the parties normally would be required to be present. However, if one of the parties could not be

[124] In general, the Roman civil trial was conducted before a single judge (Metzger 1997:1).
[125] However, several *arbitri* could be appointed in important lawsuits (Borkowski and Du Plessis 2005:69).

present they would appoint a representative (*procurator*) on their behalf, and the trial proceeded by means of substitute speeches from the advocates or the judge performing as an arbiter (Borkowski and Du Plessis 2005:69).

There were two kinds of testimony allowed. The one was written testimony, and the other oral testimony. The latter of these two was normally preferred because of its immediacy (Borkowski and Du Plessis 2005:69).

Witnesses were normally not coerced to the court hearing, but at times refusal to attend as a witness could bring about social dishonour (Du Plessis 2010:69). The hearing was generally expected to finish at sunset but sometimes lasted into the night (Borkowski and Du Plessis 2005:69).

The judgement (*sententia*), or decision of the judges was delivered verbally in the presence of the parties, or their representatives when the parties could not be present, and the judge was frequently assisted by an organisation of advisers which mainly consisted of men learned in the law (Borkowski and Du Plessis 2005:70).

The partition of an action into preliminary hearing and full trial remained a principal feature of Roman civil litigation until well into the Empire (Du Plessis 2010:70). In addition, in the early procedure particularly, there was no system of appeal (Borkowski and Du Plessis 2005:70).[126]

2.2.2.2.2.3 Execution

In the early procedure of this period, the manner of execution depended on the action, and the action was normally related to *in rem* or *in personam*. According to Borkowski and Du Plessis (2005:70), if *in rem*, there would be no problem if the party who was allowed temporary ownership of the argued property won the case, and the controversy of execution

[126] According to Borkowski and Du Plessis (2005:70), if the judge was not able to arrive at a verdict, the case was sent to the original magistrate for the appointment of another judge.

might not be brought. Thus if he/she lost the case, they had to submit according to the result. However, there would be a problem if the party who lost the case refused to obey the verdict. The person entitled to the property could execute the pledge, and if the pledge was not sufficient, further procedures could be brought to estimate the remuneration payable for the loser's failure to fulfil the judgement. And when the amount was assessed, the enforcement of the judgement could advance *in personam*.

Borkowski and Du Plessis (2005:71) introduce two actions-at-law which were possible for the enforcement of judgments *in personam*, namely, *manus iniectio* (the laying on of the hand) and *pignoris capio* (the taking of a pledge).

The *manus iniectio* was the standard form of enforcement in early law. *Manus iniectio* generally consisted of the authorised physical capture of the person who had been decided as the debtor by the judgement. In general, according to the Twelve Tables, a time of 30 days was accepted for the debtor to make the payment of the debt according to the decision of the judgement.[127] The judgement creditor would be entitled to take and bring the debtor to stand before a magistrate if the debtor did not pay the debt within that period. Eventually, if the debtor failed to pay and a *vindex* (protector) did not appear, then the magistrate gave the creditor a warrant of authority to imprison the debtor for 60 days.[128]

The *pignoris capio* was the taking of a pledge. The pledge was generally the property which was taken as security for the performance of the obligation (Borkowski and Du Plessis 2005:71). Under this system the seizors could keep the property which they took from the debtor, but were not permitted to sell it (Borkowski and Du Plessis 2005:72).[129]

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[127] In addition, in the system of the *manus iniectio* the debtor could have the right to challenge the legality of a judgement when hauled in front of the magistrate; however, if the debtor failed to dispute against the judgement successfully, he/she was responsible for double the amount of the debt (Borkowski and Du Plessis 2005:71).

[128] In this situation, the role of *vindex* was to protect the debtor from personal confinement by the creditor (Du Plessis 2010:71).

[129] In addition, the execution concerning distraint was based on a mixture of statutory and customary rules (Borkowski and Du Plessis 2005:72).

2.2.2.2.3 The Formulary System

The standard classical civil procedure is known as the formulary system (Johnston 1999:112). In the first centuries of the Principate the formulary procedure remained the usual way of taking legal action in disputes relating to private law. The proceedings were essentially the same as they had been under the Republic (Tellegen-Couperus 1993:89).

In the later Republic, the formulary system gradually substituted the earlier system of the *legis actiones*,[130] and finally became the principal form of civil procedure in Rome (Mousourakis 2003:306).[131]

The formulary system basically started in history with the appearance of the *peregrine praetor* in 242 B.C.E., and this was accomplished through the use of *formulae*, which were standardised written pleadings (Du Plessis 2010:72).[132] This system was largely related to commercial disputes, the nature of which demanded a speedier and more informal process than the actions-at-law system (Borkowski and Du Plessis 2005:72).

Basically, the *formulae* were applied to two distinct phases of the procedure. According to Mousourakis (2003:306), the first phase (*in iure*) was, on the one hand, heard before the praetor.[133] In this instance, the praetor decided on the permissibility of the plaintiff's claim. Through informal proceedings before the magistrate the parties could bring forward claims and defences which were not included in the early procedure, but which was freed from the

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[130] According to Meyer (2004:83), formulary procedure was much like the earlier *legis actiones*.

[131] According to Mousourakis (2003:306), during the early imperial period the procedure under the formulary system was basically the same as in the Republic era, and the only change that occurred had to do with the operation of the praetorian edict. However, from the closing years of the Republic, the power of the praetorian edict as a source of law began to wane because praetorian initiatives became more and more uncommon. And this tendency continued during the Principate (Mousourakis 2003:306).

[132] The *peregrine praetor* was mainly needed by the influx and increase of foreigners coming into Rome at that time (Borkowski and Du Plessis 2005:72).

[133] The praetor simply granted a formula which dealt with the allegation of each party (Johnston 1999:113). However, according to Johnston (1999:113), there was a group of cases in which the formula would be admitted only after examination of the case. And if the plaintiff requested an action which did not appear in the edict, this too would probably require more time (Johnston 1999:113).

formalism of the *legis actiones* (Kunkel 1973:87).[134] On the other hand, the second phase (*apud iudicem*) of the proceedings took place before the judge.[135] In this scenario, the judge listened to the pleadings and evaluated the evidence (Mousourakis 2003:306).[136] Kunkel (1973:86) also states that the strict division of the course taken by the trial into the introductory stage before the magistrate, and the actual hearing of the case before the judge or judges, developed in this way into a notable characteristic of Roman civil procedure, which did not disappear until the rise of the 'extraordinary' procedure of the imperial period. In addition, the judge rendered a decision according to the *formulae* agreed upon in the *in iure* phase (Mousourakis 2003:306).

According to Johnston (1999:114), the formula inevitably began with the appointment of the judge.[137] In general, the judges under the formulary system were not lawyers, but individuals chosen by the litigants to determine the outcome of their dispute (Johnston 1999:126).[138] The essential point is that the parties were able to agree on their own judge (Johnston 1999:127).[139] Once the formula was confirmed and the judge was appointed, then the praetor's role was over, and the parties' argument went before that judge (Johnston 1999:116).[140] According to Tellegen-Couperus (1993:89), in the formulary system the praetor decided whether parties could submit their dispute to the judge in the first phase; thereafter

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[134] In addition, the magistrate could also prescribe the direction which he should take for the judge in investigating and deciding the case (Kunkel 1973:87).

[135] According to Johnston (1999:127), the main standards are that the person should be a 'Decurion' or councillor, or otherwise be of free birth, over the age of twenty-five, and satisfy a certain property qualification, but those who were ill or over sixty-five were not to be appointed.

[136] In particular, the juridical power of the magistrate formed the basis for the procedure *apud iudicem*, and it lent the authority of the state to the judgement of the judge (Kunkel 1973:86).

[137] The basic constituent is as follows: formulae were built up of clauses, some mandatory, others optional, so as to encapsulate in a single sentence all the issues which the judge must determine (Johnston 1999:113).

[138] Judges then were not appointed for their legal knowledge. Then it might have been hoped that they would be appointed for their fair-mindedness and independence of mind (Johnston 1999:126).

[139] According to Chapter 87 of the *lex*, "if the parties could agree on a judge, it was open to them to have the praetor to appoint him as judge in the case. If they could not agree, there was a system for reaching a name from the published lists. First, starting with the plaintiff, each party would reject one of the three panels. From the remaining panel, the parties would then alternately reject a name until only one was left. If the number of names in the panel was uneven, the plaintiff had the first rejection; if it was even, the defendant did: so in either case the defendant had the right to make the final rejection" (Johnston 1999:127).

[140] The responsibility of the judge was to hear the evidence brought by the parties in order to decide whether he should convict the defendant to pay, or release him/her (Johnston 1999:116).

the trial itself took place in the second phase, which consisted of the presentation of evidence, the pleas by the advocates, and finally the judge's verdict.

Three crucial points emerged particularly, in formulary procedure: that the litigants were empowered to choose their own judge; that the magistrate was required to appoint someone else as judge; that there was no appeal (Johnston 1999:122).

2.2.2.2.3.1 Summons

In order to initiate litigation the plaintiff needed the defendant to appear before the praetor (Borkowski and Du Plessis 2005:72),[141] and a plaintiff was required to obtain *formulae* from the praetor, which generally summarised the principles of the dispute (Johnston 1999:112). Thus the plaintiff gave the defendant notice of the claim (Borkowski and Du Plessis 2005:72).[142] Under the formulary system, it was common that both parties agreed about a specified place to meet for the purpose of appearing before the praetor to get *formulae*; accordingly the procedure could not begin without the mandatory presence of the defendant. According to Johnston (1999:113), it was sometimes necessary that the defendant stood before the praetor under duress.

When the defendant received the notice of the claim from the plaintiff, the defendant had several options, as follows: he/she could go at once before the praetor; or he/she could provide a guarantor of his/her future appearance; or he/she could make an official assurance to appear on a particular day (Borkowski and Du Plessis 2005:72). And, in the last case he/she had to promise to provide a pledge and to pay a penalty to court should he/she fail to appear at the agreed time (Borkowski and Du Plessis 2005:72). The crucial point was that the named defendant should promise to appear at a certain place and time near the court, so that the plaintiff could then formally summon him/her before the magistrate (Johnston 1999:113).

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[141] At that time the litigation could take place only in the presence of the intended defendant because the defendant also had to have a chance to speak in what was included in the formula (Johnston 1999:112).

[142] However, if someone was wealthy or more powerful, it was never easy to sue that person (Johnston 1999:123).

If a defendant failed to respond to a summons to appear before a plaintiff, the defendant was treated as being in hiding, and the praetor would permit that the plaintiff could take possession of the defendant's property (Lenel 1927:415; Kaser 1968:222; Johnston 1999:123-124).

If the defendant tried to avoid being summoned or refused to provide a guarantor or to obey the summons, sanctions were imposed on him/her (Borkowski and Du Plessis 2005:73). In addition, the authority to seize an unwilling defendant and to drag him/her to court still survived in the formulary system (Du Plessis 2010:73).[143]

After the appearance of both litigants the case was sent by the praetor for trial before a judge. The *formula* defined the full extent of the issue(s) to be determined by the judge on the evidence (Johnston 1999:112).[144] And, according to Johnston (1999:129), the evidence was often produced to make an emotional impact, or because of the favourable light it cast upon a party in general terms, rather than because it was germane to the point at issue.

In addition, the law was clear: even a defendant who claimed that the court had no jurisdiction over him/her or in the particular case, was obliged to answer a summons to it, but from there the case would be sent to a higher court (Lenel 1927:51-53; Johnston 1999:124).

2.2.2.2.3.2 Trial

In the trial order, there were two distinctive stages, namely, the preliminary hearing and the full trial.

2.2.2.2.3.2.1 Preliminary Hearing

In the stage of the preliminary hearing, the plaintiff presented a draft of the *formula* which

[143] However, this was likely used as a last means (Borkowski and Du Plessis 2005:73).
[144] The power given the judge by the praetor was to adjudicate only on the issue which was begun in the formula (Johnston 1999:112-113)

contained the point of his claim, while the defendant could propose amendments by way of a defence (Du Plessis 2010:73).

Various kinds of the *formula* existed in the formulary system. These will be reviewed briefly here, based on Borkowski and Du Plessis (2005:74-75). The *nominatio* was the appointment of the judge. The plaintiff could suggest the name of a proposed judge from the official list until the defendant agreed.[145] The *intentio* was the plaintiff's statement of claim. This represented the very core of the *formula*.[146] The *condemnatio* was the submission which was provided to the judge, and according to which the judge made a decision whether the defendant had to be condemned or absolved. In particular, the *condemnatio* was indicated in monetary terms. The proposed amount was generally stated by the plaintiff, but the final amount was left to the decision of the judge, also if the plaintiff did not specify the sum. The *demonstratio* was a clause enumerating the facts from which the claim arose.[147] The *exceptio* was provided when a defendant wished to propose a specific defence. If the *exceptio* was supported, the defendant would defeat the plaintiff, but if the plaintiff wanted to oppose the *exceptio*, he could interpose a *replicatio*, being a set of facts which could defeat the asserted defence.[148] The *praescriptio* was a clause placed (if necessary) after the designation of the judge. The main function of the *praescriptio* was to restrict the reason of an action; in the final analysis, it was more likely to be advantageous to the plaintiff than to the defendant.[149]

In the formulary system, representation of parties was normally possible. In addition, the representative became the actual party in an action, and the judge gave judgement for or against him. Actually, the legal results of having a representative could differ depending on whether the representative was appointed formally or informally (Du Plessis 2010:76).

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[145] The *nominatio* was essential in a *formula* (Borkowski and Du Plessis 2005:74).
[146] In general, the *intentio* begins with the clause 'If it appears' (Borkowski and Du Plessis 2005:76).
[147] It was normally used only in actions *in personam* for unpaid damages (Borkowski and Du Plessis 2005:74).
[148] In addition, these defences and counter-defences appeared successively in the *formula* (Borkowski and Du Plessis 2005:75).
[149] According to Borkowski and Du Plessis (2005:75), "the plaintiff would insert a *praescriptio* into the *formula*, limiting the action to the unpaid instalment; otherwise he might not be able to sue for later breaches of the contract."

Sometimes the argument could be decided completely at the stage of the preliminary hearing. In other words, there would be no need for a full trial before the judge. The plaintiff could ask the defendant to take an oath. If the defendant accepted and took the oath, swearing to the justice of the plaintiff's case, then the plaintiff won; but if the defendant refused to take the oath, the plaintiff became the loser of that case (Borkowski and Du Plessis 2005:76).[150]

2.2.2.2.3.2.2 Full Trial

In the system of the formulary procedure the trial normally took place on a day confirmed by the praetor, and was held in public (Borkowski and Du Plessis 2005:76). The judges usually depended upon the advice of jurists to make a decision (Borkowski and Du Plessis 2005:77).

Basically there was no limitative period on *ius civile* actions in the formulary system, but penal charges usually had to be brought within a year (Du Plessis 2010:76).

2.2.2.2.3.3 Execution

In this system the judgement debtor had to be taken before a magistrate within 30 days after the judgement of the court (Borkowski and Du Plessis 2005:77). In addition, the debtor could challenge the legality of the judgement (Du Plessis 2010:77).[151]

Two significant changes took place under the formulary system regarding 'sale of assets (*bonorum venditio*)' and 'surrender of the estate (*cessio bonorum*).' Firstly, *bonorum venditio*: regarding the sale of the assets, if the debtor was not satisfied with the litigation, or successfully disputed the judgement, the creditor was authorised to take him away into private custody to cancel the debt (Borkowski and Du Plessis 2005:77). In other words, the creditor could take the property of the debtor and also have the opportunity to sell the property of the debtor, and once the order of seizure was granted, the creditor could seize the

[150] Borkowski and Du Plessis (2005:76) state that a title of the *Digest* is dedicated to oaths, and Gaius is quoted as stating that oath-taking is a significant means of forwarding litigation (D.12.2.1).
[151] However, in this case the debtor should provide a pledge, and he/she was also liable for double damages if his/her claim failed (Borkowski and Du Plessis 2005:77).

whole of the property (Du Plessis 2010:77).[152] Eventually the property was sold to the tenderer who offered the highest amount to the creditors (Borkowski and Du Plessis 2005:77).

Secondly, *cessio bonorum* concerned the surrender of the estate by a judgement debtor who willingly gave up his property to the creditors (Borkowski and Du Plessis 2005:78). In this case, even though the value of the property was declined as an insufficient amount of money, the debtor could not be subjected to legal dishonour or to plausible imprisonment by the creditors (Du Plessis 2010:78).

Once in possession, the plaintiff was able to plan to sell the property in order to honour his/her claim. Of course, this procedure might be frustrated if the praetor refused to give the order, or if the defendant had no property of his/her own within the court's jurisdiction (Johnston 1999:124).

2.2.2.2.3.4 Praetorian Remedies

The praetor (or, presumably, the provincial governor in the provinces) also intervened to support the jurisdiction of municipal magistrates, by issuing an edict in the event of a defendant failing to respond to a summons to court (Johnston 1999:124).

The only element that altered the formulary procedure was the function of the praetorian edict. For a long time the praetorian edict continued to be a significant source of law, but no further new legal remedies were incorporated; very occasionally the *formula* for a legal remedy was changed, and sometimes the edict was altered in accordance with what had been decided by a *lex* or senatorial decree (Tellegen-Couperus 1993:89).[153] Such senatorial decrees remained strictly advisory only (Green 1987:441).

One of the reasons that the edict was not preserved may be connected with the fact that, in

[152] If the debtor had valuable assets, the creditor often abandoned his/her right of imprisoning the debtor (Borkowski and Du Plessis 2005:77).

[153] Although the edict was no longer a source of new law, its importance did not decline. It was used as a source of law for legal practice for a long time (Tellegen-Couperus 1993:89).

their collections of *responsa*, the jurists always quoted the relevant words from the edict, with the result that the edict itself became superfluous (Tellegen-Couperus 1993:90).[154]

In civil litigation under the formulary system, the jurisdiction of the praetor was completed by a number of legal powers that were applicable by virtue of his tenure of authority (Borkowski and Du Plessis 2005:78-79).

Among the legal powers given to the praetor were rescission, seizure, praetorian stipulations and interdicts. Firstly, 'rescission' was the instructions which could invalidate business and reinstate the parties to their early position, and this order generally had to be requested within one year of the complaint (Borkowski and Du Plessis 2005:78). Secondly, 'seizure' was concerned with an order which could empower the plaintiff to take the property. In general this instruction allowed the recipient of such an order to seize possession of holdings (Borkowski and Du Plessis 2005:78).[155] Thirdly, the 'praetorian stipulations' were basically formal promises made by parties as the result of praetorian arbitration (Borkowski and Du Plessis 2005:79). Lastly, the 'interdicts' which were valued as the most important of the praetorian remedies, were orders to instruct people to either undertake a specific course of action, or to abstain from carrying out some or other threatening action (Borkowski and Du Plessis 2005:79).[156] In addition, according to Du Plessis (2010:79), the interdicts were categorised possessory or non-possessory. The possessory interdicts in particular were very significant in the development of the law of property, presenting useful protection in many ways of a person's right to possession.[157]

However, according to Kaser (1968:335), the formulary procedure gradually declined, until finally it became absorbed into the *cognitio* procedure which will be explained in the next section.

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[154] The edict had not been preserved in its original state, and the content could only be reconstructed on the basis of the information given in the juridical literature of the classical period (Tellegen-Couperus 1993:90).

[155] In addition, Borkowski and Du Plessis (2005:78) report, "such orders were of considerable practical importance in the effective operation of the Roman legal system."

[156] In general the interdicts were issued after grievance by an unhappy person (Borkowski and Du Plessis 2005:79).

[157] According to Du Plessis (2005:79), the interdicts were pivotal to the development of the *ius honorarium*.

2.2.2.2.4 The *Cognitio* Procedure

From the early years of the Principate a new pattern of legal procedure began to be used together with the formulary procedure, known as the *cognitio* procedure.[158] Kaser (1968:334) explains that this procedure was on the whole informal and had principles less strict than the formulary procedure. According to Mousourakis (2003:307), the *cognitio* procedure was first applied in the provinces during the later republican period, and was normally employed in criminal cases.[159]

The formulary system continued an effective system of civil procedure into the Empire (Du Plessis 2010:79).[160] The *cognitio* procedure was generally used to work out private disputes, but was also often used in criminal cases or in contests between state organs and private citizens (Mousourakis 2003:307).

The typical feature of *cognitio* (an investigation) resided in certain aspects of the formulary procedure, particularly in the praetorian use of interdicts (Borkowski and Du Plessis 2005:80).[161]

In general, the *cognitio* procedure was based on the notion that the administration of justice is chiefly a function of the state, and it probably was applied in the early practice to enable magistrates to try certain cases directly (Mousourakis 2003:307).

In addition, the most significant incentive in the development of *cognitio* was the increasing

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[158] In addition, according to Mousourakis (2003:307-308), from the age of Augustus the *cognitio* procedure was the only type of procedure used in the imperial provinces. However, in the senatorial provinces it became the normal form of procedure during the second century C.E. Eventually, by the end of the third century C.E. it had completely replaced the formulary procedure throughout the empire (Mousourakis 2003:308).

[159] And also this procedure was used in cases involving disputation between foreigners, and in cases being argued between Romans (Mousourakis 2003:307).

[160] In particular, the magistrate as a deputy of the emperor became the foundation of the system of civil procedure (Borkowski and Du Plessis 2005:80).

[161] According to Du Plessis (2010:80), the *cognitio* procedure was described as *extraordinaria* in recognition of the fact that it was 'unusual.'

practice whereby provincial governors themselves decided cases (Borkowski and Du Plessis 2005:80).[162]

2.2.2.2.4.1 Summons

In the *cognitio* procedure, the summons was issued by the plaintiff to the defendant with the backing of the jurisdictional magistrate, or by the magistrate himself on the plaintiff's request (Mousourakis 2003:308).[163] The plaintiff requested proceedings with the lodging of a written statement of claim with the magistrate (Borkowski and Du Plessis 2005:80). [164]

With regard to the method of summons, there were three chief forms, namely, *litterae*, *edictum* and *denuntiatio*. The *litterae* were generally used if the defendant dwelled at a distance from the place where the tribunal sat. The plaintiff had then to acquire a letter of authorisation from the tribunal, which he could take to the local magistrates. Then the local magistrates summoned the defendant and returned the letter to the plaintiff with a note (Jolowicz 1932:404).[165] Secondly, the *edictum*, that is, a written notice announced in public; was certainly only used when the defendant could not be found (Jolowicz 1932:404-405). Lastly, the *denuntiatio* was used as the normal procedure when the defendant lived within the jurisdiction of the court (Jolowicz 1932:405).

Thus the defendant had to be sure to appear in court and also to provide a pledge for his appearance; if the defendant failed to fulfil his promise, he was arrested by the official (Du Plessis 2010:80). This was impossible under the earlier systems of procedure because a trial could not take place without the defendant's consent (Borkowski and Du Plessis 2005:81).

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[162] In particular, under the *cognitio* procedure litigation was no longer defined by a *formula*. The cause of action ('claim') was governed exclusively by the rules of substantive law. Hence, the cognitional *actio* essentially covered the 'claim' under private law (Kaser 1968:361).

[163] In the *cognitio*, the state official began to take a part, not only in the trial, but in the summons (Jolowicz 1932:404).

[164] Particularly, at this stage the magistrate sent a copy to the defendant to attend the court on the set date (Borkowski and Du Plessis 2005:80).

[165] In general, while most cases came under the jurisdiction of local authorities, some were referred to the emperor or senate (Levick 1985:46).

2.2.2.2.4.2 Trial

To begin the trial the parties took an oath promising to tell the truth (Borkowski and Du Plessis 2005:81).

In the initial stages of the trial, the magistrate normally had complete control over the administration of the case; for example, witnesses could be forced to attend by the magistrate's order, and were subject to full interrogation (Du Plessis 2010:80). All relevant evidence was assessed freely by the magistrate in charge (Mousourakis 2003:308).[166]

In the provinces trials were administered by the governors and other high-ranking provincial magistrates. However, these magistrates often exercised their judicial functions through delegates (Mousourakis 2003:307).[167]

Eventually, the inquisitorial feature of the *cognitio* trial procedure became one of the most distinctive characteristics of late Roman civil procedure (Borkowski and Du Plessis 2005:81).

2.2.2.2.4.3 Execution

The magistrate's decision normally had to be given in writing and announced in the presence of the parties concerned (Mousourakis 2003:309). In addition, execution became a matter in which the magistrate could use his powers of both command and constraint (Jolowicz 1932:407).

In the *cognitio* procedure, the 30 day rule for the acceptance of judgements was no longer rigidly accepted; rather the period could be changed according to circumstances (Du Plessis 2010:81).

The normal procedure under the developed *cognitio* system entailed the taking of the debtor's

[166] However, the burden of production was born by the litigating parties (Mousourakis 2003:308).
[167] These delegates were lower state officials appointed by their superiors (Mousourakis 2003:307).

property by court bailiffs, and the personal imprisonment of the debtor by the creditor gradually became outdated, although imprisonment for debt continued to be a possibility (Jolowicz 1932:407), and was sometimes ordered by a magistrate (Borkowski and Du Plessis 2005:81).[168] Court officials could be empowered to confiscate a sufficient part of the property and sell it for the benefit of his creditor after a delay of two months (Jolowicz 1932:407).

2.2.2.2.4.4 Appeals

Even though appeal had not existed in the Republican era, under the *cognitio* appeal became a regular rule, and the higher court could not only revoke the judgement of the lower court, but could also replace it with its own judgement (Jolowicz 1932:406).[169]

In Roman legal history a systematic procedure concerning appeals was developed under the *cognitio* system (Borkowski and Du Plessis 2005:81). But the only possibility of appeal against the decisions of a jurisdictional magistrate lay in the mediation of another magistrate of equal or higher rank (Kunkel 1973:90).[170]

In the *cognitio* procedure, the party who lost the case could appeal to the original decision of the magistrate and have his case brought before a higher magistrate or the emperor (Mousourakis 2003:309). However, in the case of appeals to the emperor, an appellant suffered monetarily if he/she was not successful (Jolowicz 1932:406).[171]

Appeals were performed in different ways in and between the capitals of the Empire and the provinces. According to Du Plessis (2010:81), in the capitals of the Empire appeals were

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[168] In this case, execution against property was very much the preferred option rather than imprisonment (Du Plessis 2010:81).

[169] According to Jolowicz (1932:406), it became a general institution that appeal could be presented by a delegate to the magistrate who appointed him.

[170] In particular, the appeal could take place in intercession of *tribuni plebis*, and their main obligation was to protect the citizen against injustice (Kunkel 1973:90).

[171] In general, notice of appeal should be given to the court, and it might be given orally immediately, or within a few days in writing (Jolowicz 1932:406).

basically heard by the courts of the chief praetorian prefect and the city prefect, but in the provinces governors frequently appointed subordinates to hear cases at first instance.[172] Thus appeals could be carried through the hierarchy of the urban system (Borkowski and Du Plessis 2005:82).

However, the *cognitio* system had defects. Borkowski and Du Plessis (2005:82) describe some examples of the drawbacks. In terms of an official fee, litigation gradually became much more expensive than previously. For example, litigants generally had to pay for every official deed by an officer of the court. And many rules also impeded the system, and delays resulting from bureaucratic became serious over-regulation.

As an outcome, drawbacks such as expense, delay and bureaucracy became characteristics which modern lawyers will instantly acknowledge in their contemporary system (Borkowski and Du Plessis 2005:82). However, the *cognitio* system can be considered as a remarkable consequence of the peculiar Roman predisposition for structure and order (Du Plessis 2010:82).

2.2.2.3 Criminal Law

The increase of the urban proletariat and of the slave population undoubtedly brought a rise in the incidence of criminal acts that demanded strong measures for the continuation of public security (Kunkel 1973:64).[173] Thus there resulted a strong police-jurisdiction conducted against those guilty of offences of violence, theft, poisoning, and arson, etc. (Kunkel 1973:64).[174] As a result, an offender arrested by these police authorities was punished officially, although the procedure could be initiated by a private citizen (Kunkel 1973:64).[175]

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[172] However, in general appeals would be heard by the governor in the provinces (Borkowski and Du Plessis 2005:82).

[173] Trials for political crimes in the early Republic were carried out by *tribuni plebis*, quaestors, or aediles (Kunkel 1973:65).

[174] In addition, the *praetor urbanus* was the person who was capable of exercising this police justice (Kunkel 1973:64).

[175] Traditionally any citizen could bring such an accusation (Tellegen-Couperus 1993:93).

In addition, jurisdiction in the Roman design of government was never separated from administration - in other words, jurisdiction in the technical sense was itself a derivation of *imperium* (Jolowicz 1932:402).

2.2.2.3.1 The jury-courts of the late Republic and early Empire

At the end of the republic, two juridical procedures existed for the practice of criminal law: serious crimes were treated by special standing tribunals (*quaestiones perpetuae*), lesser crimes were dealt with by magistrates who belonged to the lower class, the so-called *tresviri capitales* (Tellegen-Couperus 1993:88). And the tribunals were maintained for some time after they had been restructured and expanded by Augustus (Tellegen-Couperus 1993:88).[176]

The jurisdiction of the first court included cases involving adultery, extra-marital relationships involving women of high social status, and procurement (Mousourakis 2003:309).

In the first few decades of the Principate, the criminal jurisdiction of the *tresviri capitales* was taken over by officials in the service of the emperor, the *vigiles*, acting under the supervision of the *praefectus vigilum* (Tellegen-Couperus 1993:88; Mousourakis 2003:309).

According to Kunkel (1973:66), the standing courts generally dealt with high treason and insubordination to the superior organs of state, extortion in the provinces, bribery at elections, the jeopardising of public security and forgery of wills or coins, murder by violence or by poisoning, and serious wrongs including the infraction of domestic peace. And others were added later, such as violent offences of every kind, adultery and the enticement of respectable unmarried women. But the penalties imposed for offences tried by the standing courts were often regarded as too light, and therefore inappropriate in terms of the seriousness of the offences committed (Mousourakis 2003:310).

[176] The tribunals had a number of disadvantages which were not sufficiently dealt with by the innovations of Augustus. First of all, a citizen could only lay a complaint about a crime if a tribunal existed for that crime. Secondly, it sometimes happened that in one case several persons were implicated, some of whom had committed a variety of crimes (Tellegen-Couperus 1993:88).

Kunkel (1973:66) states that other 'standing' courts of this kind (*quaestiones perpetuae*) could obviously not be created until the *consilia* of the criminal courts were freed from the requirement of including only senators (of whom at that time there were normally only 300); this limitation was removed by the *lex sempronia iudiciaria* of C. Gracchus (122 B.C.E.). This regulation marked the initiation of the development of the system of jury-courts which ruled ordinary criminal justice in the late Republic and early Empire (Kunkel 1973:66).[177]

In general, the trial was officially begun with the laying of a charge by a private person, and if the judicial magistrate had accepted a 'complaint', he then ordered the *consilium* (Kunkel 1973:67).[178] According to Kunkel (1973:67), the *consilium* normally attained its verdict by means of voting tablets which were placed in an urn in secret.

The accuser could call and cross-examine the witness for the prosecution, and the accused could also be permitted the same opportunity with the witness, who was required to provide testimony favourable to him or her. During this stage, sharp cross-examination took place. The judges listened in silence, and were not allowed to speak to each other (Kunkel 1973:68).[179] In this system, the judges were appointed by the officials, not designated by agreement between the parties (Jolowicz 1932:403).

The enforcement of the punishment was a part of the duty of the presiding magistrate (Kunkel 1973:67). At that time, a criminal who confessed or who was caught in the act, was apparently put to death by the *tresviri* without any court trial, but in the case of slaves, a confession could be elicited by means of torture (Kunkel 1973:64-65).[180] In the last century of the Republic the death penalty was no longer performed on persons who were generally

[177] In addition, the list of potential jury-members was composed in a new way. According to Tellegen-Couperus (1993:88), the minimum age for jury service was lowered from 30 to 25, so that there would always be enough jury members available.

[178] In principle, every citizen of good reputation was allowed to propose a prosecution (Kunkel 1973:67).

[179] In addition, an attempt was made to oppose the serious abuses to which this system of prosecution gave increase, by providing that, if the prosecutor's accusation was shown to be groundless, he/she himself/herself was immediately subjected to a proceeding for 'calumny.' After all, he/she was condemned in what involved public disgrace and, in particular, a prohibition from ever again initiating a prosecution (Kunkel 1973:67).

[180] The praetor could not replace another punishment for the death penalty settled by law (Kunkel 1973:65).

regarded as belonging to the upper classes; instead, the magistrate could give them an opportunity to escape from the region (Kunkel 1973:68-69). However, slaves, and criminals who belonged to the lower class of the free population, were apparently put to death as a rule when they were sentenced for a capital offence by the police-court (the *tresviri capitales*) (Kunkel 1973:69).

Extraordinary courts were also set up for dealing with offences committed during high volumes of criminal activities which could not be managed in the normal course of public criminal trial, and for the suppression of movements dangerous to the security of the state (Kunkel 1973:65). The principle that it was not the presiding official, but his *consilium* who reached the verdict, seems to have applied to extraordinary criminal justice, as also to trials before jury-courts (Kunkel 1973:73).

Although the system of the *quaestiones perpetuae* guaranteed on the whole a relatively well-balanced handling of criminal cases, it had several deficiencies which were not adequately addressed by the Augustan legislation and subsequent senatorial resolutions (Mousourakis 2003:310). According to Mousourakis (2003:312), with the system of the *quaestiones perpetuae* in which the guilt or innocence of the accused was determined by the jury, both the verdict and the sentence were now decided by the magistrate at his discretion.[181]

2.2.2.3.2 The *Cognitio Extraordinaria*

From the early years of the Principate the system of the *quaestiones perpetuae* began to lose field and the so-called extraordinary criminal procedure (*cognitio extraordinaria*) became more and more significant (Mousourakis 2003:310).[182] The *cognition extraordinaria* had originated during the Republic and was first used in the provinces. In this juridical system one of the duties of the provincial governor was the administration of justice. Criminal offences in particular, were generally dealt with by the governor or his representative

[181] A further drawback of the system was that all citizens accused of serious crimes had to be brought to the capital for trial (Mousourakis 2003:310).
[182] According to Tellegen-Couperus (1993:91), the *cognitio extraordinaria* was used in Italy and in Rome from the beginning of the Principate.

(Tellegen-Couperus 1993:90).[183]

During this period new crimes occurred which fell outside the range of the regulations whereby the standing courts were established,[184] and these new crimes were treated by imperial tribunals that succeeded the *extraordinaria* procedure (Mousourakis 2003:310).

The *cognitio extraordinaria* procedure brought about a number of changes, in criminal law in particular. For instance, tribunals began to judge criminal cases, and the senate developed into a tribunal dealing with more or less political cases (Tellegen-Couperus 1993:92).

Augustus did not abrogate the late republican jury-courts; rather he renovated them and increased their number (Kunkel 1973:69). He retained the republican institutions and refused to accept formal law-making power himself (Spiller 1986:18). Thus jury-courts remained the organs of 'ordinary' criminal justice under the Principate (Kunkel 1973:69). According to Kunkel (1973:69), Augustus took strong measures to suppress crime outside the city of Rome, as well as in its suburbs.[185] Hence, it probably can be presumed that this organisation of the police-system by Augustus showed, not only a crucial advance in the fighting of crime, but also a significant improvement in criminal justice (Kunkel 1973:69).

The new system of the *cognitio extraordinaria* had a particularly inquisitorial character. In this regard, criminal trials were now begun by the state, and the magistrate took a much more active role in the trial process than had the president of a regular jury-court (Mousourakis 2003:312).

Criminal jurisdiction was practised differently in the two kinds of provinces. One form held in the imperial provinces, and another was practised in the senatorial provinces. And there was a different system of the *cognitio extraordinaria* in the respective provinces.

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[183] But the governor or his representative could not sentence Roman citizens to capital punishment (Tellegen-Couperus 1993:90).

[184] Many of these crimes were offences which, in the past, were regarded as private illegalities (Mousourakis 2003:310).

[185] In addition, according to Spiller (1986:18), during Augustus's reign, important statutes were consented regarding marriage and divorce, and procedure for the freeing of slaves, etc.

In the senatorial provinces the task was generally performed by the governors (Tellegen-Couperus 1993:92).[186] But, in the imperial provinces, the administration of criminal justice was in the hands of imperial officials (*legati Augusti*) as special representatives of the emperor (Tellegen-Couperus 1993:93). According to Mousourakis (2003:311), the imperial officials had the authority to impose all kinds of punishment including the death penalty (*ius gladii*) on offenders, whereas governors of senatorial provinces could not impose the death penalty on Roman citizens.

Furthermore, Mousourakis (2003:310-311) states that under the new system, the *cognitio extraordinaria*, the emperor and imperial officials used their administrative authorities in the imperial provinces to determine criminal cases directly, either in the first instance or on appeal. The decisions of the emperor as judge in the first instance, or in the case of an appeal (*decreta*), did not have the force of law in a formal sense, but they carried authority and could be quoted in later trials.[187] And the senate also developed into a court of justice to handle crimes committed by senators and members of the upper classes (Mousourakis 2003:311).

According to the system created by Augustus, the princeps had the power of using his jurisdiction at least within the structure of his *imperium proconsulare*, which, however, extended only to the provinces and the army, and in fact, probably only to those provinces which he himself governed, namely the so-called imperial provinces (Kunkel 1973:71).

In general, jurisdictional powers of the princeps were exercised in the imperial provinces by his legates. However, whenever the princeps himself was present in one of these provinces he was without doubt empowered to take over the role of judicial magistrate (Kunkel 1973:71).

In the court of the princeps in particular, the proceedings were carried out with greater speed

[186] By the beginning of the third century, the governors were fully authorised to act as judges in all kinds of penal cases in their provinces, not only in the first instance but also in cases of appeal (Tellegen-Couperus 1993:93).

[187] In addition, in the second and early third centuries C.E. imperial legal decisions and opinions influenced the practice of criminal law and procedure according to the way of careful establishment and estimation of guilt and of punishment (Kunkel 1973:74).

and flexibility than in the jury-courts (Kunkel 1973:72-73).[188]

Another tribunal was the court of the emperor and his delegates, particularly the prefects. For example, the praetorian prefect became responsible for the punishment of crimes elsewhere in Italy (Tellegen-Couperus 1993:92).

During the Republic the senate did not have independent criminal jurisdiction; however, from the early years of the Principate onwards, the senate began to function as a court of justice in its own right (Mousourakis 2003:313).[189]

In addition, the chief characteristic of the extraordinary procedures was that they had a single stage only, and the case was not sent at any particular stage for trial by a judge; it was settled by the magistrate (Johnston 1999:121). However, in actuality, a busy magistrate could not have been expected to manage that many cases in person from start to finish, and the practice was therefore to appoint a representative to resolve the case (Johnston 1999:121-122).

During the time of Tiberius the jurisdiction of the senate was enlarged over a wide range of crimes, including murder, adultery and forgery committed by senators or members of the senatorial class (Mousourakis 2003:313).[190] Accordingly, the criminal jurisdiction of the senate was basically restricted to members of the senatorial order (Kunkel 1973:71).[191]

According to Mousourakis (2003:313), the rules of procedure under which cases were treated by the senate were similar to those controlling the ordinary court.[192] Proceedings began with

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[188] However, we have no reason to doubt that the accused was given enough time to make his defence (Kunkel 1973:73).

[189] However, according to Mousourakis (2003:313), the judicial functions of the Senate were decreased during the reign of Commodus (180-192 C.E.), and by the early third century C.E. the Senate had ceased to function as a court of justice.

[190] This practice continued until the later part of the second century C.E. (Mousourakis 2003:313).

[191] This was definitely meant as a privilege; persons of senatorial rank were not to be judged in the publicity of the jury-court procedure by jurors who were mostly of lower rank. But this could illustrate the fact that from the middle of the first century, the Senate as court was losing importance by comparison with the court of the princeps (Kunkel 1973:71).

[192] Prosecutions could certainly be instituted officially (Kunkel 1973:72).

an appeal by the plaintiff, and his being granted permission to bring an accusation (*postulatio*), and the name of the accused (*delatio*) being reported, and the formal announcement of the charge. After the appeal was lodged, the magistrate then formally enrolled the name of the accused and the day was then fixed for the trial to be heard. On the assigned day the senate was convened and the trial initiated under the supervision of a higher magistrate, usually a consul. After all the evidence had been presented and the disputes of the parties heard, the senators determined by vote whether the accused would be found guilty or innocent; they also decided on the kind and amount of punishment that was to be imposed if the accused was found guilty.[193]

In particular, criminal jurisdiction was assigned by decree of the senate or imperial constitution to the consuls and praetors who resolved cases *extra ordinem* with the aid of a group of advisers (*consilium*) (Mousourakis 2003:311).[194]

The prefect's court was not simply a special court before which only certain statutorily determined offences could be tried: on the contrary, judgement could be pronounced on every offence against public order and security (Kunkel 1973:70). In addition, unlike the ordinary courts, there was no need to stand before the court of the prefect for several different trials if the same offender had offended against more than one statute. The prefect could even punish for offences for which no ordinary criminal trial was provided for by statute; and as regards the punishment to be imposed, the prefect had greater freedom of power than the magistrates presiding over the *quaestiones* (Kunkel 1973:70).

In terms of punishment, the *cognitio extraordinaria* knew no fixed penalties. In other words, the judge or court was free to determine the form and measure of the punishment (Tellegen-Couperus 1993:93).[195] And the judge normally considered not only the gravity of the crime

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[193] Litigants probably had in general a better opportunity for making their defence before the court of the *praefectus urbi* or the *praefectus vigilum* than before the *tresviri capitales* of the Republic (Kunkel 1973:74).

[194] In the same way, in conducting a trial a governor generally followed the *extraordinaria* procedure and was helped by a group of advisers (Mousourakis 2003:311).

[195] In the *cognitio extraordinara* the judge had considerable freedom in performing the investigation and in determining the nature and seriousness of the offence and the kind of punishment to be imposed (Mousourakis 2003:319).

and the circumstances in which it was committed, but also the social class to which the offender belonged (Mousourakis 2003:314).

The jury-courts of the Republic showed signs of developing something similar to the rule of law and the principle of equitable criminal justice. But with their disappearance, this tendency declined. However, unlike the jury-courts, the extraordinary procedure was more flexible, more effective and probably more just (Kunkel 1973:73).[196]

Mousourakis (2003:319) however, insists that the idea of equality before the law played no part in Roman criminal law.[197] In this regard, Jolowicz (1932:408) states that the severest punishment which could be imposed was too light in many cases, and the extension of Roman citizenship gradually made it unfeasible to send all citizens accused of serious crime to Rome for trial.[198]

As Tellegen-Couperus (1993:93) states, the judge could consider the circumstances in which the crime was committed, the personal or social condition of the accused when he decided on a sentence. In other words, depending on whether the offender belonged to the upper classes or to the lower classes, different punishments could be imposed for the same offence (Mousourakis 2003:314).

For example, some of the most common penalties imposed upon members of the upper classes were: dismissal, involving the repudiation of the wrongdoer from residence in a specified region (normally Italy and one's own province); and deportation, usually to an oasis or island.[199] When capital punishment was imposed upon a member of the nobility, death

[196] With regard to the punishments Kunkel (1973:73) mentions that there existed a greater right of decision in the extraordinary criminal justice of the imperial era than in proceedings before the jury-courts.
[197] In addition, during the Empire the number of penalties available to the judge in trials *extraordinaria* was much greater (Mousourakis 2003:314).
[198] Tellegen-Couperus (1993:88) also supported Jolowicz's opinion that the penalties that could be inflicted were often regarded as being too lenient for the type of crime committed.
[199] The latter punishment especially, occurred with the loss of property and citizenship (Mousourakis 2003:314).

was usually inflicted by the literal taking of life (Mousourakis 2003:314).[200] However, in the case of even similar offences, a person who belonged to the lower classes was usually condemned for life to work in the mines or possibly to less severe forced labour, whereby they lost not only citizenship, but also freedom (Jolowicz 1932:409).

According to Mousourakis (2003:315), other punishments included condemnation to fight with wild beasts, or to become a gladiator, flagellation and flogging, the total or partial forfeiture of the offender's property, and various monetary fines which were paid to the state.[201]

Furthermore, at that time, imprisonment was used as a method of ensuring that a person would appear for trial, but it was not regarded as a legal punishment (Mousourakis 2003:315).

According to Mousourakis (2003:319), it was accepted that criminal liability and punishment presumed an obvious act. For the commission of an offence a guilty intention was commonly demanded, although in some cases rashness might be sufficient (Mousourakis 2003:319-320).

However, at the time, there were some exceptions which could exclude a person from criminal liability and punishment. Mousourakis (2003:320) recounts these exceptions. Firstly, children under the age of seven were generally excluded from criminal liability. Secondly, lunatics were also absolved from punishment on similar grounds, although they might have been kept in confinement if they posed a threat to public safety. Lastly, certain categories of persons, such as women, rural area dwellers, and minors (under the age of twenty-five), were also treated with leniency if they were found guilty of certain offences or when they caused harm because of ignorance of the law.

In addition, Roman law also accepted a number of general mitigations and tempering

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[200] However, the death penalty was very seldom actually inflicted as the result of the verdict of a *quaestio* (Jolowicz 1932:408).

[201] However, in most cases a person found guilty of a crime could have the opportunity to avoid punishment by leaving the city before the sentence of the court was adjudged (Mousourakis 2003:314). In addition, the purposes of punishment included general rehabilitation, retaliation, deterrence and the gratification of the victim's family (Mousourakis 2003:315).

entreaties which invalidated or reduced culpability in a criminal act, such as self-defence, superior orders, loss of self-control, threat and necessity (Mousourakis 2003:320).

Compared with the *quaestiones,* the *cognitio extraordinaria* had a predominantly inquisitorial character. Firstly, the trial was started by the 'state,' and secondly, no formal accusation by a citizen was necessary except for the old *crimina publica* (Tellegen-Couperus 1993:93).

Ultimately, the criminal system as a whole was one in which the highest authorities in the state, the emperor and the senate, took it upon themselves to supplement the deficiencies of law and procedure, not by the enactment of new law, but by direct intervention in the interests of order (Jolowicz 1932:409).

2.3 Summary

This chapter introduced a historical survey of the Roman legal system which included two general categories, viz. civil law and criminal law. The civil law system was the focus of attention.

The civil law consisted of various procedures, viz., early civil procedure, the formulary system and the *cognitio* procedure. The next chapter examines specifically civil litigation, since several scholars consider this the most likely to have applied in the lawsuits featuring in 1 Corinthians 6. As mentioned by Buckland and McNair (1952:400), Borkowski and Du Plessis (2005:66) and Du Plessis (2010:66), in the first-century legal system civil litigation could be regarded as private arbitration. This provides a clue that the Corinthian believers did not have to go to court to settle their problems, but had the option of resolving matters within their community.

The historical survey is not intended to suggest the Roman legal system was the only legal context for understanding the 1 Corinthians letter but that it was the dominant and pervasive context for jurisprudence in the first century C.E. In the survey the general Roman legal context was briefly sketched, aware that certain elements in the system came to fruition well

after the time that 1 Corinthians was written – again, the aim with this chapter is to provide a well-rounded setting for making sense of the first-century legal context, focussed on the Roman side as far as legal systems are concerned.

Such basic knowledge of civil law is important for understanding the parameters within which 1 Corinthians 6:1-11 resonated to the community addressed. In particular, lawsuits in 1 Corinthians 6:1-11 can be understood based on the formulary system among various civil procedures because the formulary system was commonly used in the Empire in the first century century C.E.

In short, this chapter aims to provide appropriate background-knowledge to frame Paul's treatment of lawsuits in the next chapter. The next chapter which deals with the matter of lawsuits studies 1 Corinthians 6:1-11 based on the legal environment in the first century Roman society. And, in particular the understanding of the civil law system will be helpful to understand Paul's ethics in chapter 5 of the dissertation. In the historical setting the Roman legal system can be defined as unfair or unrighteous in terms of the civil litigation. The reason is that various social elements of litigants could influence the decision of judges. Having lawsuits in the first century Roman society shows that litigants tried to win lawsuits by using all available means to gain their own benefits even though those meant unethical ways. Therefore, relying upon the secular court in those days would have meant that one exposed their unethical behaviour. Paul's perspective on the behaviour of the Corinthian believers involved in lawsuits and the relation to his ethics will be discussed in chapter 5 of the dissertation.

CHAPTER 3
THE HISTORICAL CONTEXT OF 1 CORINTHIANS 6:1-11

3.1 Introduction

This chapter focuses on the historical setting of the text of 1 Corinthians 6:1-11. The matter of lawsuits among the Corinthian believers is interpreted against the legal background in the first century C.E. and follows on the discussion in the previous chapter on Roman law structures and processes. Turning from the organisation of Roman law, we now turn to the functioning of the system, in order to construct the most appropriate context for interpreting 1 Corinthians 6:1-11.

The Corinthian community was in all likelihood influenced by a social and political condition of the Roman society. The Corinthian believers lived amidst the social influence of the first century Roman society. It can be presumed that the Corinthian believers were accustomed to using the reigning, that is Roman, legal system in their daily lives. Recourse to Roman law would have entailed or at least may have implied that they have gone to a secular court to settle their disputes. The hybridity of the situation of the Jesus-follower Corinthians is acknowledged, given Hellenistic cultural and Jewish religious aspects that were at hand amidst the overpowering presence of the Roman Empire. However, in keeping with the focus of the dissertation, the focus here is on the official, that is, the Roman legal context.

3.2 Understanding of the Legal Situation in First Century C.E.

As explained previously, the Roman legal system developed particularly strongly during the late Republic and early Principate (Clarke 1993:60). According to Garnsey (1970:181), under the Republic and early Empire most civil actions were enforced by the formulary procedure that was regulated by the *ius ordinarium*.

Clarke (1993), in particular, explains clearly the characteristics of the law in Greco-Roman

times. According to Clarke (1993:62), there was no equal status before the law in Greco-Roman times. In other words, social status could influence the result of the litigation.[202] For example, as Kelly (1966:61) states, the advantages available to the wealthy and powerful over their weaker brothers/sisters were reflected during litigation. Therefore, all parties involved in litigation had to be aware of their own status in relation to that of the other parties (Clarke 1993:62).

The judge also had to bear in mind, not only the advancement of his own career, but also how to preserve the good reputation of the upper class (Clarke 1993:62). Thus, in a general sense, someone who had good status in society might avoid either initiating legal proceedings or being taken to court in order to keep their social reputation (Clarke 1993:63). In this sense, honour ('*dignitas*') and good reputation were more significant than life itself (Kelly 1976:96). In the end, as Ganrsey (1970:258) observes, one of the sources of legal privilege to the Romans was *dignitas*.[203]

According to Kelly (1976:96), the sources in the Republic and early Principate used *infamia* to mean simply 'a bad name' or 'to get a bad name.'[204] This feature particularly was the customary form taken by Roman forensic rhetoric. In those days, the advocate in Roman litigation was allowed to use the most unrestrained language about his client's adversary, or witnesses or relations or even his friends (Kelly 1976:98). In addition, Borkowski and Du Plessis (2005:63) add that many Roman advocates were trained in the Greek rhetorical method of oratory, and in court they were encouraged to denigrate the name of their client's opponent for as long as possible.

Another instance of legal privilege was exercised in the area of punishment. It was accepted that harsher punishments would apply to those litigants of a lower social status (Clarke

[202] Accordingly, using legal privilege was a general fact of the Roman judicial system, and litigants could intensify their own chances of success through litigation (Clarke 1993:62).
[203] In general, *dignitas* was based on political status or influence, style of life and wealth (Garnsey 1970:258).
[204] The Romans felt the loss of public esteem very keenly (Kelly 1976:96).

1993:64).[205] According to Garnsey (1970:199-200), the Romans did not abandon the general idea that the severity of the penalty inflicted on the agent or accused depended on the social status of both the agent, and of the injured party. Therefore, as Winter (2001:58) states, Roman jurisprudence was particularly underestimated in the civil courts where vexatious litigation took place because the civil courts became a place for the elite in their power struggles in *politeia* and private relationships. According to this understanding, believers in Corinth might have taken the same attitude towards adversaries in the community as their fellows took towards their rivals in associations and *politeia* generally (Winter 2001:58).

It is necessary to distinguish between the predominating system in Rome and the practices in the colonies and provinces. According to Clarke (1993:60), in the provinces especially, the governors had authority regarding the administration of the law, and this further specifies "the possibility of arriving at 'assured results' regarding the Corinthian situation in the Pauline community." As a colony, Corinth would have had a position within the Empire in which Roman laws were operative (Sampley 2002:774).

In general, a plaintiff approached a praetor at Rome (or a governor in the provinces) with a request for litigation.[206] However, in the formulary system of the first century Roman law, in order to initiate litigation the plaintiff needed the defendant to appear before the praetor. According to Garnsey (1970:181), litigation generally led to a two-stage process such as *actio in iure* 'before a praetor' and *actio apud iudicem* 'before a judge,' as described specifically in the previous chapter.[207]

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[205] According to Garnsey (1970:178), this dual law was shown particularly in the criminal sphere of the early Empire, and jurists and emperors approved differential punishment practiced by judges.

[206] Clarke (1993:61) states that there were no praetors in Roman colonies, thus the governors of the provinces would leave many of the minor cases to the local *duoviri*.

[207] In addition, civil suits at Rome began in the court of the praetor (Crook 1967:73). His business was to settle matters between the parties; he was not a professional lawyer, and his praetorship was part of a political career; he was one of eight men elected annually to praetorships; he was a magistrate, and his job was seeing that the law was carried out; he also had, as a magistrate, many functions that were relevant to the law; slaves were manumitted before him; he was the recipient of legal declarations; he issued orders putting people into possession of property and heirs into inheritances; he gave injunctions requiring actions such as production of documents or persons or restraining actions such as building; he appointed guardians and caretakers (Crook 1967:74).

In terms of a civil case, litigation normally began in the court of the law officer (Winter 2001:58). In particular, in the early years of the Empire, civil litigations were left to local courts and were managed by a single judge or juries (Crook 1967:79; Winter 1991:562).[208] In Corinth, the law officer was either an *aedile*, or one of the two honorary magistrates (*duoviri*) elected from among the elite by Roman citizens (Winter 2001:58-59).[209]

The procedure of the civil case is briefly introduced here by reference to Winter (1991:562; 2001:59). When the plaintiff appealed a case to the magistrate or the *aedile*, he was required to provide an explanation of the cause for the accusation, and if accepted, a private summons was issued to the other party to appear in court.[210] When both parties came to the courts, the preliminary pleadings were preferred, and then the case could be tried by a single judge or disputed before a jury which was chosen from among wealthy citizens.[211] According to Crook (1967:79), juries were of two sorts.[212] Civil litigations went before a small jury consisted of three or five *iudices*, or before a much larger jury consisting of one hundred citizens, viz., *centumviri*.

However, there existed a number of circumstances in which lawsuits could not be accepted. Firstly, if the defendant was the plaintiff's parents or patron, or the city's magistrates or priests, or a person of high rank, children, freedmen, private citizens, they could be protected

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[208] Clarke (1993:60) also asserts that by the early Empire the majority of civil cases were treated by the governor and sometimes also before a single judge. According to Sherwin-White (1963:14), the governor generally left a great deal of minor litigation to the local municipal courts, for his main concern was with matters related to public order.

[209] According to Crook (1967:74), the importance of the social status of the plaintiff and the defendant was considered by the magistrate who determined the penalty. In addition, the magistrate fixed the fine and decided the sentence as well (Winter 2001:64).

[210] A magistrate hearing a case had three tasks in particular in a Corinthian court. Their tasks were to preside, to inform the court of that verdict, and to decide about the penalties (Winter 2001:59). In addition, jurors in the provinces were selected from the highest state group; they basically had to be over the age of twenty-five years, and in Roman colonies, jurors were Roman citizens (Winter 2001:59).

[211] According to Crook (1967:78), this judge was not necessarily a professional lawyer. If the parties agreed, he could be anyone, even a peregrine. However, if the parties did not agree, the praetor would nominate names from the annual list of 'select jurors' who were also used to work at the criminal jury courts.

[212] In general, jurors were selected from the highest census group of men whether Romans or Greeks. They also had to be over the age of twenty-five years (Winter 1991:564). In Rome the list of jurors was revised by the emperor (Winter 1991:565).

from having a summons brought by the plaintiff (Clarke 1993:64; Winter 2001:60).[213] In other words, not everyone had the right to prosecute in civil litigation in Roman Corinth in the first century C.E. (Winter 2001:60). Accordingly, lawsuits were generally administered between social equals who were from the powerful of the city, or by a plaintiff of superior social status against an inferior (Winter 2001:60). Therefore, the plaintiffs would tend to be more powerful than the defendants (Kelly 1966:62). The reason for this was to avoid defaming the good reputation of the person concerned (Winter 1991:561; 2001:60).[214] Secondly, an inferior plaintiff could be refused a hearing because his opponent's superior status would be placed in danger of loss of reputation by the legal case (Clarke 1993:65). For this reason litigation initiated by men of humble origin was probably not common because of the quality of their opponent (Garnsey 1970:187). Thirdly, there could be unwillingness on the ability of the defendant to obey a summons. The plaintiff was able to summon a defendant weaker than himself (Kelly 1966:14). And the magistrate was also not required to help the plaintiff in bringing his opponent to face the law (Clarke 1993:65). Fourthly, the magistrate also could be an obstruction to litigation if he manipulated the details of the formula within which the case was to be heard and defended in front of the judge (Clarke 1993:65). Lastly, sometimes lawsuits could not be accepted because of the state's rejection. If the state did not force the defendant to carry out his punishment lawsuits were not accepted (Clarke 1993:65).

In the political situation, as mentioned above, Corinth as a Roman colony was under the Roman influence and had all the suitable Roman laws, magistrates and officials (Oster 1988:489, 490).[215] Thus Corinth paid taxes directly to Rome (Sampley 2002:774).[216] In addition, Corinth itself was aware of ancient Greek traditions of democratic decision-making,

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[213] As Garnsey (1970:182) describes, *vocatio* was not permitted against parents, magistrates, priests, patrons and certain other categories without the sanction of the praetor.

[214] Eventually these differential rules and inequitable practices were to protect members of the higher social orders (Winter 1991:561).

[215] From the time of the establishment of the Roman colony the city was generally organised according to Roman customs (Collins 1999:22).

[216] In addition, social and economic interests occupied a place of privilege in Roman society, and much of the personal activity expended in one's daily life was related closely to securing positions in the social and economic spheres. With this understanding, the Law definitely provides a framework for social and economic matters (Mitchell 1993:577).

judicial as well as administrative, and it was informed by the rule of a Roman colony (Derrett 1991:22).

According to Keener (2005:52), Roman society was notoriously litigious, and Corinth was even more so because of an increase of the class of *nouveau riche* there. Thus Roman law effective in Corinth was differently applied between people of high status and those of lower status in terms of penalties. For instance, an aristocrat might be banished, but a low-status person was crucified for the same crime (Keener 2005:52). Accordingly, in the Greco-Roman world, only the wealthy or only the very powerful few who sat at the top of the social pyramid could initiate civil court cases (Sampley 2002:853). In this regard, Cicero (*Pro Caecina* 73) introduces three significant factors which could suggest that local courts of those days were exposed to unjust situations. The factors that could prejudice the legal outcome of civil cases were *potentia*, *gratia* and *pecunia*. These three factors are briefly explained by Garnsey (1970:208-209). Firstly, *potentia* indicates power.[217] Power is the possession of resources sufficient for preserving one's own interests and weakening those of another. Thus, *potentia* might be paired with prestige. Secondly, *gratia* might be defined as 'excessive favour.' In addition, *gratia* is closely related to *potentia*.[218] Lastly, *pecunia* refers to the use of bribery. According to Kelly (1966:41), at that time a witness could be paid to give false testimony or evidence.[219]

Understandably, the temporary nature of ancient commerce contributed to Corinth's becoming known as "sin city" (Sampley 2002:775). Certainly, Corinth as an important commercial and administrative centre was no exception in this general picture (Hays 1997:93).

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[217] For Cicero, *Potentia* is defined in cold-blooded but non-violent terms (Garnsey 1970:208).

[218] According to Garnsey (1970:209), *gratia* might influence the features of the penalty or the severity of the verdict in a trial conducted *extra ordinem*, or even the nature of the verdict itself in any kind of trial.

[219] The rich man had comparatively much more advantage than the poor man. The possession of wealth could work as a definite advantage in law courts. In the end, a poor man could be adversely affected by his economic state (Garnsey 1970:207, 208).

3.3 The Nature of the Litigation

In the first century C.E., there were specific crimes which were related to civil actions. For example, these offences were concerned with legal possession, breach of contract, injury, fraud, and damages (Winter 1991:561).[220] With regard to the category of the litigation, Winter (1991:561) proposes that the nature of the litigation which appears in 1 Corinthians 6:1-11 is within the scope of civil, not criminal law. Winter (1991:561) states that as the infraction of the law in 1 Corinthians 6:2 is described as κριτηρίων ἐλαχίστων ('trivial cases'), it would be acceptable to regard it as referring to the litigation established by a believer against his fellow member in an incipient Christian community.

There are various opinions concerning the nature of litigation presented in 1 Corinthians 6:1-11. In particular, four major opinions are introduced here. These opinions are as follows and will be briefly considered below. Firstly, the matter of the lawsuit may have been related to financial matters which are supported by Theissen (1982) and Fee (1987). Secondly, the matter could be concerned with an inheritance issue which is suggested by Chow (1992). Thirdly, the matter could be concerned with a sexual matter as proposed by Bernard (1907), Richardson (1983), Welborn (1987) and Thiselton (2000). Lastly, the matter may also have been connected to a dowry matter associated with sexual immorality, as suggested by among others Schüssler Fiorenza (1988).

3.3.1 Financial (or monetary) Affairs

This viewpoint generally includes a wide range of financial matters with some kind of property exchange or business dealings.

Theissen (1982:101-102) expounds Corinth's social environment in the first centuries of the

[220] On the contrary, criminal cases also existed. According to Kunkel (1973:66), these criminal cases included high treason, disobedience to the superior organs of state, bribery at elections, extortion in the provinces, the embezzlement of state property, murder by violence or by poisoning, endangering of public security, forgery of wills or coins, the infringement of domestic peace, violent offences of every kind, adultery and seduction of respectable unmarried women.

Common Era, including those social situations which would impact daily life in Corinth. In Paul's time, Corinth particularly was one of important places, both commercially and religiously.[221] Firstly, Corinth was perhaps best known for its artisans' products, such as bronzes, but it also did a successful business in pottery and crockery and other handmade products (Sampley 2002:773).[222] In addition, Corinth's wealth was based on trade.[223] According to Theissen (1982:101), Corinth was associated with the frequent travels of members of the incipient Christian community involved in business matters, and also could not be separated from commerce, including banking.

Secondly, governmental administration also helped Corinth to prosper. The differences between the social classes clearly appeared between groups of wealthy families and the poor with regard to governmental assistance in Corinth (Theissen 1982:102). Consequently, a community like the Christian congregation in Corinth, containing various classes and groups, might encounter particular problems because of its internal social structure in terms of status (Theissen 1982:102).

Therefore, these social circumstances would usually allow only the rich and powerful to bring cases to court, and even some among the Corinthian believers could be classed as 'rich and powerful' as implied in 1 Corinthians 1:26 (Collins 1999:235).[224]

Accordingly, as Meeks (1983:66) maintains, in these social situations some members of the Corinthian groups could conduct lawsuits against other members concerning some or other financial or mercantile transactions.[225] Richardson (1983:39) also supports this opinion. He states that the issue alluded to in 1 Corinthians 6 has something to do with deceitful business practices or with monetary ethics.

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[221] In the first century C.E., Corinth experienced a period of great economic prosperity. In this regard, Den Heyer (2000:127) assumes that when Paul was living there, he could have experienced the consequences of the prosperity: wealth and luxury, temples and numerous imposing buildings.

[222] Many goods were made by artisans in Corinth. For instance, metalworking gradually waned, but Corinthian bronze was always required (Theissen 1982:102).

[223] Wilson (1997:161) refers to Corinth as a trading town.

[224] "For consider your call, brethren; not many of you were wise according to worldly standards, not many were powerful, not many were of noble birth" (1 Cor. 1:26, RSV).

[225] However, even farmers or small traders could take their neighbours to court (Meeks 1983:66).

Orr and Walther (1976:193) insist that the word πρᾶγμα translated as 'a case (or lawsuit)' in verse 1 can be related to a business transaction, or to any kind of particular act or affair, or to a dispute. These authors particularly understand that it is "the only case in the New Testament where it clearly means a dispute which leads to litigation" (1976:193). And, in the opinion of Fuller (1986:99), the word ἐλαχίστων (s.v. ἐλάχιστος, 'trivial' or 'petty') in verse 2 suggests that the cases involved were not sexual offences, but cases involving money matters, such as uncollected debts.

Fuller (1986:99) also asserts that the word βιωτικά (s.v. βιωτικός, 'belonging to daily life') in verse 3 refer also to cases involving money and property. In addition, Theissen (1982:97) claims that the object of such actions was βιωτικά, and was presumably related to affairs of property or income.[226] In the same way, Chow (1992:125) believes that the Greek word βιωτικά used by Paul in 1 Corinthians 6:3 suggests that the case was about property or material possessions.

According to Shillington (1986:43), commentators normally believed that the specific case in question involved monetary fraud. This conclusion is based on the one word occurring in verse 7, repeated in verse 8, which the RSV translates as "defrauded" (ἀποστερεῖσθε, v. 7, ἀποστερεῖτε, v. 8). Monetary fraud would seem to be the key to the thorough identification of the legal litigation (s.v. κρίμα, v. 7). Hays (1997:92) also states that the reference to being "defrauded" in verses 7-8 could suggest that the disputes arose over economic issues. And, according to Hays (1997:92), in every law court in the Western world, a lawsuit seems the normal way of settling disputes and doing business.

In the end, as Fee (1987:228) proposes, one brother (Man A) obviously had cheated another (Man B) in some way, and Man B took Man A before the civil magistrates at the 'judgement

[226] In addition, such litigation would hardly be attempted by those who had no property (Theissen 1982:97). This means that litigation was related closely to the power of finance.

seat' to compensate his complaint.[227] Moreover, for whatever reason the case was brought before the pagan magistrate, Paul was against the action (1 Cor. 6:1 and 7) (Chow 1992:126).[228] The Corinthian believers disappointed Paul because they are failing to act as a developing Christian community, and also failing to take responsibility for one another regarding behaving as a believer ought. Just as they have failed to punish the incestuous man in chapter 5 (of 1 Corinthians), they are also failing to take up their duty in settling their own disputes; consequently they are taking their legal cases before unbelievers (6:6), whom Paul calls "the unrighteous" (6:1), to work out their disputes (Hays 1997:92-93).

However, according to Hays (1997:95), there are no winners in their action. Rather the whole community loses, and the individuals involved lose, even if they win their cases. And, suing a brother in the literal sense was scandalous behaviour, even though it was actually quite common in property disputes (Keener 2005:53).[229] Thus, Paul instructed the Corinthian believers involved in the litigation that it would be better to suffer (economic) injustice than to seek legal compensation.

3.3.2 Inheritance Issues

Chow (1992:125) states that in particular the nature of the litigation was related to the problem of inheritance. Horsley (1998:86) suggests that Paul's focus on economic wrongdoing such as 'fraud,' along with the 'ordinary' or 'civil' cases previously mentioned (6:3-4), indicates that the litigant was pursuing precisely an economic matter. The context of this paragraph, sandwiched between two discussions of "(sexual) immorality," on the other hand may suggest that the case had to do with marital relations, perhaps in some economic

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[227] According to Fee (1987:228-229), the judgement seat was publicly placed in the centre of the marketplace (Acts 18:12-17).

[228] "When one of you has a grievance against a brother, does he dare go to law before the unrighteous instead of the saints?" (Verse 1, RSV) and "To have lawsuits at all with one another is defeat for you. Why not rather suffer wrong? Why not rather be defrauded?" (Verse 7, RSV).

[229] Various versions translate the Greek ἀδελφὸς differently. For example, ESV, KJV, NASB, NIV, NKJV and RSV translate the Greek ἀδελφὸς as a 'brother,' but NRSV translates ἀδελφὸς as a 'believer,' and NLT translates ἀδελφὸς as a 'Christian.' However, here the translation 'brother' will be appropriate, because it shows the relationship between them, indicating that they belong to God's household. Accordingly, they are in the relationship as spiritual brothers.

way such as inheritance. In addition, the Roman law of inheritance was generally suggested by experts in the legal sphere, and the cases concerning inheritance and legacy would likely be brought often to the court (Chow 1992:125).

According to Du Plessis (2010:205), a person often inherited property from a dead family member or friend, and the inheritance would contain the transfer of the whole of a person's possessions. In addition, an heir also inherited the rights and benefits of the deceased (Du Plessis 2010:227). Then, it can be assumed that the heir sometimes had a lawsuit to recover the relevant property. In addition, the heir may be appointed by will, or if there is no will he/she may be appointed by law (Nicholas 1962:236). Thus, it can be inferred that lawsuits did resolve matters concerning inheritance.

3.3.3 Sexual Matters

A third viewpoint is that the nature of the litigation in 1 Corinthians 6:1-11 is related to a sexual matter. This viewpoint is supported by Bernard and Richardson representatively, and they generally assert that chapters 5 and 6 (of 1 Corinthians) deal with the same subject, viz., with sexual matters. In other words, one should understand that chapter 5 and 6 cannot be divided thematically.

Bernard (1907:434)[230] understands chapters 5 and 6 of 1 Corinthians structurally according to the systematic arrangement, and insists that these two chapters are concerned with the same topic.[231] Richardson (1983) also attempts to explain the consistency of chapters 5 and 6 thematically. In particular, Richardson explains the nature of the litigation with an understanding of the structural analysis and language used in chapters 5 and 6. In other words, Richardson insists that this topic should be understood with respect to a structural consistency

[230] This source is fairly dated, but serves as an early conviction that 1 Corinthians 5 and 6 can be understood together, on the topic of a sexual matter.

[231] In addition, Thiselton (2000:381) maintains that chapters 5 and 6 elucidate that Paul clearly treats moral and ethical issues. He states that 1 Corinthians 5:1-6:20 shows certain moral principles, and Paul explains both an 'absolutist ethic' and a 'situational ethic' depending on the ethical content of the moral issue. Finally, Paul unites a situational ethic with pastoral judgement and sensitivity to changes between different cases and case studies (Thiselton 2000:381-382).

and a linguistic unity in chapters 5 and 6. In this sense, according to Richardson' assertion, the nature of litigation is related to a sexual matter. In addition, Shillington (1986:45) also supports this viewpoint, suggesting that the case which transpired between the two 'brothers' has something to do with "defrauding" or "depriving" in matters of sexual relations.

The assertion of Richardson is elucidated more specifically as follows: Firstly, with regard to the structure of chapters 5 and 6, Richardson (1983:41) understands the structure of those two chapters as follows: Report of a case of incest (5:1-5); reflections on the community's purity generally (5:6-8); clarification of a previous letter (5:9-13); legal disputes before pagan courts (6:1-8); reflections on immorality and purity (6:9-11); freedom, immorality and the body (6:12-20).

Richardson (1983:42) basically understands verses 1-11 of 1 Corinthians 6 as a text on litigation.[232] He gives two grounds on which he proposes verse 1 to 11 as being a text on the litigation. Firstly, the connection between 6:1-8 and 6:9-11 is shown from the development in the use of ἀδικεῖσθε (6:7), ἀδικεῖτε (6:8) and ἄδικοι (6:9). The use of these words supports that verses 1-8 and verses 9-11 could be treated as one unified section treating the same theme. Secondly, another clear connection supported by Richardson is the repetition of the οὐκ οἴδατε style in verses 2, 3 and 9. More specifically, if it is correct that 6:1-8 and 6:9-11 suitably belong together, then 6:1-11 and 5:1-13 show the same basic elements such as a specific case or cases, a demand for community action set in a strongly eschatological context, a general discussion of the purity question, and one or more *Lasterkataloge* ('vice list').

Richardson (1983:42) says that, in the end even though 6:1-11 is not concerned with πορν-vocabulary like 5:1-13 and 6:12-20, the section 6:1-11 deals with a second instance of judgement that appeared after the first example of judgement has been dealt with in 5:1-13.

In addition, according to Richardson (1983:42), the next section, verses 12 to 20 of 1

[232] Concerning the scope of the text on litigation many scholars accept an opinion which delimits the text on litigation as being verses 1 to 11 of 1 Corinthians 6, but Fee (1987) understands verse 1-8 as the text on litigation. This structural analysis will be treated specifically in the following chapter.

Corinthians 6, deals with sexual issues similar to chapter 5, and is also connected closely with the sexual emphasis of 6:9-11. Thus the material in chapters 5-6 is closely interwoven, to the extent that, from a structural viewpoint, one could expect that 6:1-8 also deals with sexual matters.

Richardson (1983:43) indicates that chapters 5 and 6 particularly are an example of Pauline chiasmus. According to Richardson, chapters 5 and 6 coherently have an ABA structure, where 6:1-11(B) is placed between 5:1-13(A) and 6:12-20(A), and an ABA order does not necessarily require that 6:1-11 is on a different topic. Therefore, all parts (5:1-13, 6:1-11 and 6:12-20) of these chapters can be said to deal with the same subject.

Secondly, Richardson also examines the use of words used in chapter 5 and 6 to demonstrate the thematic consistency between chapter 5 and 6 of 1 Corinthians. For this, Richardson provides several reasons, briefly as follows: Firstly, the dominant motif of πορνεία, πόρνος, πόρνη, πορνεύω is used in 5:1, 8, 9, 10, 11, 13; 6:9, 13, 15, 18 to control the remainder, even though these words do not appear in 6:1-8 (Richardson 1983:43-44). Secondly, chapters 5 and 6 have a clear emphasis on judgement with the sense of eschatological importance (5:3-5, 6-8, 12-13; 6:1-5, 9-10, 11, 13-14) (Richardson 1983:44). In chapter 5 and 6 especially, interests about the body are treated together with the activity of the Spirit (5:3, 4-5; 6:11, 13, 15-20). Thirdly, as already mentioned, the repetitive use of οὐκ οἴδατε in 5:6; 6:2, 3, 9, 15, 16, 19 is also further strong evidence that Paul is trying to set coherent concerns in chapters 5 and 6 (Richardson 1983:44). Lastly, the *Lasterkataloge* (the 'vice list') constitutes another obvious connection between the several parts (5:10; 5:11; 6:9-10) (Richardson 1983:44).

Accordingly, Richardson (1983:44) insists that these examples such as the uses of πορν− vocabulary, the concern for the body and Spirit and the eschatology, the *Lasterkataloge* of 5:10, 11; 6:9-10. etc., indicate that the basic idea of chapters 5 and 6 is sexual.[233]

[233] In particular, the sexual concerns in chapters 5 and 6 are related to the right way of dealing with sexual challenges in the face of the imminent end, when judgement will be given and the kingdom of God will be attained (Richardson 1983:44).

Furthermore, Keener (2005) and Fitzmyer (2008) also support this idea. Keener (2005:52) maintains that probably Paul has in view lawsuits over the sort of sexual immorality which he has already mentioned (5:1 and 9), as he returns to the thought of immorality in 6:9-20. And Fitzmyer (2008:248) also states that Paul has not yet finished his discussion of sexual matters, because he will continue it in 6:12-20.

For this, Fitzmyer (2008:251) suggests that some of the terms were used to be understood in terms of sexual misconduct, as a result the lawsuits involved sexual matters. The mention of the words πόρνοι and μοιχοὶ used in verse 9 especially shows a link with the preceding context of 5:1 (πορνεία), 9-11 (πόρνοις (v.9), πόρνοις (v.10), πόρνος (v.11)) and with the following one of 6:13 (πορνεία), 15 (πόρνης), 18 (πορνείαν and πορνεύων). In this regard, Fitzmyer points out that the lawsuit could be possibly related to a sexual matter, particularly one of adultery.

Evans (1930) also asserts that this lawsuit was connected with the offence dealt with in chapter 5. According to Evans (1930:87), chapters 5-6 include the condemned behaviour of 6:1-11 with the more obviously unacceptable sexual behaviour of chapter 5 and of 6:12-20. In addition, Beardslee (1994:58) insists that the list showed a number of terms for miscreant sexual behaviour.

And, the word πρᾶγμα ('matter' or 'thing') appears in verse 1, and this matter (or thing) should be brought before a Christian tribunal, not to heathen adjudicators.[234] In particular, Bernard (1907:437) understands this term as consonant with a case of adultery or the like.[235]

In addition, Talbert (1987:20) also insists that the problem stated in verse 1 could be sexual in

[234] Bernard (1907:437) states that the word ἄδικος which Paul uses throughout chapter 6, means the unrighteous or the unbeliever, and the discussion is strictly relevant to the scandal that occurred in the Christian community at Corinth.

[235] According to Mackenzie (1870:362), for the Romans, the law on adultery was applied differently to men than to women. That is, it was considered adultery whether the male was married or not; but the sexual affair between a married man and an unmarried woman was not considered adultery.

terms of the understanding of the structure of 1 Corinthians 5 and 6.[236]

In general, communities of resident aliens could execute their own indigenous laws on their fellow community members even if Roman law had not been contravened. In this understanding, Corinth's community could have their own laws to work out problems among them (Keener 2005:52).[237] In this sense, Paul's main concern is that a case also should be dealt with by the Christians community as 1 Corinthians 6:1-6 mentions, rather than bring the case before judges (Richardson 1983:40).

In the final analysis, as Bernard (1907:436) observes, Paul's main concern in 1 Corinthians 6:1-11 is their mistake as Jesus followers.[238] In other words, Paul is about the false behaviour of sins of infidelity and adultery among believers, not about the falseness of believers appearing in front of heathen courts. Thus, from these two chapters (1 Cor. 5 & 6) the significant purpose of Paul was to stimulate the Corinthian community as a society to recognise the occurrence of moral offences among its members (Bernard 1907:442).

Finally, Paul emphasises to all parties in Corinth that the civil sphere is religiously important. One does not take a Christian brother before the civil courts, because it conflicts with the spirit of Christianity. In 6:1-11 Paul, therefore, makes two points. First, there should not be abusive behaviour between believers. Second, if however, there is, it must be dealt with within the Jesus followers' community (Talbert 1987:2428).

Fee (1987) disagrees with this viewpoint. Fee (1987:228) suggests several reasons to refute this hypothesis. Firstly, the difficulty in accepting this theory is that there is nothing in the language of 6:1-11 to allow this possibility. For example, the sexual sins of the vice list cannot support this theory because the list also includes greed and robbery. Secondly, there is

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[236] Talbert (1987:12) considers chapters 5 and 6 as a unit which have an ABA' pattern. And in this ABA' pattern, 1 Corinthians 6:1-11, which is placed at B, is linked to 5:1-13 by the key word "judge" (Talbert 1987:20).

[237] However, they brought their own spiritual "siblings" to secular courts (Keener 2005:52).

[238] Bernard (1907:440-441) states that in 1 Corinthians 5 it is clear that the object of Paul's indignation was rather the scandal to the Church caused by the sin, and by the way in which it had been dealt with, rather than the wrong done to the father by his wicked son. Thus in Bernard's opinion concerning chapters 5 and 6, it could be speculated that Paul's primary concern was that these matters should not happen in a Christian community.

not sufficient evidence of such matters being brought before civil magistrates. Lastly, the definite problem presented in 6:12-20 has only to do with believers going to prostitutes, not with one man wronging another in terms of sexual irregularities. In addition, according to Robinson (1995:54-55), incest was identified as a crime, and it was illegal for a man to marry his daughter-in-law, mother-in-law, his step-daughter or stepmother at that time.

3.3.4 Dowry Matters in the Context of Sexual Immorality

Deming (1996:289) indicates that chapters 5 and 6 can be understood in a unified concept as Paul's response to both a sexual offense and a legal issue. Chiefly, these two chapters (5 and 6) describe a single case of sexual misconduct which some Corinthians perpetrated (Deming 1996:312). According to Deming (1996:312), 1 Corinthians 5-6 contains Paul's censure of sexual profligacy at Corinth. In 1 Corinthians 5 there are the sinful man (v. 1) and some other people (verses 2 and 6) who tacitly accept this sinful man in their community. These people might have been his friends, members of his family or household.[239] After the exposure of the immoral behaviour of the man, there are morally furious believers offended by the man's actions, and one of these had taken him to court (Deming 1996:298).

Chow (1992) tries to understand the litigation in terms of the consistency of chapters 5-7. Firstly, the material concerns of the matter resulted in there being some kind of litigation as indicated in 1 Corinthians 6:1-11 (Chow 1992:138-139). Secondly, in associating with his stepmother, the man is certainly a πόρνος. If he did so for material reasons he could also been seen as a πλεονέκτης, a person who is eager to have more, more money and even more power (Chow 1992:139). In the Roman Empire girls generally tended to marry early, and it is quite plausible that the stepmother was still a young woman (Chow 1992:134). According to Crook (1967:100), at that time girls in the Roman Empire used to marry between age nine to twelve years, and they were normally married to older men (Garnsey and Saller 1987:131). Given this, it could be presumed that it would be difficult for young widows to remain alone for the rest of their entire lives. Thus marriage for a second time would have been a common

[239] According to Cousar (1996:67), the basic unit of urban life in the Greco-Roman world was the household, including not only family members but also slaves, hired labourers, etc.

occurrence for women in the Roman Empire (Chow 1992:134).

The main supporter of this viewpoint is Schüssler Fiorenza. Particularly, Schüssler Fiorenza's opinion can be seen as an intermediate position in comparison to the previous two positions discussed. Schüssler Fiorenza specifically treats 1 Corinthians 7 together with the two previous chapters (5 & 6).

Schüssler Fiorenza (1988:1175) states that the topic of this section on litigation seems to interrupt Paul's elaborations on matters of sexuality and immorality. This means that chapter 5 describes matters of sexuality, but 6:1-11 accounts for litigation. And then, matters of sexuality and immorality were elaborated in 6:12-20 after description of the litigation. However, Schüssler Fiorenza (1988:1175) maintains that if 6:1-11 is read in close connection with chapter 5, then Paul would be criticizing once more the reluctance of the community to pass a judgment on other believers. And as mentioned before, Schüssler Fiorenza reads chapter 7 together with the two previous chapters. Thus Schüssler Fiorenza (1988:1175) suggests a new possibility regarding the cause of the litigation. She claims that if the passage is seen in light of 6:20-7:40, then it can be surmised that the Corinthian lawsuits were caused by legal problems connected with institutional marriage. At that time, Roman law with regard to marriage was instituted by legal contract rather than religious ritual. In addition, legal disputes could pertain to questions of dowry, divorce resolutions, and inheritance as well. Accordingly, in the context of the letter, litigants would obviously be concerned with heterosexual sins and marriage difficulties.

That this text is related to a marriage problem could be assumed by considering the use of the Greek word ἀποστερεῖτε (s.v. ἀποστερέω) appearing in 1 Corinthians 6:8. This word is used to mean 'defraud' in 1 Corinthians 6:8. However, the word is used with a different meaning in 1 Corinthians 7:5.[240]

[240] BDAG (p.121) also explains this word as having two different meanings. Firstly, it is used to express "to cause another to suffer loss by taking away through illicit means, *rob, steal, despoil, defraud*" in 1 Corinthians 6:8. Secondly, however, this word also means to "prevent someone from having the benefit of something, *deprive*" in 1 Corinthians 7:5. Therefore, these two verses can be translated respectively as "But you yourselves

Shillington (1986) explains this viewpoint relevantly in studying the Greek word ἀποστερεῖτε. According to Shillington (1986:44), connections exist also between 6:1-11 and 7:1-7. In particular, the use of the term ἀποστερεῖτε in 6:7-8 and 7:5 provides a special hint to grasping the nature of the matter. In 1 Corinthians 6:1-11 the term is used to present the nature of the litigation relating monetary fraud. However, this word is used with a different meaning in 1 Corinthians 7:1-7. In 1 Corinthians 7:5 the word is translated to indicate the relations between a husband and a wife; husband and wife are not to "refuse one another" in normal sexual relations.[241] Thus, Shillington (1986:44) asserts that the word ἀποστερεῖτε translated as "refuse" in the RSV could mean monetary deprivation including the withholding of sexual relations.

When Paul describes the matter in verses 4 and 5 of 1 Corinthians 6 as the 'ordinary cases,' this matter could be considered as happening in a community as well as in a secular community, and this could be related to sexual also economic problems in Corinth.[242] Fee (1987:228) states that the case has to do with another kind of judgement which must be settled within the incipient Christian community, and this would relate to matters of everyday life.

Synthetically, this case could be concerned with the monetary issue involving a marital relationship, namely, dowry.[243] In this regard Richardson (1983) provides a new possibility of the dowry matter, including sexual immorality.[244] According to Richardson (1983:54),

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wrong and defraud…(1 Cor. 6:8, NRSV)" and "Do not deprive one another except perhaps by agreement for a set time, to devote yourselves to prayer…(1 Cor. 7:5, NRSV)".

[241] "Do not refuse one another except perhaps by agreement for a season, that you may devote yourselves to prayer; but then come together again, lest Satan tempt you through lack of self-control" (1 Corinthians 7:5, RSV). In the context of Roman society the idea that the aim of marriage is to enjoy sexual pleasure was not a common one in the early Empire (Chow 1992:134). According to Chow (1992:134), philosophers such as Musonius Rufus instructed that the purpose of having sex in marriage was to have children, not pleasure.

[242] According to Collins (1999:232), the 'ordinary cases' can be understood as 'cases pertaining to life' in a literal sense.

[243] According to Mackenzie (1870:103), at that time bestowing a dowry was considered to be the duty of a father to his daughter.

[244] Richardson (1983:53-55) suggests several possibilities of sexual defrauding that could occur between two brothers in the Corinthian community. These are as follows: firstly, although Paul did not mention such a matter,

given a Roman, Greek or Jewish background, if a husband wished to divorce his wife, the wife's father might call for litigation for the return of the dowry.[245] Fiorenza (1988:1175) also suggests that the legal case in 1 Corinthians 6:1 could be about one of the problems associated with marriage, like dowry.

Therefore, the litigation in chapter 6 could be understood as a case concerning some or other dowry problem. In this regard, one could presume that a married woman broke her marital relationship with her husband, through her sexual immorality.[246] And in this process her father initiated litigation against her husband for the return of the dowry. At that time, a man (a husband) could gain a dowry as soon as he married (Chow 1992:136).[247] However, if a woman provides the cause of divorce the husband could retain from one-sixth to half of the dowry in light of the seriousness of the matter (Kaser 1968:253; Treggiari 1991:352; Du Plessis 2010:130).[248]

According to Roman law, a dowry was the full legal property of a husband (Corbett 1969: 148; Gardner 1986:102). Thus, sometimes litigation would be necessary for the return of the

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a brother committing adultery with another brother's wife is imaginable, and in those days a case of this kind could be heard before local judges (Richardson 1983:53-54). Secondly, a brother was estranging the relationship of a brother's wife, and causing her to withhold herself from marital sexual relations (Richardson 1983:54). Thirdly, under Roman law the *paterfamilias* could end the marriage of a member of his *familia* by divorce (Richardson 1983:54). For example, it could be supposed that a Christian father-in-law might require his daughter to divorce her Christian husband, resulting in a legal case between two brothers. Fourthly, it is concerned with a dispute between a Christian husband and his wife's father, and it is closely related to Paul's advice in 1 Corinthians 7:12-16. Thus, a Christian husband put away his unbelieving wife, and her father, who is also a Christian, took his son-in-law to court (Richardson 1983:54). Lastly, it could suppose that the words of the *Lasterkatalog* in 6:9-10 provide a cause. According to Richardson (1983:55), idol-worshippers with adulterers in verse 9 might suggest some connection with adultery associated with cultic prostitution. In particular, from the list of vices mentioned in verses 9 and 10 one could speculate that a diversity of vices was practiced by the Corinthians, and also that the residue of their previous life-style persisted in many Corinthian believers (Richardson 1983:56).

[245] Both men and women enjoyed the same freedom to divorce (Veyne 1987:163).

[246] According to Veyne (1987:164), certain emperors attempted to enforce their own notions of moral order. For example, Augustus established strict measures against adultery by women.

[247] As a general rule, the husband's right to the dowry ceased at the end of the marriage (Mackenzie 1870:103).

[248] As Gardner (1985:453) explains, the dowry could always be returned either to the wife or to her *familia*. In this regard, even though the wife or her father could not claim all of the dowry, they could take back some of it, presumably after litigation against her husband to return some of the dowry. This would result in her retaining at least part of her original dowry for another marriage (Saller 1984:197).

dowry from a husband. If the bride's father was still alive, he must bring the action, but in this case he could do so only with his daughter's consent (Gardner 1986:112).[249] In case of divorce or the husband's death, the *dos* ('dowry') could be recovered by the wife together with her *paterfamilias* by an *actio rei uxoriae*, and in the case of the wife's death, the dowry from the woman's *paterfamilias* went back to the *paterfamilias* (Saller 1984:197).[250]

In the case of no particular contractual arrangements, an action for recovery of a dowry was available to the woman or her father (if he was still alive) when a marriage was ended by divorce (Gardner 1986:97). Gardner (1986:97) also states that, with the development of free marriage and increase in divorce, it became a significant concern to ensure that the dowry should return to the wife or her family at the end of a marriage. In Paul's day, material interests like money and power seem to have had a more important role than sex and affection in arranging a marital relationship (Chow 1992:137).

Apparently, in this case two issues had been conflated, namely, a monetary problem, and sexual immorality.[251]

Finally, Richardson (1983:56) asserts that the Corinthian community, like the Thessalonian community, confronted the challenge of sexual ethics directly. In this sense, incest and legal

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[249] At that time, the dowry was normally recognised as being for the maintenance of the widow or to help to secure her another marriage at the end of a marriage (Gardner 1986:107). However, in some societies dowries were so small as to be nominal. It was no more than the wife's trousseau, and contributed little to the future financial benefit of the new household (Saller 1984:195). In addition, according to Saller (1984:196), the development of Roman marriage customs and law reflects a change in the dowry's function. For instance, in early Rome, marriage *cum manu* was the normal form. But before the end of the Republic, *matrimonium sine manu* (or 'free marriage') became the dominant form. In such marriages the wife remained in her father's *potestas*, and when he died or emancipated her, she had an independent right to own property, which was kept entirely separate from her husband's.

[250] In any case, the *pacta* are informative about the purpose of dowries, because they show what adjustments to legal rules husbands, wives and their families thought to be necessary to ensure a fair final destination of the dowry when the marriage ended (Saller 1984:198).

[251] In Chow's view, the relationship between a man and woman is best seen as one of marriage or concubinage (Chow 1992:134). Chow (1992:133) provides several probable grounds. Firstly, insofar as Jewish law is concerned, it was possible that, for the man, his former social relations were dissolved because he was a proselyte and that he could thus marry his stepmother appears in chapter 5. Lastly, whether the relationship was marriage or not, it is important to emphasise the long-term nature of the relationship. In effect, a long-term living together might be regarded as a marriage by the people of those times.

actions occurring as an effect of marital failure are dealt with in chapters 5 and 6.

They would be faced with the complicated matters such as monetary disputes, including sexual immorality. Eventually, those involved might bring these problems to (a secular) court to find a solution. However, if the break-up of a marriage relationship resulting from sexual immorality should happen in a developing Christian community, it would not be a trivial case as indicated in 1 Corinthians 6:2. For this reason, this hypothesis would be hard to accept without further substantive reasons.

In the end, among these various options, the first position is the likeliest scenario regarding lawsuits. As described above by Sampley (2002:773), Corinth was a city famous for commerce and business, so that one might conclude that many disputes occurred concerning money between people who were resident in Corinth.

3.4 Who are the Litigants?

As already explained, the wealthy could influence the social order in Roman society. In other words, the wealthy could generally control social networks to their advantage and thus were able to take advantage of the poor or weak within the society (Thiselton 2000:419). Keener (2005:52) provides a clear example of the importance of social status. Roman law in Corinth commanded harsher penalties for people of lower status compared with those of higher status. For example, in terms of the same crime an aristocrat might be banished, but a low-status person crucified. Therefore, social level would be very significant in terms of the outcome of litigation.

Here, various ideas are suggested concerning the social status of litigants in this text.

The first opinion is that both litigants belong to a high level in society.[252] In general, a person who was of a higher status could often be protected from prosecution at that time. According

[252] Winter (2001:73-74) also indicates that the common reason was the disputes between members of the elite who were social equals (or near equals) in the public sphere.

to Chow (1992:128), a freedman needed to obtain the permission of the praetor to bring an action against a patron, but in contrast, a patron could prosecute his client without permission. This inequality obviously existed in the legal procedure involving civil cases.[253] In our environment one can assume that litigants would have power to initiate litigation. In this regard, the poor would hardly have access to litigation: litigants were people with property.

Richardson (1983:56) also suggests that if the action was related to material possessions, the litigants would be people who have property. People of the upper classes normally could have a good result from the litigation involved, as opposed to the poor, because they could pay for good legal advisers with a superior comprehension of complicated legal matters (Theissen 1982:97).[254] That is, in order to win the lawsuit, the litigants would need better legal advisers with extensive knowledge compared to the opposing party. In the early Empire advocacy was precious, thus one had to pay well to employ a lawyer skilled enough to avoid further debt by losing a claim (Mitchell 1993:579).[255] In this regard, Paul seems to imply that the litigants and the 'wise' in the community were one and the same group of people (Theissen 1982:97). And, people in Corinth might have been affected by this social environment, thus it could be possible that the Corinthian believers had an average cultural background (Theissen 1982:98).

Therefore, as Chow (1992:129) asserts, the litigants were among the wise and the strong in the community. Theiseen (1982:97) also claims that the litigants would be members of the upper classes in the community. Ultimately, Chow provides a plausible idea concerning the status of the litigants. According to Chow (1992:128, 129), they could well be the socially powerful in the community.[256]

The second postulation is that the litigants were among the leaders in the community.

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[253] According to Mitchell (1993:581), the people initiating litigation were those of higher social status who had the most to benefit from taking others to courts.

[254] Theissen (1982:97) maintains that the word wisdom indicated in verse 5 could be understood theologically as knowledge of salvation by Paul and the Corinthians, but it also could be interpreted that the wise are well educated in the ordinary sense.

[255] However, clearly a very small percentage of the population could pay the kinds of fees demanded (Mitchell 1993:579).

[256] In this regard, Winter (2001:74) maintains that a typical first-century struggle for honour and power among the elite is reflected in 1 Corinthians 6:1-8.

Richardson (1983:56) argues as follows: If the matters are concerned with material possessions, then the inclination is to suggest that the two men/women, namely the litigants, could be among the few in the congregation who owned property, and that they very likely were also leaders in the congregation. In other words, they were of the influential persons in a community. Winter (1991; 2001) also supports this idea. According to Winter (1991:568; 2001:65), the cause of litigation was personal loyalty to Christian teachers in the community. There was strife and jealousy between members, and one finally brought litigation against another leading believer to court. In those days, the civil courts offered simply another appropriate stage for a power struggle within the community, as would happen in any secular society. Thus, such struggle was transported from the meetings of the community of believers to the civil court (Winter 2001:66).

The third proposal is based on the claim that each litigant is located at a different social status. According to this viewpoint, a plaintiff belongs to the upper classes in society, but a defendant belongs to the classes lower than the plaintiff. In this situation, the judges themselves were also members of the privileged classes and would ordinarily give preference to the testimony of their social equals above the testimony of those of lower rank (Hays 1997:93).[257]

Mitchell (1993:572) asserts that the offenders were among the wise that enjoyed higher status.[258] In this understanding, people of higher status took people of lower status to court (Mitchell 1993:562-563). Mitchell suggests three grounds in particular to explain that the offenders carried higher status. The first two grounds relate to Paul's ironic question regarding the wise (Mitchell 1993:573). First would be the irony itself. In other words, they were really not wise enough to resolve the problem. They should not have allowed outsiders to resolve trivial matters which they themselves were able to settle. Second is the deeper meaning of the irony. They were among the wise, yet they did not conduct themselves according to the model of the wise person in Paul's day. Prosecuting someone could harm

[257] Those of high standing had the funds to hire professional rhetors to argue their cases and, if necessary, to bribe the judges (Hays 1997:93).

[258] According to Mitchell (1993:572), the Greek word σοφὸς is used negatively in the letter, and its use in 1 Cor. 6:5 follows that pattern.

people, but also could become injurious to the person himself. But the wise person could not be harmed by insult or injury. The third ground is the mention of shame in 1 Corinthians 6:5 (Mitchell 1993:574). At that time, people of higher status thought of honour as an important social factor, but they avoided shame. If they go to court to restore honour, it reveals their true status and is thus shameful because they do this in full view of those least esteemed by the community. For these reasons, Mitchell asserts that the offenders belong to the higher status group.

In general, the lower status people might have had a disadvantage in comparison with the higher status people in the legal system of Greco-Roman times.[259] In this regard, Paul's statements on the judges (Hays 1997:94) would be acceptable.[260] Paul's criticism that the judges were unjust can be validated by reference to the general practice of legal officials and judges in the first century C.E. (Clarke 1993:62). With this understanding it could be suggested that 'the unrighteous' in 1 Corinthians 6:1 refers to the character of the judges or the juries who pronounced verdicts in civil cases (Winter 2001:61).[261]

Winter (2001) presents some factors in particular, which could influence the judicial decisions of judges. The first factor was power.[262] The powerful in the city could have a number of unfair advantages in the legal system of the first century C.E. (Winter 2001:62).[263] Even the sincerity of a witness would be determined by his social status and wealth (Winter

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[259] Thus Mitchell (1993:575) says that social position can be a significant factor for determining the degree of access and the style of operation of the law in a society.

[260] According to Hays (1997:94), Paul understands the unrighteous as pagan high-status Corinthian judges who were biased in favour of the wealthy.

[261] Dio Chrysostom 89-96 C.E. records that there were in Corinth 'lawyers innumerable perverting judgements' (Or. 8.9). And Winter (2001:61) also relates that Apuleius inveighs against the Corinthians, alleging that 'nowadays all juries sell their judgement for money.' From these instances, one could suspect that the judgement of judges could be changed by some external factors like power and money, etc.

[262] Seneca's portrayal of a rich and powerful man is as follows: "'Why don't you accuse me, why don't you take me to court?' This rich man was powerful and influential, as not even he denies, and thought he never had anything to fear, even as a defendant. The poor man's response epitomised the reality, 'Am I, a poor man, to accuse a rich man?' The rich man all but exclaimed, 'What would I not be ready to do to you if you impeached me, I who saw to the death of a man who merely engaged in litigation with me?'" (*Controversiae* 10.1.2 and 7).

[263] These comprised financial qualifications for jury service, influence over honorary magistrates and judges, and the importance given to social status (Winter 2001:62). For this reason, the jury could not be trusted to be fair in the face of powerful people (Winter 2001:62-63).

2001:63). The second factor was money. The payment of bribes could particularly influence the outcome of judicial decisions (Winter 2001:63).[264] So, as Garnsey (1970:277) states, courts in Rome and in the provinces were quite inequitable. Ultimately, the wealthy could manipulate social organisations outside the community to their advantage and thereby, take advantage of the poor or weak within the congregation (Thiselton 2000:419).[265]

Hays (1997) follows the same idea. According to Hays (1997:93), the court system of the Roman Empire has shown that there was a strong systemic tendency towards favouring higher-status litigants. In other words, the majority of civil cases were overwhelmingly brought by the wealthy and powerful against people of lesser status.[266] In this regard, Hays (1997:93-94) states that some of the Corinthian community members had civil proceedings against their fellow believers, and one party was the more powerful and privileged members of the community, but the other party, namely the defendant involved in lawsuits, were likely to be poorer members. In particular, Hays (1997:94) suggests that the wealthier Corinthians shamed their fellow members who were of lower status in the community.

The last idea is particularly based on a wider understanding. That is, the issue of the lawsuit had to be understood together with the theme of immorality which appears in chapter 5. In this reading, Bernard (1907) describes the relationship between litigants as that of a father

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[264] According to Winter (2001:63), the jury in civil litigation could be bribed to return a 'guilty' or a 'not guilty' verdict.

[265] Mitchell (1993:576) summarises this characteristic of the practice of law at the time: Firstly, the offence is applied more seriously when a person of higher status litigates against one of lower status. Secondly, in contrast, the offence is regarded more lightly when a person of lower status litigates against one of higher status. Lastly, people of the same rank are more likely to work out the problem through an agreement rather than go to court. Therefore, one can conclude from these basic principles that people of higher social status are advantaged in the legal process, are more likely to litigate against those of lower status, and are less likely to litigate against one another. In a similar understanding, Frier (1985:35-41) expresses four factors of litigiousness by four terms, viz., social status, social position, social relationship and social disposition: firstly, upper status people are more likely to litigate than lower status people. This is because law is itself a form of social control which is an interest of the upper classes; secondly, they were usually not on equal relationship level. If people are of equal standing, the advantage of one over the other is reduced; thirdly, parties are not normally close friends. That is why they went to law in the first place; lastly, some people are more likely to litigate than others. There is such a thing as a litigious temperament.

[266] In this regard, Derrett (1991:24-25) states that litigation could produce a useful solution, but it also could be worse than the complaint, if the one party was more wealthy than the other party, and had the financial means to influence the trial.

and a son. His understanding might be feasible because chapters 5 and 6 share the same topic. Following this understanding, the lawsuit was caused by a certain sexual matter as introduced in verse 1 of chapter 5. Bernard (1907:437) suggests that both father and son would be believers because Paul rebuked both of them for their sexually immoral behaviour, but the woman seems not to be a believer.[267] Both the father and the son should be blamed because the son committed a terrible sin, and the father brought his son to heathen courts to be punished (Bernard 1907:436-437). According to Paul's advice, the father should not have brought such an action before the secular courts (Bernard 1907:437-438). Rather, in Paul's perspective, it was the responsibility of the Jesus followers' community to pass judgement according to the specific principles of Christian purity (Bernard 1907:440).

To sum up, the first part of 1 Corinthians 6 deals with a dispute between community members who had high status in Corinthian society, especially in the Corinthian community (Mitchell 1993:562). Winter (1991:570; 2001:69) supposes that at least some of the Corinthian believers were aware of the importance of secular social status, which was expressed in the activities of the secular community of Corinth. So they might have gone to court to retain their social status in Corinth.[268] However, Paul requested that the community should resolve these matters within the community by means of private arbitration available to them under Greco-Roman law, not as lawsuits (Mitchell 1993:563). In this regard, Paul recommends choosing the wise among members of a developing Christian community as mediator to work out a dispute.

3.5 Summary

Whatever the legal case was, it was not an important case to the Corinthian Jesus followers, and they in any case had among them those who were able to settle the problems. Thus, it is

[267] With regard to the woman, nothing is mentioned about her future in terms of the duty of the incipient Christian community. Thus the woman could be regarded as a heathen (Bernard 1907:437).

[268] Paul did not give special attention in the Christian ἐκκλησία to those who possessed status by reason of their birth, wealth, and position. Rather, he stresses that people's status is derived by what they are in Christ (1 Cor. 1:30). In addition, Paul indicates that social class itself does not have any importance within the actual meeting of the developing Christian community as is written in 1 Cor. 5:4 (Winter 1991:570).

suggested that the actions initiated by believers against their fellow believers came within the scope of vexatious litigations.[269] By these vexatious litigations some believers shamed their brothers. In Roman society litigation caused personal enmity and often in fact served to make the personal enmity worse (Winter 2001:65).

Paul argues that there is surely someone in the community qualified, 'wise enough', to oversee such issues between brothers (Clarke 1993:69). The Corinthian believers were also well educated. Their secular education consisted not only of intensive instruction in literature but also of training in oratory, including forensic skills (Winter 1991:568; 2001:68). Therefore, the developing Christian community would already have someone who could settle the problems which appeared in their community.[270] In other words, Paul prescribes private arbitration in their community, not litigation.[271]

In Paul's eyes, lawsuits among the believers are an entire failure to their identity as followers of Jesus.[272] Paul believes that believers should be able to work out their disputes with one another peacefully and with fairness and justice (Sampley 2002:855).

In the end, the first-century Roman secular courts were rife with injustice and unfairness prevailing in the first-century Roman legal system. According to Borkowski and Du Plessis (2005:66), Corinthian believers could have solved matters through arbitration within the community, but opted to involve the secular court. It implies that they had failed to live and behave as followers of Jesus, and had lost sight of God's love.

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[269] Martial records show that one of the things that made life enjoyable was 'no lawsuits', but young men sometimes would like to show off their abilities as orators by taking well-known citizens to court (Epstein 1987:90).

[270] As Clarke (1993:69) maintains, Paul undoubtedly disagrees with the situation which is happening in the Corinthian church where brothers are taking each other to the secular courts.

[271] The city appointed an arbiter on an annual basis to hear 'private' cases (Winter 2001:67). According to Winter (1991:569), provision existed in Greek, Roman and Jewish legal systems for the use of arbitrators who acted in a legal capacity with the agreement of the defendant and the plaintiff. Crook (1967:78) explains the role of the arbiter as follows: the arbiter takes charge of actions for division of land or inheritances.

[272] In this regard, Mitchell (1993:564) points out that the problem of lawsuits before provincial magistrates shows the importance Paul places on community self-regulation.

CHAPTER 4
A LITERARY AND EXEGETICAL INTERPRETATION OF 1 CORINTHIANS 6:1-11

[1] Τολμᾷ τις ὑμῶν πρᾶγμα ἔχων πρὸς τὸν ἕτερον κρίνεσθαι ἐπὶ τῶν ἀδίκων καὶ οὐχὶ ἐπὶ τῶν ἁγίων; [2] ἢ οὐκ οἴδατε ὅτι οἱ ἅγιοι τὸν κόσμον κρινοῦσιν; καὶ εἰ ἐν ὑμῖν κρίνεται ὁ κόσμος, ἀνάξιοί ἐστε κριτηρίων ἐλαχίστων; [3] οὐκ οἴδατε ὅτι ἀγγέλους κρινοῦμεν, μήτι γε βιωτικά; [4] βιωτικὰ μὲν οὖν κριτήρια ἐὰν ἔχητε, τοὺς ἐξουθενημένους ἐν τῇ ἐκκλησίᾳ, τούτους καθίζετε; [5] πρὸς ἐντροπὴν ὑμῖν λέγω. οὕτως οὐκ ἔνι ἐν ὑμῖν οὐδεὶς σοφός, ὃς δυνήσεται διακρῖναι ἀνὰ μέσον τοῦ ἀδελφοῦ αὐτοῦ; [6] ἀλλὰ ἀδελφὸς μετὰ ἀδελφοῦ κρίνεται καὶ τοῦτο ἐπὶ ἀπίστων; [7] Ἤδη μὲν [οὖν] ὅλως ἥττημα ὑμῖν ἐστιν ὅτι κρίματα ἔχετε μεθ' ἑαυτῶν. διὰ τί οὐχὶ μᾶλλον ἀδικεῖσθε; διὰ τί οὐχὶ μᾶλλον ἀποστερεῖσθε; [8] ἀλλὰ ὑμεῖς ἀδικεῖτε καὶ ἀποστερεῖτε, καὶ τοῦτο ἀδελφούς. [9] Ἢ οὐκ οἴδατε ὅτι ἄδικοι θεοῦ βασιλείαν οὐ κληρονομήσουσιν; μὴ πλανᾶσθε· οὔτε πόρνοι οὔτε εἰδωλολάτραι οὔτε μοιχοὶ οὔτε μαλακοὶ οὔτε ἀρσενοκοῖται [10] οὔτε κλέπται οὔτε πλεονέκται, οὐ μέθυσοι, οὐ λοίδοροι, οὐχ ἅρπαγες βασιλείαν θεοῦ κληρονομήσουσιν. [11] καὶ ταῦτά τινες ἦτε· ἀλλὰ ἀπελούσασθε, ἀλλὰ ἡγιάσθητε, ἀλλὰ ἐδικαιώθητε ἐν τῷ ὀνόματι τοῦ κυρίου Ἰησοῦ Χριστοῦ καὶ ἐν τῷ πνεύματι τοῦ θεοῦ ἡμῶν (NA[27]).

4.1 Introduction

In the previous chapters, first a perspective on Roman Law in terms of organisation and structure and then a historical perspective of the first century Roman society pertaining to lawsuits and their functioning were provided. In secular courts litigation could render different results, even influenced by the social status or the wealth of litigators, even in a Christian community.[273] In this chapter I intend to focus on the text of 1 Corinthians 6:1-11, proposing a literary, structural and exegetical exploration.

[273] Robertson (2007:593) suggests that the visible favouritism toward the wealthy and influential coloured the outcome of lawsuits, and Paul might be interpreting the meaning of the "unrighteous" (v. 2) in this light.

Collins (1999) and Talbert (1987) present examples of the various literary devices which could be used to explore the text. For example, they discern an ABA′ pattern in the structure, of chapters 5 and 6 or the whole chapters of 1 Corinthians.[274] Moreover, Collins (1999:225) states the function of verses 1 to 11, in 1 Corinthians 6 as a chiastic structure, and identifies this section of Paul's letter as a rhetorical digression. In this understanding of the ABA′ pattern, Collins (1999:14) suggests the structure of the text: Paul presents some general thought (A), followed by a digression that aids his argument (B), and lastly a further consideration that specifies the general thought and responds to the particular issue (A′).[275] Accordingly, as Collins (1999:16) analyses, the digression provides the rhetorical purpose of the entire unit as an element of the chiastic structure.

Paul's use of digression (2:6-16; 6; 9:1-10:13; 13) in 1 Corinthians is seen also in chapters 1:10-3:20; 5-7; 8-10; 12-14; chapters 1:10-3:30 deal with unity in the community, chapters 5-7 describe the responsible use of sexuality, 8-10 explain food offered to idols, and chapters 12-14 refer to spiritual gifts (Collins 1999:14-15). From this structural understanding, specifically chapters 5-7 can be analysed as follows: A problem in Corinthians in chapter 5 (A), digression about the believers' use of secular courts in chapter 6 (B), and returns to sexual obligation in chapter 7 (A′). Even though the second part placed in the middle of an ABA′ pattern seems like a deviation from the main theme, Paul uses this chiastic pattern to emphasise his argument (Collins 1999:15). Thus the structural analysis explains the application of the rulings of secular courts in the Corinthian's Christian community to a different issue like immorality.

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[274] Collins (1999:14) mentions that a significant characteristic of Paul's style is the use of chiastic structure called 'an A–B– A′ pattern.'

[275] According to this structure, 1 Corinthians 6:1-11 is placed in the second section, viz., at the part of digression. Paul's use of digression which supports his argument is similar to the ancient rhetoricians' understanding of digression. For example, Collins (1999:14) cites Quintilian's explanation on digression. It provides various purposes to amplify an argument's main point, to shorten an argument, or to make an emotional appeal, etc. Cicero also comments on digression: "…some masters place next the summing-up of the address and the so-called peroration, while others require, before such peroration, a digression for the sake of effect or amplification, to be followed by the summing-up and the close" (*De Oratore* 2. 19. 80, translated by E. W. Sutton).

Secondly, rhetorical questions occurring in 1 Corinthians 6:1-11 indicate Paul's purpose toward the believers in Corinth. According to Sampley (2002:783), rhetoric was the basic style of education in the first century Roman world.[276] Litfin (1994:138-139) suggests that one could assume that Paul was an intelligent and literate man who was born a Roman citizen in Tarsus, spoke Greek, and lived in the Hellenistic world of the first century.[277] Hence he would have been influenced by rhetoric and oratory which were common features of daily life, and might have learnt something of Greco-Roman rhetoric (Litfin 1994:139). There were three general types of rhetoric: judicial rhetoric focusing on the courtroom and basing judgment on precedents; deliberative rhetoric focusing on deliberations about future behaviour; epideictic rhetoric focusing on praise or blame of an individual, virtue or vice in the present (Sampley 2002:783-784). Sampley (2002:784) places the first letter to the Corinthians in the category of deliberative rhetoric,[278] as it contains Paul's efforts to persuade the Corinthian believers to make certain decisions.[279] In the hortatory literature – of which a tradition existed in the Greco-Roman world – an author appealed for a certain way of life by suggesting traditional morality and wisdom, and furthermore, to call for conversion to a lifestyle of goodness (Harding 1998:107).[280]

Obviously Paul addresses the Corinthian believers, using the medium of the spoken word,[281] i.e making use of a "speech act" (Collins 1999:17-18).[282] He employs rhetorical questions to

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[276] Even though some who were not trained in rhetoric, they were already familiar with it (Sampley 2002:783).

[277] Litfin (1994:139-140) insists that by the time Paul wrote the Corinthians letter he had travelled widely in the Hellenistic world, and had been exposed to practices and thinking of the Hellenistic world.

[278] Mitchell (1991:20) suggests that deliberative rhetoric was commonly employed within epistolary frameworks such as 1 Corinthians because deliberative rhetoric can be consistent with the letter genre.

[279] According to Litfin (1994:111-112), persuasion always played a role as the heart of rhetoric. In addition, much of the New Testament and early Christian literature reflects this category of persuasion because many of the documents of the New Testament seek to instruct their audiences in the responsibilities attending the Christian life-style (Harding 1998:189).

[280] Harding (1998:107) explains that these two suggestions were termed "paraenesis" in the Greco-Roman era.

[281] At that time large numbers of people could neither write nor read, leaving speech as the method to communicate. Collins (1999:18) also says that reading was normally an oral declaration in the Hellenistic world of Paul's day. For example, in 1 Thessalonians 5:27 Paul gave particular instruction that his letter should be read to all the members of the community.

[282] Collins (1999:17-18) suggests three different types of verb indicating the meaning of 'speech' used in 1 Corinthians, namely, 'to say (λέγω),' 'to speak (λαλέω),' and 'to assert (φημί).' The Greek word λέγω is used in 1:12; 6:5; 7:6, 8, 12, 35; 10:15, 29; 15:51; the word λαλέω is used in 9:8; 13:1; 14:18; 15:34; the word φημί is used in 7:29; 10:15, 19; 15: 50. In addition, according to Collins (1999:225), chapters 5 and 6 could be

warn and remind the Corinthian believers about their identity as God's people. Mitchell (1991:81) particularly suggestes that the Corinthian community was experiencing political discordance,[283] that is, going to court against fellow believers must have been both cause and further motive for the factionalism in the community (Mitchell 1991:231). In particular, Collins (1999:228) insists that the first and last of Paul's rhetorical questions (vv. 2, 9) appeal to the Corinthians' knowledge about the eschaton, with questions ("Don't you know that…?") that establish a literary *inclusio* and provide an eschatological framework for Paul's argument.[284]

This chapter will make an exegetical investigation to try and determine the nature of Paul's appeal and instruction of the Corinthian community of believers.

4.2 A Structural Understanding of 1 Corinthians 6:1-11

Various opinions have been suggested regarding the analysis of 1 Corinthians 6:1-11. In essence, some scholars divide the text into two parts, and some others divide it into three parts or more.

4.2.1 A Twofold Division

Scholars upholding a twofold division, suggest three different points of division. A first opinion is that the first part is verses 1 to 6, with verses 7 to 11 forming the second part. A second opinion is that the first part is verses 1 to 7, with verses 8 to 11 forming the second

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understood in the sense of "to judge" even though each perspective on "judge (κρίνω)" would be different. In particular, there are many forensic languages in 1 Corinthians, which indicate civil disputes such as "to judge" (κρίνω, vv. 1, 2, 3, 6), "cases" (κριτήριον, vv, 2, 4), "being seated" (καθίζω, v. 4), "before" (as before a judge, ἐπί, vv. 1, 6), "judge between" (διακρίνω, v. 5), "receive judgments" (κρίματα ἐχεῖν, v. 7). This judicial language makes Paul's digression a logical continuation of the issue introduced in chapter 5 of 1 Corinthians. In chapter 5, Paul mentioned the judgment of outsiders by the church, but now he turns to the judgment of believers by outsiders in chapter 6.

[283] Mitchell (1991:117) insists that all of the issues which Paul treats in 5:1-6:11 are fundamentally political problems, and all of these specific issues are phases of the prime problem of factionalism in the church.

[284] In addition, according to Mitchell (1991:112), Paul's rhetorical strategy is that he must clarify what membership in the community is.

part. A third opinion is that the first part is verses 1 to 8, with verses 9 to 11 forming the second part.

Those proposing two divisions find that the first part generally mentions the problem of lawsuits arising between community members, while the second part explains the proper behaviour of believers in an ethical perspective by introducing a list of vices.

4.2.1.1 Verses 1-6 and 7-11

This approach, generally supported by Fee (1987), Talbert (1987), Deming (1996) and Fitzmyer (2008), views the first part of the text as consisting of verses 1 to 6, and the second part as verses 7 to 11.

Fee (1987) states that the first part (verses 1 to 6) mentions the shame of the community, and the second part (verses 7 to 11), shame of the plaintiff and warns wrongdoers. In other words, Paul focuses on the community in the first part, and on litigators, especially plaintiffs, in the second part.

In the previous chapter (1 Corinthians 5), Paul concludes that those who are outside the community are judged by God (1 Corinthians 5:13). Therefore the community is not to judge outsiders, but must judge insiders (Fee 1987:228). Fee (1987:228) insists that chapter 6 refers to another kind of "judgment" which should take place within the community of believers.[285]

According to Fee (1987:229), Paul uses several rhetorical devices to present his point on lawsuits: he mentions horror in verses 1 and 6, rhetorical questions in verses 2-4, 5b-6, 7b, sarcasm in verse 5, and a threat in verses 8-11. Fee (1987:229) explains his understanding of the text briefly: He applies a series of rhetorical questions (verses 2 to 6) to the matter of legal cases occurring within a community.[286] In particular, in verse 5 the sarcasm is apparently to

[285] According to Fee (1987:228), if the community is not to judge those outside it, affairs occurring inside the community of believers should not go before outsiders.

[286] As mentioned in chapter 2 of the dissertation, cases could concern various issues, such as problems of possession, money, sexual misbehaviour, or dowries, etc.

warn the Corinthian believers. According to Paul, suing a fellow believer is a thorough loss or defeat (verse 7, ἥττημα) for both the community and of those involved. Thus Paul pleads with the litigants to behave as Jesus followers according to the ethics of Christ, in the rhetorical questions of verse 7. Finally, in vv. 8-10 Paul warns the plaintiff, and the community as a whole, that they will not inherit the kingdom of God.[287] But as is common in his writings, the threat is followed by a word of assurance in verse 11.

Ultimately, Fee (1987:230) insists that in verses 1-6 the primary concern regarding litigation was a word to the litigators themselves, which then became applicable to the community as a whole. That is, the fact that people become involved in litigation indicates that the community has failed to be the community of Jesus followers. In particular, Fee (1987:230) examines the first part in the structure of a rhetorical question as follows.

> Q1 (v. 1): The basic ingredients of the problem
> Q2[1] and Q2[2] (v. 2): A set of questions that minimises lawsuits in the present age in light of eschatological realities
> Q3[1] and Q3[2] (vv. 3-4): A set of questions that minimises pagan courts in the light of further eschatological realities
> Indicative 1 (v. 5a): "I say this to shame you"
> Q4[1] and Q4[2] (vv. 5b-6): A set of questions designed to shame them by sarcasm (the second question also recalls v. 1, with special emphasis on their doing this before pagans)

The crucial point of Paul's viewpoint towards the community emerges from his addressing an eschatological community in verses 1 to 6 (Fee 1987:230): people have to live or behave as God's people in their present day lives. For Paul, in the light of the eschatological frame, believers belong to God's household. This could suppose that matters of everyday life are insignificant, and the pagan courts which treat such trivialities are also insignificant.

[287] As always in Paul, here there is clear and obvious expression of his eschatological framework which is the prerequisite to understand his thinking and the reason of the church's existence (Fee 1987:229).

Paul emphasises that believers will judge the world (v. 2) and the angels (v. 3) someday. Thus it should not happen that believers are judged by unbelievers, and similarly, that they should refrain from laying their claims before the pagan courts.[288]

In verses 7-11, Paul focuses on the parties involved in the litigation, but besides addressing the individuals, he extends his concern to the entire community. In a broader perspective the action of lawsuit shames not only the individuals but also the community, as mentioned in verse 7a (Fee 1987:239). In the second part, Paul uses rhetorical questions to explain the ethic of the Christian faith. In verses 9-10 he warns believers and the community not to follow a bad custom which can be deduced from the list of vices and he asserts that those who commit these sins will not inherit the kingdom of God.

Talbert (1987) understands 1 Corinthians 6 with a broad view relating to chapter 5 of 1 Corinthians in an ABA′ structure. According to Talbert (1987:12), chapters 5 and 6 are formed as follows: a sexual problem such as incest in 1 Corinthians 5:1-13 (A), the problem of lawsuits in 1 Corinthians 6:1-11 (B), and another sexual problem, viz. fornication in 1 Corinthians 6:12-20 (A′).[289] In this structure the text of lawsuits (1 Cor. 6:1-11) is the B component of the larger ABA′ pattern of 5:1-6:20.[290] Structuring the text of 1 Corinthians 6:1-11 as B, a rhetorical digression, emphasises Paul's focus on the wrong behaviour of the Corinthian believers, as observed by Collins (1999:14, 15).

According to a close reading by Talbert (1987:20-22), the text consists of two parts, each containing two factors with a similar surface form. The first section is formed by a statement of the problem (v. 1) and two arguments against the problem (vv. 2-6), one drawn from tradition (vv. 2-4), and the other from experience (vv. 5-6). The second part follows the same form, with a statement of the problem (v. 7a) and two arguments against the problem (vv.7b-11), one drawn from tradition (vv. 7b-10), and the other from experience (v. 11).

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[288] In this regards, Fee (1987:230) describes taking their problem before the pagan courts as the absurdity of the Corinthian believers.

[289] In addition, Engberg-Pedersen (1987:577) treats the question of sex in 1 Cor. 6 in all kind of sexual life, not just sexual immorality.

[290] And, in terms of subject, the text is also connected formally to 5:1-13 by the key word "judge" (5:12, 13; 6:2, 3; cf. 6:5) (Talbert 1987:20).

In this regard, the text can be constructed as follows. The first part comes in verses 1 to 6 and is formed by an *inclusio* (vv. 1 and 6) with the problem being presented in verse 1. Talbert (1987:20) states that regardless of the cause of the lawsuit, the main concern is that the controversy was brought before unbelievers in the pagan courts instead of being brought before a Christian court of arbitration.[291] As Du Plessis (2010:66) indicates, civil litigation was regarded as private arbitration in the first-century legal system, and it can be assumed that Paul would request the community of believers to resolve their matters by such means (Mitchell 1993:563). Thus, the problem Paul addresses is that the Corinthian believers did not try to settle disputes within the community.

Secondly, with regard to the two counter-arguments, particularly in terms of the tradition, each begins with "Do you not know" (οὐκ οἴδατε) and continues with "if" (εἰ) in verses 2 and 3-4. Verse 2 is based on Jewish eschatological thought, viz. that God's people will participate in the Last Judgment (Talbert 1987:20).[292] Thus, if believers will participate in the eschatological judgement, they can try cases which are considered to be trivial between themselves. Verse 3 presents another item of Jewish tradition that believers will judge angels. Paul's statement in verses 3-4 is based on the tradition of the participation of God's people in the Judgment.[293]

The second part of the text comes in verses 7 to 11, and the structural feature mirrors that of verses 1-6. Firstly, the problem is mentioned in verse 7a ("To have lawsuits at all with one another is defeat for you"). From Paul's viewpoint, there should be no lawsuits at all among believers in the Christian community. They should rather use Christian courts of arbitration to resolve the cases.[294]

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[291] Talbert (1987:20) states that the practice of the arbitration was affected from the Jewish courts of arbitration at that time. And Robinson (1962:3) insists that the case is one for arbitration.

[292] According to Talbert (1987:20-21), as Matthew 19:28 and Revelation 20:4 indicate, this theological tradition was suited to Christians.

[293] Talbert (1987:21) believes that in Christian tradition, Jesus will declare judgment against the angels at his resurrection and ascension as indicated in 1 Timothy 3:16 and 1 Peter 3:18-20.

[294] In addition, Paul's argument for Christian courts of arbitration was merely a concession to human sinfulness (Talbert 1987:21).

Secondly, a tradition-based argument is found in verses 7b-8 and 9-10. In verses 7b-8 two rhetorical questions are used to address the offended party. Talbert (1987:22) suggests that these questions are based on the understanding of the paraenetic tradition.[295] Thus if the offended party lives according to the teaching as set out in Romans 6:17 and Ephesians 4:20-21, he would know how to act as a believer. In verses 9-10 the second argument from tradition is similar to the form used in verses 2-4.[296] The question "Do you not know?" is also used here in verse 9a. In particular, the various kinds of traditional vices are introduced in verses 9-10. The list of vices was often employed in the ancient world, also by early Christians (Talbert 1987:22).[297] Talbert (1987:26) states that the tradition presented in 1 Corinthians 6:7b-10 confronts both plaintiff and defendant.

The experience-based argument appears in verse 11. In particular, this verse refers to the different forms of the lives of the Corinthians before and after their conversion (Talbert 1987:26). Before they became Jesus followers, they followed the lifestyle presented in the list of vices,[298] but as believers they were washed, sanctified and justified through Christ as mentioned in verse 11b. According to Talbert (1987:26), Paul tries to emphasise that the conversion of the Corinthians should be expected to incorporate both forgiveness from the guilt of their sin and the change of their life. One can argue, then, that also the community's experience supports tradition that there is no place for lawsuits at all among believers.

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[295] This paraenetic tradition is found also in various texts such as Matthew 5:38-42, Romans 12:17, 19 and 1 Peter 2:23 (Talbert 1987:22).

[296] Talbert (1987:22) explains that 1 Corinthians 6:9-10 is formed in an ABA′B′ pattern as follows:

A. The unrighteous
  B. Will not inherit the kingdom of God;
A′. The immoral, et al.,
  B′. Will not inherit the kingdom of God

According to him, the parallel structure with the traditional language "inherit the Kingdom of God" emphasises tradition being used here.

[297] This kind of list of vices is also introduced in Mk. 7:21-22; 1 Pet. 4:3; Rev. 21:8; 22:15, and in Rom. 1:24, 26-27, 29-31; 13:13; 2 Cor. 12:20-21; Gal. 5:19-21; Col. 3:5-8; Eph. 4:31, 5:3-5; 1 Tim. 1:9-10; 6:4-5; 2 Tim. 3:2-5; Titus 3:3 in Pauline letters (Talbert 1987:22).

[298] In 1 Corinthians 6 the list of vices should be understood as stereotyped language rather than descriptive practices. The list of vices introduced in 1 Corinthians does not mean that the Corinthian believers actually practised those vices. Those vices rather show that Corinth was influenced by the social environment of the first century C.E. It means that the Corinthian believers were also influenced by social immorality.

As Fee and Talbert suggest, Deming and Fitzmyer follow the same division of the text. According to Deming (1996:297), verses 1 to 6 focus on the offender, with the first part criticising the offender for bringing the problem before judges who are in a secular court, and the second part (vv. 7-11) rebuking believers for the injustice of suing their fellow believer. In addition, Fitzmyer (2008:248) states that Paul admonishes the Corinthian believers to settle their disputes among themselves in verses 1 to 6, and in verses 7 to 11 Paul insists more strongly that they should not have lawsuits at all.

4.2.1.2 Verses 1-7 and 8-11

Another opinion on the division is that verses 1 to 7 form the first part and verses 8 to 11 the second. Evans (1930) represents this division for the text structure, when he considers the first part (vv. 1-7) as containing Paul's objection to litigation between believers (Evans 1930:82). The argument is that Paul suggests three reasons why he condemns litigation: firstly, the litigation shows the unsuitability of believers following the judgement of a secular court; secondly, it reveals the unworthiness of believers because they seek help to settle the trivial things; and lastly, it reveals the unworthiness of believers involved in such arguments.

In the second part (vv.8-11), Evans (1930:87) explains that the occurrence of lawsuits is an example of how the Corinthian believers failed to overcome their sin through following the practice of having lawsuits as the heathens did. In the end, they risk their identity as Jesus followers, and will not inherit the kingdom of God.

4.2.1.3 Verses 1-8 and 9-11

This opinion demarcates the first part as verses 1 to 8, and the second as verses 9 to 11, a division supported by scholars such as Calvin (1960), Barrett (1968), Fuller (1986), Derrett (1991) and Thiselton (2000; 2006).

In particular, Fuller (1986:98) summarises each section briefly. According to him, Paul starts

by mentioning the problem in verse 1: that the Corinthian believers sue their fellow believers before a secular court, and so involve unbelievers. In verses 2 and 3, Paul elucidates the reason why such behaviour is unworthy of Jesus followers, and he offers two alternatives in verses 5 and 7, proceeding to criticise such behaviour in verses 6 and 8.

In verses 9 to 11 Paul reminds the Corinthian believers that their immoral conduct prevents them from inheriting the kingdom of God. In addition, Paul emphasises that such behaviour is not consistent with their present eschatological status.

In the end, as Fuller (1986:98) suggests, the first part deals with the current issue in the Corinthian community of believers, and the second part introduces the broader context on unethical conduct.

Among scholars suggesting a two-fold division of 1 Corinthians 6:1-11, the proposal to see verses 1-8 and 9-11 as the point of division is most convincing, because this demarcates the thematic content of the text. It means that the first part, vv. 1-8, introduces the current problem of the Corinthian believers turning to lawsuits, and the second part, vv. 9-11, emphasises ethical behaviour as God's people with an awareness of their eschatological status. Thus, the division as verses 1-8 and 9-11 might be more convincing than others.

4.2.2 A Threefold Division

While some scholars divide the text into two,[299] others suggest a threefold division. There are two major opinions, the first dividing the texts as verses 1 to 6, 7 to 8 and 9 to 11 while the second divides the text as verses 1 to 4, 5 to 8 and verses 9 to 11.

4.2.2.1 Verses 1-6, 7-8 and 9-11

In general, Hays (1997), Horsley (1998), and Garland (2003) follow this division.

[299] As mentioned before, by Fee, Talbert, Deming, Fitzmyer, Evans, Barrett, Fuller and Derrett follow a twofold division but demark the divisions differently from each other.

Garland (2003) understands the first part as an *inclusio* structure. He considers that Paul states his point in verses 1 to 6 with the repetitive use of κρίνω and ἐπί (Garland 2003:193-194). That is, they are fully able to judge the problems arising among them. In particular, Paul addresses rhetorical questions to the offender who took his fellow to civil courts. Departing from that primary focus, Paul extends his focus to the community as a whole (Horsley 1998:84).[300] As Garland mentions (2003:194), the Corinthian believers should have resolved any problem among them, but resorted to lawsuits to settle their problem. In other words, God's people used a worldly means as heathens normally do.

In verses 7-8 Paul rebukes the Corinthian believers that such behaviour is a total defeat, even though they might win the litigation in the secular court. Garland (2003:194) states that lawsuits between believers reflect the reputation of the whole community, because if they could understand the true wisdom of God, they would not have such trivial disputes and would bear being wronged and defrauded. In this regard, their failure is total, also in a moral sense.

As the concluding part, in verses 9 to 11 Paul reminds the Corinthian believers that in an eschatological understanding the unrighteous will not inherit the kingdom of God and he appends a list of vices as an implicit warning, presenting these vices in verses 9-10 as obstructions to their inheritance, namely the kingdom of God. However, Paul notes that believers will judge the world and the angels, as stated in verse 2 after having been "washed, sanctified, and justified" (Garland 2003:194).

4.2.2.2 Verses 1-4, 5-8 and 9-11

Another scholar supporting a three-fold division in 1 Corinthians 6:1-11 is Mitchell

[300] In Paul's thinking, the communities of believers have to handle internal disputes themselves (Horsley 1998:84).

(1993:564), who regards verses 5-8 in the centre of the text as Paul's real concern.[301]

As the first part verses 1-4 explain why believers should shun a worldly way of settling minor problems between community members. That is, they should not abandon their right to settle the disputes, but it becomes a much more serious problem if they yield this right to resolve the problem to outsiders (Mitchell 1993:564).

The second section, verses 5-8, can be divided into two parts, namely 5-6 and 7-8, with each part consisting of statements, questions and a climax (Mitchell 1993:565). In particular, the double climax in verses 6 and 8 makes Paul's argument effective. Furthermore, Fee (1987:240) states that "The placement of this double climax at the centre of 6:1-11 unifies the text, and the apparent contradiction between appointing an arbiter and not having lawsuits at all is resolved."

In the end, to wrong and defraud are consistent with the behaviour of unbelievers who seek redress for offences and their own advantage (Mitchell 1993:565). For believers such actions are shameful and a moral defeat because they are God's people who belong to God's household and will inherit the kingdom of God.

4.2.3 Other Divisions

There are some minor opinions concerning the division of the text. Two will be introduced briefly.

One opinion, that of Kistemaker (1993), suggests a fourfold division. According to

[301] As observed before, Fuller divides the text into two parts namely verses 1-8 for the first part and verses 9-11 for the second part. However, Mitchell provides more sub-divisions than Fuller. Broadly speaking, in terms of the meaning of the passages, Mitchell's division would be similar to Fuller's even though Mitchell divided the text into three parts with the first two parts concerning the wrong behaviour of the Corinthian believers. In the last part Paul states the matter of an unethical behaviour. However, Mitchell's division highlights Paul's probable concern with the behaviour of the Corinthians more clearly. The reason is that in verses 1-4 Paul mentions the fault of the Corinthians and the reason why Paul opposes such behaviour of the Corinthian believers. However, in verses 5-8 Paul points out that the Corinthians' behaviour is shameful and defeat their ethos, and he suggests more mature behaviour for the Corinthian believers as Jesus followers.

Kistemaker (1993:176), 1 Corinthians 6:1-11 can be divided into four parts as follows: the first part is verses 1 to 3, the second is verses 4 to 6, the third is verses 7 to 8, and the last is verses 9 to 11.

In terms of the contents, verses 1-3 say that the saints will judge the world and the angels; verses 4-6 show that the wise will speak on the problem; verses 7-8 say that the humble will tolerate being wronged and defrauded, and verses 9-11 say that the ungodly will be excluded from the kingdom of God (Kistemaker 1993:176).

Kistemaker (1993:177) explains that for Paul, the world should be changed and influenced by believers who must follow the rule of the Christian community, not that of the secular world. But they failed to keep their identity by bringing their problem to heathens to settle. In the end, they lost their identity as God's people because of settling the disputes before the unbelievers, so that the world could scoff both (cf. Kistemaker 1993:177) believers and the community.

Another is the viewpoint of Orr and Walther (1976), considering the text of lawsuit as verses 1 to 9a, and in itself being divided into two parts (Orr and Walther 1976), viz. the first part is verses 1 to 6, and the second, verses 7 to 9a.

The first part presents the scandal of appearing in the presence of heathen judges (Orr and Walther 1976:195). In the viewpoint of Paul, their act of bringing lawsuits against fellow members is an impudent act, especially in the community of believers since it shows undeniable evidence of their negligence to the requirements of unity and fellowship in the Christians community (Orr and Walther 1976:195). In the end, Paul wants the Corinthian believers to resolve their disputes within their community.

The second part mentions inconsistencies of injustice among brothers. For believers, lawsuits itself is a defeat, beyond the possibility of losing a court-case. In Paul's theological thinking, strife with a (spiritual) brother is itself a spiritual defeat. In this regard, for those Corinthian believers, who know Christian faith and brotherhood, such a defeat would be worse than

suffering wrong or being defrauded (Orr and Walther 1976:197). However, the Corinthian believers were wronging and defrauding their fellow believers, in a practice that would cause their failure to inherit the kingdom of God.[302]

As treated before, various divisions have been suggested to understand 1 Corinthians 6:1-11. However, the exegetical work that follows will be based on Mitchell's structural understanding (4.2.2.2 above), because as he insists verses 5-8 placed in the middle of the text show Paul's real concern more easily and clearly. Each part of 1 Corinthians 6:1-11 will be analysed in the next section from this (structural) point of departure.

4.3 Exegetical Understanding of 1 Corinthians 6:1-11

In this section we examine the text exegetically, based on Mitchell (1993)'s structural understanding in the threefold division, while incorporating exegetical insights of other scholars.

4.3.1 Verses 1-4: The Problem with the Lawsuit

> [1] Τολμᾷ τις ὑμῶν πρᾶγμα ἔχων πρὸς τὸν ἕτερον κρίνεσθαι ἐπὶ τῶν ἀδίκων καὶ οὐχὶ ἐπὶ τῶν ἁγίων; [2] ἢ οὐκ οἴδατε ὅτι οἱ ἅγιοι τὸν κόσμον κρινοῦσιν; καὶ εἰ ἐν ὑμῖν κρίνεται ὁ κόσμος, ἀνάξιοί ἐστε κριτηρίων ἐλαχίστων; [3] οὐκ οἴδατε ὅτι ἀγγέλους κρινοῦμεν, μήτι γε βιωτικά; [4] βιωτικὰ μὲν οὖν κριτήρια ἐὰν ἔχητε, τοὺς ἐξουθενημένους ἐν τῇ ἐκκλησίᾳ, τούτους καθίζετε; (NA[27]).

The first part of the text is verses 1 to 4 according to Mitchell's suggested structure. This contains the problem of the Corinthian believers taking their (spiritual) brother to court. Paul uses some questions to point out the nature of the problem and to express his own feelings concerning the problem (Fee 1987:231). In particular, in the first part of the text Paul

[302] Orr and Walther (1976:197) estimate the Corinthian believers as those who do not have the love of God, and for this reason they refused the justification given from God.

emphasises that matters occured in the community of believers should be settled by the community rather than appealing to a secular court.

Verse 1 starts with the Greek word τολμᾷ. According to Thiselton (2000:423), the Greek word τολμᾷ translated as 'How dare you!' shows that Paul phrases a sense of shock and disappointment in the Corinthian believers in rhetorical questions to indicate the emphasis of an expression of condemnation.[303] In addition, Orr and Walther (1976:193) state that this sentence is often used in the diatribe form of reasoning.

Litigants from the community of believers are addressed in verse 1, with the phrase πρᾶγμα ἔχων being used in a technical sense (Fuller 1986:98) usually reserved for legal circumstances (Kistemaker 1993:180).[304] In this context it could mean "to have a case against another (πρὸς τὸν ἕτερον)," [305] and τὸν ἕτερον undoubtedly indicates a fellow believer (Conzelmann 1975:104). When κρίνω is used as the middle or passive, κρίνεσθαι, it usually means 'going to law' in forensic contexts (Thiselton 2000:424). In addition, as Thiselton (2000:424) states, Christian identity is always related to attitudes toward the other, so that when a believer has a lawsuit against his/her fellow believer, he/she already violates a principle that Christ has taught (Kistemaker 1993:178).[306]

With respect to the nature of the matter (πρᾶγμα), as mentioned in chapter 2, various matters might be referred to here, such as a business transaction, money, a sexual matter, a dowry, and so on. But the obvious thing is that the case in 1 Corinthians 6 is related to a comparatively civil matter (Collins 1999:231). In the end, as Orr and Walther (1976:194) state, the point is that the category of the lawsuit could be defined as civil litigation because

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[303] BDAG (s.v. τολμάω, 1010) gives two meanings for this Greek verb: the one is the common sense of "to dare," and the other is "to presume to do something."

[304] Fitzmyer (2008:251) also explains that the noun πρᾶγμα sometimes has particular nuances in Greek literature depending on the context, even though it obviously means "deed, occurrence, and matter."

[305] In addition, Orr and Walther (1976:193) elucidate that "this is the only case in New Testament where it clearly means a dispute which leads to litigation." In addition, people generally have lawsuits against others to obtain financial assets (Kistemaker 1993:178). Thus, Calvin (1960:118) infers that it is wrong to have proceedings against brothers, especially before an unbeliever's court.

[306] Christ teaches his disciples: "But I say to you that hear, Love your enemies, do good to those who hate you" (Lk. 6:27).

no crime has been involved here. However, the nature of the matter is not the real concern of this passage since it is not mentioned by name nor spelled out in any detail.

Above all, the event of suing fellow believers confronts the Corinthian community with two problems. The one is that the Corinthian believers have lawsuits against their fellow believers; the other is that they approach a secular court to settle their problem. Paul expresses his dissatisfaction with their behaviour. In the text, "unrighteous" (s.v. ἄδικος) is used to indicate the pagan judges of secular courts.[307]

The Greek word ἄδικος can be understood in various senses.[308] For instance Orr and Walther (1976:193-194) insist that the translation "unrighteous" would be more acceptable here than "unjust."[309] Collins (1999:231) considers that this should be understood in a religious rather than a moral sense.[310] In addition, Fuller (1986:98) translates the words ἄδικος and ἅγιος as a "unbeliever" and a "church member" respectively and explains that the ἄδικος is a person who does not acknowledge faith in the Gospel, and is not justified by the grace of God. In other words, the ἄδικος does not belong to the eschatological community of faith.[311] By contrast, the meaning of the term ἅγιος presents a person who is dedicated to God and is a member of the eschatological community. Kistemaker (1993:179) agrees that the Greek word ἄδικος means unbeliever in contrast with the word ἅγιος which means holy one. However, Barrett (1968:135) suggests a different translation. According to him, ἄδικος and ἅγιος, can be translated as a 'non-Christian' and a 'Christian' respectively rather than "unrighteous" and

[307] In addition, BDAG (s.v. ἄδικος, 21) explains that this word is used to "act in a way that is contrary to what is unjust, crooked" when referring to person.

[308] In addition, the English Bible translations also translate the Greek word ἀδίκων (s.v. ἄδικος) differently: "the unrighteous" (ASV, ESV, NASB, NET, NKJV, NLT, NRSV and RSV); "the unjust" (KJV and NAB); "the ungodly" (NIB and NIV); "sinners" (NJB); "a pagan court" (REB). For the Greek word ἁγίων (s.v. ἅγιος), various meanings can also be suggested: "the saints" (ASV, ESV, KJV, NET, NIB, NIV, NKJV, NRS, and RSV); "the holy ones" (NAB); "other believers" (NLT); "God's people" (REB).

[309] In addition, Robinson (1962:3) explains that the standard of the judgment of pagan judges are not those of the divine law.

[310] Hays (1997:93) suggests that if the judges mentioned in verse 1 are unrighteous, it means that they do not belong to God's covenant community. In this regard, taking "a brother" to court means placing him (or her) under the jurisdiction of the pagan culture of Corinth. In other words, their action destroyed the boundaries of the church and its unity.

[311] According to Fee (1987:232), Paul usually uses ἄδικος to refer to someone who breaks God's laws, thus in this understanding he suggests the meaning of "ungodly," or "unrighteous."

"saint." In addition, Thiselton (2000:425) translates τῶν ἁγίων as "God's people." However, all these nuances of meaning maintain the same basic contrast.

Contrary to Collins' viewpoint, Garland (2003:196) insists that the word ἄδικος is used in a moral sense, but also accepts that this word might be a "rhetorical hyperbole." Furthermore, this Greek word recurs in a moral sense in verse 9. In terms of the understanding of the historical context as discussed previously, the translation as the "unrighteous" is more acceptable. Behaviour of judges in secuar courts was morally corrupt. The comparison of ἄδικος and ἅγιος shows that the Corinthian believers were also behaving immorally like ἄδικος to their fellows.

In addition, Collins (1999:231) does not deny that "unjust" could be acceptable in a historical understanding, because there is sufficient evidence of judicial corruption in the Roman society. For instance, Borkowski and Du Plessis (2005:64-65) suggest the possibility of corruption such as bribes, which could affect the outcome of the case in the first-century Roman legal system.

However, in the biblical perspective, people who follow the teaching of the Scriptures should behave in a different way than those who follow the rule of the secular world. Since the Scriptures advocate love, disputes should be resolved through mediation, not through litigation (Kistemaker 1993:179). Taking brothers to a secular court amounts to returning evil for evil and shows brazen behaviour on the side of the Corinthian believers (Kistemaker 1993:179).[312]

When the Corinthian believers faced a matter such as the incestuous relationship between a man and his father's wife (in 1 Corinthians 5), they did not judge the offenders, but now they take a brother to a court to settle a trivial matter. Accordingly, as Fuller (1986:99) points out, "the Corinthians are washing their dirty linen in public" by going to an unbelieving judge, thereby giving the world an opportunity to humiliate Christ, instead of uniting communities

[312] Their behaviour shows that they do not follow the Golden Rule as Luke 6:31 says "And as you wish that men would do to you, do so to them."

(Kistemaker 1993:179).

In the end, Paul's implication is that the problems amounting to possible legal issues arising within the community of believers should be settled within the community (Barrett 1968:135).[313] Manson (1962:198) traces this idea to the Jewish group in Corinth, who observed the custom of resolving arguments within their own Jewish community, and in Corinth, Greek and Roman social and religious groups followed the same practice (Barrett 1968:135-136). Fee (1987:231) goes so far as to claim that arguing to settle disputes within the community manifests Paul's Jewish heritage.

In verses 2-4 Paul particularly uses rhetorical questions to emphasise how foolish the Corinthian believers' action is, in bringing fellow believers to a secular court because of trivial matters (κριτηρίων ἐλαχίστων) or daily problems (βιωτικά). Paul particularly uses the rhetorical question twice to blame them strongly in verses 2-3.[314]

In verse 2a, the phrase οὐκ οἴδατε ὅτι shows another expression typical of the diatribe style (Orr and Walther 1976:194). Kistemaker (1993:179) states that Paul uses this rhetorical question in a dialogue, and expects positive answers to the questions he puts. In addition, Evans (1930:87) explains that this question format implies that the Corinthian believers have already been taught, and should know how to act in this situation. Thus, Edsall (2013:253) states that Paul's question is intended to stress information that his readers already know.

According to verse 2a, believers will judge the world (οἱ ἅγιοι τὸν κόσμον κρινοῦσιν) at the End of Time. Paul applies the rhetorical questions to remind the Corinthian believers that they were instructed in their catechesis that at the End those who belong to the eschatological community will participate with Christ in the last judgment as judges over the unbelieving world (Fuller 1986:99).[315] In other words, Christians have an eschatological destiny, that

[313] However, Barrett (1968:135) points out that this does not mean that the Roman courts were unjust.
[314] In addition, this rhetorical question form (οὐκ οἴδατε ὅτι, "Do you not know that") recurs at least six times in chapter 6 such as in verses 2, 3, 9, 15, 16, and 19.
[315] In addition, Fee (1987:232) mentions that although the question in verse 1 was addressed to the plaintiff, the rest of the paragraph is addressed to the whole community to admonish it about its failure.

Christ as the judge of the world will share His privilege to judge the world with those who are united with Him (Fitzmyer 2008:252).[316]

This idea – that the believing community will judge and rule the world – stems from the Jewish eschatological understanding as Daniel 7:27 mentions (Beardslee 1994:57).[317] In this regard, Orr and Walther (1976:194) insist that the Greek word κρίνω here appears to be apocalyptic, even though it is generally understood to mean "rule." And Collins (1999:231) notes that later Jewish writings such as Wisdom 3:7-8; Sir 4:11, 15; Jubilees 24:29; 1 Enoch 1:9; 95:3; 96:1; 98:12; 108:12 and the writings of Qumran (1QpHab 5:4) generally show a belief that God's people will be involved in the final judgment.[318] In the Synoptic tradition, this idea appears in Matthew 19:28 and Luke 22:30 where the Twelve will judge the twelve tribes of Israel (Thiselton 2000:426),[319] while in other New Testament texts this belief is related to the day of judgement, as in 2 Timothy 2:12 (Kistemaker 1993:179).[320] Furthermore, this future understanding also appears in the apocalyptic writing from Jesus follower circles

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[316] Given this eschatological reality, the saints can be identified as God's people in Corinth (Fee 1987:232).

[317] "And the kingdom and the dominion and the greatness of the kingdoms under the whole heaven shall be given to the people of the saints of the Most High; their kingdom shall be an everlasting kingdom, and all dominions shall serve and obey them" (Dan. 7:27, RSV).

[318] "They will govern nations and hold sway over peoples, and the Lord shall be their sovereign for all eternity" (Wis. 3:8); "Wisdom teaches her children and admonishes all who can understand her (Sirach 4:11), "Whoever obeys me will judge nations; whoever listens to me will dwell in my inmost chambers" (Sirach 4:15); "And whoever escapes the sword of the enemy and the Kittim, may the righteous nation root out in judgment from under heaven; for they will be the enemies and foes of my children throughout their generations upon the earth" (Jub. 24:29, translated by R. H. Charles); "Behold, he comes with the myriads of his holy ones, to execute judgment on all, and to destroy all the wicked, and to convict all flesh for all the wicked deeds that they have done, and the proud and hard words that wicked sinners spoke against him (1 En. 1:9, translated by G.W. E. Nickelsburg), "Be hopeful, O righteous; for quickly the sinners will perish before you, and you will have authority over them as you desire" (1 En. 96:1), "Woe to you who love deeds of iniquity; why do you have good hopes for yourselves? Now be it known to you that you will be delivered into the hand of the righteous, and they will cut off your necks, and they will kill you and not spare you" (1 En. 98:12), "Indeed, I will bring forth in shining light those who loved my holy name, and I will seat each one on the throne of his honor" (1 En. 108:12); "On the contrary, He will give the power to pass judgment on the Gentiles to his chosen, and it is at their rebuke" (1QpHab 5:4, translated by E.M. Cook).

[319] "Jesus said to them, Truly, I say to you, in the new world, when the Son of man shall sit on his glorious throne, you who have followed me will also sit on twelve thrones, judging the twelve tribes of Israel" (Mt. 19:28, RSV); "that you may eat and drink at my table in my kingdom, and sit on thrones judging the twelve tribes of Israel" (Lk. 22:30, RSV).

[320] "If we endure, we will also reign with him; if we deny him, he will also deny us" (2 Tim. 2:12, RSV).

of later times, namely the book of Revelation.[321]

Accordingly, Paul would adhere to this perspective, that believers and the faithful community will judge the world, based on Jewish eschatological understanding,[322] as the Corinthian believers are considered to be among God's holy people (Collins 1999:231). And the Corinthian believers, of course, would remember Paul's teaching on the judgement day (Kistemaker 193:179).

The Greek word κρινοῦσιν indicates the future tense,[323] and the term τὸν κόσμον (s.v. κόσμος, literally, "world") means the nations of the unbelieving world (Fuller 1986:99). Therefore, the world is the place where God's people will participate in the judgement on the last day (Barrett 1968:136), a fact which clearly shows Paul's theology characterised by an "already but not yet" framework (Fee 1987:232).

In the end, the implication is that the Corinthian community must have members who are capable of judging any daily arguments, but they show their lack of applying justice to legal event as showed in verse 2a (Beardslee 1994:58).

Verse 2b which contains Paul's harsh criticism on the community (Thiselton 2000:426), is followed by another rhetorical question. According to Kistemaker (1993:179), Paul uses the

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[321] "Then I saw thrones, and seated on them were those to whom judgment was committed. Also I saw the souls of those who had been beheaded for their testimony to Jesus and for the word of God, and who had not worshiped the beast or its image and had not received its mark on their foreheads or their hands. They came to life, and reigned with Christ a thousand years" (Rev. 20:4, RSV).

[322] Thus the rhetorical questions contain a common motif from Jewish apocalyptic eschatology (Fee 1987:233). Kistemaker (1993:179-180) explains that Paul applied this teaching to the day of judgement. Believers will judge the sinful world including earthly judges. Thus if the believers will judge the world on the judgement day, they should be able to take care of daily problems among themselves already. That is, they ought to be able to mediate matters in the community and resolve the matters to the satisfaction of everyone involved. Therefore, they might be fully competent to take care of trivial cases in this life. However, in verse 2 the Corinthian believers' reliance upon the secular court implied that they negated their identity which included acting as judges of the world. As mentioned earlier, at the time, unrighteous elemens prevailed in the Roman legal system. For instance, the outcome of the judgement could be changed according to the social status or social power of litigants. Comparing the significant difference between the believers as Jesus followers and the Roman legal system Paul tried to reveal the shameful behaviour of the Corinthian believers.

[323] Kistemaker (1993:181) explains that this word is not intended to mean the present even though ancient manuscripts do not have accent marks.

literary device of moving from the greatest to the smallest to emphasise their current situation. On the judgement day, the Corinthian believers are going to judge the world but now they are unable to handle trivial matters. The Corinthians should have been able to attend to their duties, such as mediating matters in their community and resolving problems without lawsuits (Kistemaker 1993:180). However, they failed to act as expected.[324]

The prepositional phrase ἐν ὑμῖν in the protasis could be translated as 'among you' (Barrett 1968:136) literally, or as 'by you' (Collins 1999:232).[325] According to Collins (1999:232), the subject of ὑμῖν is the Corinthian community including the holy ones who will judge the world.[326]

The Greek word κρίνεται is formulated in present tense, and Orr and Walther (1976:194) explain the change of tense as indicating a future meaning,[327] with the verb of the protasis being used to emphasise the point of the argument, viz. that the world will be judged by believers.

According to Thiselton (2000:427), even though the word ἀνάξιοί is introduced only here in the New Testament, the significance of the word is obvious because it has implications for the real value of lawsuits.[328] The word κριτηρίων (s.v. κριτήριον) potentially carries various meanings. According to Thiselton (2000:430), firstly, Chrysostom, Theophylact and many earlier writers assert that the word refers to Roman civil courts which judge minor cases. [329]

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[324] According to Kistemaker (1993:180), Paul makes another implicit comparison, viz. that the Corinthian believers are to receive the honour of judging the world at the final judgement, but they dishonour God's name through bringing trifling cases before a Gentile judge.

[325] BDF (219.1) explains that the prepositional phrase derives from a locative meaning.

[326] In addition, the Corinthian believers are named as those "called holy" in 1 Corinthians 1:2 (Collins 1999:232).

[327] "In confident assertions regarding the future, a vivid, realistic present may be used for the future… Ordinarily a temporal indication of the future is included" BDF (323).

[328] Collins (1999:232) expounds that this inference is reinforced by Paul's "incapable," ἀνάξιοι, literally "unworthy."

[329] Thiselton (2000:430) insists that the ending form -τήριον usually indicates a place where judgment is pronounced. Thus Thiselton (2000:427) understands that in the singular case the word κριτήριον is tribunal or law-court from the classical period. In this regard, in verse 4 the phrase βιωτικὰ κριτήριον could be perceived as "courts for the matters of everyday life."

Secondly, this word could also refer to small-claims courts.[330] Thirdly, other scholars interpret κριτηρίων ἐλαχίστων as referring to "trivial cases" (Bruce 1971:60), "petty lawsuits" (Conzelmann 1975:105) or "minor cases" (Collins 1999:231-232). In addition, Fuller (1986:99) states that κριτήριον has the same meaning as in verse 4, namely, "lawsuit," even though it usually means "tribunal" or "court." Lastly, this word might be translated as "tribunal" which appears to do justice to every situation of the cases (Ellicott 1887:95).[331]

BDAG (570) suggests the possible interpretation of κριτήριον in two ways: "a forum for justice, law-court, tribunal" and "case before a court, lawsuit, legal action." In the end, the Greek word κριτήριον could possibly mean both legal action and a law-court. According to Fee's explanation, the first case emphasises the failure of the community to function as the proper place for such judgments, and the second focuses on the insignificant nature of the present lawsuit (Fee 1987:234).

The Geek word ἐλαχίστων is the superlative form of ἐλαχύς or μικρός and is generally understood as "trivial," "very small" or "petty."[332] In other words, the nature of the case is involved small claims, not criminal cases (Thiselton 2000:430). Therefore, verse 2b could be interpreted as "Are you not competent to judge trivial cases?" as most interpreters do, even though Barrett (1968:136) interprets this part as "Are you unfit to form even the most insignificant courts?"[333] In the end, in verse 2 Paul rebukes the Corinthian believers for

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[330] In this regard, Barrett (1968:136) translates κριτηρίων ἐλαχίστων as "the lowest courts." In the same way, BDAG prefers to interpret κριτηρίων ἐλαχίστων as the most insignificant courts in the sense of "those that have jurisdiction over the petty details of everyday life."

[331] Thiselton (2000:428) mentions that Paul urges that the Corinthian believers should have a tribunal for small claims. In addition, Rosner (1991:275-276) states that since Israel had three different systems of jurisdiction by the authority of the king, the custom of the regal appointment of judges would be a significant background for 1 Corinthians 6:1-6, of which examples are to be found in the Old Testament. In Exodus 18:13-26 and Deuteronomy 1:9-17 Moses places men as rulers of thousands, hundreds, fifties, and ten, and these men handled small matters by his father-in-law Jethro's advice. In the end, from these texts of Moses Paul appoints wise judges to adjudicate between brothers (Rosner 1991:277).

[332] Fuller (1986:99) insists that the cases involved were not sexual violation, but money matters, like debts. Furthermore, Fuller (1986:99) explains that in Judaism there was a distinction between such matters and more serious crimes, and in the case of the latter qualified judges were required to judge the cases.

[333] In case of the Bible translations, the NAB and NASB interpret κριτηρίων ἐλαχίστων as "the lowest law courts" and "the smallest law courts" respectively. Other scholars interpret κριτηρίων ἐλαχίστων as "the smallest matters, trivial cases, trivial suits, petty cases and little things" as indicating a legal acting itself.

failing to manage the problems of this life despite those who have authority to judge the world at the eschaton.

In the end, as Fee (1987:234) mentions, the phrase κριτηρίων ἐλαχίστων could be focused more on the legal action itself, and interpreted as "trivial or petty cases." Ultimately, these Greek words indicate that the case is not important to the Corinthian believers, but rather, related to money problems, which was more often the ground for civil cases at that time (Borkowski and Du Plessis 2005:72).[334]

Paul strengthens the eschatological situation depicted in verse 2 with another rhetorical question in verse 3 (Fuller 1986:99).[335] That is, believers will judge not only the world but even angels. In verses 2 and 3, both sets of questions start with the Greek phrase οὐκ οἴδατε ("Do you not know"), developing the argument toward what Collins (1999:232) sees as a rhetorical climax. The question posed in verse 3 continues the eschatological thought of verse 2, suggesting an apocalyptic motif relating to the judgement of angels (Fee 1987:234). As understood in verse 2, Paul places their situation in the light of the eschatological reality in verse 3, presuming, according to Hays (1997:94) that if Christ is obeyed in all things as mentioned 1 Corinthians 15:24-28, those who are in Christ will be placed above even the angels.[336]

The action of judging angels must be read in accordance with the Jewish apocalyptic background (Orr and Walther 1976:194).[337] Actually, this idea is already introduced in verse 2, that the saints will judge the world. According to Orr and Walther (1976:194), Paul exalts

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[334] Furnish (2009:34) describes Corinth as the commercial and politically significant capital of the Roman province of Achaea.

[335] Collins (1999:232) also points out that the rhetorical question in verse 3 functions to develop and intensify Paul's argument with the pair of questions in verse 2.

[336] "Then comes the end, when he delivers the kingdom to God the Father after destroying every rule and every authority and power. For he must reign until he has put all his enemies under his feet. The last enemy to be destroyed is death. "For God has put all things in subjection under his feet." But when it says, "All things are put in subjection under him," it is plain that he is excepted who put all things under him. When all things are subjected to him, then the Son himself will also be subjected to him who put all things under him, that God may be everything to everyone" (1 Cor. 15:24-28, RSV).

[337] According to Orr and Walther (1976:194), some of angels rebelled against God, and for this reason they were expelled from heaven.

the position of the saints to having a similar dignity with Christ in judging the angels. Kistemaker (1993:180) gives three reasons why God's people are greater and rank higher than the angels. Firstly, human beings are created in God's image and have been ransomed by Jesus Christ. Secondly, angels are not created in God's image and are not helped by Christ because they do not have a physical body (Hebrews 2:16).[338] Lastly, God sent angels to serve human beings who are to inherit salvation (Hebrews 1:14).[339] For these reasons the Corinthian believers as God's people, who will eventually judge the world and the angels, should be able to resolve disputes among themselves.

However, the term ἀγγέλους (s.v. ἄγγελος) could have various interpretations. Three different opinions regarding "angels" emerge, the first being Derrett's view. He understands angels in the sense of "myth of the Last Judgment." On the Last Day, angels will be judged, but these are not wicked angels (Derrett 1991:28). According to a second view, angels are understood as the agents of wickedness, or demons,[340] and this is an interpretation which is followed by most patristic, medieval, and Reformation commentators (Thiselton 2000:431). For example, patristic, medieval and Chrysostom theologies draw on the reference to "the eternal fire prepared for the devil and his angels (RSV)" in Matthew 25:41; 2 Corinthians 11:14, "disguised as an angel of light," and Calvin (1960:119) understands the term 'angels' as the "apostate angels." In the case of Conzelmann (1975:105), the term "angels" refers to the "fallen angels." In the third opinion, the term "angels" is understood as the "good angels" (Grosheide 1983:135).[341]

However, Barrett (1968:136) insists that the general category of angels includes both good and bad angels, and he is supported by Fitzmyer (2008:252), who asserts that the term

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[338] "For surely it is not with angels that he is concerned but with the descendants of Abraham" (Heb. 2:16, RSV).
[339] "Are not all angels spirits in the divine service, sent to serve for the sake of those who are to inherit salvation?" (Heb. 1:14, NRSV).
[340] Cullmann (1960:202) explains that the angelic power is "to serve the kingdom of Christ, and their dignity is advanced… Nevertheless, they can free themselves from their bound situation and then indicate their demonic feature."
[341] However, according to Thiselton (2000:431), most writers compare this mention with part of "the apocalyptic theme of the judgment of fallen angels."

'angels' should be understood broadly, that is, including good as well as bad angels.[342] In this regard, as Collins (1999:232) states, the Corinthian believers will participate in the judgment of the world, but also in the judgment of the angels.

Accordingly, Paul is using the notion of the judgment of angels to contrast the eschatological destiny of Corinthian believers who concern themselves with trivial legal matters, such as βιωτικά, "matters pertaining to this life" (RSV) (Fitzmyer 2008:252).

With reference to the phrase μήτι γε, Kistemaker (1993:181) explains that an elliptical expression is used here, and this term is similar to πόσω γε μᾶλλον which means "not to speak of."[343] According to Thiselton (2000:430), this term is a question "expecting an emphatic negative answer with the particle γε." In addition, Fee (1987:234) elucidates that in the grammatical sense, it belongs to the question. In this regard, Fee (1987:234) interprets this verse as "Do you not know that we will judge angels, not to mention everyday affairs?"

In verse 3, the Greek term βιωτικά literally means "cases pertaining to life" (Collins 1999:232),[344] thus referring to ordinary things, or things occurring normally in our daily life.[345] Evans (1930:88) specifically explains these things as eating, drinking and the means of sustaining our life.[346] In addition, Fitzmyer (2008:252) also limits the matters to the present world.

In particular, verse 3 shows that Paul moves his concern from eschatological judgments to the case in the present. Fee (1987:234) clarifies that there is no need to mention the fact that believers should be able to cope with simple matters. In addition, Evans (1930:87) reminds

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[342] Fitzmyer (2008:252) enumerates some passages where the mention of angels appears: for other references to angels in 1 Corinthians 4:9; 11:10; 13:1; for the reference to sinful angels in 2 Peter 2:4; Jude 6; and for the reference to an angel of Satan in 2 Corinthians 12:7.

[343] Collins (1999:232) also explains that Paul's second question, μήτι γε βιωτικά, is elliptically used.

[344] In addition, this adjective qualifies the noun κριτήρια in verse 4 (Barrett 1968:137).

[345] Thiselton (2000:430) mentions that our everyday life is associated with ordinary daily life.

[346] The English Bible translations interpret this term variously, follows: "things that pertain to this life" (ASV, KJV, NKJV); "matters pertaining to this life" (ESV, RSV); "everyday matters" (NAB); "matters of this life" (NASB, NJB); "ordinary matters" (NET, NRSV); "the things of this life" (NIB, NIV); and "ordinary disputes in this life" (NLT).

that Jesus Christ promised his apostles that at His second coming they would share in His judicial authority. And therefore, believers should not submit themselves to secular courts (Barrett 1968:136-137).[347]

In the beginning of verse 4, the Greek phrase μὲν οὖν is used as "in classical replies either to heighten or correct, and always in such a way that another word precedes the μὲν" (BDF 450.4).[348] In addition, Thiselton (2000:431) explains that "both the word order and the use of the normally contrastive μέν without a contrary δέ make the phrase tribunals concerning matters of everyday life very emphatic."

Verse 4 consists of the conditional clause, ἐὰν ἔχητε, in which, according to Kistemaker (1993:182), the particle with the verb in the present tense of the subjunctive implies possibility in the protasis. Thus the matter of the Corinthian believers' being involved in a lawsuit might happen in a real situation.

In the question of the first part in verse 4, two words from the precious verses, "cases" (κριτηρίων) in verse 2 and "matters of this life" (βιωτικά), are combined as adjective and noun (Fee 1987:235). Thus, this phrase could be translated as "If you have ordinary cases, then,…" (NRSV).[349]

Various translations have been suggested for the second part of verse 4, depending on punctuation. According to Kistemaker (1993:182), originally the ancient Greek script was not written with punctuation, so that the earliest copyists or editors might have had to determine the meaning of the text in order to select the correct punctuation. For this reason, the second part of verse 4 could be read in many ways. The three possible translations are interrogative,

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[347] In addition, verse 3 reveals Paul's direct concern with the contrast between the church's eschatological destiny and its current failure to settle the disputes (Hays 1997:94).

[348] In this regard, in the New Testament only 1 Corinthians 6:4 follows this word order (βιωτικὰ μὲν οὖν κριτήρια) (BDF 450.4)

[349] In this case, the conditional sentence has the particle ἐὰν with ἔχητε used as subjunctive in the protasis, and the subjunctive indicates a present general condition (Fee 1987:235).

indicative, or imperative in nature:[350]

As the interrogative:

> "If you have ordinary cases, then, do you appoint as judges those who have no standing in the church? (NRSV)"

As the imperative:

> "Therefore, if you have disputes about such matters, appoint as judges even men of little account in the church (NIV)."

As the indicative:

> "But when you have matters of this life to be judged, you bring them before those who are of no account in the Church (NJB)."

According to these translations, if the sentence is read as the interrogative or the indicative, the object (τοὺς ἐξουθενημένους) of the verb indicates a person who is outside the community, but if the sentence is read as the imperative, the object of the verb indicates a person who is inside the community. When the sentence is read as the interrogative or the indicative case, the reference of ἐξουθενημένους indicates outsiders such as gentile juries or gentile magistrates (Thiselton 2000:432). As an imperative, the sentence shows Paul's rhetorical strategy (Kinman 1997:346),[351] and Calvin (1976:194) supports this stance, arguing that the most unimportant person in the community was to be preferred above a civil magistrate, for settling internal church affairs. These three possible translations of the second part of verse 4 require further attention.

Firstly, then, the sentence could be read as interrogative. In this case, the Greek verb καθίζετε is second plural present indicative active of καθίζω, and the object of the verb would be

[350] The Bible interpretations also follow various translations. For instance, the versions of ASV, ESV, NAB, NASB, NET, NKJV, NRSV, and RSV accept the translation as a question, and NJB follows a statement, and KJV, NIB, and NIV translate the verse as a command.

[351] In addition, Kinman (1997:350) also explains that in the legal background of Corinth the Corinthian community could not appoint judges in secular courts. Thus, the object of the verb should indicate a person who is inside the community.

pagan juries or pagan magistrates (Thiselton 2000:432). They have no honour at all within the incipient Christian community because they are not believers. That is, the Corinthian believers appoint those who are outsiders to act as judges of insiders. However, as Fee (1987:236) clarifies, Paul does not mean that believers disdain the unbelieving judges, rather that there are different standards for settling the disputes between the unbelieving judges and the believers. Kistemaker (1993:181) also supports the translation of the sentence as a question, because it follows logically in the light of the fact that the first six verses in chapter 6 of 1 Corinthians include a number of questions. Thus, within the logical sequence verse 4 also could be understood as an interrogative sentence.

Fuller (1986:100) suggests approaching the sentence as an interrogative, which would imply that the Corinthian believers appoint non-believers as judges. There are two difficulties with this interpretation. The first problem would be that Paul refers to pagans as "those who are despised" by the community, and the second is that the Greek verb καθίζετε (s.v. καθίζω) would mean "appoint to an office not already held." However, believers could not appoint pagan officers as judges. Accordingly, if it is an interrogative, it would happen contrary to Paul's point which is stated in verse 1, where he asks the Corinthian believers not to bring their disputes before the pagans.

Secondly, the sentence could be read imperative (Ellicott 1887:96; Ciampa and Rosner 2010:229),[352] as the KJV, NIB and NIV interpret it.[353] Thiselton (2000:432) suggests that from a grammatical understanding, this sentence could be interpreted as an imperative, based on parsing καθίζετε as second plural present imperative active of καθίζω. Reading it as an imperative, changes the meaning of this sentence. In this regard, Paul would mean "appointing those who are least esteemed among you as judges within the community." In other words, the Gentiles do not join as judges to settle the disputes which happen within the Christian community. In this case, the Greek word ἐξουθενημένους indicates believers

[352] Kinman (1997) and Garland (2003) also accept the interpretation as an imperative.

[353] Hays (1997:94) illustrates that the term ἐξουθενημένους refers to people who are of a lower status. According to Collins (1999:232), most of the Corinthian believers came from the lower classes of society and were despised by the world (1 Cor. 1:28; 16:11; 2 Cor. 10:10).

themselves who are inside the community.[354] Accordingly, the community has authority to appoint fellow believers as judges (Garland 2003:207).[355] According to Clarke (1993:70), Romans surely gave both Jews and non-Jews the right to resolve their own disputes, without relying upon the Roman legal courts. In addition, Ciampa and Rosner (2010:230) mention that Paul would not want the community to split over the matter of calling judges to settle a dispute.

Clarke (1993:70) also offers three reasons for reading this sentence as an imperative: firstly, in verse 1, Paul obviously insists on keeping law-suits within the community of believers. Secondly, in verse 2, he asks the Corinthian believers to look for someone within the community who is able to judge minor cases. And, lastly, in verse 5 he hopes to find someone who is wise enough to judge such disputes. For these reasons, Paul wants disputes to be treated internally. In verse 4, Paul then instructs that such arbitration should be arranged within the community, because judicial arbitration was well known in imperial times (Mitchell 1993:563).

In turn, Kinman (1997:349) provides several reasons for considering this sentence an imperative; the first reason being word order. For the basic structure of verse 4 the dependent clause (βιωτικὰ μὲν οὖν κριτήρια ἐὰν ἔχητε) appears in the first place, and then the main clause (τοὺς ἐξουθενημένους ἐν τῇ ἐκκλησίᾳ, τούτους καθίζετε) follows it. And in the main clause the accusative case (τοὺς ἐξουθενημένους) is placed first. It might mean that Paul stresses that those who are despised must be appointed as arbiters. And the demonstrative pronoun (τούτους) which indicates τοὺς ἐξουθενημένους is placed before the imperative verb. Paul also uses this construction in Philippians 4:8 (ταῦτα λογίζεσθε), with a word order of the demonstrative pronoun and the imperative verb.[356] Following this logic, the sentence should be read as an imperative.

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[354] Calvin (1960:120) also insists that even the most significant among you will handle this task better than the unbelieving judges.

[355] In this regard, Clarke (1993:70) assumes that Paul might think that even the 'despised' members of the community are competent to treat such matters.

[356] In addition, this kind of construction is grammatically used to emphasise the elements of the list which are placed before the verb (Kinman 1997:350).

Kinman's second reason is an argument based on opposition to the rhetorical flow (Kinman 1997:350). If the Greek word καθίζετε is considered as an indicative, there are five rhetorical questions in verses 1 to 4, and then a short statement follows in verse 5a. But, if the word καθίζετε is treated as an imperative, there are four rhetorical questions (in vv. 1-3) prior to an imperative (in v. 4b), and then a short statement in verse 5a. In this structure the flow of these rhetorical questions (either five or four) stops before verse 5. However, according to Kinman's assertion, καθίζετε does not seem able to "characterise the former as rhetorically consistent and the latter as less so." That is, the word καθίζετε does not have to be an indicative, and can be imperative.

The third reason is based on the first-century legal background (Kinman 1997:350-351). In that day, the Corinthian community did not have authority to appoint judges in secular courts. The Greek verb καθίζετε can be translated in many ways,[357] and in the judicial perspective, this word can be understood as 'appoint as judges' (Fee 1987:236) – which however, the (Corinthian) community could not do. Murphy-O'Connor (1992:1137) points out that the Corinth of Paul's day was located in Achaea and hence belonged to a senatorial province. Senatorial provinces were ruled by an appointed proconsul with two annually elected magistrates (Tellegen-Couperus 1993:92). In this regard, they could not appoint judges by themselves. Thus, from a perspective of the reigning legal situation in Corinth it would not be feasible to regard καθίζετε as indicative.

The fourth reason is related to the identity of 'those who are despised in the church' (Kinman 1997:351-353). The verb ἐξουθενημένους (s.v. ἐξουθενέω) occurs for the second time in 1 Corinthians, the other occasion being 1 Corinthians 6:4. Here in 1 Corinthians 1:28, Paul uses this word to describe those people in the Corinthian community who were chosen by God in spite of their low status, and in 1 Corinthians 6:4 this term refers to secular judges. However, Kinman does not accept this explanation, because firstly, these people were chosen by God,

[357] BDAG (s.v. καθίζω, 491-492) translates the word καθίζω as "cause to sit down, *seat, set*; put in charge of something, *appoint, install, authorise*; take a seated position, *sit down*; be or remain in a place, *reside, settle, stay, live*." In the case of 1 Corinthians 6:4, BDAG suggests the meaning of 'appoint.'

and secondly, the term ἐξουθενέω indicates certain believers from the phrase ἐν τῇ ἐκκλησίᾳ. The phrase recurs seven times in Paul's letters.[358] In these passages, except in 1 Corinthians 6:4, the preposition ἐν must be understood as a locative case. If the term ἐξουθενέω indicates outsider, this phrase should have the sense of an agency. But, in order to indicate the sense of an agency, the preposition should be ὑπό as showed in Acts 4:11. Accordingly, the term indicates those who are inside the community, not secular judges. That is, the verb καθίζετε should be interpreted as an imperative.

The last reason concerns the understanding of hypothetical use of the term (Kinman 1997:353). In the protasis in verse 4a the particle ἐὰν is used. However, if Paul would know and believe the current situation, the particle εἰ would be suitable rather than ἐὰν. Therefore, using the 'ἐὰν + subjunctive mood' construction would describe an action or situation that is hypothetical in nature. Accordingly, Paul refers to possible future actions, and he gives a solution, viz. "appoint those despised in the church as arbiters." In this sense, the term καθίζετε must be understood as an imperative.

However, Fuller (1986:100) does not agree that this sentence should be read as an imperative.[359] According to Fuller, if verse 4b is read as Kinman advocates, the word ἐξουθενημένους would indicate those who are despised members of the Corinthian community. However, this interpretation does not reflect Paul's theme in 1 Corinthians, since he teaches that all believers are equal in dignity even though they occupy different functions and statuses, based on 1 Corinthians 12:4-31. Therefore, no one can be despised in the Christian community.[360] In addition, Fee (1987:235) also points out that the word order which Kinsman suggests, is not substantiated. Fee (1987:235) suggests two other reasons for rejecting an imperative case: it is awkward to have an imperative form as the final word in a sentence, and Paul would hardly have used such derogatory language about fellow believers.

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[358] In Acts 7:38; 11:26; 1 Corinthians 6:4; 7:17; 12:28; 14:34; 2 Corinthians 8:1; Ephesians 3:21; 2 Thessalonians 1:4.

[359] Fitzmyer (2008:252-253) also accepts the possibility that the sentence could be an interrogative ("Do you seat?") and an indicative ("you seat"), but he does not suggest the possibility of an imperative ("seat!").

[360] Barrett (1968:137) also mentions this fact. Paul does not state even in an ironical way that there are no lowest members in the church.

Lastly, the sentence, verse 4b, can be read as indicative – a translation accepted by the NJB. Fuller (1986:100) considers that the translation as an indicative alludes to what the Corinthian believers are really doing. In other words, Paul might have been stating the current situation introduced in 1 Corinthians 6:1 (Clarke 1993:70), viz. that they relied on unbelievers to adjudicate their cases. According to this perspective, the Greek word ἐξουθενημένους refers to magistrates or pagan juries (Thiselton 2000:433). But this sentence is an indicative containing the sense of ironic exclamation. In this regard, Moffatt (1938:63) translates this sentence as "when you have mundane issues to settle, you refer them to the judgment of men who from this point of view of the church are of no account!" However, Orr and Walther (1976:194) point out that reading this sentence in indicative mood is unacceptable because that does not express Paul's argument sufficiently.

Finally, most modern editors accept this sentence as an interrogative (Orr and Walther 1976:194).[361] An interrogative interpretation might be most suitable for understanding verse 4b, even though all three interpretations mentioned above have some problems, also an interrogative reading. In an interrogative understanding, people who are "despised in the church" are the unrighteous pagan judges (Hays 1997:94).[362] As Fuller (1986:100) points out, the Corinthian believers could not appoint judges. However, there is an alternative solution to the problem, such as relying upon judges already appointed by the (pagan) state (Fuller 1986:100). According to Fuller (1986:100), the (Gentile) believers depended upon their pagan neighbours to act as arbitrators, but in verse 5, Paul shames the Corinthian believers for their faulty behaviour, implying that they were appointing outsiders as their judges as also implied in verse 1.[363] Nevertheless, for the following reasons the interrogative reading is the more appropriate approach to 1 Corinthians 6:4b. The first reason is Paul's use of rhetorical questions. In the 1 Corinthians text, Paul generally used rhetorical questions to suggest that the Corinthian believers already knew what was correct or wrong. The Corinthians letter indicates that even though the Corinthian believers already had someone who could resolve the matters within the community, they chose a wrong process which relied upon outsiders to

[361] NA^{27} also interprets this sentence as an interrogative with an interrogative punctuation.
[362] Thiselton (2000:433) defines the people whom the church does not consider as esteemed.
[363] Hays (1997:94) considers those who are despised in the church as the unrighteous pagan judges.

settle their problems. Thus in an interrogative reading Paul used the rhetorical question to realise their fault as believers. And the second reason is the comparison of believers with gentile magistrates as judges, who could be considered as outsiders. The judges in secular courts were described as the unrighteous in verse 1. It means that they used to give a wrong judgement according to the social status of litigants and were often corrupted by bribery. Paul's use of the characteristic of the gentile judges was to show a dismal failure of the Corinthian believers purchasing a worldly means to win lawsuits. In this regard, through the comparison of believers with unrighteous judges Paul pointed out the fault of the Corinthian believers as Jesus followers in the interrogative reading. For these reasons, the interrogative reading is more acceptable than others.

To sum up, the first part of the text clearly describes the current problem of the Corinthian believers and Paul's beliefs about the problem (Fee 1987:231). Even though Paul did not directly mean that secular courts were corrupt, Paul borrows the concept of ἄδικος indicating a pagan judge to compare with believers in this part. Secular courts in the first century Roman society can be described as unrighteous or unjust because the result of a trial could be changed according to the social status of litigants or bribery, etc. In other words, the feature of secular courts was totally opposite to that of the community of believers. That is, the believers' community should be righteous, just and moral. Thus, for Paul relying on the secular courts itself was a shocking event as well as having lawsuits with another believer in the community. In the present situation the Corinthian believers were thinking and acting like the unrighteous. The Corinthians believers had brought their disputes before the secular courts, namely before the unbelievers, when they had litigation with their fellows in the community. Accordingly, Paul expresses his feeling by the Greek word τολμᾷ (s.v. τολμάω) and he condemns the absurdity of their failure to realise their spiritual status with the rhetorical expression οὐκ οἴδατε ὅτι. Paul emphasises that followers of Jesus will participate in the coming eschatological judgement, and should not forget their spiritual identity as judges on the Last Day.[364] They also should live and behave as Jesus followers in the present day.

[364] The implication is that such a community must have members who are competent to judge any daily disputes that arise (Beardslee 1994:57).

In addition, in the next part (vv. 5-8) Paul declares that such behaviour of the Corinthians constitute 'shame (ἐντροπή)' and 'defeat (ἥττημα).'

4.3.2 Verses 5-8: Lawsuits as 'defeat,' and 'failure'

> [5] πρὸς ἐντροπὴν ὑμῖν λέγω. οὕτως οὐκ ἔνι ἐν ὑμῖν οὐδεὶς σοφός, ὃς δυνήσεται διακρῖναι ἀνὰ μέσον τοῦ ἀδελφοῦ αὐτοῦ; [6] ἀλλὰ ἀδελφὸς μετὰ ἀδελφοῦ κρίνεται καὶ τοῦτο ἐπὶ ἀπίστων; [7] Ἤδη μὲν [οὖν] ὅλως ἥττημα ὑμῖν ἐστιν ὅτι κρίματα ἔχετε μεθ' ἑαυτῶν. διὰ τί οὐχὶ μᾶλλον ἀδικεῖσθε; διὰ τί οὐχὶ μᾶλλον ἀποστερεῖσθε; [8] ἀλλὰ ὑμεῖς ἀδικεῖτε καὶ ἀποστερεῖτε, καὶ τοῦτο ἀδελφούς (NA[27]).

Mitchell (1993:564) considers the second part of the text as phrasing Paul's real concern, in rhetorical questions, as he reprimands the Corinthian community for its incapacity to settle their intra-community disputes.[365]

In verse 5, Paul's use of sarcasm is particularly strong. Paul underlines the Corinthian community's shameful behaviour in a rhetorical question, and his intention is eloquently expressed in verse 5a. He says, "I say this to your shame." If the Corinthian believers already had knowledge as mentioned in 1 Corinthians 1:5; 8:1 and insight to be wise as mentioned in 1 Corinthians 3:18, someone in their community would be able to resolve these cases (Talbert 1987:21). But they go to court and are judged by unbelievers. In other words, they did not use their knowledge and wisdom to settle the problems among themselves.

According to Collins (1999:233), honour and shame were very important values in a Mediterranean society.[366] And, Moxnes (1993:168) states that since honour and shame relate

[365] Mitchell (1993:565) subdivides the passage into two parts, namely verses 5-6 and 7-8, each consisting of statement, question, and climax, even reaching a double climax (vv. 6 and 8) which has the effect of the parallelism in the expression ἀλλὰ … καὶ τοῦτο. And, in this form, the wrong brothers (ἀδελφοί) are acting consistently with unbelievers (ἄπιστοι).

[366] In particular, honour and shame were important values to the upper-class members (Collins 1999:233).

to people in their social setting, they have to be studied within the social, economic, and religious contexts of Mediterranean societies. Sampley (2002:782) also explains that the acquisition of honour was immensely important to people in Paul's time, where the social system required the preservation of honour.[367] Neufeld (2000:379) states that honour and shame were crucial values in the Mediterranean society in which Paul and Corinthian community lived, and that these values also functioned as a means of social control. In particular, shame "functions as a social sanction that ensure a certain level of performance in accord with a group" (Neufeld 2000:380-381). In addition, Moxnes (1993:175) defines the early Christian communities as "part of a larger honour and shame culture in the Greco-Roman world of the Mediterranean in the first century C.E."

Paul's contention that it is shameful to sue brothers before a secular court because of trivial matters fits into the broader honour-shame culture. Paul points out the self-centredness of the community, as he considers it important that believers should be respected also by outsiders (cf. 1 Cor. 9:19-23; 10:31-32). The Corinthians letter indicates that the Corinthian believers will feel ashamed about relying upon heathen courts when they read Paul's letter (Barrett 1968:137). In verse 5a, Paul's purpose is made clear as he shames the Corinthian believers about their absurd behaviour[368] and strongly expresses his indignation,[369] reminding the Corinthian believers of their identity as Jesus followers.[370]

Another rhetorical question is introduced in verse 5b. According to Hays (1997:94), Paul's rhetorical question is intended to humiliate the arrogant Corinthian believers,[371] since taken

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[367] In addition, deSilva (1999:2) explains that anyone born into the first-century Mediterranean world was trained from childhood to acquire honour and avoid dishonour, whether Gentile or Jewish, and these two factors, honour and disgrace, were pivotal values for people living around the Mediterranean.

[368] However, in 1 Corinthians 4:14, Paul says "I do not write this to make you ashamed, but to admonish you as my beloved children."

[369] According to Thiselton (2000:434), the dative ὑμῖν ἐντροπή indicates a reflexive nuance with the purpose of making the addressees feel ashamed. In this regard, the NJB interprets this phrase as "to make you ashamed of yourselves."

[370] As compared with 1 Corinthians 4:14, 1 Corinthians 6:5 definitely differs from what Paul has already said in 4:14, where he was not writing to shame them (Fitzmyer 2008:253).

[371] Specifically, to 'wrong' and 'defraud' are correspondent to behaving like unbelievers, not only because of the means by which they seek compensation for offences, but also because of how they use the legal system to their own advantage (Mitchell 1993:565).

literally it would imply that there is no wise man who can settle their problems in the community. However, ironically it also suggests that there is probably a wise (σοφός) man in the community (Kistemaker 1993:183).[372] In addition, Barrett (1968:138) presumes that Paul might have been referring to the Jewish *hakam* who was a scholar less qualified than a rabbi,[373] but certainly qualifying as a wise man in the Corinthian community.[374] Lewis Jr. (1990:92) also mentions that Paul does not deny the fact that wisdom would be available to the church members, and this wisdom was a gift of the Spirit, and given to those who were mature (1 Cor. 2:6-7). Therefore, as Fuller (1986:101) points out, Paul provides a solution to the Corinthian believers, viz. that they have to appoint a *sophos* from among them as an arbitrator.[375]

Paul does not suggest that the Corinthian believers have to appoint judges for settling their problems; thus, the wise man does not act as a judge, but rather as a mediator who seeks mutual understanding and agreement between litigators (Kistemaker 1993:183).[376] In the secular legal system magistrates and arbiters were usually selected from among the upper classes (Winter 2001:58-59), and indications are that there were a few among the Corinthian believers who belonged to the social elite. This means that there were members among the community qualified to handle civil disputes (Collins 1999:233).[377] In addition, the Greek

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[372] However, a trial between two believers before pagan courts truly reveals how much they lack Christian wisdom (Fee 1987:237).

[373] According to Barrett (1968:138), they were competent to act as judges.

[374] Paul suggests settling the disputes within the community based on the Jewish tradition. Orr and Walther (1976:196) explain that a common Jewish expectation is that the faithful people of Israel will triumph over their enemies on earth and will pass judgment upon their sins, thus Paul conclude that persons with this destiny should be able to settle disputes about very trivial matters. In addition, the Exodus narrative supplies an example, as Moses judges people in Exodus 18:13-26. In this regard, Paul seems to expect that the people in the church should follow a similar tradition in choosing mediators or judges acceptable to both disputing parties, but he also wanted to assure that the judges would belong to the church on the basis of proper spiritual qualification (Orr and Walther 1976:197).

[375] In this regard, Meeks (1983:104) explains that verses 2-5 imply that Paul would expect the Corinthian community to establish an internal system to judge civil disputes between believers, with selected wise persons ("sages") among them acting as arbiters.

[376] In the end, this passage would mention an idea of mediation rather than vengeance (Kistemaker 1993:183). For this reason, Mitchell (1993:567) suggests that Paul provides private arbitration to solve the problem.

[377] Some of them were wise according to worldly standards (1 Cor. 1:26). Winter (1991:569) clarifies that believers who were wise were competent to apply knowledge of their secular education in disputes which could be settled by a civil litigation.

word διακρῖναι (s.v. διακρίνω) in verse 5b is generally used to mean "render a legal decision, *judge*, *decide*" (BDAG, 231). However, Kistemaker (1993:183) specifically elucidates that the compounded verb διακρῖναι is different in meaning to the simple verb κρίνεται in verse 6 and means to arbitrate. According to Barrett (1968:138), the compound preposition (δία) is presumably used to introduce the following phrase, referring to making a decision between two brothers.

According to this reading, Paul appeals to the Corinthian community to find someone among them, who can pass a proper judgment on matters.[378] In the end, as Collins (1999:233) mentions, they have to settle their disputes within their community. In particular, verse 5b shows that the dispute happened between brothers and Kistemaker (1993:183) understands the term 'brothers (s.v. ἀδελφός)' as Christian brothers, and not actual family members,[379] or according to Fitzmyer (2008:253) "fellow Christians." Thiselton (2000:435) also explains that the Greek word ἀδελφός shows its customary sense which means fellow believer, so that the Greek phrase ἀνὰ μέσον τοῦ ἀδελφοῦ αὐτοῦ is mostly translated as "between believers, or fellow Christians, or brothers."[380]

In general, verse 6 could be understood either as an exclamation, or as an interrogative. Moffatt (1938:63) and some Bible interpretations, such as KJV, NIB, NIV, NKJV and NLT, consider this sentence an exclamation. Thiselton (2000:435) cites Findlay's opinion that verse 6 answers the question in verse 5.

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[378] However, it is unlikely that Paul urges the Corinthian believers to constitute a judicial system. Rather, in this case, arbitration would be quite practicable in the social circumstances of the first-century Corinthians (Collins 1999:233).

[379] In addition in verse 5b, the Greek word ἀδελφοῦ occurs in the singular form although it is normally phrased in the plural meaning like 'his brothers.' It should be translated as 'his brother.' However, for this translation Barrett (1968:138) suggests the possibility that the text may be distorted, or that Paul himself left his sentence incomplete.

[380] In addition, the Greek phrase ἀνὰ μέσον τοῦ ἀδελφοῦ αὐτοῦ literally would be an abbreviation for ἀνὰ μέσον τοῦ ἀδελφοῦ καὶ τοῦ ἀδελφοῦ αὐτου (BDF 139). According to Collins (1999:234), translators would correct Paul's grammatical peculiarity. In addition, BDF (139) explains that the repetitions of ἀνὰ μέσον is a Semitism, and some imitative translators tend to copy the Hebrew. In this regard, the expression "to judge," "between," and "brother" in verse 5b are found in Deuteronomy 1:16. The Greek idiom ἀνὰ μέσον makes it clear that what is at issue is an ability to arbitrate within the community on the matters arising (Thiselton 2000:434-435).

However, NA[27] and Conzelmann (1975:105) prefer to see this sentence an interrogative, rather than an exclamation.[381] In addition NA[27], NJB, NRSV and Barrett (1968:138) are of the opinion that verses 5 and 6 are one question,[382] that is, that verse 6 continues the question begun in verse 5. Other translations and interpretations such as NAB, NET, and Collins (1999:224) consider verses 5 and 6 as separate questions.

Here the interrogative would be suitable, because verse 6 starts with the adversative ἀλλά ("but"), and according to Collins (1999:234), this emphasises the contrast between their real behaviour and family relationships. The rhetorical question properly describes their audacious behaviour.[383] The NRSV interprets the word ἀδελφὸς as "believer" rather than "brother" like the NIV does, but Hays (1997:95) comments that the NRSV's interpretation weakens the point that Paul recognises the community of faith as God's family. Therefore, "brother" will be the appropriate translation for ἀδελφὸς in verse 6.[384]

In verse 6, Paul identifies the fault of the Corinthian believers as being firstly, that a brother brings a lawsuit against a brother, and secondly, that they brought their brother before a secular court of unbelievers.[385] In this sense, Fitzmyer (2008:253) supposes that some of the Corinthian believers expected to get justice more easily from a secular court than from the community of believers.

The epexegetical καί is used to introduce a phrase saying that the judges do not have faith (Collins 1999:234). Verse 6 posits a contrast between brothers who have faith, and the judges who have no faith. Fee (1987:237) explicates that the prepositional phrase "before unbelievers (ἐπὶ ἀπίστων)" includes bringing such matters before civil magistrates. In this regard, therefore, the unrighteous in verse 1, characterised as judges of a secular court might

[381] Many English Biblical scholars interpret this sentence as an interrogative: ASV, ESV, NAB, NASB, NET, NJB, NRSV and RSV etc.
[382] This rhetorical question emphasises Paul's appeal (Collins 1999:234).
[383] In this context, their identity as brothers should be understood in a metaphorical expression.
[384] In addition, according to Thiselton (2000:435-436), the term 'brother' is obviously used in semantic opposition to unbelievers. Paul is trying to provide a contrast between Christians who should be reliable to one another and judges who are not trustworthy (Collins 1999:234).
[385] In the end, as Orr and Walther (1976:196) point out, the human inclinations to conflict and rivalry predominated over the spiritual gifts that should have ruled in the church.

be read with the same meaning of "the unbelievers" in verse 6.[386] Orr and Walther (1976:195) also support this idea that the interpretation as "unbeliever" is evidence for the correct interpretation of unrighteous judges.

The point is that the Christian community has washed dirty linen in public (Fee 1987:237), and this is a failure which discredits the gospel (Thiselton 2000:435). At that time the trials of civil procedures took place in public (Borkowski and Du Plessis 2005:76). Corinthians prosecuting their fellow believers would be exposing their defects to everyone, including unbelievers. In other words, as Kistemaker (1993:183) clarifies, taking a fellow believer to court is proof of their ignoring the commandment to love their neighbour, to Paul an unacceptable situation that denies the basic principle of the Christian faith.[387]

Verses 6 and 7 claim that lawsuits took place between spiritual brothers in the community of believers. Kistemaker (1993:185) understands in a broad sense that the whole Christian community becomes a defendant before Gentile judges, and as the result Christian fellowship is destroyed. In addition, with the rhetorical questions of verse 7 Paul asks the Corinthian believers to think of the moral advantages for them to be wronged and defrauded (Collins 1999:235).

In particular, verse 7 contains Paul's real concern and advice (Picket 1997:114).[388] Gorman (2001:230) agrees that the real focus of Paul's concern is on the very existence of lawsuits. Paul suggests a theory quite in contrast with a worldly perspective,[389] viz. that winning a lawsuit is a defeat for the believers (Kistemaker 1993:184).[390] The practice of suing one

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[386] In particular, the word ἄπιστος translated as "unbeliever" appears for the first time. According to Fitzmyer (2008:253), Paul uses this word only in the Corinthians letter, viz. in 1 Cor. 7:12-15; 10:27; 14:22-24; 2 Cor. 4:4; 6:14-15.

[387] In addition, Calvin (1986:218) mentions "This must be a set principle for all Christians: that a lawsuit, however just, can never be rightly prosecuted by any man, unless he treat his adversary with the same love and good will…"

[388] Paul's urging the Corinthian believers to imitate Paul himself is relevant to the ethical issues (Picket 1997:114).

[389] In addition, Fee (1987:240) comments that in verse 7 Paul moves his focus to shame, from the whole community in verses 5-6 to the two litigants themselves.

[390] Fee (1987:240) explains more specifically that even before a judgment is reached in the court, the lawsuit itself is a total defeat for both parties.

another was not common in the Christian community (Kistemaker 1993:185) so litigation between fellow believers was not acceptable.

Thus Conzelmann (1975:105) declares that verse 7 "shows that a Christian court of arbitration is only a concession." In this regard, Fitzmyer (2008:253-254) states that for believers to have a court for everyday affairs is accepted by Paul, but his real answer is that there should be no lawsuits at all in the Christian community. Accordingly, before people take someone to court, they already might spend many hours to argue their complaint before the defendant and others. In this regard, Paul's use of the word ἤδη ('already') would indicate this preliminary activity during which the argument should have been resolved (Kistemaker 1993:185).

In the first part of the passage (vv. 1-4) Paul continuously points out the errors of the Corinthian believers by reminding them of their eschatological status, but rather than blaming or rebuking them directly, he employs rhetorical questions to point out their unacceptable behaviour. However, verse 7 articulates Paul's strong opinion, when he instructs the Corinthian believers directly that having lawsuits with brothers is a 'thorough defeat.' The Greek word ἥττημα used in verse 7 appears only here and in Romans 11:12 in the New Testament. Fuller (1986:101) suggests that it can mean either defect or a defeat.[391] Conzelmann (1975:103) translates understands the word as "a fault." However, according to Thiselton (2000:436), when this term is understood against a classical background, its semantic meaning is defeat contrary to victory.[392] Rogers Jr. and Rogers III (1998:359) suggest that the term was used of moral and spiritual defeat as well as a judicial defeat in court. From the Christian viewpoint, the Corinthian believers involved in court cases have already lost the cases so that, from Paul's perspective, there are no winners. In addition, Hays (1997:95) explains that both the whole community and the persons involved, lose, and even should they win the case they will become the perpetrators of wrongdoing.

[391] In addition, Barrett (1968:139), Thiselton (2000:436) and Fitzmyer (2008:254) understand the word ἥττημα as a moral defeat.

[392] In addition, Fee (1987:240) elucidates that the noun ἥττημα means defeat in the sense of suffering great loss.

In addition, the use of ὅλως magnifies the sense of the meaning of the defeat. This term is used adverbially in 1 Corinthians 5:1 which means "actually" but, in its adjectival function it clarifies the meaning of the word ἥττημα to mean a *total* (moral) failure (Thiselton 2000:436).

The word κρίματα (s.v. κρίμα) generally means judgments (Thiselton 2000:436), but BDAG (567) suggests that the word means "legal action taken against someone, *dispute, lawsuit*."[393]

After defining having lawsuits with fellow believers as defeat, Paul proposes two suggestions to the Corinthian believers with two rhetorical questions, in verse 7b. Thiselton (2000:436) considers this second part of verse 7 as the heart of the matter. Hays (1997:96) explains that Paul again rebukes the Corinthian believers for failing to act wisely, with the rhetorical question. Barrett (1968:139) suggests that Paul might be appealing to the teaching of Jesus in Matthew 5:39-42.[394] However, the Corinthian believers are not living according to the standard of the Christian ethic (Fuller 1986:101), which leads Paul to command that they refrain from returning evil for evil, as mentioned in Romans 12:17 and 1 Thessalonians 5:14 (Fee 1987:241).

In the first question in verse 7b, Paul asks the Corinthian believers, "Why not rather be wronged?" (NSRV) and BDF (314) explains that the passive form ἀδικεῖσθε means "let yourselves be wronged (in the sense of allowing it)." As Kistemaker (1993:185) mentions, anyone is naturally willing to protect his or her position, but Paul instructs the Corinthian believers not to cling to earthly belongings, but rather to endure injustice. According to Fee (1987:241), the verb ἀδικεῖσθε presents the whole scope of activity that does injustice to another person. In addition, Thiselton (2000:437) describes that the Greek word ἀδικεῖσθε is the "permissive" middle voice, that is, "let yourselves be deprived of your rights."[395] In

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[393] There are two words, πρᾶγμα (v. 1) and κρίμα (v. 7) which indicate lawsuit in 1 Corinthians 6. For this, Barrett (1968:139) explains that the former is used in a general sense, and the latter in a forensic sense.

[394] **"**But I say to you, Do not resist one who is evil. But if any one strikes you on the right cheek, turn to him the other also; and if anyone would sue you and take your coat, let him have your cloak as well; and if any one forces you to go one mile, go with him two miles. Give to him who begs from you, and do not refuse him who would borrow from you" (Mt. 5:39-42, RSV).

[395] Wallace (1996:426) explains "The *permissive* middle is also like a *passive* in that the subject is the receiver of the action."

particular, according to Thiselton (2000:437), the middle permissive voice demonstrates Paul's theology of sacrificing one's rights.[396]

For the second question in verse 7b, the verb ἀποστερεῖσθε (s.v. ἀποστερέω) implies stealing of money or property (Fitzmyer 2008:254)[397] or according to BDAG (2000:121), to "rob, steal, despoil, defraud," or generally, problems concerning property or business (Fee 1987:241).[398] In this regard Kistemaker (1993:185) mentions that if the Corinthians are still not assured that material possessions have only temporary value, Paul asks them to submit to theft, thereby encouraging the Corinthian believers to observe love for one another, even to the point of accepting loss of material possessions (Kistemaker 1993:185).[399]

To summarise, in verse 7 Paul tries to tell the Corinthian believers to live according to the love of God in order to influence the world. In particular, those who are in the community of believers have to keep the teaching of Jesus in mind.[400] Paul emphasises that it would be far better to be wronged than to do wrong. Paul might know the effect of litigation appearing in the Corinthian community, and Kistemaker (1993:186) assumes that litigation threatens the spirit of the church's fellowship.

In verse 8, Paul turns from rhetorical questions to an accusing declaration by criticising the Corinthian believers for repeating the wrongful deeds of their fellow believers (Fitzmyer 2008:254). Thiselton (2000:437) explains that the combination of the adversative ἀλλά and the emphatic ὑμεῖς presents Paul's rebuke.

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[396] The examples of sacrificing appear clearly in 1 Corinthians 8:1-11, especially 1 Corinthians 8:1-13 and 9:19-23.

[397] However, in 1 Corinthians 7:5 this word is understood in a marital sense (Fitzmyer 2008:254).

[398] In particular, however, the word ἀποστερέω is understood with a sexual connotation in 1 Corinthians 7:5. In this regard, scholars such Bernard (1907:437), Richardson (1983:55) and Wire (1990:75), insist that the litigation in 1 Corinthians 6 is related to sexual crime.

[399] In addition, it shows the substance to the words "the greedy and swindlers" in the list of vices in 1 Corinthians 5:10-11, and is repeated in 1 Corinthians 6:10 (Kistemaker 1993:185).

[400] However, Piper (1979:59) states that "The paraenetic tradition of the early church does not employ these sayings of Jesus (viz., Mt. 5:39-42) directly. His commands were so specific that they were apparently unsuitable for moral instruction in the congregation. Even so his commands control the development of the paraenesis: 'Suffer wrong and be defrauded rather than go to court, especially with a brother (1 Cor. 6:7)'."

In particular, the two verbs, ἀδικεῖτε and ἀποστερεῖτε used in verse 7 recur in verse 8, but their voice changes from the middle (or passive) in verse 7 to the active in verse 8 indicating that "the one whose defrauding of a brother precipitated all this in the first place is primary" (Fee 1987:241).

Kistemaker (1993:186) makes two deductions from this verse. Firstly, the notion of Christian fellowship is seriously damaged by the litigious disposition of the Corinthians. They still call fellow church members brothers in the Lord, even though injuring them emotionally, morally, and financially by litigation. Accordingly, they show a lack of love as God's people. Secondly, if a believer should not have a lawsuit with a fellow believer, how is justice observed within a Christian community? The answer is that a believer looks for the material welfare of his/her fellow believers rather than the benefit of himself. This might surely fulfil the commandment not to covet the possessions of a neighbour.[401]

From 1 Corinthians 1:18-31 we can assume that the wise were in the Corinthian community. And, it could imply that the wise could mean those who were well educated, rich, or in the high social classes within the community. On the other hand, in the first century context it could be supposed that they used their ability or social status to win lawsuits. In those days not everyone could have litigation. Social status determined a person's access to litigation. Collins (1999:235) suggests that it might be that according to social circumstances some of the rich and powerful Corinthian believers could bring cases to court, and could also use the partial legal system in relatively minor civil disputes with other believers. Thus, in the partial judiciary, they could harm fellow believers (ἀδικεῖτε) and cause them economic loss (ἀποστερεῖτε). That is, having lawsuits among believers meant that the love (of Jesus Christ) and trust towards each other were already jeopardised. For the community of believers the absence of love within the community was shame and defeat. For Paul lawsuits occurring among believers shows that unrighteousness was practised in the community and the Corinthian believers themselves revealed their immaturity. Accordingly, as Taylor (1986:114) insists, believers ought to recognise that "litigation is a manifestation of an absence of

[401] Paul emphasises that the Corinthian believers ought to settle their disputes through mediation, develop the well-being of the incipient Christian community, and bear a pure witness to the world (Kistemaker 1993:186).

community," similar to pagan practices of injustice, and Paul cautions that this will prohibit their inheriting the kingdom of God from an eschatological perspective in verses 9-11.[402]

4.3.3 Verse 9-11: Eschatological and Soteriological Understanding

> 9 Ἢ οὐκ οἴδατε ὅτι ἄδικοι θεοῦ βασιλείαν οὐ κληρονομήσουσιν; μὴ πλανᾶσθε· οὔτε πόρνοι οὔτε εἰδωλολάτραι οὔτε μοιχοὶ οὔτε μαλακοὶ οὔτε ἀρσενοκοῖται 10 οὔτε κλέπται οὔτε πλεονέκται, οὐ μέθυσοι, οὐ λοίδοροι, οὐχ ἅρπαγες βασιλείαν θεοῦ κληρονομήσουσιν. 11 καὶ ταῦτά τινες ἦτε· ἀλλὰ ἀπελούσασθε, ἀλλὰ ἡγιάσθητε, ἀλλὰ ἐδικαιώθητε ἐν τῷ ὀνόματι τοῦ κυρίου Ἰησοῦ Χριστοῦ καὶ ἐν τῷ πνεύματι τοῦ θεοῦ ἡμῶν (NA[27]).

Dahl (1977:56) states that 6:9-11 plays a role not only as a conclusion to 6:1-8 but also as an introduction to 6:12-20. Paul places verses 9-10 in an eschatological perspective, and verse 11 in a soteriological perspective to warn the Corinthian believers not to act like the unrighteous (ἄδικος).[403] Freed (2005:70) emphasises that this part is a key passage toward understanding Paul's moral instruction with respect to the kingdom of God.[404]

Paul starts verse 9 with the conjunction ἤ, and Kistemaker (1993:187) explains that the conjunction ἤ connects this passage to the preceding verses, especially verses 2 and 3, which feature the same rhetorical questions. Fee (1987:242) asserts that the conjunction ἤ links the rhetorical question directly to verse 8, and Hays (1997:96) expounds that according to Paul's perspective, community members are called to behave righteously, putting behind them the harmful ways of the world. In verses 9-11 Paul appears to suggest just this, when his argument is placed in the eschatological framework again: "Wrongdoers will not inherit the

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[402] In addition, verse 8 functions as a bridge to the next section, which leads catechetical material (Fuller 1986:101). It could mean that the subject of lawsuits does not end, but is continuously linked with verse 9.

[403] In particular, Collins (1999:229) mentions that verses 9-10 are identified by the direct rhetorical appeal and the eschatological perspective. In addition, Horsley (1998:84) insists that the declaration in 6:9-11 takes the change from "wrongdoers" in 6:1-8 back to the topic of "immorality," which is introduced in 5:1-13 and continued in 6:12-20.

[404] Collins (1999:229) explains that verses 9 and 10 are characterised by Paul's direct rhetorical appeal and the eschatological perspective, and verse 11 contributes a powerful rhetorical climax to Paul's appeal.

kingdom of God" (v. 9).[405] Verse 8 has already said that the Corinthian believers wrong and defraud to their fellow believers, acting like the unbelievers who will not inherit the kingdom of God.[406]

Paul amplifies his point by resorting to a rhetorical question as a literary device, οὐκ οἴδατε ("Don't you know?"), in the eschatological viewpoint in verse 9.[407] According to Collins (1999:235), the rhetorical question entails that the Corinthian believers already know what Paul is talking about because he has instructed them on this topic.[408] According to Paul's theory, the unrighteous (ἄδικοι) of v. 9 would be the wrongdoers (ἀδικεῖτε) of v. 8, and these people will not inherit the kingdom of God (Collins 1999:235).[409] Collins (1999:235) insists that one should change one's life in the kingdom of God, and the Corinthian believers are likely to know that. In other words, they should not follow the behaviour of the pagan, but should be led by God's Word.

1 Corinthians 4:20 has already mentioned the kingdom of God[410] and, according to Fitzmyer (2008:254-255), the use of the verb κληρονομέω with 'the kingdom of God' echoes the Old Testament motif of inheriting the Promised Land, viz. Canaan.[411] For Collins (1999:235), in early Christian preaching the expression of 'the kingdom of God' was an eschatological idea, and especially the main focus of the declaration of Jesus (cf. Mark 1:15). In this regard, Orr

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[405] Thiselton (2000:439) translates the Greek phrase οὐ κληρονομήσουσιν as "we cannot inherit" rather than "we will not inherit." It indicates that the Corinthian believers give up the old habits belonging to their past. Now they have to live and behave as holy people who belong to God.

[406] According to Collins (1999:229), returning to the eschatological perspective is to remind the Corinthian believers that those who are unrighteous do not inherit the kingdom of God.

[407] In addition, Zaas (1988:627) reveals that the phrase οὐκ οἴδατε is used six times in 1 Corinthians 6: three times in regard to judgment (vv. 2, 3, and 9), and three times in regard to the body (vv. 15, 16, and 19).

[408] Collins (1999:229) expounds that Galatians 5:21 and 1 Thessalonians 5:12 suggest that some form of catechesis was an essential part of Paul's instruction for neophyte Christian communities.

[409] In addition, according to Matera (1996:37), the notion of the kingdom of God is linked closely to Jesus' ethical teaching. In this regard, there was a strong link between eschatology and ethics (Collins 1999:235). In addition, the Synoptic Gospels contain Jesus' ethical teaching of *agape*, i.e. love directed toward God and neighbour, an expression which Paul quotes often (Knox 1961:90).

[410] In 1 Cor. 4:20 the term, ἡ βασιλεία τοῦ θεοῦ, is used with the article, but in 1 Cor. 6:9 the term is used without the article. For this, Orr and Walther (1976:195) presume that the omission of the article may have no importance and seems to be stylistic with Paul.

[411] The OT motif of inheriting the Promised Land appears in Exodus 23:30; Deuteronomy 1:38-39; Isaiah 49:8.

and Walther (1976:195) state that this phrase corresponds with the teaching of Jesus, and Paul occasionally uses the term 'kingdom of God' in his letters. In addition, Hays (1997:96) states that the metaphor of the inheritance is common in Paul.[412]

In Kistemaker's opinion (1993:187-188), the unrighteous are prepared to inflict damage on others. This is not the feature of the righteous who belongs to God and as children of God, can share an inheritance of the kingdom of God. However, those who do not repent will be excluded from the kingdom.

Thus, Paul commands the Corinthian believers: "Do not be deceived." The Greek word πλανᾶσθε is the present middle imperative. Rogers Jr. and Rogers III (1998:359) explain that the present imperative with the negative μὴ means "to stop an action in progress, 'do not continue'."[413] Paul is instructing the Corinthian believers to end their wrong behaviour. According to Collins (1999:235), Paul's repetition of the traditional idea that the unrighteous will not inherit the kingdom presents a paraenetic exhortation which Paul employs in an injunction.[414] Accordingly, in this context Paul advises that the Corinthian believers have to avoid the unjust act, namely appealing to unrighteous judges when they have disputes with members in the community (Collins 1999:236).

Paul continuously describes various vices in verses 9b-10.[415] Zaas (1988:624) explains that

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[412] In some Pauline letters the inheritance metaphor is used with reference to 'the kingdom of God', namely in Romans 8:17; Galatians 5:21; 1 Corinthians 15:50. In addition, according to Kistemaker (1993:188), the concept of the kingdom frequently appears in the synoptic Gospels, especially in Matthew. In the letter to the Corinthians Paul mentions this notion five times (1 Cor. 4:20; 6:9, 10; 15:24, 50). Among those passages four places excepting 4:20 are related to the future grace of the coming kingdom. In addition, Ladd (1993:451) states that while the Kingdom of God is the eschatological salvation, it is also a present blessing because of what Christ has done. Moreover, Morris (1986:37) adds that even though there is a present aspect to the kingdom, there is also a marked eschatological emphasis. Thus, it reveals Paul's belief that wrongdoers of various kinds will not inherit the kingdom.

[413] BDAG (821-822) suggests the meanings of this word πλανᾶσθε like "lead astray, go astray, be mistaken in one's judgment, be deceived, be misled."

[414] According to Fitzmyer (2008:255), the preliminary imperative is frequently found in exhortations such as 1 Corinthians 15:33; Galatians 6:7; James 1:16.

[415] In the text, the list of vices should be considered as the stereotypical nature in order to understand the first century social environment of Corinth. Thus the Corinthian believers must be completely aware of the evil society in which they live (Kistemaker 1993:188).

these catalogues are specifically related to Paul's earlier moral instruction of the community regarding the ethical issues in chapter 5 of 1 Corinthians, and are rhetorical constructs. However, Elliott (2004:32) believes that Paul employed this list in 1 Cor. 6:1-11, not to make a point about sexual activity, but to respond to a legal problem that had social rather than sexual implications. Accordingly, with the lists of vices Paul points out the faults of the Corinthian community, including fornication and idolatry,[416] extending blame to those who have lawsuits against fellows.

Paul mentions ten kinds of evildoers who will not share the inheritance of the kingdom of God in verses 9b-10[417] and includes the six vices already introduced in 1 Corinthians 5:11, with four others in the Greek text the vices are enumerated with a negative: the first seven comes together with οὔτε, and the last three are simply separated by οὐ or οὐχ.[418] From the catalogue of vices Paul repeats and develops his idea in verse 9a, namely that the unrighteous will not inherit the kingdom of God (Collins 1999:236). In particular, the list reveals how Paul understands the unrighteous.

In the catalogue of vices cited by Paul, the first two perpetrators of immoral behaviour listed are fornicators (s.v. πόρνος) and idolaters (s.v. εἰδωλολάτρης). Fitzmyer (2008:255) accepts that the Greek word πόρνος is often translated here as "immoral" (RSV), or "sexually immoral people" (NJB, NIV, and ESV), but the translation as "fornicators" is suitable here, and it leads the catalogue of other particular kinds of sexual immorality. According to Collins (1999:230), idolatry is a marked instance of vice (cf. Gal. 5:20; Eph. 5:5; Col. 3:5; 1 Pet. 4:3; Rev. 9:20),[419] and the connection of idolatry with sexual immorality is congruent with the

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[416] In addition, Scroggs (1983:109) explains "The list in 1 Cor. 6:9-10 is traditional and bears no relationship to any specific recoverable context within the Corinthians' situation. There is absolutely no indication that Paul is putting stress on any items in the lists, let alone those which occur only once in the full form in vv. 9-10."

[417] Elliott (2004:32) suggests that the function of the catalogue of vices was to illustrate kinds of unrighteous persons who will not inherit the kingdom of God.

[418] Collins (1999:236) presumes that Paul used the repetition of conjunctions ("polysyndeton") for rhetorical effect.

[419] "Idolatry, sorcery, enmity, strife, jealousy, anger, selfishness, dissension, party spirit" (Gal. 5:20, RSV); "Be sure of this, that no fornicator or impure man, or one who is covetous (that is, an idolater), has any inheritance in the kingdom of Christ and of God" (Eph. 5:5, RSV); "Put to death therefore what is earthly in you: fornication, impurity, passion, evil desire, and covetousness, which is idolatry" (Col. 3:5, RSV); "Let the time that is past

Jewish teaching of Paul's day.

Another three examples of sexual offenders are adulterers (s.v. μοιχός), perverts (s.v. μαλακός), and sodomites (s.v ἀρσενοκοίτης). According to Witherington III (1995:166), pederasty and molestation of minors by adult males were the most common types of homoeroticism in antiquity, although those issues were understood under the collective terms, μαλακοὶ and ἀρσενοκοῖται.[420] Firstly, Paul understands the term μοιχός in a marital relationship.[421] Kistemaker (1993:188) explains that this expresses the sexual sin of a married person having improper sexual relations with someone outside the marriage.[422] Paul condemns adultery earlier in Romans 13:9, where he reiterates the interdiction of the Decalogue (Ex. 20:14; Deut. 5:18).[423] Secondly, the Greek word μαλακός generally means 'soft' (BDAG, 613), but it also became a negative epithet for effeminate men, most likely referring to a passive partner in pederastic relationships (Fee 1987:243).[424] In addition, BDAG (613) explains that this term relates to "men and boys who are sodomised by other males in such a relationship." In this sense, the NAB and NET translate this word as "boy prostitutes" and "passive homosexual partners" respectively.[425] Lastly, the word

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suffice for doing what the Gentiles like to do, living in licentiousness, passions, drunkenness, revels, carousing, and lawless idolatry" (1 Pet. 4:3, RSV); "The rest of mankind, who were not killed by these plagues, did not repent of the works of their hands nor give up worshiping demons and idols of gold and silver and bronze and stone and wood, which cannot either see or hear or walk" (Rev. 9:20, RSV).

[420] In this regard, Collins (1999:230) says that the terms, "adulterers" (μοιχοὶ), "perverts" (μαλακοὶ), and "homosexuals" (ἀρσενοκοῖται), are 'hapax' in the remaining Pauline correspondence. The sequence of 'hapax legomena' suggests that Paul is employing a classic *topos* for the interest of his argument. Namely, these terms exemplify a scope of behaviour that could be enclosed under the collective rubric 'sexually immoral' (πόρνοι) and give a sexual emphasis in the list of vices of 6:9-10.

[421] According to Fitzmyer (2008:255), in this context adultery would include adulteresses even though the form is masculine.

[422] In addition, Fitzmyer (2008:255) states that in ancient Israel, adultery was understood in the sense of the infringement of the rights of a married man, either by his wife if she had sexual relations with another man or by the man who tempted the wife.

[423] "You shall not commit adultery" (Ex. 20:14, RSV); "Neither shall you commit adultery" (Deut. 5:18, RSV).

[424] Fee (1987:243) suggests that this sexual activity is the most common type of homoeroticism in the Greco-Roman world. In fact, many young men sold themselves for the sexual satisfaction of men older than themselves.

[425] In addition, Fitzmyer (2008:256) asserts that the term μαλακός is often mistranslated as "homosexuals" (NKJV); "self-indulgent" (NJB).

ἀρσενοκοίτης represents men who commit homoerotic practices (Kistemaker 1993:188).[426] Contrary to μαλακός, the term ἀρσενοκοίτης denotes the active partner in same-sex relations with another male (Fitzmyer 2008:256).[427] However, Malick (1993:479) clarifies that Paul's condemning homoeroticism refers to all sexual relations between persons of the same sex. In the end, the list in verse 9 shows the rhetorical relationship between the arguments against πορνεία and ἄδικια (Zaas 1988:627).

In a general sense, Talbert (1987:23) understands these two terms, μαλακός and ἀρσενοκοίτης, as "men and boys who allow themselves to be misused homosexually (i.e., the passive partners)" and "males who practice homosexuality (i.e., the active partners)" respectively.[428]

As mentioned, the term μαλακός in verse 9 literally means 'soft ones', but Hays (1997:97) clarifies that it could include male prostitutes, especially young boys who were the passive partners in male homoerotic relationships.[429] In this sense, Keener (2005:55) suggests that in Paul's context it could be the passive partner of the ἀρσενοκοίτης. In ancient Greco-Roman society pederasty was the most ordinary male homoerotic behaviour (Garland 2003:217), and in a society that valued the beauty of the youthful male body in Greek education, athletics, and statuary (Fitzmyer 2008:251).

In case of the word ἀρσενοκοίτης, Paul might be referring to "male homosexual intercourse."[430] Hays (1997:97) explains that this term applies to men who practise same-sex

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[426] However, Fitzmyer (2008: 256) insists that the term ἀρσενοκοίτης should not be translated as "homosexual," because that it is a modern term for male or female sexual inclination as well as action. In addition, Petersen (1986:189) and Elliott (2004:18) also insist that the translation 'homosexual' is not correct.

[427] In this regard, the NJB, NKJV and NRSV translate this word as "sodomite." However, this word is also translated in various meanings: "sexual perverts" (RSV, REB); "practicing homosexuals" (NAB, NET); "homosexual offenders" (NIV); "abuse of themselves with mankind" (ASV, KJV).

[428] In addition, Scroggs (1983:106) points out that the meaning of μαλακός is ambiguous, but the meaning of ἀρσενοκοίτης always seems uncomplicatedly to express a homoerotic act.

[429] However, Hays (1997:97) also suggests that this term could be understood in a broader sense, such as "sissies" or "dandies."

[430] Boswell (1980:107) mentions that the word ἀρσενοκοίτης could be understood to mean homoeroticism, but on the other hand it did not imply homoeroticism for Paul or his contemporaries but indicated "male prostitute" until the fourth century after which it became obscure, with a variety of words for unacceptable sexual activity.

intercourse.[431] Wright (1984:133) simply understands the word as "sleeping with men." According to Keener (2005:55), bisexuality was exceedingly common among Greeks, because of the lack of available wives in that day,[432] so that by the first century C.E. many Romans assimilated these social influences, and it could be probable that such influences prevailed in Corinth as well.

In addition, the Old Testament refers to both bisexual actions of males and male cult prostitutes.[433] According to Talbert (1987:23), in the Old Testament the law prohibits a cult prostitute (Deut. 23:17) and male homoeroticism (Lev. 18:22; 20:13) as a perverted sexual practice similar to adultery or bestiality. Ancient Judaism frowned on homoeroticism. The Wisdom of Solomon (14:26) mentions that idolatry brings evil results such adultery, confusion of sex, and disorder in marriage[434] and Talbert cites evidence of homoerotic activity among both males and females in Greek literature. Some Romans opposed homoeroticism among citizens,[435] while others followed the Greek idealisation of homoeroticism (Talbert 1987:24) while the early Christians maintained the Old Testament and Jewish attitude on homoeroticism. In this regard, (Talbert 1987:25) suggests four texts on homoeroticism in the New Testament. Firstly, Romans 1:26-27 mention both male and female homoerotic activity deriving from idolatry in a context in which homoeroticism is showed as a condition of slavery. Secondly, 1 Corinthians 6:9-11 mention both partners in homoerotic activity (Wright 1984:139).[436] Thirdly, 1 Timothy 1:10 speaks about sodomites in a catalogue of godless persons. Lastly, Jude 7 employs an example of Sodom and Gomorrah in which people were involved in perverted sexual practices against God's judgement. In the end, as Fitzmyer (2008:251) states, the words μαλακός and ἀρσενοκοίτης are basically concerned

[431] Hays (1997:97) assumes that even though this term does not occur anywhere in Greek literature Paul uses it here to reiterate the Jewish condemnation of homoerotic behaviour.
[432] Some Greek men married at a late age (Keener 2005:55).
[433] In the Old Testament the two texts, Genesis 19:1-11 and Judges 19:22-26, typically mention the improper sexual action concerning males, and some texts, 1 Kings 14:22-24; 15:12; 22:46; 2 Kings 23:7, expound on male cult prostitutes.
[434] "All is confusion – bloody murder, deceitful theft, corruption, treachery, tumult, perjury, agitation of decent men, ingratitude, soul defilement, interchange of sex roles, irregular marriages, adultery and debauchery" (14:25-26).
[435] Talbert (1987:24) states that homoerotic action had been illegal since the *Lex Scantinia*.
[436] Bailey (1980:28) also asserts that Paul categorises the words μαλακός and ἀρσενοκοίτης as "passive homosexuality" and "active homosexuality" respectively.

with men who engage in different kinds of sexual behaviour with other men.

After mentioning sexual vices, Paul focuses on attachment to material possessions, physical and verbal abuse, and robbery. Kistemaker (1993:189) states that Paul seems to repeat the Decalogue.[437] Rogers Jr. and Rogers III (1998:359) briefly explain the meaning of those terms as follows: κλέπτης ("one who steals"), πλεονέκτης ("one desirous of having more and seeking to fulfil his desires through all means"), μέθυσος ("drunkard"), λοίδορος ("one who uses abusive language") and ἅρπαξ ("one who uses force and violence in stealing").[438] Some forms of misconduct may include one or another matter that had been submitted to the unrighteous judges for their judgment (Collins 1999:230). According to Collins (1999:230), thievery (s.v. κλέπτης) might be such a case, and it is a basic feature of the list of vices (cf. 1 Pet. 4:15).[439]

The list of vices reveals the serious immorality of Corinth in the first century C.E. The list introduces various social immoralities including sexual immorality.[440] Even though there is no need to conclude that the Corinthian believers actually conducted these vices, it could cautiously be suggested the possibility that the Corinthian believers could have been involved in this kind of immorality before their conversion considering the prevailing social environment. In fact, in 1 Corinthians 5 and elsewhere sexual immorality within the community of believers is pointed out by Paul. It means that believers were susceptible to the social influences of the first century Corinth and Paul admonishes the Corinthian believers to overcome from these temptations. That is, Paul instructs them not to forget their new identity as God's people.

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[437] In English translation (RSV) the Greek terms, κλέπται, πλεονέκται, μέθυσοι, λοίδοροι and ἅρπαγες, are generally understood as "thieves, the greedy, drunkard, revilers and robbers" respectively.

[438] In addition, Zaas (1988:629) suggests that in Romans both words, κλέπται and ἅρπαγες, appear with the verb μοιχεύω. And in Romans 2:21 the phrase is surely a repetition of the Decalogue itself, and in Romans 13:9 the words are used in a quotation from the Decalogue.

[439] In addition, Paul's use of the cognate verb, κλέπτω ("to steal") in Romans 2:21 and 13:9 shows that he might add this particular vice to his catalogue under the influence of the Decalogue where the commandments on adultery and on theft appear (Ex. 20:14-15; Deut. 5:18-19) (Collins 1999:230).

[440] These social immoralities might have influenced the Corinthians in the incipient Christians community in their daily lives. It indicates that these social immoralities do not coincide with the ethical conduct of Jesus followers. Thus, Paul employs an example of social immoralities to emphasise that the Corinthian believers should remember their new identity as God's people.

Accordingly, Paul defines such conduct as faithless behaviour in which the Corinthian believers engaged before their conversion. The current problem of the Corinthian believers who have lawsuits with fellows centres on their acting like unbelievers, who seek their own benefits in a secular realm. Paul is not saying that a person who commits any of these sins will never inherit God's kingdom, but rather, that anyone who persists in practicing these vices will be barred from entering the kingdom (Kistemaker 1993:189). Furthermore, Zaas (1988:629) suggests that Paul is employing this list of vices in a broader sense, as part of a discussion "about harming the body, about the sanctity of the brotherhood, and about the separation of church and world." In the end, Paul emphasises that believers should live and behave as believers, namely God's people.

In verse 11, Paul reminds the Corinthian believers that such conduct belong to the unfaithful, and declares that they have been saved from such wickedness, although some Corinthian believers were undoubtedly still involved in such conduct (Fitzmyer 2008:258). Paul instructs the Corinthian believers to live according to God's word because God has made them in Christ (Keener 2005:56).[441] In this regard, Sampley (2002:856) states that this verse provides a "fundamental community-definition function," meaning that believers are called in the name of Christ to reflect their identity as a Christian.

Kistemaker (1993:189) presumes that when Paul first came to Corinth, he brought the gospel of salvation to those who were committing sexual and social sins.[442] So he warns the Corinthian believers to abstain from the evil habits predating their conversion. Furthermore, Paul now proclaims that they received the gift of salvation through the gospel. Fuller (1986:102) explains that the Greek verb ἦτε implies that there were some persons who followed pagan vices before their conversion and baptism,[443] and Fee (1987:245) explains

[441] Furthermore, Keener (2005:56) mentions that perhaps Paul's teaching had already accustomed the Corinthians to the biblical background of his language here.

[442] However, Paul asserts that such behaviour is essentially inconsistent with their true identity as a believer in Jesus Christ. Thus, suing their fellows is incongruous with their new identity (Hays 1997:96).

[443] In addition, Thiselton (2000:453) understands the form ἦτε as the continuous imperfect indicative. In this regard, Thiselton translates this word as "used to be" as the NRSV and NJB translate it. Moreover, Freed

that Greek word ταῦτά covers the whole list of vices. In addition, the neuter form is used to express horror or disgrace in a more dramatic sense.

Now, in verse 11 Paul changes the focus from their previous status, i.e. before their conversion, to their current status, by using the strong adversative ἀλλά which is placed before each one of the three verbs, ἀπελούσασθε, ἡγιάσθητε and ἐδικαιώθητε, to function as emphasis on the spiritual change of the Corinthian believers (Kistemaker 1993:189).[444] Thus, in verse 11 it functions to indicate an antithesis between the lifestyle of the Corinthians before, and after becoming believers (Talbert 1987:26). Rogers Jr. and Rogers III (1998:359) state that this word "emphasizes strongly the contrast between their past and present, and the demand their changed moral condition makes upon them."

In this regard Paul employs three different images to express the same experiential conversion which he has already experienced. Paul tries to emphasise that the conversion not only gave them forgiveness from their sin but also requires a thorough change of their life, as mentioned in Romans 6:6-7 (Talbert 1987:26).[445]

Firstly, according to Kistemaker (1993:189), the washing is thorough and perfect. In particular, the word ἀπελούσασθε (s.v. ἀπολούω) gives the soteriological idea for this premise with other two terms, viz. ἡγιάσθητε (s.v. ἁγιάζω) and ἐδικαιώθητε (s.v. δικαιόω), with the implication of the underlying imperative (Fee 1987:245). That is, the Corinthian believers must live the new life in Christ and stop acting like the unrighteous.

Some scholars understand the term ἀπολούω, the act of washing away sin, in the sense of baptism. Kistemaker (1993:190) is of this opinion,[446] and Hays (1997:97) views the

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(2005:70) understands that "used to be" means that some converts were unrighteous persons but they are no longer so after their baptism.

[444] BDF (448.2) explains that the initial "but" (ἀλλά) has the sense of "but you are so no longer; on the contrary…"

[445] "We know that our old self was crucified with him so that the sinful body might be destroyed, and we might no longer be enslaved to sin. For he who has died is freed from sin" (Rom. 6:6-7, RSV).

[446] In Acts 9:17-18, Paul describes the experience of his conversion in Damascus, when Ananias taught him to be baptised to have his sins washed away (Kistemaker 1993:190).

reference to baptism as evidence of their move into the scope of Christ's lordship.[447] Furthermore, according to Fee (1987:246), the verb ἀπελούσασθε translated with a passive meaning also implies baptism.

In addition, the form of the word ἀπελούσασθε is a middle voice, but it is understood in a passive meaning by most translators.[448] Kistemaker (1993:192) provides the reason that believers are not able to wash away their own sins, for only Jesus Christ can cleanse them. Barrett (1968:141) mentions that the passive form of the verb is not common, and it is probably better to consider that the middle is used for the passive.[449]

However, some of scholars support the meaning of the word ἀπελούσασθε as a middle voice itself. In this regard, Fuller (1986:102) accounts that the middle voice ἀπελούσασθε is not a reflexive verb, and baptism is never applied by oneself but is an act of God. Thus, it means rather that "you submitted to baptism" as Fuller translates. Fee (1987:246-247) points out that there are two further problems with the usage of this phrase: firstly, the use of the preposition ἐν with 'baptism' is not consistent with Paul's usage elsewhere. For example, with 'baptise' Paul uses the preposition εἰς: "…ἢ εἰς τὸ ὄνομα Παύλου ἐβαπτίσθητε" (1 Cor. 1:13). Secondly, the two prepositions and three verbs are all being used together, indicating that Paul is less concerned with the Christian baptismal rite than with the spiritual change made through Christ and effected by the Spirit.

Steyn (1996:488) notes that ἀπελούσασθε is aorist middle voice, thus it could be literally translated as "you have washed yourselves," which distinguishes the human act of baptismal washing from the divine action of sanctification and justification expressed by the aorist passive, which is divine passive. In addition, BDAG (117) explains that this word is used only as a middle voice to mean "wash something away from oneself or wash oneself."

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[447] Freed (2005:70) supports this view: 'washed' indicates baptism, and the other two verbs are synonymous with it.

[448] Most of the Bible translations translate the word ἀπελούσασθε as a passive meaning, namely "you were washed" such as ASV, ESV, KJV, NASB, NET, NIB, NIV, NJB, NKJV, NLT, NRSV, and RSV.

[449] In addition, Barrett (1968:141) gives a similar example that the same verb as the same voice appears in Acts 22:16 where Ananias exhorts Paul at the time of his conversion: "Rise and be baptized, and wash away your sins, calling on his name."

Secondly, at the beginning of the letter Paul already mentioned that the Corinthian believers were sanctified in Christ Jesus in 1 Corinthians 1:2. According to Kistemaker (1993:190), Paul reminds them that they have been made holy. Sanctification is explained as believers being called into the fellowship of God in 1 Corinthians 1:9. Fuller (1986:102) clarifies that salvation, including sanctification, is initiated at baptism, and it contains a present process which is completed at the End. Thus, the baptismal event is a basis of Christian ethical responsibility.[450]

Lastly, Kistemaker (1993:190) clarifies that justification is a declarative act of God, and as a result, believers are proclaimed righteous in Christ and are co-ordinated with God's act of sanctification.[451]

In the end, the three verbs, ἀπελούσασθε, ἡγιάσθητε and ἐδικαιώθητε, are three descriptions of the essential change happening to those who belong to Christ (Hays 1997:98).[452] In addition, according to Kistemaker (1993:190), these three verbs are linked grammatically. Fitzmyer (2008:258) suggests that the three effects are simply revealed without chronological or logical sequence. Fee (1987:246) also insists that each of the verbs is contextually chosen. There are not dogmatic reasons, and their order is theologically unrelated.

For the last part of this verse Barrett (1968:142-143) interprets the phrase 'in the name of the Lord Jesus Christ' as baptismal formulation,[453] in which sense it also implies that all the

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[450] Fuller (1986:103) insists that Paul obviously understood baptism as the moment of sealing with the Spirit (2 Cor. 1:22), and the receiving of the Spirit of adoption, thereafter we cry Abba, Father (Gal. 4:6; Rom. 8:15).

[451] In Romans 8:29-30, God called those who God foreknew, and God also justified them.

[452] Kistemaker (1993:190-191) explains how these three verbs relate to the Lord Jesus Christ and the Spirit of God in three ways: firstly, the washing away of sin is the result of baptism, and believers are baptised in the name of Jesus Christ and in the power of the Spirit. Secondly, the act of sanctifying believers is connected with the redeeming work of the Lord Jesus Christ and is continued by the power of the Holy Spirit. Lastly, the act of justifying the believer reveals the relation to the power of the Spirit only in this text, even though justification is God's work based on Christ's righteousness. The reason is that Christ is revealed by the Spirit according to 1 Timothy 3:16.

[453] Barrett (1968:141) asserts that elsewhere baptism is related to the name of Jesus (Acts 2:38; Rom. 6:3) and the gift of the Spirit. In particular, Sampley (2002:856) suggests several important points concerning using baptismal language: firstly, this connects with the earlier interpretation of chapters 1-4, and now Paul is taking

manifestations of grace in the Corinthian community proclaim the work of God in Jesus Christ. Meeks (1983:154) mentions that Paul's argument rests upon a common understanding of baptism as providing a line between the unwashed world and the washed believers, and that "clean" is a metaphor for "proper behaviour." In addition, Fee (1987:247) says that the mention of the name of Christ might refer to the authority of Christ in terms of his redemption of believers.

And, the phrase 'in the Spirit of our God' indicates the power and working of the Holy Spirit (Evans 1930:88). In this regard, Fitzmyer (2008:258) explicates that the consequences of baptismal washing, sanctification, and justification are obviously related to the activity of the Holy Spirit. Furthermore, Barrett (1968:143) explains that the Spirit is the agent of sanctification (Rom. 8:8ff; Gal. 5:22-25), and is related to justification (Rom. 8:4; 14:17). For Fee (1987:247) the reference to the Spirit demonstrates Paul's understanding regarding the Spirit as the means by which God accomplishes the work of Christ in believers' lives. Therefore, it can be argued that in verse 11 Paul is clarifying the conversion experience and reprimanding the Corinthian believers to remember their new identity, which is given by God's work with the Spirit's help in Christ, namely washing, sanctification and justification. Now believers became God's people.

In the end, Paul emphasises that their behaviour – having a lawsuit with their fellows – is a moral defeat (v. 7) as well as a shameful act (v. 5), and warns that it will result in their not inheriting the kingdom of God, which is much the greater loss (Hays 1997:96).[454] Thus, Paul invites them to change their behaviour by reminding that they indeed belong to God through the gracious work of Christ and the Spirit (Fee 1987:242).

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the listeners back to basics in chapters 5-6. Secondly, because Paul links baptism with entry into becoming God's children (Rom. 8:14-15; Gal. 4:6), Paul substantiates his allegation in 3:1-2 that he treat them as babies. Thirdly, the *inclusio* of the baptismal formula in 5:4 and in 6:11 connects the content of those that they deal with, with two separate issues. And lastly, the mention of the "Spirit of our God" in 6:11 provides the connection that will bring chapter 6 to a conclusion with the repetition of the claim that the recipients of the letter are the temple of the Holy Spirit (6:19-20; cf. 3:16-17).

[454] In addition, Paul's point is to warn "the saints," not only the man who has wronged his brother, but the whole community (Fee 1987:242).

4.4 Summary

Paul explains the identity of the Corinthian believers from a theological perspective, viz. describing them as God's servants, God's field, God's building, and God's temple, based on 1 Corinthians 3:9, 16. Also, they are called by God (1 Cor. 1:2, 26; 7:17-24) and have been bought by the death of Jesus (1 Cor. 6:20). In other words, they belong to God, and have to behave according to Jesus' command to love each other. Accordingly, Jesus Christ is "the mediator of the Corinthian believers' relationship with God" (Collins 1999:26) and the event of a lawsuit shows faithlessness.

Furthermore, Paul appeals to their holiness to uphold the holy community to which they belong (Fuller 1986:103), and to the close relationship between the experience of grace and one's behaviour (Fee 1987:284). Paul would want the Corinthian believers to apply the teaching of the gospel to their daily lives.[455] Orr and Walther (1976:197-198) clarify that Paul's emphasis on the spiritual characteristic of the gospel does not exclude an immense concern about its application to all the personal and social relationships of life. That is, Paul moves the focus undoubtedly from a particular shame in the Corinthian community to a general declaration for the whole community.[456]

In particular, the text contains a theological factor. For example, eschatological motifs contribute to the judgment idea that is essential to Paul's paraenesis. Thus, the issue of bringing lawsuits could be treated in an ecclesiological perspective.[457] In addition, Fee (1987:248) clarifies that the real concern of the text is about a mixture of Pauline theology and ethics;[458] in other words, Paul's lesson on lawsuits could be understood and applied to

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[455] Collins (1999:29) convinces that Paul's letter challenged the Corinthian believers to allow the gospel to direct their daily lives.

[456] Horsley (1997:245-246) insists that the Christian community should not only keep ethical purity and group discipline from the injustice of the secular society, but should also deal with its own matters independently of the established courts.

[457] In this regard, Collins (1999:27-28) explains that the primary issue in 1 Corinthians is fundamentally ecclesiological.

[458] Beardslee (1994:58) reveals that Paul emphasises that a criterion of moral behaviour is the feature of the Spirit-filled community, and such behaviour will be the outcome of the new field of influence within which they live.

the present Christian life with various theological perspectives.

In addition, literary devices used in the text play a significant role in clarifying Paul's thought on litigation. For example, through rhetorical questions Paul points out the faults of the Corinthian believers and instructs them on how they should act and live as believers in an eschatological faith. Structurally the ABA′ pattern of chapters 5 and 6 of 1 Corinthians places the texts on lawsuits in the middle (B), further emphasising Paul's admonishments.

Consequently, 1 Corinthians 6:1-11 presents Paul's basic understanding in two points: firstly, there should not be malicious behaviour between fellow believers such as lawsuits, however, secondly, if there is, lawsuits have to be dealt with within the Christian community.

CHAPTER 5
LAWSUITS AND PAUL'S ESCHATOLOGICAL ETHICS

5.1 Introduction

In the previous chapters, especially chapters 3 and 4, the issue of lawsuits among believers as presented in 1 Corinthians 6 was investigated by means of a historical and a literary approach. The topic of lawsuits will subsequently be considered in relation to ethics, in the context of 1 Corinthians.

Paul cites the issue of lawsuits with what appears to be the intention to admonish the Corinthian believers to live and behave as Jesus followers, that is, being mindful of their identity as believers, an identity which was to shape their way of living as Jesus followers in a secular society. The issue of lawsuits in 1 Corinthians 6, however, shows that the Corinthian believers bringing litigation against their fellow believers fail to live as followers of Christ in this regard. Even if they were to be scoffed at by the secular world, Paul seems to argue that failure to live as the faithful of God, in the end has them run the risk of forfeiting the right to enter into the Kingdom of God when Jesus comes again.

Admittedly, the Corinthian community of believers was influenced by the social environment of the first century C.E.[459] This means that on the one hand, the Corinthian community was exposed to the social, cultural and religious situation of the first century Roman society, but on the other hand, they did have an opportunity to reflect their identity as a community of Jesus followers in the worldly surroundings.

This chapter investigates Paul's theological thought as emerging from his eschatological ethics and as applied to the matter of lawsuits. In addition, this chapter will consider the broader question of the possible normative and contemporary potential of this text, that is,

[459] Fedler (2006:192) explains that since Paul wrote to specific communities in the first-century Mediterranean world, many of his moral admonitions are restrained by the social customs of that day.

how Christians should live in a secular world as well as in a Christian community.

5.2 Points of Departure: Paul and Ethics

It is generally assumed that ethics concern individual actions, "what we perceive to be right or wrong, good or bad,"[460] a "code or set of principles" by which people think how to live their lives (Kretzschmar 1994:2, 3). Crook (2007:3) defines ethics as "a systematic, critical study concerned with the moral evaluation of human conduct."

Furnish (1968:209) insists that in the present general usage the English word 'ethical' is applied to actions considered by the speaker to be 'good,' and it is identified with morality in the practical matters of life.[461] That is, ethics could be considered as the pattern of behaviour which portrays one's everyday living being evaluated as 'right' or 'wrong' (Furnish 1968:209).[462]

As regards the difference between 'ethics' and 'morality' Horrell (2005:97) explains that questions of 'ethics' concern matters related to a person's sense of the good and of identity, whereas questions of 'morality' become involved when disputes arise because of conflicts of interests or convictions.[463] However, in general parlance the concepts of ethics and morals are often used interchangeably, neglecting any necessary distinction between ethics and morals (Crook 2007:4).[464]

Etymologically, the term 'ethics' derives from the Greek words ἔθος and ἦθος in an essential

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[460] Crook (2007:3) formulates the focus of ethics as questions such as "What am I to do now?" or "How am I to relate to other persons?" or "How am I to relate to the communities of which I am a part?"

[461] In addition, Hauerwas (1981:132) explains that the Christian life can be divided into two specific areas, viz. internal matters dealing with the spiritual life, and external concerns about morality.

[462] According to Cronin (1992:243), for the Christian the moral focus will be on patterns of action which reflect the truth about human life in this world, and central to this truth is the existence of God.

[463] In a briefer definition, Crook (2007:4) clarifies that the word 'ethics' refers to the systematic study, while the word 'morals' refers to a behaviour pattern. Esler (2003:52) also suggests that in the modern world "ethics" mentions mainly the systematic formulation of rules for individuals' good behaviour.

[464] Thus, Crook (2007:4) understands these two words, ethics and morals, as a moral act or a moral person within an ethical system.

sense, connoting the customary, usual, or habitual (Furnish 1968:208),[465] although no single term exactly matches the sense of 'moral teaching' corresponding to the modern term 'ethics' (Rosner 1994:21). Thus, Rosner (1994:22) assumes that Paul's ethics simply implies "his 'ways which are in Christ' (1 Cor. 4:17) or his 'instruction as to how one ought to walk and please to God' (1 Thess. 4:1)," rather than his doctrine or philosophical analysis. Thus, Rosner's view of having lawsuits with fellow believers rests on an evaluation of such behaviour in a moral or ethical sense. In addition to the development of ethical thought, Perkins (1992:652) explains that in the Hebrew Scriptures the Torah defines ethics as how persons ought to conduct themselves as members of a community in covenant with God (Exod. 20:1-24:8; Deut. 10:10-30:20).

In addition, the terms 'ethos' and 'ethics' should be kept distinct. Smit (1991:52) provides an important distinction, demarcating that in a technical sense 'ethics' is "a scientific discipline, the 'science of morals,' the discipline dealing with processes of human decision-making on moral issues,"[466] and 'ethos' is "the habitual character and disposition of a group."[467]

Mouton (2002:202-206) provides a brief historical overview of (Christian) ethics as divided into three phases, viz. the classical phase, the pre-modern phase and the modern phase. In the first, classical phase ethics emerges with the work of philosophers of the Hellenistic period,

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[465] In a more concrete explanation of Rosner (1994:21) on the Greek term ἦθος, it is explained as meaning habit or custom, and παράδοσις, κατηχέω, παράκλησις may include not only piousness and practice but also the content of the faith. In addition, the Greek word ἔθος never appears in Paul's letters, and the word ἦθος appears only once in 1 Corinthians 15:33. Furthermore, in the New Testament no synonym is used to refer to a particular pattern of behaviour or moral standards (Furnish 1968:208).

[466] According to Fowl and Jones (1991:8), while Christian ethics involves making decisions, the desire for rules and methods for such decisions ignores the debatable status of moral descriptions. In addition, Botha (1994:37) explains that ethics connects with "the conscious reflection on ethos, to the explicit process of accounting for moral choices."

[467] According to Schütz (2006:289), ethos is understood as "character" or "habitual way of life" in the classical world. In this definition, ethos can be explained as consisting of various kinds of elements which comprise that specific ethos such as social and cultural factors, lifestyle, spirit of the age, attitude towards life and disposition (Troost 1983:108). Thus the notion of ethos became complex, interwoven, and constituted reciprocally since the first century C.E.; no single element can be separated from any of the others. Accordingly, people participate unconsciously in an ethos, yet are strongly influenced by, as well as involved in maintaining the ethos of their particular society by living in conformity with the ethos.

contemplating the communal lifestyle of Greeks.[468] In this period, people's lives were generally determined by rules, customs and taboos taken by all members of the community, and they lived in a world of unquestioned morality. In particular, in such societies the criteria of religion, morality and juridical law were recognised as the same thing. That is, all aspects or dimensions of life are perceived as being entirely combined. The classical phase matured with the development of the so-called city-state in Greek culture (MacIntyre 1967:14),[469] with critical ethical consideration in the philosophical sense of the word taking place for the first time.[470] Aristotle was probably the best known and most inspiring philosopher[471] and he posed the ethical question, 'What is a good or moral society?'[472] Moral and good human beings were seen as those who fulfil the purpose and the well-being of society.[473]

A second phase in the history of morality spans the period of the emergence of Christianity in the first centuries C.E. until the Renaissance. This time is characterised mainly by the moderate rise and growth of a broad variety of powerful and authoritative institutions in given societies, including Christian societies and different forms of public state, which gradually started exerting their authority to control how people should act, while in addition, the church or the state formulated rules of behaviour.

The third phase in the history of moral thinking is known as modernity, a period prepared by the Renaissance and leading into the Enlightenment, characterised particularly by industrialisation and modern political systems. In this phase the French philosopher René

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[468] In particular Smit (1994:20) describes this lifestyle as follows: "In any pre-modern, homogeneous society, ordinary people just 'know' how to live, what to do and what not to do, how to behave themselves."

[469] Jews who lived in cities where the education, government, and culture were characterised by Greek thought and institutions frequently sought to show that their tradition manifested the best of the ethical insights of Greek thought (Perkins 1992:653). In addition, Furnish (1968:211) asserts that undoubtedly, Paul's own personal background in Judaism and his experiences as a Jew, the general moral tendency of his age, and the particular moral problems he experienced in his congregations helped to determine the direction of and present model to his concrete ethical teaching.

[470] In this period, representative persons who worked and wrote were particularly the Sophists, Socrates, Plato, Aristotle, the Epicureans and Stoics (Mouton 2002:203).

[471] Aristotle insisted that ethics as the study of correct human action was a type of "practical knowledge" (Perkins 1992:652)

[472] Thus, Richardson (1994:93) mentions that for him the community is essential to his ethics.

[473] In addition, the good life would promote the purpose of maintaining a just society and following its rules, interests and expectations as well as developing the virtues (Mouton 2002:203).

Descartes was perhaps the most important scholar. His important proposition started from doubt, which meant that his arguments had a cognitive basis.[474] Descartes was convinced that his ability to think would enable him to distinguish between right and wrong. More than a century later the very influential German philosopher, Immanuel Kant, wrote that the essence of the Enlightenment is that every human being is able to think for him/herself. The fundamental momentum of the Enlightenment was that every human being is a rational creature who can think critically, and decide for him/herself what to believe and what to do.[475] Thus, in the modern phase morality faced and was characterised by the occurrence of the thinking, questioning individual, independently from the good society and its institutions. In particular in this period, authority shifted from external institutions to internal convictions, principles, attitudes, and decisions. It means that a diversity of ethics developed in different forms of democracy with its emphasis on individual rights. Various events and developments of the twentieth century, ushered in a new awareness that ethics of personal conviction, autonomy, principle and attitude were not sufficient to handle the complicated issues of societies in the twentieth century. Thus, it was realised that society was continually being formed and reformed by its own momentum. After all, individuals have no longer the power to influence the morality of society.

In the end, both traditions, the philosophical and the biblical, agree that ethical (moral) behaviour is the only way in which human beings can obtain happiness and well-being, and in other words, a conversion was required, for human beings do not, for the most part, live and behave nobly. In particular, the early followers of Jesus and the incipient Christianity was largely influenced by a Jewish-Hellenistic and Greco-Roman ethical tradition (Schnelle 2003:558).[476]

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[474] His famous Latin statement "*Cogito, ergo sum*": "I doubt/think, therefore I am" emerged from this simple, logical proposition (Mouton 2002:205).

[475] Sometimes people appeal to norms, principles, their own conscience, or attitude (Mouton 2002:205).

[476] As Schnelle (2003:558) mentions, the establishment of the Pauline communities include those people who were Jews, proselytes, God-fearers, and Gentiles as well. Thus, in the formation of a new identity, an interaction of Old Testament, Hellenistic-Jewish, and Greco-Roman norms might be entirely normal.

5.3 Paul's Understanding of Ethics

In general, then, it can be said that Christian ethics is the critical estimation of human behaviour based on a Christian perspective (Crook 2007:3).[477] Furthermore, as Kretzschmar (1994:3) states, Christian ethics includes that there is a need for the transformation of people, situations and structures, so that in effect Christian ethics focus more on theological praxis than on theological theory.[478]

Kretzschmar (1994:3) defines Christian theological ethics in an overarching way as "an understanding of what ought to be, a willingness on the part of individual believers to be saved and to become disciples of Jesus Christ, and a commitment on the part of both individual believers and communities to preach and practise their faith with reference to human, social and physical reality."

Fuchs (1984:3) mentions that the fundamental basis of Christian ethics is belief in the God of creation.[479] And the faith of Christians defines their character and provides the motives for their behaviour (Crook 2007:3).[480] Thus, as Fedler (2006:8-9) states, the earliest Christians were thoroughly concerned about ethics and morality,[481] as being primary to the very core of Christian belief systems.

Turning to the New Testament more specifically, then, most of the New Testament is concerned with ethical exhortation even without the New Testament having to formulate legal structures for leading lives (Perkins 1992:654). Horrell (2005:96) declares that readers can find ethics in the Pauline letters, because the letters cover a range of problems and

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[477] In addition, Ottati (1996:46) states that theological ethics is generally a reflective theme supported by religious communities. Thus, Christian communities and their traditions espouse Christian theological ethics.

[478] According to Kretzschmar (1994:3), the Christian ethic is a prescriptive ethic that demands an answer to the question "How should we live?" rather than "How do we live?"

[479] In this sense, Fedler (2006:11) insists that a principal part of Christian ethics is learning how we are to relate to God.

[480] In addition, Crook (2007:3) adds that the Christian faith makes "Christian assumptions about human nature, about the relationship of human beings to one another, and about their relationship to God."

[481] One reason why many early Christian writers concentrated on ethics was the necessity to confute false accusations against Christians by non-Christians (Fedler 2006:8).

community matters, and advises on the desirable action. In fact, a fruitful example of Christian paraenesis is 1 Corinthians (Meeks 1986:130).[482]

According to Schnelle (2003:546), Paul develops his ethic with the image of participation as a new being, cultivating an image which should manifest in new behaviour, as he continuously demands from the communities he addressed. Paul's ethic is fundamentally a theological issue, positing everything as related to what God does in Christ and through the Spirit (Fee 1993:53).[483] Horrell (2005:20) has a similar option and finds that Paul's ethics reflect his kerygma of Christ crucified.[484] Also, in Paul's letters, readers can see how he develops his ethics in a close co-operation between his theological thinking and the context within which he and his fellow believers lived (Aasgaard 2002:513).[485] Thus, the case of lawsuits in the Corinthian community is a concrete example of how the Corinthian believers lost the value of true love which Jesus showed by his death on cross.

Given the close connection between Paul's ethics and theology, Paul's letters contain a number of exhortations about how to serve God and live as members of the Christian community (Fedler 2006:191-192). In his letters, particularly to the Corinthians and

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[482] In this regard, Rosner (1994:22-23) mentions that 1 Corinthians 5-7 appears in the example of Christian paraenesis. These chapters contain several major topics of Paul's ethics, including incest, exclusion, disputes, greed, sexual immorality, and marriage, etc. In addition it comprises a response to both oral (chs. 5-6) and written (ch. 7) reports from Corinth with the classic paraenesis to vice catalogues. Fedler (2006:191) also points out that Paul's writings frequently refer various ethical issues such as sexual behaviour, social obligations, divorce and remarriage and submission, to governmental authorities etc. In addition, Malherbe (1986:124-125) defines the term paraenesis as "moral exhortation in which someone is advised to pursue or abstain from something," and explains as follows: "It appears in many forms of communication, especially speeches, letters, and tractates which may assume some epistolary features. Paraenesis is broader in scope than protrepsis; it contains useful rules for conduct in common situations and adopts styles that range from censure to consolation."

[483] In this regard, Fee (1993:53) suggests several purposes of Christian ethics: the glory of God (1 Cor. 10:31), Christ as the model for such ethics (1 Cor. 11:1), love as the principle (1 Cor. 8:2-3; 13:1-8), and the Spirit as the power (1 Cor. 6:11, 19).

[484] Betz (1989:56-58) mentions that Greek philosophical ethics influenced Greco-Roman morality, but it could not provide an appropriate foundation for Christian ethics. Rather, Christian ethics had to be based on the kerygma of the crucifixion and resurrection of Christ. Paul could use whatever material was in compliance with the kerygma on which his ethics was to be based.

[485] Thus Aasgaard (2002:513) suggests that readers can find in Paul an active and creative interaction "between the theological and the ethical, and between that which is a matter of principle and that which is contextually determined."

Thessalonians, Paul engages with moral and ethical considerations (Horrell 2005:97) and comes to share a number of moral or ethical themes such as the sanctification of the community and the importance of love for building up the community etc. (Matera 1996:138).[486]

Fedler (2006:190-191) provides a short description of the background against which Paul's ethic could be understood. Paul had a strong Jewish background and was also trained as a Pharisee (Phil. 3:4-6; Acts 22:3). But after a conversion through the risen Christ, he recognised that God had called on him to preach the life-giving gospel of Jesus' crucifixion and resurrection from the death, particularly among the Gentiles, as the object of missionary work as stated in Galatians 1:16 (Marxsen 1993:156). Accordingly, Paul became a new person who changed his old life-habits. That is, the transformation of his life happened to him, and this transformation made him live for Jesus Christ, no longer for himself.

Even though Paul did not have any fully-fledged ethical system (Ladd 1994:556), Ladd suggests several possible sources of influence in the development of Paul's ethics. Firstly, one of the strongest influences was the Old Testament: from the Decalogue Paul borrows a number of specific commands that the believer should perform with love (Rom. 13:8-10). According to Ladd (1994:556), Paul considers the Old Testament the revelation of the will of God and as a Jesus follower he upheld the Old Testament as a book "written for our instruction" (Rom. 15:4, RSV).[487]

Secondly, some traces of Hellenistic influence can be found in Paul's language and style (Ladd 1994:557); for example, Paul cites a Greek maxim, "Bad company ruins good morals" (1 Cor.15:33, RSV). Greek influence is found in Paul's use of the metaphors of warfare (2 Cor. 10:3ff; 1 Thess. 5:8) or of athletic competition (1 Cor. 9:25); in the use of the idioms "what is fitting" (Phlm. 8; Col. 3:18; Eph. 5:3), "what is shameful" (Eph. 5:12); and

[486] In particular, Matera (1996:138) states that the Corinthian correspondence provides a more developed type of the moral exhortation compared to the letters to the Thessalonians.

[487] However, according to Ladd (1994:556), it is significant that Paul never quotes the Old Testament at large for the aim of reinforcing a pattern of conduct. In addition, he never systematises the ethical and moral teachings of the Old Testament formally.

especially in the virtues introduced in Philippians 4:8 (Ladd 1994:557). In terms of the language, words such as "lovely," "gracious," "excellence" and "praiseworthy" reveal influences from the Hellenistic ethical vocabulary (Ladd 1994:557). In particular, a term of unique Hellenistic philosophy is "nature" (cf. Rom. 2:14).[488] Paul thought that God embedded knowledge of right and wrong in human nature (cf. Rom. 2) (Ladd 1994:558).[489]

Lastly, another significant source of Paul's ethic was the teaching of Jesus.[490] Ladd (1994:559) mentions that when Paul declares that he is "under the law of Christ," it means that he is joined by an ethical tradition coming from Jesus. However, Ladd (1994:559) elucidates that there is no evidence that Paul understood an essence of an ethical tradition coming from Jesus;[491] it is more likely that he understood the law of Christ as the law of love that Jesus proclaimed (Mt. 22:39-40). Perkins (1992:655) suggests that some of Jesus' sayings have the practical character of wisdom exhortations to teach someone how to handle conflict (Mt. 5:25-26).

In the end, the sources of Paul's ethic are complex and his ethical reasoning is complicated, as Ladd (1994:559) states, but his ethical thought centres on how the Jesus follower should live. Based on these ethical sources Paul could instruct the Corinthian believers on how to conduct themselves as followers of Jesus, in contrast to unbelievers.

In addition, another significant theological factor in understanding Paul's ethics is the tension between the indicative and the imperative.[492] Ladd (1994:565) explains the relationship between two factors: sanctification is a true past event (indicative), therefore it is to be

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[488] In addition, Morgan (2007:211) mentions that nature was in the first century seen as a "powerful, sometimes the fundamental, moral authority."

[489] For Paul, it could be understood that even those who do not have the law have an inner sense of right and wrong (Ladd 1994:558).

[490] Lohse (1996:159) explains the content of Christian ethics as instructions given through Jesus (1 Thess. 4:2).

[491] However, Horrell (2005:27) insists that an important influence of the pattern and content of Paul's ethics has to focus on the self-giving of Jesus Christ rather than on the words and teaching of Jesus.

[492] However, Schnelle (2003:547-548) insists that the indicative-imperative schema is not really the right way to understand the Pauline ethic as a whole. Rather the acceptable elements of this schema should be united with the basic paradigm "transformation and participation," indicating how the participation in Christ which is achieved in baptism, shows direct results in the struggle of Christian ethics.

undergone at this moment (imperative).[493] In other words, the indicative describes the new identity of community members, one formed through the rituals in which the central myth is embodied, while the imperative demands that they continue to make this designation of defining importance for identity and practice (Horrell 2005:103). In addition, according to Schnelle (2003:547), the indicative is the basis for the imperative,[494] so that both indicative and imperative materials are intertwined (O'Toole 1990:54). In this regard, the Corinthian believers were to remember that they had been saved by the blood of Jesus, and hence, should behave like followers of Jesus. From such thinking, it follows that it is not acceptable that believers have lawsuits against each other and that they go before unbelievers to settle the matters. They should rather have reconciled and forgiven their fellows' defects.

The tension between the indicative and imperative reflects the important theological basis of the whole of Pauline thinking, that is, the tension between two ages. Ladd (1994:568) explains that for Paul Jesus followers were citizens of the new age while they still lived in the old age. Thus the indicative includes the assertion of what God has done for the new age (future), and the imperative involves the exhortation to live this new life in the old (present) world.[495] In other words, the imperative indicates the fulfilment of the new being (Schnelle 2003:547). In this perspective, the purpose of the person who experiences the life of the new age is to obey the will of God (Ladd 1994:569). And, as Crook (2007:87) states, for Paul this new relationship with God requires a new way of living as a follower of Christ.[496]

The new life in Christ frames Paul's ethical teachings (Crook 2007:87).[497] Believers are not simply forgiven for their sins, they furthermore are also given the power to overcome sin. The Corinthian believers had attained a new identity by the gospel, and Paul continuously instructs them to reflect this new identity in their lives. It might imply that the Corinthians

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[493] Ladd (1994:565) elucidates that believers have been sanctified, and cleansed from all sins. Paul considers this as grounds for ethical conduct.

[494] According to O'Toole (1990:54), the indicative material reveals Paul's theology or teaching, and the imperative contains what Paul counsels for moral behaviour.

[495] In this regard, Paul gave his communities clear instructions through imperatives (Marxsen 1993:184).

[496] Ladd (1994:569) also expounds that on the basis of what God has done (indicative), Paul guides believers to the eventual act of worship by offering themselves to God (imperative).

[497] According to Crook (2007:88), Paul mentions moral issues in most of his letters expanding the topic especially in his letter to the Corinthians.

already knew how they had to treat their Christian brother in situations involving litigation. In Paul's opinion the Corinthian believers should have known that they should not litigate among fellow believers, or if they had differences requiring a legal decision, they should have resolved the matter within the community rather than going before unbelievers in open, civil court. By having lawsuits they failed to live up to their new identity as Jesus followers. That is, in Paul's moral perspective the Corinthian believers forfeited their new identity as God's people, when they used a worldly way to solve their internal problems. As for lawsuits, they would be a fatal blow to the maintenance of the communal unity.

As God's people who have a new identity, doing 'good' seems to represent Christian living (O'Toole 1990:54). In this regard, the two passages, Romans 12:17 and 1 Thessalonians 5:15, provide good models of Christian action. According to those Bible passages, Christians should not repay evil for evil, but always seek to do good to one another and to all, overcome evil with good (cf. Rom. 12:21).[498] However, in 1 Corinthians 6:1-11 the Corinthian believers show that on the contrary they repayed evil for evil through lawsuits against fellow believers.

However there is some difference of opinion about the relationship between the indicative and the imperative. According to Furnish (1968:225), the Pauline idea of grace includes the idea of obedience, which would render it incorrect to assume that for Paul, the imperative is based on the indicative. The Pauline imperative is not just the result of the indicative but absolutely essential to it. In addition, Furnish (1968:226) explains that in Christ Paul understands that redemption is freedom for obedience to God. Thus, for Paul, obedience is neither preliminary to the new life nor secondary to it, but in itself constitutes the new life.[499]

Matera (1996:138) mentions that in the Corinthians letter Paul refers to the deterioration of his relationship with the Corinthian believers. In this situation Paul is trying to exhort and

[498] Matera (2007:332) mentions that "the structure of both Romans and Galatians indicates that the morally good life is made possible by the gospel Paul preaches."

[499] In addition, Furnish (1968:226) introduces Paul's metaphor to explain the Christian life. In 2 Corinthians 11:2-3 believers are described as Christ' bride, implying that Christians belong to their Lord like a wife belongs to her husband. In this relationship the husband takes care of his wife, and the wife obeys him, so Christians have to obey and live according to God's word.

encourage them to follow his instructions. Paul advises, admonishes, and sometimes reproaches the community even while also comforting them, because their community is suffering with social and moral problems. In doing so, Paul encourages the community to become more mature.[500] Thus, Paul's letter to the Corinthians contains moral instruction rooted in the gospel, and reciprocally his explanation of the gospel has moral significance (Matera 1996:141).

Paul clearly bases his expectations for a moral life on his theology, premising his entire ethical perspective on what God has done through Jesus Christ. Thus, as Fedler (2006:205) elucidates, Paul begins with the confession of faith accepting that we are 'new creations' that God has created, with the ability to discern the parameters for a moral life lived in response to God's grace. And as Schnelle (2003:548) adds, Paul's theme of ethics is the new life in the sphere of Christ.

In particular, Paul's thinking about human life started from the sovereignty of God, whom he confesses as "the one who makes demands of people, who gives people the power to meet those demands, and who stands in judgement over them for their failures. This concept of the sovereignty of God shaped all of Paul's statements about moral obligation" (Crook 2007:87). Admitting the sovereignty of God would mean obeying to God's words. Thus, if believers would know the instruction of 'love each other,' they should obey to the teaching and practise according to the teaching. However, although the Corinthians would have received Paul's earlier instructions, those who involved in litigation with their fellow believers for their own benefit show by their behaviour their neglect of Paul's teaching regarding an ethical life.

There is another fact in practising morality in their life, which is that Christ Jesus became a model of how to practice love, how to live a life characterised by love. Schnelle (2003:549) explains that because Christ died for love of human beings, and this love leads and sustains the community (2 Cor. 5:14; Rom. 8:35, 37), it controls the Christian life as a whole (1 Cor. 8:1, 13; Gal. 5:6, 22; Rom. 12:9-10; 13:9-10; 14:15). For Paul ethics comprises the dynamic

[500] Paul reproaches and admonishes the Corinthian community for the right behaviour toward their fellow believers, in 1 Corinthians (Matera 1996:141).

aspect of participation in Christ, which amounts to becoming a new being (Schnelle 2003:546). Schnelle (2003:550) adds that to be a Christian is to imitate Christ, and is characteristic is a love. In the Pauline ethic love is the crucial principle of every action. Therefore, whoever does not act from love is not correspondent with the new being.[501] However, the Corinthian believers had obeyed the authority of the secular world, turning to litigation to settle their disputes, instead of relying upon love of God. For Paul this represents a thorough (moral) defeat, since it discards Jesus' teaching, "you shall love your neighbour as yourself" (Mt. 19:19; 22:39; Mk. 12:31, 33; Lk. 10:27; Gal. 5:14).

Considering his insistence on a lifestyle befitting a follower of Christ, for Paul the court case happening in the Corinthian community is definitely not acceptable. Perkins (1992:654) stresses that conversion to Christ entails moral reformation, and while the Corinthians did not know God, they are now God's people. It follows that their lives must be changed and they should behave as God's people. Can people who imitate Christ have a lawsuit against their Christian brothers? The answer to this is no, although probably did not preclude Christians from ever having lawsuits against other people. In 1 Corinthians 6 the Corinthian believers were sufficiently able to solve their problems by alternative means within the community, besides a lawsuit. In the end, having the lawsuit against fellow-believers is for Paul tantamount to forsaking the life of being a Jesus follower.

5.4 Paul's Eschatological Ethics

The aim of this section is to understand Paul's ethics based on his eschatological theology.[502] Kreitzer (1993:265) insists that Paul's letters show a close connection between eschatology and ethical exhortation. Although Christology is sometimes seen as the essence of Paul's ethic, a more convincing argument can be made for concentrating on the impact of

[501] In the end, the starting point and basis of Paul's ethic can be summarised as the unity of life and the action of the new being as participation in the Christ event. Jesus Christ provides both the foundation and the character for the Christian life (Schnelle 2003:551).

[502] Lohse (1996:159) asserts that "ethical teaching was unfolded under the eschatological perspective of Paul's theology."

eschatology on his thinking (Aasgaard 2002:514),[503] even to the extent that his gospel loses its power without the eschatology (Sampley 1991:108).[504] Eschatology is important in the Corinthians letter as well, when in fact the eschatological perspective dominates from the start in 1 Corinthians, and particularly in 1 Corinthians 1:7 (Kraus 2011:198).[505] Thus one might assume that Paul's eschatological thinking is related to his ethical theme, as Matera (2007:333) argues when he describes Paul's ethic as eschatological because it expects believers to live with a tension in their lives. This tension is eschatologically inscribed as explained below.

In addition, according to Dunn (1998:712), the eschatological theme is certainly formed by the subject of the paraenesis; that is, Paul's eschatological thinking is important within his discourse of persuasion. For Fee (1993:55) the focus in verses 2-4 of 1 Corinthians 6 is on the community's self-understanding as God's eschatological people who should live their future lives in the present time.

In the end, it is in his eschatological theology that Paul's ethical instructions to the Corinthian believers and to the community suggest more clearly how to live and act as Jesus followers in a secular society.

According to O'Toole (1990:126), Paul wrote his letter to the Corinthian believers in an

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[503] As Aasgaard (2002) mentions, other theological factors can be suggested to describe Paul's ethics. In this regard, Furnish explains Paul's ethics theological, Christological and eschatological principles, all related inseparably in Paul's preaching and his ethic (Furnish 1968:213). Here, two principles, theological and Christological, are introduced briefly. Furnish (1968:213) bases the Pauline ethic mainly on theological thinking, premising that man's whole life and being rely upon the creative, sovereign and redemptive power of God. Accordingly, the theme of God's power permeates the entire Pauline theology: "the transcendent power belongs to God," 2 Cor. 4:7, and the power of God which raised Christ from death will also raise up those who are in Christ (1 Cor. 6:14). Secondly, Paul regards Christ's death and resurrection as the crucial events of grace through which God's power is active in the present (Furnish 1968:216), rendering Christology one of important principles in Paul's ethic. Faith in God's power is focused on Christ as located in his death and resurrection (Furnish 1968:216).

[504] In addition, Sampley (1991:107) states that Paul was convinced that the world was soon coming to an end.

[505] Kraus (2011:198) asserts that the awaiting of Christ's imminent Parousia is found throughout the whole 1 Corinthians letter. In addition, Aune (1992:602) explains that the themes of Parousia, resurrection and judgement are intertwined each other in Paul's eschatology.

eschatological context,[506] and Furnish (1968:223) sees the whole of Paul's theology (including being called the Pauline ethic) as adjusted eschatologically.[507] Similarly Hays (1999:391) mentions that Paul was trying to instruct the Corinthian community to think eschatologically,[508] thereby providing them with the underlying perspective within which everything else is viewed (Furnish 1968:214). In particular, 1 Thessalonians 1:9ff reveals the eschatological foundation of Paul's gospel (Aune 1992:602), and 1 Thessalonians 4:13-18 proclaim that at the Parousia all believers will be raised to be with the Lord (Schnelle 2003:582).[509] And in 1 Corinthians 6:2-3 Paul specifies the eschatological statements that believers will judge the world and angels.

For understanding the broader framework, I list some fundamental elements to understanding Paul's eschatology. Firstly, the death and resurrection of Jesus Christ provides the basis for all of Paul's eschatological statements,[510] Christ's resurrection indicating that a past event has determined both the future and the present (Schnelle 2003:577, 578).[511] Believers - including the Corinthian believers - are people with a specific eschatological status, who are waiting for Jesus Christ to return at the Parousia.[512] Accordingly, these statements inform how Jesus followers should live in their present life. The Corinthian believers should have kept Paul's ethical teaching in mind in the way they lived their present life, as those destined to judge the

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[506] O'Toole (1990:126) states that Paul envisaged that Jesus would soon return and so bore the morality in mind.

[507] In addition, Furnish (1968:215) considers Romans 12-13 a significant example of the eschatological orientation of Paul's theological ethic. According to him (1968:215-216), the admonitions in these two chapters are structured as an introduction (12:1-2) and a conclusion (13:11-14), and both sections emphasise the eschatological existence in the exhortation.

[508] In Paul's sketch, God will consummate the eschatological conversion of outsiders through incipient Christian communities (Hays 1999:394). Matera (2007:333) focuses on Paul's ecclesial ethic to underlines his urgency concerning the moral life of the community.

[509] Thus in Philippians 1:23 Paul states the constant foundational element of his eschatology as being in Christ – which Ladd (1994:525) interprets as being in the new sphere of salvation.

[510] In this regard, Sampley (1991:109) clarifies that in the death and resurrection of Christ, God not only condemns sin, but also begins the new creation. In other words, the two ages – from Christ's death and resurrection until his Parousia, the Day of Judgment.

[511] Thus the renewal of baptised Christians has both functional and temporal phases as eschatological existence. According to Schnelle (2003:581), baptised Christians must know that the resurrection and Parousia of Jesus Christ represent functional and temporal turning points of God's saving acts, as the foundation of the Christian's eschatological existence.

[512] In this regard, Paul maintains his conviction of the imminent coming of Jesus Christ in his eschatological affirmations (Schnelle 2003:586).

world and the angels. Yet, they showed their incompetence by failing to settle even trivial matters. As Ladd (1994:525) asserts, the death and resurrection of Jesus Christ were eschatological events,[513] which occasioned the transition to the Age to Come, and believers could already experience this transition. Marxsen (1993:167) says, "The point of departure and basis…of the ethic of Paul is the eschatological salvific event of Jesus' death and resurrection, in which God acted eschatologically and finally for the salvation of the world." Thus the important fact is that the transition could happen only 'in Christ.'

Secondly, the Parousia is a significant element to understand Paul's eschatology. For Paul the expectation of the Parousia is a vital way of understanding the Day of the Lord (Aune 1992:602) and he mentions it often – in 1 Corinthians 15:23, 1 Thessalonians 2:19; 3:13; 4:15; 5:23.[514] Schnelle (2003:579-580) says Christians live their lives between the resurrection of Christ and his Parousia, indicating that the age to come has already begun with the resurrection of Jesus (Aune 1992:602).[515] Paul's conviction that in Christ the old has passed away and the new has come is based on an eschatological statement, and this new creation anticipates the eschatological fulfilment at the Parousia (Ladd 1994:522).[516] And Paul expected the age to come to arrive in the near future (1 Cor. 7:29) (Aune 1992:602). In the end, as Schnelle (2003:586) insists, Christ's event as the present and future remains the basis of Pauline eschatology. In particular, Paul's eschatology is not limited to the past (O'Toole 1990:136), and as Furnish (1968:214-215) points out, neither is it entirely futuristic; the eschatological action of God includes a present phase. According to Wolter (2011:417), in Paul's eschatological thought the present can be considered as the end time. As mentioned earlier, Paul and his communities experience a peculiar tension between the present and the future.

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[513] According to Fee (1993:56), Paul's eschatological thinking focuses on the event of Christ, that is, his death and resurrection. Thus Paul admonishes his converts to live in a way that accords with the ethical suggestion of Christ's death and resurrection (Matera 2007:332).

[514] In addition Aune (1992:602) elucidates that the prophetic notion of the Day of the Lord (Joel 2:1-2; Am. 5:18-20; Zeph. 1:14-16) became the foundation for Paul's idea of the impending eschatological judgment of the world (Rom. 2:16; 1 Thess. 5:2).

[515] Paul did not consider the resurrection of Jesus as a single event, but rather as the first step in the future resurrection of all the righteous, as described in 1 Corinthians 15:20-23 (Aune 1992:602).

[516] In 2 Corinthians 6:17 Paul says "So if anyone is in Christ, there is a new creation; everything old has passed away, see, everything has become new" (NRSV).

This antithetical idea of 'already and not yet' is the third important element of Paul's eschatological ethics.[517] According to Wolter (2011:419), this tension between the 'already' and the 'not yet' is generally used in a temporal sense[518] and retains a dualistic contrast between the present and future, a typical feature of Jewish apocalyptic thought (Rom. 8:18; 1 Cor. 7:26; Gal. 1:4) (Aune 1992:602).[519] However, according to Furnish (1968:215), Paul's preaching overcomes the traditional categories of Jewish apocalypticism, in that Paul's Christian apocalyptic transforms the Jewish apocalyptic idea of dualism (Beker 1982:40).[520] In Paul's thinking the reality of God's power is already revealed in the present. His statements regarding the future salvation are expressed from his marked assertions that "now is the day of salvation" (2 Cor. 6:2) and that "if anyone is in Christ he is a new creature" (2 Cor. 5:17). Sampley (1991:109) expresses that the new age has begun in the middle of the old age[521] so that while believers live in the old age, because they are in Christ they belong to the new age with its new creation ('indicative'), and live a life expressive of the new being ('imperative') (Ladd 1994:523). However, the Corinthian believers were acting like unbelievers, who think firstly of themselves, not others. Lawsuits are the system for accruing advantages for oneself in a worldly setting, while the priority of a Christian community should be switched from self to others. Paul says to the Corinthian believers, "Why not rather suffer wrong? Why not rather be defrauded?" (1 Cor. 6:7b), because the believer's chief focus should be the interest of others.[522]

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[517] Fee (1993:56) asserts that this perspective pervades Paul's ethics.

[518] Hays (1999:401) describes Paul's reading of Scripture as 'bifocal,' corresponding to the dialectical ('already/not yet') character of his eschatology.

[519] In addition, Wolter (2011:419) expounds more concretely as follows: "within the present it is characterised that the 'present evil age/world' (Gal. 1:4; Rom. 12:2; 1 Cor. 1:20; 2:6, 8; 3:18; 2 Cor. 4:4) is surpassed by the anticipated coming aeon. The time of salvation in the new aeon is 'already' dawning even though the old aeon is 'yet' continuing."

[520] Beker (1982:40) explains that the death and resurrection of Christ show the infiltration of the future new age into the present old age. Thus the Christ-event has strongly changed the dualistic structure of Jewish apocalyptic idea.

[521] Matera (2007:334) describes more concretely that even though believers have already been justified in Christ, they have not yet been saved and must live between two ages. On the one hand, they are already living in the new age of the Spirit. On the other, they are still living in the old age which has not yet passed away.

[522] The Jewish idea of 'already and not yet' enhances Paul's point regarding the event of lawsuits in the Corinthian community. The Corinthian believers became Jesus followers by Paul's missions, which means that they were supposed to live according to Paul's teaching, and they should have shown their new identity as Jesus

As Fee (1993:56) mentions, the believer's present existence is completely determined by the future that has already begun, a fact which controls Paul's ethical imperatives at every step (Fee 1993:57).[523] But even though the future has already begun and conditions present existence, it is still waiting for its final completion (Fee 1993:57).[524]

Finally Paul's ethical instruction bears an incisive perception that the end of the age has already made its appearance and that the final completion of all things is close at hand (Matera 2007:334). Accordingly, those who live in this structure must recognise walking between the old age (present), which is passing away, and the new age (future), which has already begun.[525] Fee (1993:57) suggests that believers may not take one another to pagan courts, because their lives are adapted by eschatological realities.

An important marker in the eschatological tension between already and not yet in Paul's writings, is baptism. Schnelle (2003:551) mentions, that although in baptism believers can be in Christ they are still exposed to the temptations of the world and do not yet live in the condition of final perfection. That is, they live in the time between the old ('the cross') and the new ('the Parousia') as the new existence.

Fourthly, thus, baptism is another important element in understanding Paul's eschatology, since it symbolises death with Christ and living again with Christ. That is, by baptism believers are united with Christ, and believers are conferred a new identity by baptism.

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followers from their ethical behaviour. They already became God's people, but they ought to live as God's people in their lives until Jesus comes. However, in the first century C.E. the Roman legal system contained unethical elements and was often wrongly used by those who were in a higher social status and had a social power. Thus, for the Corinthian believers their behaviour having lawsuits against their fellow believers should have been unacceptable in Paul's ethical perspective.

[523] In addition, Wolter (2011:423-424) points out that in 1 Corinthians 13:13 featuring the well-known trilogy 'faith, hope, love' these three virtues present the Christian's eschatological life in the present of the 'already' and the 'not yet' as recurring in an eschatological context in 1 Thessalonians 5:8.

[524] In addition, Wolter (2011:418) suggests that some passages, Romans 8:23; 2 Corinthians 5:1-8; Philippians 3:21 and especially 1 Corinthians 15:50-54, show that for Paul the 'not yet' of eschatological salvation is caused by the weak and perishable body of the Christian's present existence, as believers await an eternal body.

[525] Schnelle (2003:581) suggests that the peculiar combination of present and future appears also in Philippians 3:10-11.

Christians can be saved by being in Christ and by "putting on Christ" in baptism. In the end, by dying with Christ in baptism Christians are associated with Christ and share the promise of resurrection (Rom. 6:1-11; Gal. 2:20).

According to Furnish (1968:217), through baptism believers have already died with Christ, and as Christ was raised from the dead through the glory of God, believers too might walk in newness of life (Rom. 6:4)[526] with an identity that they must reaffirm through the gospel of Jesus Christ (Hays 1999:395). In particular, Schnelle (2003:596) explains that baptism confers the Spirit and is the starting point of new life. Through baptism believers join with Christ, and are granted eternal harmony with the risen Jesus as mentioned in1 Thessalonians 4:17.[527]

For Horrell (2005:102-103) baptism is the act in which believers take part in these events 'with Christ.' The death of Christ and his burial symbolise the Christian's own death and burial (Rom. 6:3-4). Wolter (2011:419) asserts that the believer's baptism also can be described as an eschatological event, because 'a death' is compared to that which baptised Christians experience when they 'die to sin' (Rom. 6:2, 8a, 11a). In particular, Wolter (2011:419) understands baptism in the sense of 'not yet,' because baptised persons have not yet been resurrected with Jesus Christ. Ultimately believers will experience resurrection together with Jesus (Rom. 6:8b).[528] In baptism Christians become the new reality of 'being in Christ.'[529] Righteousness and holiness are gifts of God which humans cannot achieve by their self-realisation. Paul makes the Corinthians recognise themselves as persons who have been baptised and are therefore justified, sanctified, and redeemed (Schnelle 2003:201).[530]

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[526] Freed (2005:31) explains that at the time Paul wrote to the Galatians, and particularly the Romans, he highlighted the significance of baptism for moral life; he explains the significance of baptism clearly in 1 Corinthians 6:9-11, with verse 9 addressed to the baptised converts at Corinth.

[527] Schnelle (2003:578) states that the confidence of this future decides the present, and Paul clearly stresses this eschatological qualification of the present in 1 Thessalonians 5:1-11.

[528] Wolter (2011:419) explains that their new life (Rom. 6:4) can be understood in the term 'already' in the eschatological salvation, because believers are those who are dead to sin, and also considered as alive to God in Jesus Christ (Rom. 6:11b).

[529] According to Best (1955:18), the phrase 'in Christ' is used to indicate the "salvation-historical (*heilsgeschichtliche*)" state of those who belong to Christ.

[530] Fedler (2006:194) suggests that righteousness means a retrieval of right relationships with others in the faith community.

However, the Corinthians' suing each other shows that they were not embracing a renewed life, but were acting from their previous, unconverted status.[531] Their behaviour was unrighteous, instead of being righteous and holy.

In the end, Paul considers baptism as the participation in the death and resurrection of the divine.[532] Freed (2005:28) regards baptism as the initial entrance ceremony into the renewed covenant community of God.[533] It includes the meaning that members of the renewed community are obligated to moral or ethical behaviour (Freed 2005:29). But the Corinthians misunderstood the true meaning of baptism, understanding it simply as the gift of the Spirit which surpasses the limitations of their previous being and extends their life expectancy (Schnelle 2003:206).

The last important eschatological element in Paul's eschatology is his conception of the last judgement.[534] Schnelle (2003:585) finds that the notion of the last judgement provides theological expression to the belief that God is always interested in the way people live and in history as a whole. Fee (1993:57) understands that when Jesus Christ comes again, he will raise not only the dead and change the living, but also destroy the enemy and death (1 Cor. 15:24-28, 54-57). In addition, according to Hays (1999:405), the theme of eschatological judgement is related to the present, but the emphasis focuses more on the shift accomplished by God's power. In the end, faithful Christians are convinced of reward for their suffering when Jesus comes again (Phil. 3:8-11; 1 Thess. 4:13-18; 1 Pet. 1:3-9). By contrast, those who remain under sin or who have been enemies of the gospel will be condemned at the judgment day (Rom. 1:18-2:16; Phil. 3:18-19; 1 Thess. 2:14-16) (Perkins 1992:655).

These five fundamental elements suggested provide suitable ideas to understand Paul's

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[531] Hauerwas (1981:131) clarifies that conversion inevitably demands a turning of the self.

[532] Fedler (2006:194) mentions that God declared persons to be not guilty because of the death and resurrection of Christ.

[533] Johnson (2009:139) explains baptism as "the ritual of initiation that marked entry into the community."

[534] In this regard Perkins (1992:655) insists that divine judgment plays an important role in ethical exhortation in the New Testament. For example, believers are exhorted to continue lives of virtue, worship of God, and mutual love in view of the coming judgment as mentioned in 1 Thess. 5:1-24; Phil. 3:12-21; 1 Cor. 7:25-31; Eph. 5:6-20; Heb. 10:19-31; 12:14-29; Rev. 2:1-3:22.

eschatology. There is one common point among the five elements. All five elements mentioned above are directly related to Jesus Christ. That is, Paul understands his eschatology to be based on Jesus Christ. Paul suggests the life following Jesus Christ as an example of believers' lives. The life following Jesus Christ should be the only one which believers must pursue during their lives. Thus the lives of Jesus followers must be under the sovereignty of Jesus Christ. In addition, being 'in Christ' is related to being 'in the church' and 'in the Spirit.' According to Ladd (1994:524), firstly, he suggests that the phrase 'in Christ' is equal to being in the church. For example, in Galatians 1:22 the communities of Judea are in Christ, and in Galatians 3:28 and Romans 12:5 (and in Eph. 3:6 also Gentile) believers are one body in Christ. These statements imply that believers are not only individuals but also as one in Christ (Ladd 1994:524). Secondly, Ladd (1994:525) asserts that the person in Christ is also 'in the Spirit,' and to be 'in the Spirit' means to be in the sphere where the Spirit blesses and gives new life.[535] Hence life in the Spirit implies eschatological existence-life in the new age, and this life is created by the fact that the existence of the Holy Spirit in the community is itself an eschatological event (Ladd 1994:526).

However, Paul's eschatological perspective sometimes provides sense for negative present experiences (Aune 1992:603).[536] The list of vices described in Galatians 5:21 and 1 Corinthians 6:9-10 illustrates such negative aspects of present experiences, which will result in participants being barred from inheriting the kingdom of God. Thus, for the Corinthian believers the list of vices described in verses 9-10 of 1 Corinthians represents unacceptable deeds, because they belong to an eschatological status in which they will share the kingdom of God.

As Fedler (2006:11) insists, Christians were created originally to be in a harmonious relationship with God and one another. In this regard, Matera (2007:333) mentions that Paul is particularly concerned with preserving the unity of the community, and appeals to the Corinthians to observe his teaching. However, lawsuits separate the community and destroy its unity.

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[535] The opposite of 'in the Spirit' is being 'in the flesh' (Rom. 8:9) (Ladd 1994:525).
[536] Aune (1992:603) states that eschatology forbids certain unacceptable types of behaviour explicitly.

According to Schnelle (2003:558), when Paul mentions the new being that is obliged to act ethically, he also intends his hearers and readers to remember his teaching and tries to resolve the problems between them accordingly.[537] The Corinthians became new beings by the gospel, obliging them to try to work out their inner problems within the community, instead of laying them before a secular court.

Therefore, as Matera (2007:333) describes, the Christian community must be holy because it has been bought and sanctified through the blood of Christ. In this regard, Paul designates the community as a sanctified community, and believers in Christ are "the saints" or "the holy ones," who have been washed, sanctified, and justified "in the name of the Lord Jesus Christ and in the Spirit of our God," as mentioned in 1 Corinthians 6:11.[538] For Paul, holiness has the moral or ethical meaning 'to free from wrongdoing,' and 'make holy' has the same meaning in 1 Corinthians 6:11 (Freed 2005:33). In the end, as Hays (1999:411) states, Paul is trying to reshape the Corinthians' consciousness so that they take corporate responsibility for the holiness of their community in the eschatological belief.

5.5 Lawsuits and Christian Life

5.5.1 Lawsuits in the Corinthian Community in Paul's Eschatological Ethic

We have already investigated the legal system of the first century Roman society in chapter 2. In those days, civil lawsuits generally could be initiated with agreement and presence of both litigants. And the litigants could appoint judges for themselves. In the civil proceedings one serious problem was that the social status or power of litigants could influence the outcome of judgement. In other words, litigants sometimes behaved unethically to win lawsuits. In the event of lawsuits in the Corinthian community of believers one may assume that the

[537] Schnelle (2003:558) asserts that only through joining in the Christ event can believers be freed from the power of sin, and by the Holy Spirit a life of believers can dwell in love, which accords with Christ's own life.
[538] Matera focuses on the community in the light of the ecclesial ethic in 1 Corinthians, distinguishing two points, viz. the need to maintain the holiness of the community, and the need to build up and maintain the unity of the community in terms of the ecclesial ethic.

Corinthian believers could also find themselves in similar unethical situations. Even though the Corinthian believers would know how unethical the Roman legal system was, they relied upon the secular legal system to settle their trivial matters. It implies that the Corinthian believers presented their unethical behaviour which did not correspond with their new identity as Jesus followers.

In this section I will attempt to determine the impact of an eschatological, ethical impact on Paul's position regarding lawsuits that took place in the Corinthian community.

As Freed (2005:122) indicates, Paul apparently believed that taking a brother to court was a more serious offense than having differences of opinion about baptism and wisdom (1 Cor. 1:10-17).[539] In his view, a Corinthian believer received a new identity as a follower of Christ after converting from paganism through Paul's mission.[540] It means that the manner in which they live has to be oriented to their new being ἐν Χριστῶ (cf. Gal. 3:26-28), and they have to know that they must always act from love (Gal. 5:22) (Schnelle 2003:580).[541]

In particular, Paul identifies members of the Corinthian community as brothers.[542] In his understanding Paul uses the term 'brothers' to indicate members of a religious community, not original blood brothers (Freed 2005:23).[543] However, according to Horrell (2005:112), in the ancient world the Greek term ἀδελφός is generally used primarily to indicate a blood brother, but could also be understood in relation to various other bonds and relationships

[539] In 1 Corinthians 1:10-17 a dispute arose in the Corinthian community. Some of the Corinthian believers say that we belong to Paul, some belong to Apollos, some belong to Cephas and some belong to Christ. The text shows an example of a split in the Corinthian community.

[540] According to Schnelle (2003:207), both Paul and the Corinthian believers base the concept of identity on the life-giving power of God. In particular, Horrell (2005:91-92) explains that 'Christian' identity refers to belonging to a particular and defined group, the Christian community.

[541] Mott (1993:271) writes, "Love is the specific pattern of life by which grace forms the new reality of the believer."

[542] According to Horrell (2005:111), in his letters, especially in the seven authentic letters, Paul uses the term brother(s) to refer to believers 112 times, and this metaphor appears most frequently in 1 Corinthians (Aasgaard 2002:516).

[543] Freed (2005:23) explains that it was common that group members were called brother in the ancient world, and that in Judaism all members of a particular family or tribe were regarded as brothers (e.g., Lev. 25:25; Num. 16:10).

where interaction took place.[544] In Paul's thinking everyone including himself and his fellow believers was in a sibling relationship, irrespectively of their earlier social, cultural and religious provenance (Aasgaard 2002:518).[545] Using a term with 'sibling' connotations in 1 Corinthians implies ethical thinking and praxis in life in mind (Aasgaard 2002:518).[546] In other words, as Freed (2005:24) mentions, Paul thought that his community of believers who were converted into new persons by the gospel, had to be motivated to moral life grounded in love and faith toward God.[547]

Aasgaard (2002:519) explains that in a social and cultural sense of that day, the idea of honour and shame were very important concepts, and in this regard one significant task of siblings was to conserve their own honour and that of the family, within the family and also in external relationships.[548] Accordingly, if Jesus followers would engage in some legal cases, especially with their (spiritual) siblings, this would show that they were jeopardizing the reputation of both themselves and their Christian fellowship (Aasgaard 2002:526).

In the matter of the legal case which Paul addressed in 1 Corinthians 6 they were negligent of their honour as it pertained to the community of believers.[549] Thus, as Horrell (2005:114) mentions, it would be better to suffer wrong and be defrauded than to inflict it on a brother (1 Cor. 6:7-8). In Paul's eschatological thinking the Corinthian believers were those who received a new identity and the spiritual authority to judge angels and the world at the end of the day. However, they totally forgot their spiritual status and performed the same action as

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[544] Aasgaard (2002:528) explains that even though Paul also employs theological arguments (viz., Jesus followers as eschatological judges of the world, v. 2) it is the socio-historical structure that is most noticeable: "Christians as siblings are to display unity, avoiding the dishonour incurred by lawsuits and finding an internal solution to their conflicts."

[545] Such a sibling relationship was considered an important factor in antiquity, and also connected to expectations of shared responsibility, tolerance, forgiveness, concern for honour, and harmony (Aasgaard 2002:520).

[546] Paul uses the sibling metaphor to draw attention to an emotional element in his ethics (Aasgaard 2002:529).

[547] Scroggs (1996:18, 19) insists that a believer is a transformed person who has been enabled to perform 'right' actions, and for Paul the transformed person lives out of the realities of freedom, joy, peace, love and constructiveness.

[548] Thus where possible, people had to try to deal with conflicts internally, within "the four walls of the house" (Aasgaard 2002:519).

[549] Hurd (1965:85) points out that the Corinthians "lacked a knowledge of the basic facts of their Christian faith."

those who belong to the worldly culture and customs.

Apparently, the Corinthian believers were people who were converted to Christianity by the gospel and dwelled in Christ by baptism, which implies that they would agree to adopt a moral life in contrast with the past life as a pagan. Thus, Paul emphasises that the Corinthian believers who are in Christ have to live ethical lives because they have already put off the old person and have put on the new (Ladd 1994:522).[550]

Perkins (1992:660) clarifies that those who pursue a moral life are required to be holy free from sexual immorality, and mutual love, a radical change from the way they had been living.[551] Accordingly, as Schnelle (2003:550) states, if their behaviour in some actions did not exemplify that of the baptised person, they were not living in accord with the new being (1 Cor. 3:17; 6:9-10; 8:8-13; 10:1ff; 2 Cor. 6:1; 11:13-15; Gal. 5:2-4, 21; Rom. 6:12ff; 11:20-22; 14:13ff).

According to Schnelle's (2003:194) explanation about the Corinthian community, it reflected the religious, cultural and social pluralism of the city, in which the majority of community members were Gentile converts from pagan religions, including people from various classes – both the lower social classes and the rich who occupied high civil offices in Corinth.[552] Horrell (2000:100) explains how many different people in the Corinthian community became one body in Christ, a situation belied when the Corinthians quarrelled instead of showing that the Spirit was truly working among them (Schnelle 2003:197). In the first-century legal context litigants involved in lawsuits would be from the same or at least similar classes in

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[550] Ladd (1994:522) explains that the putting on of the new person does not simply describe moral renewal, but also demands moral conduct.

[551] This is the central tenet of this letter and articulates the theological assumption behind every imperative (Fee 1993:47). However, as Perkins (1992:662) points out, Paul's eschatology does not always pursue radical attempts to change the social structure but rather observes a conservative position. For example, in 1 Corinthians 8:7-13 and 10:23-32 Paul insists that believers have to moderate their freedom to meet the needs of weak persons, adding (in Romans 14) that he would be prepared to become a vegetarian for the benefit of weak persons.

[552] For this, Horrell (2000:100) says "Paul especially teaches that people should remain in the social position in which they find themselves, with the lower status members of the churches giving due submission and deference to their social superiors, but that this patriarchal hierarchy is to be softened through the Christian demand that love should be shown to all, even to the most lowly and humble."

society. Or a plaintiff belonged to higher social status than a defendant even though they were at that time in the same community. And the result of lawsuits could be predetermined before judges approached judgement because the social power of litigants could influence the decision of lawsuits. Thus sometimes lawsuits would happen by the force of those who were in a high social status. According to the result of lawsuits those who won litigation could have many benefits for themselves, such as honour, financial or economic gain, while defeated persons lost many things. If the same phenomenon would happen in the believers' community, no difference is made between a secular society and the community of believers. Accordingly, having lawsuits among believers means that the characteristic of God's people such as love, forgiveness, tolerance or belief could not be found in their lives. Of course, the Corinthian community might have had conflicts within their community, and they failed to work out the problems in a way reflecting their status as followers of Jesus, which would have proven them to be new beings in Christ.

Thus, the Corinthian community would need love to unite them and to understand one another.[553] O'Toole (1990:83) mentions that for Paul love is at the centre of Jesus followers' life and morality.[554] Paul expresses love as "the greatest" among faith, hope and love (1 Cor. 13:13), and Freed (2005:24) describes love as the power which can bind different persons in a community. Moreover, Perkins (1992:664) explains that love for enemies assumes an important place in early Christian exhortation (cf. Luke 6:27, 35; Rom. 12:20). For Paul such problems should be resolved by Jesus followers themselves with love within the community of Jesus followers.[555] In the end, most of what Paul said about love alludes to the relationship of believers of Christ to one another, since they belong to one another and have to take care of one another (Crook 2007:91). In Paul's viewpoint having lawsuits with fellow believers makes them unworthy of the name 'Jesus followers.'

In addition, Paul believes that the heart of ethical behaviour is the new life in Jesus Christ,

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[553] According to Perkins (1992:657), the New Testament ethical exhortations concentrate on relationships between people, the basic features being love, reconciliation, humility (Phil. 2:1-5; Col. 3:5-14; Acts 4:32-37).
[554] In addition, O'Toole (1990:83) mentions that love leads us not to harm the neighbour nor ourselves.
[555] Aasgaard (2002:519) emphasises that siblings were to love one another and to show tolerance toward each other.

and that those who are in Christ have a new relationship with God, so that they become new people whose lives differ from their old being (Crook 2007:91). Despite the expectation to behave like a new being, the Corinthian believers remained in their old lifestyle, such as trying to win the lawsuit to maintain their own honour rather than thinking others. This is not the aspect of new beings that should live a new life in Christ.

In 1 Corinthians 6:11 Paul emphasises, "such were some of you," but now being in Christ, they are rendered children of God, controlled by God's word; thus, no longer children of darkness, but the children of light. Crook (2007:90) explains that Paul's primary aim was to convert to Christianity, positing that a Christian's main concern is to convert others by telling them about the gospel. They should not take revenge, even against those who have wronged them (Rom. 12:14-21).

However, the Corinthian believers apparently understood freedom as a matter of individual rights, so that they continued their social identity outside the community (Schnelle 2003:207). As a result, they did not try to solve their trivial disputes within the community, but before pagan courts. But, Paul insists that Jesus followers must be ready to suffer injustice and to abandon even their rights and not try to establish their rights before the courts.

For the Corinthian believers the issue of lawsuits is focused on their present concerns. They might take their brothers to court for the sake of their existing benefits. Paul expressed the behaviour of the Corinthians as ultimate defeat. The Corinthian believers forgot their new identity which is a result of Jesus' death. Paul's eschatological ethics makes the Corinthians to surpass from their restricted eyes focused to the present state. In line with his eschatological ethics Paul calls upon the Corinthians to recognise their eschatological status by rebuking their conduct. Paul reminded believers in Corinth that they are those who have authority which can judge the world and angels, and he emphasises that Jesus followers must live and behave ethically before God even in the present. Believers as God's people will inherit the Kingdom of God when Jesus returns. Thus they should not focus their concerns on the things which will pass and disappear, such as power, money, honour or fame on earth.

The Corinthian community carried the identity of being a community of Jesus followers. In the ancient world, religious identity was always connected with social identity,[556] and Paul expected the Corinthian believers to transform their whole lifestyle (Schnelle 2003:205),[557] reshaping their behaviour to be moral or ethical, building up Christian community by the wisdom which comes from God.[558] Thus as Hays (1994:39) suggests, the primary logical appeal was that disputes should be controlled within the community of faith. To those adhering to their previous lifestyle within its ethical and social customs, Paul says, "Why not rather suffer wrong? Why not rather be defrauded?" (1 Cor. 6:7b)

5.5.2 Ethos as a Christian Life

As stated above, behaviour can reveal one's identity as a Christian; in other words, Christians show God's love to others through their behaviour. The text of 1 Corinthians 6 shows the failure of the Corinthian believers as God's people, because suing each other indicates that they have lost God's love in their lives. In this regard, this section will consider a practical understanding in terms of the Christian's life – not just as a theory, but practically, and ideally how a Christian's individual life ought to influence others and society.

According to Freed (2005:26), Paul refers to members of his community as 'holy ones'. Individual identity as followers of Jesus is important in a secular society because those without faith can become Christians through the example.

Having obtained a new identity through baptism must display this in the world (Schnelle 2003:546),[559] however difficult it might be to abandon their old habits or customs, because

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[556] Thus Giddens (1979:117) states, "A social position could be defined as a social identity that carries with it a certain range of prerogatives and obligations that an actor who is accorded that identity may activate or carry out: these prerogatives and obligations constitute the role-prescriptions associated with that position."

[557] The identity of the community demands that it throw out the old leaven in order to maintain its purity (Thompson 2011:48). Thus Paul urges that the community's moral conduct should correspond to its identity.

[558] In this regard Hays (1994:39) suggests that true wisdom is to be found only in behaviour that maintains and builds up the community.

[559] Perkins (1992:654) insists that Christians should be expected to behave in a way that will influence outsiders (1 Pet. 2:12).

their aim is to be morally perfect, thereby reflecting God's moral character of holiness, love and truth (Hiebert 1980:53).

The community consists of these individual Christians, and as one Christian influences another individual, the community also influences society.[560] In this regard, Paul highlights the purity and holiness of the Church (Schnelle 2003:211), with admonitions to local communities to be holy, blameless, pleasing to God (1 Cor. 1:8; 2 Cor. 7:1; Phil. 1:9-11; 2:15-16; 1 Thess. 3:13; 5:23) (Perkins 1992:660). Meeks (1993:5) states "making morals means making community," and on the other hand, failure of the individual is the failure of the community (Matera 1996:145). This is why Paul reminds the Corinthian believers that their new status requires appropriate moral conduct.

Paul emphasises the purity and holiness of the community with images such as the body of Christ, the temple of God, the household of faith and the household of God (Crook 2007:89),[561] to emphasise both the role of the Christians and that of the community in an ethical sense.

As Perkins (1992:655) states, Christians always live between two contrary ways, viz. righteousness or wickedness, and life or death (Rom. 8:1-8). The Christian's life struggles with the influence of evil and therefore temptations toward immoral conduct (Crook 2007:92).[562]

From Paul's viewpoint, the failure of the Corinthian believers is caused by their misunderstanding the wisdom of the cross (Matera 1996:144).[563] Fee (1993:53-54) suggests

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[560] In the context of 1 Corinthians Paul focuses on the community, rather than on the individuals who committed wrong (Matera 1996:145), thereby perceiving the role of the church community in a secular world.

[561] In addition, Crook (2007:57) defines the church as the instrument of God's continuing self-revelation and of redemption for the world.

[562] Crook (2007:92) elucidates that Paul expected the final victory of good over evil only at the end of time – his expectation of that final victory was to be an incentive for faithfulness in the present struggle.

[563] In particular, Paul understands "the cross to be an identity marker that includes suffering and lowliness in one's relation to God and expects visible glory at the Parousia, which is to arrive in the near future" (Schnelle 2003:207). For Paul the cross is "determinative for his understanding of the church's ethical responsibility" (Hays 1996:27).

that the foundation of Christian behaviour is to build up, not to seek its own good but that of the other, obeying love as the standard in all circumstances (O'Toole 1990:87-88).[564] The first consideration is to remember what Jesus teaches us, that "if anyone strikes you on the right cheek, turn to him the other also."[565]

Ladd (1994559-565) suggests several reasons why Christians should live ethically: the first and central reason is that the Holy Spirit dwells in our lives. The second is that Christians should imitate Christ. In particular, baptism symbolises that Christians unite with Christ in his death and resurrection. The third reason is that Christ and the Holy Spirit dwell in Christians. Christians always need the help of Christ and the Holy Spirit to please God, and the indwelling power of the Spirit makes this possible. Lastly, the eschatological faith also can be a strong reason for the ethics of a Christian's life. Romans 14:10 and 2 Corinthians 5:10 specify that Christians will stand before the judgment seat of God and of Christ.

Hiebert adds a more important reason, viz. that there is love which comes from God. According to Hiebert (1980:57), besides establishing the pattern by which we are to live, love functions as the motive for living the most worthwhile life possible.[566] Matera (1996:151) also emphasises that the criterion for the moral behaviour should be love.[567] The reason is that God is the origin of love, to the extent of sending Jesus to die on the cross in order to save us. Similarly Jesus embodied love by giving up His life for us. Thus Christians who believe God's word and imitate Jesus should do everything they do with love,[568] also in dealings with their neighbour.[569]

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[564] In addition, O'Toole (1990:88) mentions that love is found in Paul's life and his communities.

[565] In this regard, Rosner (1994:95) suggests that the teaching of Jesus in 'turning the other cheek' is usually cited as leading Paul's point concerning suffering wrong in 6:7-11.

[566] In addition, Hiebert (1980:59) explains that for Paul, love is to be the strongest and best possible motivation for living as new creatures in Christ. Thus to understand love as a discerning ability in moral decision-making is to misunderstand its role in Paul's ethics.

[567] In addition, Knox (1961:92) states that the love working through us reveals itself in the characteristic of ethical behaviour.

[568] O'Toole (1990:123) also suggests that our actions should indicate that love is our aim and that whatever we do, is done in love as mentioned in 1 Corinthians 16:14.

[569] In this regard, Fedler (2006:11) asserts that Christians were created to be in relationship with other human beings.

Another important motive for living ethically is that Christians have faith, a concept which implies 'obedience.' Faith is never separated from Christian living or morality (O'Toole 1990:88).[570] Even in Romans 14:23b it is clearly described that "for whatever does not proceed from faith is sin," so that the passages 1 Corinthians 13:13, Galatians 5:6, 1 Thessalonians 1:3; 3:6 and Philemon 5 also show a relationship between faith and Christian moral living (O'Toole 1990:88).

In the end, Christians should reveal faith and love in their society as well as in a Christian community. Since Christians are designated as "the light of the world" (Mt. 5:14), they dare not expose faults to the world like the Corinthian believers did, thereby failing to deliver the power of the gospel effectively to unbelievers, and influencing the society. As Fedler (2006:193) states, human beings cannot live morally when they live isolated from God, but must strive to imitate Jesus Christ. Paul centres his whole life on Christ (O'Toole 1990:70) as is shown in 1 Corinthians 11:1a. If our whole life focuses on imitating Jesus, we will recover our identity as Christians and influence unbelievers and the secular world.

Paul seems to suggest that communities must observe their function to teach what is right or wrong. In this regard, communities should firstly be models of an ethical community, and secondly they must teach Christians to live and behave in love and faith. Therefore, as Crook (2007:100) clarifies, for Christians and the Christian community the aim of life should be "the unity of the faith and of the knowledge of the Son of God," which Paul expresses as 'maturity' (Eph. 4:13).

Therefore, the point is that Christians should live rightly before God, and they have to be free from sins. Paul does not want the Corinthians just to know how to live, but argues that they ought to live ethically in their lives. In this regard, Paul instructs the Corinthian believers to live ethically before God by indicating their fault of having litigation with their fellow believers. In 1 Corinthians 6:1-11 the behaviour of the Corinthian believers shows that they failed to influence others and society as Jesus follows. In a similar way, Christians in the

[570] O'Toole (1990:89) insists that faith works through love and is associated with it. Thus Christians should live by faith and persevere in it.

present are those who are saved by Jesus' death for sins. It implies that they should live and behave as God's people. Christians live in a secular world, but they must not be influenced by worldly sins, rather they have to overcome the temptations of sins. The ethical life of Christians should show who they are. Thus Christians must always remember their identity as God's people and build up the unity of the church community, not destroy it. As a matter of course, thus, the life of Christians must be ethical in all the spheres of their lives.

5.6 Summary

In this chapter, firstly, the lawsuits that happened in the Corinthian community were described from the perspective of Paul's eschatological ethics. He points out that their behaviour does not accord with their eschatological identity. Additionally, Paul points out that they failed to show love to their fellow believers by taking their (spiritual) brother to the court. Paul urges them to remember their new identity as beneficiaries of the kingdom of God and behave ethically.

Secondly, this chapter considers the believer's life. As God's people the faithful should think and act everything in accordance with love and faith, living so as to influence individuals and the world, that is, as a lighthouse to lead and lighten the world. However, Paul's viewpoint on individual ethic is magnified to include the community. In Paul's perspective both Christians and the Christian community play important roles in changing the world.

In Corinth of the first century C.E. unethical elements prevailed in the society in terms of the social, political and cultural environment. The litigants involved in lawsuits used wrong processes such as bribery, social status and social power to win the litigation. The behaviour of the plaintiff showed that there was no mercy and love for the opponent. Thus in the first century C.E. the meaning of using civil action is that people relied upon an unethical system to settle their matters. In a similar way, thus, for the Corinthian believers their behaviour relying upon the unrighteous legal system indicates their unethical behaviour in Paul's ethical perspective. In this regard, 1 Corinthians 6 can be read with the goal that the Corinthian believers should live according to their new identity as Jesus followers in their daily lives.

Therefore, the event of lawsuits would be an excellent example by which to demonstrate their new identity as followers of Jesus. In other words, Paul reminds the Corinthian believers that their behaviour regarding lawsuits against their fellow believers is unacceptable in view of his eschatological ethics. In 1 Corinthians 6:1-11 the Corinthian believers show their failure as Jesus followers through their actions.

In the end, Paul warns and admonishes the Corinthian believers including the Christian community, to recover their identity as God's people and to live as true Jesus followers.

CHAPTER 6
CONCLUSION

6.1 General Summary

Before I make some general concluding remarks, it is prudent to briefly summarise the main tenets of my argument, and I follow the structure I used in the dissertation.

The first chapter of the dissertation contains a brief layout of the reasons for the study, its problem statement and questions, also the hypotheses, a short account of the methodology applied to the text of 1 Corinthians 6:1-11, and an evaluation of the potential value of the research.

In chapter 2, a general understanding of litigation in the first century C.E. was presented in different categories, focusing on the first century Roman society. The history of Rome includes various eras, such as the Monarch, the Republic, the Principate and the Dominate, of which this study concentrates on the Principate era, because scholars fix its duration as from the period 27 B.C.E. to 284 C.E. In this regard, the first century Roman society was defined through and through by the Principate. Accordingly, this chapter contains an introduction particularly to the Roman legal system of that era in two main categories, namely civil and criminal law, both including various elements of the legal system. Comprehension of this legal system forms the basis of and facilitates understanding of the next chapter.

Chapter 3 concentrated on the interpretation of 1 Corinthians 6:1-11 as the main text, in the light of a historical understanding. The lawsuits in 1 Corinthians 6 undoubtedly concerned Roman civil law, in the light of the historical consideration of the main text. In those days, the secular court exemplified injustice and unfairness, since the outcome of litigation was subject to the social status or the financial ability of litigants. Those who brought litigation before the secular court were following the typical pattern of an unbeliever who does not know God. But in 1 Corinthians 6:1-11 the Corinthian believers initiate litigation against their fellow believers when they have disputes, an event indicating two serious problems: firstly, they did

not settle the problem within their community, and secondly, they brought their fellow believers before the secular court to resolve the problem. Given an understanding of the first century legal system, their behaviour amounted to using injustice to win the litigation. In other words, they were betraying their identity as Jesus followers, viz., God's people. According to a historical reading of the text it implies that the wise who could handle the problem was surely within the community, and they were not heeding the wise but rather the unrighteous. In the end, taking a brother before the court vividly shows that they expose their own shame to the world; thereby, in Paul's perspective, failing to live as Jesus followers.

In chapter 4, 1 Corinthians 6:1-11 was examined in a literary analysis and subjected to an exegetical study. In this text Paul is adamant about the appropriate lifestyle for a believer. For instance, in 1 Corinthians 5:13 Paul says that a wicked person is to be driven out from among the believers, reinforcing his emphasis on the correct life for a Jesus follower. What did Paul intend in 1 Corinthians 6:1-11, and what was he trying to tell the Corinthian believers in the text? The answers to these questions are provided through literary analysis and an exegetical study of the text. In particular, Paul positions the text of lawsuits between the texts presenting Christians' (sexual) immorality. In this regard, some insist that the lawsuit is related to the sexual matter in 1 Corinthians 5:1-13. However, as observed in chapter 4, the lawsuit is obviously related to less serious matters than incest in 1 Corinthians 5. By positioning the text studied here between the different issues, Paul tried to emphasise that the Corinthian believers must behave and live as Jesus followers to prevent their forfeiting their precious identity as Jesus followers. Ultimately, the constructive feature of 1 Corinthians 5 and 6 clearly presents Paul's thematic thinking. In addition, with the literary analysis, an exegetical study of the text enhances our understanding of Paul's reasoning in the event of litigation in 1 Corinthians 6:1-11.

In chapter 5 the lawsuits were considered in the light of two theological categories, namely eschatology and ethics. Paul reminds the Corinthian believers that they are eschatological beings, who should recognise this status. They will judge the angels and the world with Jesus on the Last Day. This statement implies that they should be different to those who belong to the world and behave according to secular norms. It means that the Corinthian believers

should consider their spiritual identity before they go to the court, since their behaviour shows who they are. Two suggestions are provided to the Corinthian believers. On the one hand bringing about litigation against their fellows is not suitable for them, because they must settle the disputes within the community, where problems must be approached based on God's love. Paul emphasises the unity of the community and behaving in love, and instructs the Corinthians to act ethically. Their ethical behaviour would show that they belong to God's household, not to the secular world. Through the ethical conduct of Christians they can show their identity as a Christian. In this regard, 1 Corinthians 5 and 6 indicate Paul's reasoning about how Christians should live and behave.

It now remains to provide a brief summary and present Paul's ethical perspective on the Christian communities relating to the interconnection between his eschatology and Christian ethics as the most important findings of this research.

6.2 Final Reflections

The Corinthian community was influenced by the multi-social environment in first century Roman society, in which it was not easy for the Corinthian believers to adhere to their Christian values. They had many sinful experiences while they lived in Corinth. Since they were converts from pagan to the Christian convictions, they still had the old habits which predated their conversion, and sometimes they relapsed into their previous lifestyle. Accordingly, it would be quite plausible that they relied upon a secular court to settle their disputes when these arose. In this regard, the main text, 1 Corinthian 6:1-11, introduces the event of the trials as it occurred in the Corinthian community of believers.

Outwardly, the text indicates that Paul teaches that believers should not have lawsuits against fellow Jesus followers: lawsuits among Jesus followers are a thorough defeat for themselves. When they had to settle problems, they should do so within the community. However, the text should be observed within a wide scope to understand Paul's real intention, because he might not be writing the text to the Corinthian believers simply to admonish them on the matter of lawsuits, or that they should desist from litigation against their fellow believers. Rather, Paul

focuses much more on the subject of Christian behaviour than the lawsuit itself. Undoubtedly, the lawsuits can occur in any circumstances, even in the Christian communities or between Christians. Paul might not have intended that believers should abstain from lawsuits in any situation. Paul's main concern would not be that believers can have litigation or not. He uses the event of the trials to warn and rebuke the Corinthian believers for failing to live as followers of Jesus. The problem of the Corinthian community is not the lawsuit itself, but the exposure of incompetency of those who rely upon a secular court to solve a trivial case, which they should have the ability to solve among themselves. Instead they had brought their fellow believer, called as a brother, before the court. Consequently, their behaviour demonstrates that they lost their identity as Jesus followers and did not practice love in their lives. Ultimately as Jesus followers they have failed to live as God's people through the action event, so that in effect the lawsuit is a shame and a total defeat for them, as Paul points out in the text.

In 1 Corinthians 5 Paul referred to a serious sexual immorality that occurred in the Corinthian community when a man has committed a sexual offense with his stepmother. In Paul's opinion, this immoral behaviour was completely unacceptable (1 Cor. 5:2), but the Corinthian believers and the community were tacit regarding the serious crime; in fact, they did not even recognise the seriousness of this behaviour by which someone had lost his identity as a Jesus follower. But, in 1 Corinthians 6 they had shown a contrary reaction to the previous chapter, when they brought their fellow believers before the court to settle a problem. The text identifies the problem as a trifling matter, but they went to the court to resolve it. Hence, their behaviour is unacceptable to Paul. The fact that they abandoned their identity as a Jesus follower and did not behave according to love is emphasised much more than the action event.

Thus, 1 Corinthians 6 (with chapter 5) focuses on Paul's concerns with how Christians should live. In this regard, these two chapters present Paul's instruction to us in the present as well as to the Corinthians in the past. The Corinthians are believers who are waiting for Jesus Christ's return, and it implies that they should influence the secular world as well as the Christian communities.

In a similar way, Paul's instruction to the Corinthian believers can be applied to individuals who live in the present day. In the present, people live in various areas in a society such as political, economic, cultural and religious spheres, etc., and Christians share these areas with non-Christians. In other words, they are exposed to being influenced by not only the Christian communities, but also secular society. Christians need to concern themselves about how to live and behave as Christians in various areas in society.

Paul portrays his ethics as deontological in 1 Corinthians 6:1-11. Paul points towards the failure of the Corinthian believers to live as Jesus follows in 1 Corinthians 6:1-11. The event of lawsuits in Corinth shows that believers had to behave and live ethically also in the social areas of their lives. Paul commands them to live as mature Jesus followers, also outside the community's formal religious activities. To be mature Christians is always a challenge for Christians. It means that the lives of Christians should be ethical even in all the scopes of society. Paul encourages the Corinthians in the incipient Christian community to conduct ethically, and his instruction can be appropriated also to those who live as Christians today.

The main focus of the dissertation was the investigation of the purpose and intent of Paul's instruction regarding litigation to first century Corinthian believers. It is impossible to apply Paul's teaching based on understanding first century Roman legal context to our present situation in a direct way. Then, how can we understand the text today? In the text, Paul concentrated more on harmful influences of lawsuits than on their merit. In the first century C.E., even today, those who win lawsuits could have their own benefits such as honour, fame or economic benefits, while losers have big losses. Today's lawsuits may therefore have the same consequences for today's Christian communities. No one engages in litigation with the purpose to lose the case. However, what Paul expected from them was a different behaviour compared to unbelievers. Paul urged the Corinthian believers to avoid relying upon a secular court which for all its intricasies was flawed in pursuing justice on equal terms, set up to maximise the honour or benefits of some, but not of all. In Paul's viewpoint engaging in civil litigation meant to lose the true love of Christ. Ultimately, their behaviour suing fellows caused the destruction of sibling relationships and the division in the community. Thus Paul was asking them to show a different life as Jesus followers in the text. In this regard, Paul

admonishes the Corinthian believers not to have litigation with fellow believers. Paul does not insist the uselessness of lawsuits. Thus, the text should be read very carefully to grasp Paul's core point which is imbued in the text.

As to lawsuits, litigation could be a good means to work out disputes between persons in the present day, unlike the legal circumstances of the first century because at present the legal system does perform with justice and impartiality. Even Paul appealed to the Roman law (Acts 16:37; 22:1, 25). It does not seem that Paul denies appealing to the law. But Paul cautions that litigation should not be just vexatious litigation which harasses opponents in intra-community contexts. In order to begin litigation two litigants, a plaintiff and a defendant, should be present. It might mean that harassing behaviour could pass between litigants. In the first century Roman society vexatious litigation often took place to puff up the power of those who were in the higher classes. But Paul warns that litigation should not be used for one'own benefits. It should be used for public good or fulfilment of justice. No-one, not even Christians, would dismiss legal action as being without merit in social life: judges or lawyers are well-educated and do have legal knowledge, and the outcome of lawsuits is not swayed either way by the social status or financial ability of litigants.[571] Christians can be faced with various problems, such as trifling problems happening in daily life and which could be handled by non-qualified persons. Certainly highly specialized, significant problems should be handled by qualified individuals who are educated in law.

However, the problem is that Christians rely upon and resort to the legal system too easily. They no longer respect the rule of the church. Their sole objective is to win the case. According to the Corinthian text such behaviour can be expected from someone who has lost love; even though they could win the lawsuit, they cause damage to their identity of a Jesus follower, and they lost the essence of love which comes from Jesus Christ. Prior to the lawsuit they might still have been able to love, encourage, understand and care for one another, but afterwards these sentiments disappeared from the attitudes of the believers. The same way happens in the present. By the lawsuit the church members are split, so that they

[571] However, it does not mean that the result of an action always provides satisfaction or acceptance of litigants. Sometimes, injustice and absurdity still occur in the process of an action, even in the present times.

come to hate each other and be jealous of each other. In the end, through lawsuits the church becomes ridiculed before the world. Consequently, even though lawsuits have merit in contemporary society, their consequences are to the detriment of Christians and Christian communities.

We now have to contemplate Paul's teaching to the Corinthian community. From the example of a lawsuit, we can consider how Christians ought to live and behave and how Christians practice the law of love which Jesus taught us. Paul teaches us the desirable lifestyle for Christians from the example of an action event in Corinth.

Finally, we should reconsider the recovery of our Christian identity as God's people and the recovery of the role of the church. If Christians remember what God has done for us, they should practise God's love in their lives: even though they suffer damage, they must, for the glory of God, not renounce the practice of love, because God's love means a thorough renunciation of oneself. Similarly, the church also must play a role as a pious community. At present the church does not perform their duty because it lost the identity as the temple of the Spirit, and no longer embodies the gathering of God's people. As a result Christians rely upon the secular court when they have conflicts with each other. In other words, the churches lost their authority as the temple of the Spirit and the house of prayer, with Christ as the head (Ephesians 5:23).

In addition, if Christians find themselves forced into litigation against their fellow Christians, they must keep the other's benefit in mind (1 Cor. 10:23-24), acting not for their own benefit, but rather for the public good and the community. In churches most lawsuits focus on own benefit or to win from a struggle of leadership in the church, while the practice of love is relegated as a secondary concern. Accordingly, the lawsuit functions to separate, not to unite. However, if lawsuits were inevitable among Christians, they were to use the legal system wisely, based on understanding, patience and love, striving for the benefits of church and Christians.

Ultimately, the best way to overcome this effect is to observe forgiveness, understanding,

patience and passion toward others. Christians are those who listen, keep and follow God's word as people who belong to God's family. In addition, Christians are those who confess that God is our father, our lord and the whole. Therefore, Christians as God's people should imitate Jesus Christ, and they should live and act according to God's will and purpose throughout their whole lifetime.

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