

Second Temple Period Rationales for the Torah's Commandments

Lawrence H. Schiffman*

The literature of Second Temple Judaism is both varied and extensive. Under this rubric one may include Apocrypha and Pseudepigrapha, Hellenistic Jewish literature (Philo and Josephus), and the Dead Sea Scrolls. This study will concentrate on several particular works: the book of *Jubilees*, a pseudepigraphical work dated to sometime after 180 B.C.E., the works of Philo Judaeus, the Alexandrian Jewish philosopher (c. 20 B.C.E.–50 C.E.), the *Jewish Antiquities* by Josephus (d. ca. 100 C.E.), and some scattered references in the Dead Sea Scrolls. We will be concerned here with understanding the approach of these authors to determining and presenting rationales for commandments required by the Torah. We shall not discuss in this paper the views of Second Temple authors on the theoretical basis for the authority of Torah prescriptions or those rulings found in Second Temple legal sources. We and other scholars have examined the theoretical bases for the authority of biblical legislation in a variety of studies.¹ Further, although some helpful background can be gleaned from accounts of the period of the return—the Persian Period—we will confine our study to the Greco-Roman era. In this framework, we note that the study of the rationales for specific commandments, *ta`amei ha-mitsvot*, has not attracted the attention of academic research. It is our hope that this paper will begin to reverse that trend.²

* New York University, Department of Jewish Studies.

1 L. H. Schiffman, *The Courtyards of the House of the Lord: Studies on the Temple Scroll*, ed. F. García Martínez, STDJ 75 (Leiden: Brill, 2008), 5–8.

2 This paper will not deal with the detailed discussions of laws pertaining to kosher animals and other commandments in the Letter of Aristeas §128–71. See the detailed commentary of B. G. Wright, *The Letter of Aristeas: 'Aristeas to*

Book of *Jubilees*

We begin our discussion by looking at the book of *Jubilees*.³ This is a work completed sometime soon after 180 B.C.E. *Jubilees* rewrites and expands the book of Genesis, stretching from the creation to the end of the book, and continues into Exodus, concluding with laws for the observance of Passover. The book is organized around a chronology based on jubilee years, a feature not particularly important to our purposes today. Central to our discussion, however, is the fact that the book follows closely on a principle that the rabbis would later enunciate, namely that the Patriarchs observed, or we might say pre-observed, large parts of the legislation of the Torah before it had been given at Sinai.⁴ In this spirit, the book often refers to observance of commandments, especially those pertaining to the holidays and their sacrifices, by the Patriarchs and often connects these observances to specific events in their lives or to important principles of Judaism.

As we survey the most important of these examples, we need to be aware of a significant distinction. I would describe it as the difference between the conceptual rationale for a commandment and its etiology. In a certain sense, this gets right to the heart of the very definition of *ta'amei ha-mitsvot*. Examination of later literature that seeks to provide us with such rationales speaks not to the historical origin of the particular commandment but to its meta-halakhic meaning within the overall framework of Judaism as a holistic phenomenon. We will see some examples of this kind of conceptual

Philocrates' or 'On the Translation of the Law of the Jews' (Berlin; Boston: de Gruyter, 2015), 246–312, and E. S. Gruen, "The Letter of Aristeas," in *Outside the Bible: Ancient Jewish Writings Related to Scripture*, ed. L. H. Feldman, J. Kugel, and L.H. Schiffman, 3 vols. (Philadelphia: Jewish Publication Society; Lincoln: University of Nebraska, 2013), 3.2737–43.

- 3 For an introduction, see J. L. Kugel, "Jubilees," in *Outside the Bible*, 1.272–82. We take issue, however, with the theory put forward by him and by M. Segal [*The Book of Jubilees: Rewritten Bible, Redaction, Ideology and Theology*, JSJSup 117 (Leiden: Brill, 2007)] arguing that the halakhic sections were interpolated by a second author. We see the halakhic sections as part of the essential argument of the original author for the patriarchal origins of Jewish observances. Cf. L. H. Schiffman, "The Patriarchs and Halakhah in the Dead Sea Scrolls," in *Rewriting and Interpreting the Hebrew Bible: The Biblical Patriarchs in the Light of the Dead Sea Scrolls*, ed. D. Dimant and R. G. Kratz, BZAW 439 (Berlin: de Gruyter, 2013), 255–58.
- 4 *M. Qidd.* 6:14 (end [most probably a post-tannaitic addition]), *b. Yoma* 28b.

rationale in *Jubilees*. For the most part, however, what masquerades as the rationale for commandments will really be etiology, simply tying the Torah's commandments retrospectively to the life of the Patriarch and his experiences as already described in Genesis and expanded on in *Jubilees*. By contrast, when we look at some examples taken from Philo's *Special Laws* in our next section we will encounter actual rationales, for the most part philosophical in nature.

After describing the creation of woman from man, based on Gen 2:18–25, *Jubilees* states as follows (*Jub.* 3:8–12):⁵

In the first week was Adam created, and the rib—his wife: in the second week He showed her unto him: and for this reason the commandment was given to keep in their defilement, for a male seven days, and for a female twice seven days. And after Adam had completed forty days in the land where he had been created, we brought him into the garden of Eden to till and keep it, but his wife they brought in on the eightieth day, and after this she entered into the Garden of Eden. And for this reason the commandment is written on the heavenly tablets in regard to her that gives birth: 'if she bears a male, she shall remain in her uncleanness seven days according to the first week of days, and thirty and three days shall she remain in the blood of her purifying, and she shall not touch any hallowed thing, nor enter into the sanctuary, until she accomplishes these days which (are enjoined) in the case of a male child. But in the case of a female child she shall remain in her uncleanness two weeks of days, according to the first two weeks, and sixty-six days in the blood of her purification, and they will be in all eighty days.'

The passage puts forward the reason for the commandment in Lev 12:1–5 that requires a longer period of impurity after birth for a woman giving birth to a female than for one giving birth to a male. The explanation is that Eve was created a week after Adam and not brought to him until the end of the second week. Further, Adam entered the Garden of Eden forty days after his creation but Eve, only after eighty days. For this reason, the Torah

5 Translations from *Jubilees* are from R. H. Charles, *The Book of Jubilees or the Little Genesis*, Repr. (Jerusalem: Makor, 1971/2).

commands that in the case of a woman who gives birth to a male child, her bleeding is considered not to be menstrual for 33 days, whereas one who gives birth to a female has 66 such days, adding up to the totals of 40 and 80 that we mentioned before. We will see a similar proposal in the Dead Sea Scrolls.⁶ For now, we should note that this passage is as close as we are going to get to a rationale for a commandment. In wider terms, we might suggest that what we see here is that birth is understood to be a repetition of the creation of the first human beings. Just as those initial human beings are said to have gone through certain experiences, children coming into this world are expected in some way to replicate these experiences. From a phenomenological point of view, what we are really seeing is the retrojection of existing Levitical purity laws back to the pre-Sinai period, indeed to the period of creation, where these laws are being inserted into the narrative. Once this is accomplished, this retrojected material may now serve as the claimed origin for practices later legislated by the Torah. We should note here our view that whenever *Jubilees* refers to the Heavenly Tablets, this is simply a reference to a preexistent form of the Torah according to the view of the author.

Bordering on etiology is the following discussion of modesty in *Jub.* 3:30–32. Comparing humans to the animals, the text states:

And to Adam alone did He give (the wherewithal) to cover his shame, of all the beasts and cattle. On this account, it is prescribed on the heavenly tablets as touching all those who know the judgment of the law, that they should cover their shame, and should not uncover themselves as the Gentiles uncover themselves.

On the one hand, this is clearly a protest against public nudity in athletic games during the Hellenistic period.⁷ After all, the book of *Jubilees* objects strongly to the influence of Hellenism (22:16–19) as well as to intermarriage between Jews and non-Jews (22:20–21; 30:7–17). At the same time, this passage seeks to define a fundamental difference between humans and animals, namely

6 For parallel in other ancient texts, see Charles, *Book of Jubilees*, 22–24. Cf. the commentaries of Kugel, “Jubilees,” 1.296–97; M. Segal, *Book of Jubilees*, 47–52; C. Werman, *Book of Jubilees: Introduction, Translation, and Interpretation* (Jerusalem: Yad Izhak Ben-Zvi Press, 2015), 184–85 (Hebrew).

7 Cf. 2 Macc 4:12. Cf. note of Charles, *Book of Jubilees*, 29; Kugel, “Jubilees,” 1.299–300; Werman, *Jubilees*, 189.

that humans are enjoined to wear clothes. Essentially, this passage sees Adam as having observed this requirement immediately after his expulsion from the Garden of Eden and, assuming that it is a commandment of the Torah, retrojects it onto Adam. I regard this as an etiology, because what we see here is not really a reason. We are simply told that because Adam did this (notice that Eve is not mentioned), the heavenly tablets (that is, the pre-existent Torah) describes it as a requirement for the Jewish people.

Regarding the confession of sins, we seem to have a rationale given in *Jub.* 4:5–6 that is in disagreement with a view of rabbinic Judaism. After the description of the killing of Abel, *Jubilees* makes the following statement:

And on this account it is written on the heavenly tables, ‘Cursed is he who smites his neighbor treacherously, and let all who have seen and heard say, So be it; and the man who has seen and not declared (it), let him be accursed as the other.’ And for this reason we announce when we come before the Lord our God all the sin which is committed in heaven and on earth, and in light and in darkness, and everywhere.

This passage is alluding to and interpreting Deut 27:24 together with Lev 5:1, and asserts that the commandments of these two Torah passages would be violated if not for the requirement that a confession of transgressions be made in connection with the sacrificial rituals required to expiate (accidental) transgressions and the attendant process of repentance.⁸ The sages,⁹ in the view of some Bible scholars accurately reflecting First Temple theology,¹⁰ saw the purpose of confession (*viddui*) as part of a religious, internal process of repentance of one’s transgressions. Our text clearly has connected confession with the requirement that witnesses testify to crimes so that criminals can be punished. This represents a completely different rationale and understanding for the commandment of confession than that of the rabbis.

Corresponding to the biblical description of Abraham’s giving a tithe to Melchizedek in Gen 14:20, an enigmatic passage in *Jub.* 13:25–28 states:

8 Cf. Kugel, “Jubilees,” 1.301; Werman, *Jubilees*, 198–99.

9 J. Milgrom, *Cult and Conscience: The Asham and the Priestly Doctrine of Repentance*, SJLA 18 (Leiden: E. J. Brill, 1976), 118.

10 Milgrom, *Cult and Conscience*, 104–24.

...for Abram, and for his seed, a tenth of the first fruits to the Lord, and the Lord ordained it as an ordinance forever that they should give it to the priests who served before Him, that they should possess it forever. And to this law there is no limit of days; for He hath ordained it for the generations forever that they should give to the Lord the tenth of everything, of the seed and of the wine and of the oil and of the cattle and of the sheep. And He gave (it) unto His priests to eat and to drink with joy before Him.

This passage clearly indicates that because Abraham had given the tithes to the king of Salem, Melchizedek, the Torah therefore commands that forever tithes should be given. Here, this seems to be nothing more than an etiology, since no specific connection is made between the actions of Abraham and the reason for which Jews would be commanded to give tithes later on.

Jubilees includes numerous such passages demonstrating essentially etiologies, claiming that because the Patriarchs were commanded to observe a commandment, therefore the commandment was placed on the Jewish people throughout the ages. Before concluding this section, I would like to give one final example that is closer to being an actual reason. After describing the kidnapping of Joseph, *Jub.* 34:18–19 writes as follows:

For this reason it is ordained for the children of Israel that they should afflict themselves on the tenth of the seventh month—on the day that the news which made him weep for Joseph came to Jacob his father—that they should make atonement for themselves thereon with a young goat on the tenth of the seventh month, once a year, for their sins; for they caused the affection of their father to grieve regarding Joseph his son.¹¹ And this day has been ordained that they should grieve thereon for their sins, and for all their transgressions and for all their errors, so that they might cleanse themselves on that day once a year.

This passage asserts that the observance of the Day of Atonement (Yom Kippur) came into being for the purpose of making atonement for the

11 Although the translation is that of Charles, *Book of Jubilees*, 205, we have corrected it in light of O. S. Wintermute, "Jubilees," in *The Old Testament Pseudepigrapha*, ed. J. H. Charlesworth, 2 vols. (Garden City, N.Y.: Doubleday, 1983–85), 2:121.

kidnapping of Joseph and the use of the blood of a kid to cover it up.¹² We learn here that the date has been fixed on the day on which Jacob heard the sad news of the “loss” of his son, Joseph, and that the specific ritual of the slaughter of a young goat on the Day of Atonement was chosen because of its role in the Joseph story. In this example, we see an actual reason for a commandment being given: the text holds the view that Yom Kippur and its ritual are to atone for the transgression of the sons of Jacob in selling Joseph into slavery and causing their father the terrible pain of believing that Joseph had been killed.

To sum up the attitude to commandments in the book of *Jubilees*, we can characterize it as the etiology of commandments. *Jubilees* claims that because the forefathers observed various commandments, they must continue to be observed by Israel. Of course, for us as modern readers, we know that the truth is the reverse. Laws observed by Israel as a result of the commandments of the Pentateuch have here been retrojected onto the forefathers and made to appear as the reason for later observance. Scattered among these etiologies, here or there we will find an actual rationale, but for the most part one connected with the early history of the people of Israel. These are not philosophical or theoretical rationales but rather attempts at finding historical precedent or meaning in the pre-Sinai history of the Jewish people. Indeed, one of the major themes of *Jubilees* is that Israel’s covenant with God was already established with the Patriarchs.¹³ Hence, these for the most part etiological explanations for commandments seek to set their origins in the time of Israel’s forefathers.

Philo

We will see a rather extreme contrast when we examine some examples of rationales for commandments as given in the works of Philo Judaeus. This Alexandrian Jewish philosopher and exegete was himself engaged in an ideological battle with Jewish extreme allegorists who believed that by giving allegorical reasons for commandments one essentially obviated the

12 Cf. J. L. Kugel, *A Walk through Jubilees: Studies in the Book of Jubilees and the World of its Creation*, JSJSup 156 (Leiden; Boston: Brill, 2012), 167; Werman, *Jubilees*, 450.

13 Cf. L. H. Schiffman, “The Concept of Covenant in the Qumran Scrolls and Rabbinic Literature,” in *The Idea of Biblical Interpretation: Essays in Honor of James L. Kugel*, ed. H. Najman and J. H. Newman, JSJSup 83 (Leiden: Brill, 2004), 257–78.

need to observe them.¹⁴ Philo argued what was essentially the traditional view, namely, that the continued observance of commandments designed to teach certain specific lessons was the only way to successfully inculcate those lessons and that, therefore, the Torah's commandments could never be set aside simply because one could learn the lessons without following the practice.¹⁵ Rather, he sought to provide an understanding, drawing on Jewish tradition as he knew it and Hellenic philosophy, in order to justify Jewish observances. There has been considerable debate as to the extent to which Philo drew on proto-rabbinic or rabbinic sources.¹⁶ While we will not dwell on the matter here, we should note that commonalities between Philo and the rabbis should be understood to reflect elements of a common heritage.

After dealing with the Decalogue, Philo presents a four-part treatise called the *Special Laws*. This treatise discusses numerous biblical laws, grouping them under the Ten Commandments. He chooses to begin by discussing the practice of circumcision (*Special Laws* 1.4–10) because it was ridiculed by many non-Jews.¹⁷ He starts by setting out four reasons for circumcision. Anyone who has ever read Philo knows that his level of verbosity will not permit us to present full quotations.

First, he says that circumcision prevents a disease of the male organ. Second, it promotes cleanliness of certain areas that would otherwise collect secretions. Third, "it assimilates the circumcised member to the heart."¹⁸ He explains that both the heart and the male organ are intended to bring about

- 14 H. A. Wolfson, *Philo: Foundations of Religious Philosophy in Judaism, Christianity, and Islam*, 4th printing revised, 2 vols. (Cambridge, MA: Harvard University Press, 1968) 1.66–71.
- 15 Cf. I. Heinemann, *The Reasons for the Commandments in Jewish Thought: From the Bible to the Renaissance*, trans. L. I. Levin, The Reference Library of Jewish Intellectual History (Boston: Academic Studies Press, 2008), 34–46.
- 16 S. Belkin, *Philo and the Oral Law, The Philonic Interpretation of Biblical Law in Relation to the Palestinian Halaka* (Cambridge, MA: Harvard University Press, 1940), 3–10; Wolfson, *Philo* 1.88–93 and further studies cited there.
- 17 M. Stern, *Greek and Latin Authors on Jews and Judaism: Edited, with Introductions, Translations, and Commentary*, 3 vols., Meqorot le-Toldot Am Yiśra'el. Kitve ha-Aqademyah ha-Le'umit ha-Yiśre'elit le-Mada'im, ha-Ḥaṭivah le-Mada'e ha-Ruah (Jerusalem: Israel Academy of Sciences and Humanities, 1974–1984), 1.300, 312 (cf. 315) (Strabo), 1.415 (Apion), 1.436 (Persius), 1.526 (Martial), 2.26 (Tacitus), 2.103 (Juvenal) and later authors as well.
- 18 All translations are from *Philo*, vol. 7, trans. F. H. Colson, LCL (Cambridge, MA: Harvard University Press, 1937).

“generation.” The point seems to be that both forms of creation need to be connected with God. The fourth reason he gives is that circumcision causes the semen to travel correctly and helps to accomplish reproduction. These four reasons, he tells us, were handed down from sages who carefully studied the writings of Moses. In other words, these must have been reasons that circulated among the Jews in the Hellenistic world. To this, he adds his own additional explanation. He believed that circumcision is a symbol of two things: one is the elimination of apparently excess pleasures. Second, so that “man... banish from the soul the grievous malady of conceit.” Effectively, he suggests as additional reasons that circumcision teaches the need to control the quest for pleasure and provides a measure of humility, both certainly traditional Jewish beliefs.

In this example, it seems that we have actually come to the genre that we normally call *ta`amei ha-mitsvot*. Here we are not dealing with an etiology, but rather with explanations that are separate from the biblical text and that represent an independent intellectual effort to explain the unstated purposes of the Torah’s commandments. Now it is clear from the use of the term “uncircumcised” (*arel*) in the Bible, as well as from the term “uncircumcision of the heart” (*arel lev*),¹⁹ that if one examines the use of these terms carefully, one will come up with Philo’s last two reasons. However, it is safe to say that of his first four reasons, the health-related reasons do not seem to have any basis in the Bible itself. It is interesting to note that the physiological and health aspects of circumcision, in terms of arguments pro and con, seem somehow to have been there from earliest times and are still being debated.

Beginning in 1.258, Philo discusses ritual purification. He begins by telling us that:

The law would have such a person pure in body and soul, the soul purged of its passions and distempers and infirmities and every viciousness of word and deed, [and] the body of the defilements which commonly beset it.

In other words, Philo’s basic understanding of the division of body and soul, itself a widespread Hellenistic idea, led him to see the purpose of ritual purification as affecting both.²⁰ In effect, this approach provides an antidote

19 Cf. also the root *mwl*, the verb, “circumcise,” with *lev*, “heart.”

20 Cf. M. Maimonides, *The Guide of the Perplexed* 3:27, trans. with an Introduction and Notes by Shlomo Pines, with an Introductory Essay by Leo Strauss (Chicago:

to some in the Hellenistic world who tended to see the Jewish approach to ritual as the meaningless fulfillment of details of sacrifice and purity.²¹ Indeed, this point of view was often associated with Paul.²² It is certainly opposite to the approach taken by Philo, who saw animal sacrifice as purifying the soul and sprinklings and ablutions as purifying the body. The attempt to bring a perfect animal as a sacrifice will cause the person bringing the sacrifice to concentrate on eliminating his own imperfections of the soul. Further, certain sprinkling requires adding a mixture to the water to be used. Essentially, this is symbolic of earth and water that constitutes the substance of our bodies. In other words, sprinkling is designed to cause one to concentrate on the perfection of his or her behavior.

Referring to the ashes of the red heifer (Numbers 19), but not mentioning them directly, Philo specifically states that this ritual teaches (1.265):

that a man should know himself and the nature of the elements of which he is composed, ashes and water, so little worthy of esteem. For if he recognizes this, he will straightaway turn away from the insidious enemy, self-conceit, and abasing his pride become well pleasing to God.

Overall, Philo is speaking of a purification system in which the ideal is that of improvement of the soul, discipline of the body from pursuing excessive passions, and recognition of the mortality and humble nature of the human being. While the example he draws specifically alludes to the ashes of the red heifer, he basically suggests that this is the overall purpose of the rituals of purification, often associated as they are with sacrifices where the combined goal is the purification of both soul and body.²³

In 1.285–88 he deals with the biblical command that the fire on the altar burn permanently and not be extinguished (Lev 6:9, 12–13). He begins by telling us that the reason for this command is to symbolize the fact that God's gifts given "daily and nightly to men are perennial, unailing, unceasing," and he sees the burning flame as a symbol of this. He also suggests that the

University of Chicago Press, 1963), 510–12.

21 Cf. Stern, *Greek and Latin Authors*, 2.25 (Tacitus).

22 E. P. Sanders, *Paul and Palestinian Judaism* (Philadelphia: Fortress Press, 1997), 1–12.

23 Immediately following (1.267–72) Philo turns to the red heifer explicitly and describes it as part of the overall purification system.

continuous flame creates a situation in which all sacrifices are burned by the same flame, thereby uniting them as one act of giving thanks. Then he suggests that:

This is the literal account: the inner account must be observed
by the laws of allegory.

In Philo's work, this kind of approach, dealing with an "outer" and "inner" meaning, is seen for the first time. We should note the significance of this approach in the later history of *ta`amei ha-mitsvot*. Such a pairing of exoteric and esoteric rationales for commandments typifies much of the later mystical literature.²⁴ However, it is also observable in Maimonides's notion of what we might call elite and popular religion, in which only the elite are able to actually comprehend the true meaning of the commandments, where "political" means are used to make sure that they are observed by the wider Jewish masses.²⁵

In the case at hand, Philo proposes an allegorical interpretation according to which the altar is actually the "thankful soul of the Sage" comprised of perfect virtues. Philo suggests that the lighting of the permanent light on the altar symbolizes the burning of the divine light of wisdom in the soul of the Sage. Unlike the allegorists that Philo opposed, both implicitly and explicitly, his allegorical interpretation in no way threatens the literal requirement that the fire be burning on the altar. Nor does it eliminate the more direct interpretation that he provides first.

In 2.60–64 Philo deals with the reason for the observance of abstention from creative labor on the Sabbath. Among other things, in this passage he polemicized against the notion, widely held in the ancient world, that the reason that the Jews took a day off each week was because they were lazy.²⁶ We need to remember that the notion of a day of rest had not yet spread in the Greco-Roman world, a phenomenon that would only become popular

24 Cf. G. G. Scholem, *On the Kabbalah and Its Symbolism*, trans. R. Mannheim (New York: Schocken, 1965), 32–86.

25 S. Stroumsa, *Maimonides in His World: Portrait of a Mediterranean Thinker* (Princeton and Oxford: Princeton University Press, 2009), 111–12; K. Seeskin, *Searching for a Distant God: The Legacy of Maimonides* (New York and Oxford: Oxford University Press, 2000), 142–54.

26 Stern, *Greek and Latin Authors*, 1.431 (Seneca).

with the rise of Christianity, albeit transferred from Saturday to Sunday. He tells us that the purpose of the Sabbath is:

to give men relaxation from continuous and unending toil and by refreshing their bodies with a regularly calculated system of remissions, to send them out renewed to their old activities.

After explaining this aspect of physical rest, following his general notion that the Torah's laws take into consideration both the physical and the spiritual, he goes on to explain:

He permits the exercise of the higher activities, namely, those employed in the study of the principles of virtue's lore. For the Lord bids us take the time for studying philosophy and thereby improve²⁷ the soul and the dominant mind. So each seventh day there stand wide open in every city thousands of schools of good sense, temperance, courage, justice and the other virtues in which the scholars sit in order quietly with ears alert and with full attention...

Here they learn of the duties to God and to one's fellow human being. He explains that while the body is resting, the soul is doing its difficult work in acquiring wisdom. So here we are told that the overall purpose of the Sabbath is to minister to the needs of both the body and the soul, providing needed physical rest and a day on which the Jewish people nurture their souls through study of God's Torah, what Philo here calls philosophy. Indeed, for Philo, the Torah, as one can see from his writings, is indeed a book of philosophy.

These few examples will have to suffice for demonstrating the manner in which Philo deals with the reasons for commandments. First, there is an unstated polemic against widespread Hellenistic views of Judaism that failed to understand what he regarded as its elevated and uplifting character. Second, he maintains that virtually all commandments have behind them an allegorical meaning, which may never be allowed to negate the literal meaning and the obligation to observe the commandments. Third, in his view the welfare of the body and soul, physical and spiritual, is at the heart of many of the commandments. Often, he notes that the two are paired together either in complementary rituals or in specific commandments. Finally, we should

27 Improving, so C. D. Yonge, *The Works of Philo: Complete and Unabridged*, trans. C.D. Yonge, new updated ed. (Peabody, MA: Hendrickson Publishers, 1993), 574.

simply remember that Philo saw the commandments as being grouped under the Ten Commandments, an approach to the classification of Jewish law that would be followed by some medievals as well.²⁸

Josephus

The Jewish historian Josephus presents a summary of the Torah's legislation in *Ant.* 4.196–302. In this section, he surveys in a reorganized fashion what he regards as the constitution of the Jewish people, namely the laws of the Torah. In this context, he presents numerous reasons for commandments. We will be able to discuss only a small number of these. We should note at the outset that these reasons for the commandments may be distinguished easily from the rest of the material that constitutes either a simple rewriting of the biblical requirements or the presentation of legal interpretations of them.

In 201, Josephus explains why there can only be one altar and temple, namely “for God is one and the stock of the Hebrews one.” Clearly, the intention here is to say that the unity of the people and its God is symbolized by having only one, central temple, that we know to be located in Jerusalem.²⁹ In 203, we learn the reason for the thrice yearly pilgrimage festivals that the Torah requires:

... In order that they may give thanks to God for the benefits that they have received and that they may appeal for benefits for the future; and coming together and taking a common meal, may they be dear to each other.³⁰

This passage, reflecting classical Jewish belief, understands the observance of festival rituals to be oriented both to the past, in terms of gratitude, and to the future, in terms of prayer. In addition, he sees the purpose of these gatherings as to create a kind of social unity among the Jewish people, itself strengthened by joining together in the eating of festival sacrifices. Essentially, Josephus here recognizes the fact that Jewish ritual is aimed at both the relationship of each individual with God as well as the inculcation and strengthening of relationships within families and the larger Jewish people.

28 Y. M. Guttman, *Behinat ha-Miṣvot* (Jerusalem: Makor, 1978), 53–67.

29 See the commentary of L. H. Feldman, *Judean Antiquities 1–4*, Flavius Josephus: Translation and Commentary 3 (Leiden and Boston: Brill, 2000), 400.

30 All translations of Josephus are from Feldman, *Judean Antiquities*. For this passage see his commentary, 402.

Josephus states this beautifully in section 204:

For it is well that they not be ignorant of one another, being compatriots and sharing in the same practices.... for if they remain unmixed with one another they will be thought completely [to be]³¹ strangers to each other.

In 208 Josephus discusses the prohibition of garments woven of wool and linen (Lev 19:19, Deut 22:11). He gives the reason for this commandment as the fact that such garments are part of the priestly vestments.³² This fact is also noted by the rabbis (*m. Kil.* 9:1),³³ however, they do not see this as the reason for the prohibition, only noting that it is set aside for priestly vestments. For Josephus, at least in this passage, the prohibition is based on the assumption that only priests wore such a combination of materials. However, below, in 228–29, he takes up the similar laws pertaining to mixing of species in agriculture and draft animals.³⁴ Regarding the mixing of seeds, he explains that “nature does not rejoice in association of dissimilar things.” He then refers to the issue of animals yoked together and expands on this:

For from this there is fear that the dishonor of that which is of the same kind may pass over even to human practices, having taken its beginning from the previous treatment of small and trivial things.

It is best to understand this difficult passage in light of what follows (230), where that which may appear to be a violation of the law is forbidden, as well as undertaking actions that may by chance lead to violations of law. Accordingly, we see the paragraph just quoted (229) as indicating that if one is willing to mix the various kinds of agricultural or animal species, it may lead to violation of various laws, especially those regarding prohibited sexual relations. Indeed, two passages from the Dead Sea Scrolls that will be discussed below make the very same parallel between the mixing species (*kil'ayim*) and forbidden sexual relations.

In section 213, Josephus provides a reason for the requirement of wearing phylacteries:

31 Bracketed words added for explanatory purposes by L. H. Schiffman.

32 Cf. Feldman, *Judean Antiquities*, 405.

33 Cf. *b. Yom.* 69a, *b. Tem.* 27a–b (cited by Feldman, n. 628).

34 Cf. Feldman, *Judean Antiquities*, 417–18.

... And as many things as we are able to show forth the power of God and His goodwill toward them let them display on the head and the arm, so that the favor of God with regard to them may be readily visible from all sides.³⁵

This interpretation assumes that the purpose of the phylacteries is to display the benefit of God's blessings so that all can see. While rabbinic interpretation did discuss the notion of the visibility of the head tefillin, it understood it as a means of inspiring fear among the nations.³⁶ Here, however, both head and arm tefillin are assumed to be a sign of God's blessing to Israel. Indeed, phylacteries are described in the Torah as a "sign" (*'ot*; Exod 13:6, Deut 6:8). One wonders if this approach does not fit into Josephus's attempt to demonstrate to the nations the special status of the Jewish people, itself based on God's blessing of them, even in the face of the defeat they suffered in the Great Revolt of 66–73 C.E. including the destruction of the Temple in 70.

An example of a simple, almost obvious interpretation of a commandment is his remarks in section 233 regarding muzzling the mouth of animals at the threshing floor (Deut 25:4). Here he remarks:

... For it is not right to bar from the fruit those who joined in the work and who have exerted themselves with regard to its production.

We assume that reasons such as this simply indicate the common Jewish interpretation of such commandments, in no way reflecting the creativity of Josephus.³⁷

Regarding the commandment of Levirate marriage, taken up by Josephus in section 254, after paraphrasing Deut 25:5–6, Josephus adds:

This will be of advantage to the community if houses do not disappear and the possessions remain with the kinsmen; and it will bring to the women, as they live with those nearest to their former husbands, an alleviation of their suffering.

35 See the commentary of Feldman, *Judean Antiquities*, 407–8.

36 *B. Ber.* 6a, quoting Deut 28:10 (Feldman, *Judean Antiquities*, 407–8 n. 646).

37 This is despite the note of Feldman, *Judean Antiquities*, 419 to the effect that this "is Josephus' addition" to the biblical material. Feldman compares 1 Cor 9:8–9 (*Judean Antiquities*, 419 n. 741).

The Bible only speaks of the need to perpetuate the name of the dead first husband. On the other hand, it seems apparent from the Bible that, as held by the anonymous Mishnah, the property of the dead husband devolves to the brother who performs Levirate marriage (*m. Yev. 4:7*³⁸) and then to the children born of the Levirate marriage. Josephus here introduces two other rationales for this commandment. First, it provides for orderly transmission of property and maintenance of “houses,” that is, in biblical times, clans within the tribe. Second, it provides succor to the unfortunate widow who is provided both with material support and with a husband who would in many ways resemble her first husband. We should note here that Philo does not mention Levirate marriage at all, and that the rabbis were indeed concerned with the welfare of the widow in legislating the specific applications of these laws.³⁹

The fact that this brief survey comes only from the beginning of Josephus’s review of the laws of the Torah should indicate how extensive his discussion of the rationales for commandments was, as such explanations punctuate his survey of the Pentateuchal laws over and over. While some of the rationales do indeed fit with the polemical purposes of Josephus, it appears that most are simply drawn from the common Judaism of the time or represent rationales fitting with Josephus’s notion of Moses as a kind of philosopher king whose legislation was totally wise and just.⁴⁰ One thing is certain: the sustained discussion of *ta`amei ha-mitsvot* as a rational enterprise, in the works of Philo and Josephus, contrasts greatly with the etiological approach for the most part taken by the book of *Jubilees*. Clearly, it is the Hellenistic environment that called upon Jews to make logical, rational, philosophical arguments for commandments often held up to ridicule in the Greco-Roman world. Further, we should not underestimate the need for Jews

38 Contrast the view of Rabbi Judah bar Ilai (*m. Yev. 4:7* [C. Albeck, *Shishah Sidre Mishnah*, 6 vols. (Jerusalem: Bialik Institute; Tel Aviv: Dvir, 1952–59), *Nashim*, 335]; *t. Yev. 6:3* [S. Lieberman, *Tosefta Ki-Feshutah*, 10 vols. (New York: Jewish Theological Seminary of America, 1955–88), part 6, *Nashim*, 47]) that the father and other brothers inherit the dead husband.

39 Cf. Feldman, *Judean Antiquities*, 428 n. 817; D. E. Weisberg, *Levirate Marriage and the Family in Ancient Judaism*, HBI series on Jewish Women (Waltham, MA: Brandeis University Press; Hanover [NH]: University Press of New England, 2009), 37–43.

40 Cf. J. G. Gager, *Moses in Greco-Roman Paganism* (Nashville: Abingdon, 1972), 25–79.

themselves to explain internally the significance of the commandments in an environment in which Jews constituted a minority in the wider *oekumene*.

Dead Sea Scrolls

In our next section, we consider examples drawn from the Dead Sea Scrolls, in particular the sectarian scrolls regarded as representing the views of the sect that gathered the scrolls at Qumran. We will see here that true rationales for commandments are for the most part lacking. We will note a few cases in which rationales are given for various rulings but these are for the most part rationales for minor details, not for the commandment as a whole. In fact, we found it very surprising that so few examples could be gathered.

We begin with the Zadokite Fragments (Damascus Document), a text originally found in medieval manuscripts in the Cairo Genizah that later turned up in multiple fragmentary copies at Qumran. In CD 4:21–5:1⁴¹ we are given a reason for the sect's understanding that polygamy is forbidden according to the Torah, and that prohibition included remarriage by a divorced man or woman as long as the original spouse remained alive. The rationale is given as follows:

...for the foundation of creation is, "male and female He created them" (Gen 1:27), and those who entered the ark, "two by two they came into the ark" (Gen 7:9).

The question here is whether this is a rationale for a commandment or whether it is actually a halakhic midrash, an exegesis meant to support a legal ruling. We will see that in quite a number of examples of the Dead Sea Scrolls it is hard to distinguish rationales from biblical support. One example that clearly is a case of biblical support, rather than a rationale, is the prohibition of marrying one's niece found in CD 5:8–11.

In 4Q267 frag. 5 iii 3–5⁴² there appear laws regarding the public reading of the Torah, specifically requiring that it be read by somebody who does not have a raspy voice. The reason for this requirement is given as follows:

41 C. Rabin, *The Zadokite Documents* (Oxford: Clarendon Press, 1954), 16–19. There are no parallels to this passage in the Qumran manuscripts.

42 J. M. Baumgarten, ed., *Qumran Cave 4. XIII: The Damascus Document (4Q266–273)*, DJD 18 (Oxford: Clarendon Press, 1996), 102; parallels in 4Q266 5 ii 1–3 (pp. 50–51) and 4Q273 2 1 (p. 195).

“Why should he make a mistake in a capital matter?” (line 5).⁴³ Here we are given a rationale not for a commandment but rather for a particular ruling of the sectarians in a matter of Jewish law, namely regarding the qualifications of the Torah reader. Clearly, what is motivating this ruling is the fear that hearing an unclear reading might lead to a mistake on the part of a listener regarding a Torah commandment.

Somewhat similar is a ruling of 4Q271 3 7–9⁴⁴ that a man (or perhaps a person) is forbidden to keep secret the blemishes of his (perhaps hers also) daughter from a potential suitor. The reason is given as follows: “Why should he bring upon himself the law of ‘Cursed be he who leads the blind astray on the way?’” (Deut 27:18).⁴⁵ Here again, the rationale for a sectarian prescription is that if one does not follow it, he will be violating a commandment of the Torah. In a certain sense, this is the reverse of what we would normally expect. Instead of telling us the rationale for a commandment of the Torah, our text advises us how to avoid violating it. The comparison to mixed kinds (*kil’ayim*), already encountered in Josephus, appears here in line 13, referring to one who gives his daughter to one who is not appropriate for her. This comparison is also made in MMT B75–82.⁴⁶ Although this is close to a reason for the commandment, it again is the reverse of what we would expect. Instead of explaining the reason and what may be learned from observing the commandments regarding mixed animals, seeds and cloth, namely, the requirement to maintain the natural order as God created it, the text instead states that an inappropriate match is analogous to such mixtures.

43 Cf. L. H. Schiffman, “The Early History of the Public Reading of the Torah,” in *Jews, Christians, and Polytheists in the Ancient Synagogue: Cultural Interaction during the Greco-Roman Period*, ed. S. Fine (London and New York: Routledge, 1999), 44–56.

44 Baumgarten, DJD 18, 175–77; parallel in 4Q270 frag. 5 14–15 (pp. 154–55).

45 Cf. C. Wassen, *Women in the Damascus Document* (Atlanta, GA: Society of Biblical Literature, 2005), 74–76.

46 E. Qimron and J. Strugnell, *Qumran Cave 4.V: Miqṣat Maʿaṣe ha-Torah*, DJD 10 (Oxford: Clarendon Press, 1994), 54–57; see the thorough discussion on pp. 171–75. On *kil’ayim* see 4Q481 (Text Mentioning Mixed Kinds), E. Larson and L. H. Schiffman, in G. J. Brooke et al., eds., *Qumran Cave 4.XVII: Parabiblical Texts, Part 3*, DJD 22 (Oxford: Clarendon Press, 1996), 303–4 and 4Q418 103 ii 6–9 (Instruction^d), J. Strugnell and D. Harrington, in J. Strugnell, D. J. Harrington, and T. Elgvin, *Qumran Cave 4.XXIV: Sapiential Texts, Part 2*, DJD 34 (Oxford: Clarendon Press, 1999), 329–34.

Much closer to what we are seeking is an explanation in CD 16:6=4Q270 4 ii 7 for the circumcision of Abraham that is said to have taken place *be-yom da'ato*, that is, when he reached sufficient consciousness and understanding of his relationship to God. We are indirectly told that on that day the angel of Mastema departed from behind him (14:5). What we seem to learn here is that the ritual of circumcision in some way banishes the forces of evil from the young child and leads to a full understanding by the child of his relationship with God. This certainly seems to be an actual rationale given for the commandment of circumcision, something very rare in the scrolls. It goes beyond the examples of etiology that we mentioned before, since it does not assert Abraham's circumcision as the reason for that of later Jews. Rather, it gives a reason for circumcision that applies to Abraham as well as to future generations.

CD 9:15⁴⁷ gives a reason why lost property, the owner of which cannot be located, should be placed in the hands of the priests. The reason is, "for the finder will not know its law." The idea here is that the finder may not know the required laws regarding the maintenance and protection of lost property that has not been claimed, a task that the priests will know how to fulfill.⁴⁸ Since giving such property to the priests is regarded by the sect as a commandment of the Torah, this indeed is an example of the giving of a rationale for a commandment.

These examples suffice to give a sense of the kinds of explanations or rationales that are found in the Zadokite Fragments. We now look at a different type of text, the Temple Scroll.⁴⁹ This document is essentially a rewrite of much of the Torah. On the other hand, the text seeks to appear like the Torah, and for this reason does not generally add too much material of

47 There are no parallels preserved in the Qumran manuscripts

48 Cf. L. H. Schiffman, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony and the Penal Code*, BJS 33 (Chico, CA: Scholars Press, 1983), 120–23.

49 Editions are Y. Yadin, *The Temple Scroll*, 3 vols. and suppl., rev. ed. (Jerusalem: The Israel Exploration Society and the Shrine of the Book, 1983); E. Qimron, *Megillot Midbar Yehudah: ha-Hibburim ha-Ivriyim*, volume 1. Between Bible and Mishnah (Jerusalem: Yad Ben-Zvi Press, 2010), 137–207; and L. H. Schiffman, A. D. Gross, and M. C. Rand, "Temple Scroll," in *Dead Sea Scrolls: Hebrew, Aramaic, and Greek Texts with English Translations: Volume 7: Temple Scroll and Related Documents*, ed. J. H. Charlesworth et al. (Tübingen: Mohr Siebeck; Louisville: Westminster John Knox Press, 2011), 1–173; 266–405 (the translations in that volume are not by Schiffman, Gross, and Rand.).

its own. Therefore, we actually have found only one example, in a section of the text called the Law of the King, the only part of the scroll that represents sustained composition by the author, as opposed to rewriting of the biblical text to include his own interpretations and legal rulings. These rulings, by the way, and the interpretations behind them, seem to accord with the Sadduceean/Zadokite approach to Jewish law and exegesis.⁵⁰

11QT^a 57:7–8 provides a reason for the requirement that the King have a guard of 12,000 men and that they not leave him alone, “(lest he) be taken captive in the hand of the non-Jews.”⁵¹ However, this is not really a rationale for a commandment, rather for a part of the revised political constitution that the author/redactor of the scroll put forward in response to his dissatisfaction with the political order of the day during the Hasmonean period. There are a few points where the Torah provides motive clauses for commandments and some of these do appear in the scroll. However, the author, who codified numerous Torah prescriptions, does not add reasons such as we found in the writings of Josephus.

Finally, a few examples are found in some smaller legal texts in the scrolls collection. In 4Q251 (Halakha A) 18 3–6⁵² we have an explanation for the ceremony that takes place when a dead body is found between cities. Discussing the heifer, the neck of which is broken (Deut 21:1–10), this text twice mentions that the heifer is “in exchange for the life” and that “it is a substitute” (lines 4–5). This clearly qualifies as a rationale for the Torah’s commandment. In 4Q265 (Miscellaneous Rules) 7 14–17⁵³ we are given the same rationale as in *Jub.* 3:10–14, a passage discussed above, for the periods of purity and impurity for a parturient woman, one who has just given birth. We should finally mention that certain prayer texts that are to be recited prior to ritual immersion make clear that the sectarians saw ritual impurity as based on a moral defect and the need for repentance.⁵⁴

50 Schiffman, *Courtyards*, 42–43, 49–51, 145–47, 425–39.

51 Cf. *ibid.*, 495–97.

52 E. Larson, M. Lehmann, and L. H. Schiffman, “4QHalakha A,” in J. M. Baumgarten, et al., *Qumran Cave 4.XXV: Halakhic Texts*, DJD 35 (Oxford: Clarendon Press, 1999), 47–48.

53 Baumgarten, DJD 35.70, 72.

54 See J. Klawans, *Impurity and Sin in Ancient Judaism* (Oxford: Oxford University Press, 2000), 67–91.

Conclusion

We have observed rudimentary attempts to provide rationales for commandments in Second Temple literature written in Hebrew. In *Jubilees*, real rationales were very rare and most of what we encountered was simply etiologies, the claim that since the Patriarchs had observed a certain commandment, their descendants should continue to observe it. Similar lack of emphasis on rationales for commandments is observable in Dead Sea Scrolls texts. Here we found reasons being given for certain legal prescriptions that were actually not direct Torah commandments. In a few cases, rationales for commandments were indeed found in the Scrolls. We do need to remember that the legal texts in the Qumran corpus, with the exception of the Temple Scroll, are exceedingly fragmentary. Further, the Temple Scroll masquerades as a Torah and for this reason would not be replete with such reasons. Nonetheless, we see here or there that reasons were occasionally given, showing evidence of the beginnings of the quest to explain the commandments rationally to those expected to practice them.

From our study of Philo and Josephus it would certainly appear that the full-fledged attempt to provide rationales for commandments—*ta`amei ha-mitsvot*—seems to stem from the inherent and, in fact, directly acknowledged polemics that these authors waged against both Jewish extreme allegorists, in the case of Philo, and in both Philo and Josephus against non-Jews who saw little meaning in Jewish observance and who often ridiculed it. One can imagine that such rationales were necessary for the Jewish people, and that many Greek-reading Jews looked to the works of Philo and Josephus for support in their maintenance of the Torah's commandments. We have not discussed here all the examples that we could gather, since in the case of Philo and Josephus such a study would have to be book-length for each. But taking into consideration the tremendous amount of such discussion in Philo and the virtually consistent provision of such rationales in Josephus's exposition of Scripture's legal corpus, it seems clear that this approach had its origins in Hellenistic Jewish literature composed in Greek.

While such a conclusion is certainly warranted for the material at hand, and is well demonstrated by the examples that we have discussed here, let alone from the many more that could have been added, we still need to be somewhat cautious in light of the fragmentary nature of Second Temple literature, especially those texts composed in Hebrew and Aramaic.

Despite that caveat, and until evidence can be adduced to the contrary, we will maintain the conclusion that emerges from our work: that seeking explanatory rationales for the commandments as a consistent approach and fostering the conception that such rationales can, in fact, be offered for almost all the commandments, is a product of Hellenistic Judaism in the Second Temple period. What we cannot know and may never know is whether medieval developments were in any way influenced by the Second Temple trend. This is part of the enigma surrounding the transmission, or usually non-transmission, of Second Temple literature to medieval Jewish communities.⁵⁵ Is it really possible that medieval Jews reinvented the wheel, or did the Hellenistic Jewish trend we have observed play some role in the later interest in *ta`amei ha-mitsvot*?

55 For Second Temple texts that circulated in the Middle Ages, see L. H. Schiffman, *Qumran and Jerusalem: Studies in the Dead Sea Scrolls and the History of Judaism* (Grand Rapids, MI; Cambridge, UK: William B. Eerdmans, 2010), 393–410 and M. Himmelfarb, “Some Echoes of Jubilees in Medieval Hebrew Literature,” in *Tracing the Threads: Studies in the Vitality of Jewish Pseudepigrapha*, ed. J. C. Reeves, SBLEJL 6 (Atlanta, GA: Scholars Press, 1994), 115–41.