

Law, History, and Narrative in the Damascus Document

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Introduction

The question of the intersection of law and narrative has long preoccupied scholars of the Hebrew Bible and of rabbinic literature, and more recently of such Second Temple period texts as the Book of Jubilees. It has also been a perennial subject of interest among scholars of law, literature, and culture much more broadly. Although law and narrative are commonly the preoccupations of separate specialties of scholarly inquiry, all too often in limited communication with one another, legal discourse frequently is deeply embedded in and dependent upon narrative structures and rhetoric, while the stories that cultures tell of themselves, especially of their origins and histories, are profoundly implicated in their legal values and institutions.¹ With a few important exceptions, the inter-relation between legal and narrative modes of rhetoric in the Dead Sea Scrolls has received little attention, with an

It is an honor to contribute this essay in tribute to Devorah Dimant, who, among her many works on the Dead Sea Scrolls, has illuminated the place of Scripture in the Damascus Document. This essay began as a paper at the Qumran Section of the Society of Biblical Literature Annual Meeting, in Philadelphia, November 2005. My thanks to the conveners of that session for the opportunity to give it a test run, and to the other panelists and the audience for their responses. The following colleagues generously read and commented on a penultimate version: John Collins, Maxine Grossman, Charlotte Hempel, Martin Jaffee, David Lambert, Hindy Najman, Adiel Schremer, and Aharon Shemesh.

For a fuller treatment of this interrelation, with many more examples from ancient Jewish literature and with references to recent scholarship, see S. D. Fraade, "Nomos and Narrative Before *Nomos and Narrative*", *Yale Journal of Law and the Humanities* 17 (2005), pp. 81–96.

implicit division of labor between the two among scholars of the scrolls.

Why is the Damascus Document a good place to begin such an inquiry? First, it is emblematic of the problematic division of scholarly attentions between law and narrative. Although the Cairo Damascus Document (CD) is roughly divided in halves between the opening Admonition (CD 1-8, 19-20) - which depends heavily on narrative accounts of Israel's and the sect's past - and its Laws (CD 15-16, 9-14), with the addition of the 4QD materials that division is estimated to be one-third Admonition and two-thirds Laws, with several passages occupying a gray area between the two. Nevertheless, scholars of the Dead Sea Scrolls, again with important exceptions, have focused much more on the Admonition than on the Laws, in part because of their preoccupation with the possible value of the former for reconstructing the origins and history of the Qumran community, and in part due to the greater interest of Christian scholars in matters of religious belief than in religious law. In fact, some translations and commentaries to CD have treated the Admonition in complete isolation from the Laws, something that would be harder to justify now that the 4QD legal materials have been published.² Even the commonly used titles for the scroll, and hence its implicit characterization, as the Damascus Document and, before that, the Zadokite Fragments, derive from the terms "Damascus" and "Zadok" that occur in the Admonition but never in the Laws.³ Now that we have the opening and closing sections of the Damascus Document from 4QD (what would we not give for the opening and closing sections of some other scrolls!), as well as much more of its central legal contents, it is clear that a more fitting title

2. See, for example, M. A. Knibb, *The Qumran Community*, Cambridge 1987; Ph. R. Davies, *The Damascus Covenant: An Interpretation of the "Damascus Document"*, JSOTSup 25, Sheffield 1983; both entirely omit the Laws from their translations of and commentaries to the Damascus Document. On the history of neglect of the Laws, see C. Hempel, *The Damascus Texts*, Companion to the Qumran Scrolls 1, Sheffield 2000, pp. 71-74.
3. For דַּמְשֶׁק, see CD 6:5, 19; 7:15, 19; 8:21; 19:34; 20:12; 4Q266 3 iii 20 (= CD 6:19). For צְדוֹק, see CD 4:1, 3; 5:5; 4Q266 5 i 16 (a bridge between the Admonition and the Laws; see Hempel, *The Damascus Texts*, p. 34).

(and characterization) would be פרוש המשפטים, “the elaboration of the laws”.⁴

However, in the corrective characterization of the Damascus Document as primarily a legal text, it would be a mistake, it seems to me, simply to relegate the Admonition to the status of a hortatory “introduction” or “preface” to its corpus of Laws, as some have done.⁵ Just as scholars have invested fruitful labors in the redactional and source-critical analysis of the composite Admonition on the one hand and of the composite Laws on the other (albeit with limited historical conclusions of consensus), it is now time to ask how these two sections function *performatively* in relation to one another within the document as a whole.⁶

4. For this phrase, see the opening section, 4Q266 1 a–b 1 (restored; see *DJD* 18:31–32); the concluding section, 4Q266 11 18 (=4Q270 7 ii 12; 4Q269 16 16–17 [restored]; see comment in *DJD* 18:78); as well as CD 14:18 (par. 4Q266 10 i 11–12; 4Q269 11 i 1–2), referring to the preceding rules for those “dwelling in camps”.
5. For this characterization, see J. M. Baumgarten & D. R. Schwartz in J. H. Charlesworth (ed.), *The Dead Sea Scrolls: Hebrew, Aramaic, and Greek Texts with English Translations. Volume 2: Damascus Document, War Scroll, and Related Documents*, Tübingen & Louisville 1995, pp. 5, 61; J. M. Baumgarten, “Damascus Document”, in L. H. Schiffman & J. C. VanderKam (eds.), *Encyclopedia of the Dead Sea Scrolls*, Oxford & New York 2000, vol. 1, p. 167; idem, “The Laws of the *Damascus Document* in Current Research”, in M. Broshi (ed.), *The Damascus Document Reconsidered*, Jerusalem 1992, pp. 52, 55; M. A. Knibb, *The Qumran Community*, Cambridge 1987, p. 15.
6. A similar appeal for an integrative approach to the Admonition and Laws is made by C. Hempel, *The Damascus Texts*, pp. 52–53, 88; idem, *The Laws of the Damascus Document: Sources, Traditions and Redaction*, *STDJ* 29, Leiden 1998, p. 192. The term “performative” is used here and below to denote how texts actively and transformatively engage their audiences in the process of conveying meaning and cultivating identity. See further, S. D. Fraade, *From Tradition to Commentary: Torah and its Interpretation in the Midrash Sifre to Deuteronomy*, Albany 1991, pp. 13–14, 183.n. 46. With respect to the Dead Sea Scrolls, see, most recently, M. L. Grossman, *Reading for History in the Damascus Document: A Methodological Study*, *STDJ* 45, Leiden 2002; C. A. Newsom, *The Self as Symbolic Space: Constructing Identity and Community at Qumran*, *STDJ* 52, Leiden 2004. On the Damascus Document in particular, see M. L. Grossman, “Cultivating Identity: Textual Virtuosity and ‘Insider’ Status”, in F. García Martínez (ed.), *Defining Identities: We, You, and the Others in the Dead Sea*

The laws of the Damascus Document may be said to have been extracted from some antecedent source or sources so as to be reorganized according to legal topical rubrics (סרכים). But they have also been renarrativized according to the historical self-understanding of the Qumran community as expressed in the Admonition, together with what we now know to have been the concluding section of the Damascus Document (to which we will shortly turn). In this regard, it might be argued that the Damascus Document is both a latter-day Book of Deuteronomy (on which it might be structurally modeled) and an antecedent to the Mishnah of Rabbi Judah the Patriarch.⁷ As space does not allow a full explication of the text in support of this thesis, let me offer a few salient exemplifications.

Beginning and End

The 4QD evidence for the beginning and end of the Damascus Document will inform our understanding of the document as a whole. Although the opening of the document, as preserved in 4Q266 1 i – 2 i and parallels, is fragmentary (including the hint of a collective prayer for knowledge⁸), the words that have been preserved allow us to make out several themes that will recycle throughout the Admonition and that are illuminated by the Laws. The Maskil (restored), or wise leader, reveals to the sons of light what is otherwise hidden from humankind: the ways of wickedness from which they must separate themselves; the commandments according to which the righteous must live and which the wicked ignore, subvert and

Scrolls. Proceedings of the Fifth Meeting of the International Organization for Qumran Studies, Groningen, 2004, STDJ, Leiden 2007.

7. On this broader pattern of legal extraction, redaction, and renarrativization, see S. D. Fraade, "Nomos and Narrative Before *Nomos and Narrative*". I am told that in an unpublished paper, entitled "The Damascus Document: A Historiosophic Theology or a Book of Laws?" (Third Orion International Symposium: The Damascus Document, A Centennial of Discovery, 4–8 February 1998, the Hebrew University of Jerusalem, Israel), Moshe David Herr argued similarly for the modeling of the Damascus Document after the Book of Deuteronomy.
8. Sec 4Q266 1 19; par. 4Q267 1 1: ...הוֹדִיעֵנוּ נָא.

slander; the divinely fixed “appointed times” (מועדים) in history for the visitations of punishment of the wicked and the favoring of the righteous. Thus, from the very beginning of the text what is vouchsafed to the elect alone, what defines them over against their opposites, is their knowledge of the divine orchestration of history and of the commandments according to which they are to conduct themselves if they are to reap blessings:

He ordained a period of wrath for a people that knows him not, and he established times of favour for those that seek his commandments and for those that walk on the path of integrity. And he uncovered their eyes to hidden things and they opened their ears and heard profundities, and they understood all that is to be before it comes upon them.⁹

However, it is the end of the document, now known from three 4QD fragments, that is even more significant for our understanding of the document as a whole, and for its performative social setting. Following the corpus of laws, both for the “cities of Israel” and for those “dwelling in camps” (CD 12:19, 22–23) as well as a penal code for the latter, we find a ceremony for the expulsion of retrograde members in conjunction with an annual communal ceremony for the renewal of the covenant in the third month, presumably in conjunction with the Festival of Weeks (שבועות) on the fifteenth day thereof.¹⁰ By all indications, this was the most important ritual and liturgical event in the annual festival cycle of the Qumran community, and one that echoes strongly in other aspects of Qumran prayer and liturgy.¹¹ Following an admonition to accept one’s

9. 4Q266 2 i 3–6; par. 4Q268 1 5–8. Translation from *DJD* 18, p. 35.
10. I have been influenced in my treatment by that of D. K. Falk, *Daily, Sabbath, and Festival Prayers in the Dead Sea Scrolls*, STDJ 27; Leiden 1998, pp. 230–235. For other passages dealing with the expulsion of members for failure to live according to the community’s rules, see CD 19:32 – 20:13, with which compare 1QS 6:24 – 7:25; 8:16 – 9:2. However, the 1QS expulsion does not make reference to a ritual.
11. This is emphasized by Falk, *Daily, Sabbath, and Festival Prayers in the Dead Sea Scrolls*, esp. pp. 217–251. For the annual covenantal renewal ceremony of blessings and curses at Qumran, especially as reflected in 4QMMT, see S. D. Fraade, “Rhetoric and Hermeneutics in Miqsat Ma’ase Ha-Torah (4QMMT):

punishment willingly, on analogy to the bringing of a sin offering or a guilt offering, with communal discipline substituting for sacrificial offerings,¹² we find the ceremony for the expulsion of "anyone who rejects these regulations (המשפטים האלה)¹³ (which are) in accordance with all the statutes (חוקים) found in the law of Moses... for his soul has despised righteous instruction (יטורי הצדק).¹⁴ These terms presumably refer to the previously enunciated Laws. A prayer is recited by the "priest in charge over the many" (הכהן המופקד על הרבים),¹⁵ which incorporates the themes of history and law, that is, the divine giving of law in the context of Israel's history, that runs through the Damascus Document, and whose very language echoes parts of the previous Admonition. Its words are as follows:¹⁶

Blessed are you, almighty God, in your hand is everything, and (you) make everything. You established peoples in accordance with their families and tongues for their tribes, but made them go astray in a trackless void. But our ancestors you did choose and to their descendants you gave your true statutes (חוקי אמחכה) and your holy laws (משפטי קודשכה), which if a man does them, he shall live.¹⁷ You have set boundaries (גבולות) for us and cursed those

The Case of the Blessings and Curses", *DSD* 10 (2003), pp. 150-161. For the ceremony in the context of the Community Rule, see C. A. Newsom, *The Self as Symbolic Space: Constructing Identity and Community at Qumran*, pp. 117-127.

12. 4Q266 11 1-5; par. 4Q270 7 i 15-19. For such substitution, compare 1QS 3:4-12; 5:6; 8:3-10, 16-18; 9:3-6; 1QSa 1:3; 4Q265 7 8-9. Cf. Josephus, *War* 2.144. See Falk, *Daily, Sabbath, and Festival Prayers in the Dead Sea Scrolls*, pp. 232-233, 239-247.
13. For this phrase, or אלה המשפטים (cf. Exod. 21:1), referring either to rules preceding or following, see CD 12:19; 13:22 (par. 4Q266 9 iii 14); 20:27; 4Q266 11 5-6 (par. 4Q270 7 i 19-20); 4Q270 7 i 15. Cf. זיה/הזה פרוש המשפטים, above, n. 4. See also below, nn. 29, 42.
14. 4Q266 11 5-7; par. 4Q270 7 i 19-21; 4Q269 16 3-5 (restored).
15. Cf. CD 14:6-7 (par. 4Q267 9 v 10-11; 4Q268 2 2 [restored]).
16. 4Q266 11 8-14; par. 4Q269 16 6-12 (restored). See C. Hempel, *The Laws of the Damascus Document*, pp. 180-182.
17. For very similar language, see the Admonition, CD 3:12-16, which recounts the original establishment of the covenant community. For the biblical idiom, see Lev. 18:5; Ezek. 20:11, 13, 21; Neh. 9:29.

who transgress them, for we are the people of your redemption and the flock of your pasture. You have cursed those who transgress them, but we have upheld (them).¹⁸

The expulsion ceremony concludes with the departure of the person expelled and instructions to others not to have any further dealings with him: "His case shall be inscribed in front of the Overseer (המבקר), and his judgment shall be complete (שלים משפטו)".¹⁹

The context for the judicial expulsion of individual members appears to have been the annual assembly in the "third month", during which the

18. The above translation follows that of *DJD* 18, p. 77, with slight modification. The last phrase (ואנו הקימנו) (4Q266 11 14; par. 4Q269 16 12) is translated there incorrectly as "but you have preserved us". It is similarly mistranslated by Florentino García Martínez (*The Dead Sea Scrolls Study Edition. Vol. One: 1Q1-4Q273*, Leiden 1997, p. 597), as "You curse those who cross them but us you have raised up"; and by Michael Wise, Martin Abegg, Jr., and Edward Cook (*The Dead Sea Scrolls: A New Translation*, San Francisco 1996, p. 74) as "Thou hast cursed the transgressors; but Thou hast made us firm". The verb must be *hiph'il*, perfect, first person, common of קים, with no pronominal suffix. My translation accords with those of Geza Vermes (*The Complete Dead Sea Scrolls in English*, rev. ed., London 2004, p. 155) and Charlotte Hempel (*The Laws of the Damascus Document*, pp. 176, 181), contrasting the "we" who uphold God's laws ("boundaries") with those who transgress them. Alternatively, some have taken the unstated object of the verb to be not the "boundaries", but the curse against the transgressors, that is, that the community, through its expulsion of transgressors enacts God's curse on them. Thus, Aharon Shemesh ("Expulsion and Exclusion in the Community Rule and the Damascus Document", *DSD* 9 [2002], p. 47) renders and explains, "You cursed those who transgress them, and we have fulfilled...", that is, we, through the imminent expulsion of the offender, are observing and implementing the curse that you imposed upon transgressors"; and Falk (*Daily, Sabbath, and Festival Prayers in the Dead Sea Scrolls*, p. 231), who translates, "You have cursed those who transgressed them, and we effect (your judgment)". Whether the "we" uphold the boundaries or effect the curse of those who transgress them does not change my understanding of this prayer and its import for my larger argument.
19. 4Q266 11 16. There is some uncertainty whether the subject is the one being expelled or anyone who continues to have dealings with him. I prefer the former, on the assumption that the text is broken. See Hempel, *The Laws of the Damascus Document*, pp. 182-183.

community as a whole curses those who "turn aside to the right or to the left of the law", thereby echoing Deut. 28:14, in the context of the Deuteronomic ceremony of blessings and curses.²⁰ While this annual ceremony of blessings and curses is more fully described in IQS 1:16 – 2:18, it is more powerfully evoked in our passage at the end of the Damascus Document, in large measure through the direct articulation of the prayer recited by the Priest. In combination, the judicial ritual of expulsion and the liturgical recitation of blessings and curses serves performatively to delineate most clearly the lines that differentiate between those within the community and those without (us vs. them), and to justify the community's elect self-understanding within history as a function of their maintaining the divinely revealed laws (boundaries), which have been revealed to them both through Moses and their own teachers. This is emphatically underscored in the concluding words of the document:

This is the elaboration of the laws (וְהָיָה פְרוּשׁ הַמִּשְׁפָּטִים) to be followed during the entire period of visitation, that which will be visited upon them during the periods of wrath and their journeys, for all who dwell in their camps and all who dwell in their towns. Behold it is all in accordance with the final interpretation of the Torah (הַנָּה הַכֹּל עַל מִדְרַשׁ תּוֹרַת הָאֲחֵרוֹן).²¹

The foregoing is understood to contain the correct and latest elaboration of the laws, both for Israel as a whole ("who dwell in their towns"; cf. CD 12:19) and for the sectarians ("who dwell in their camps"; cf. CD 12:22–23), in accordance with which the elect community is to live during the present historical period of divine wrath, especially as it nears its consummation.²²

20. See above, n. 11.

21. 4Q466 11 18–21; 4Q270 7 ii 12–15; 4Q269 16 16–19. Translation is from *DJD* 18:77. For מִדְרַשׁ הַתּוֹרָה (partly restored), see 4Q266 5 i 17. For מִדְרַשׁ הַתּוֹרָה, see CD 20:6; IQS 8:15 (par. 4Q259 iii 6). For פְרוּשׁ הַמִּשְׁפָּטִים, see above, n. 4. For פְרוּשׁ הַתּוֹרָה, see CD 4:8 (par. 4Q266 3 i 2); 6:14; 13:6 (par. 4Q267 9 iv 2).

22. For the first and last laws, revealed to the community during pre-ordained times, see CD 4:6–12; 20:6–10, 30–33; IQS 9:10b–11. On whether "the final interpretation of the Torah" is a title for the Damascus Document, or for some

Intermediary Mixes and Transitions

If we look now at some mixed and transitional passages between the editorial bookends of פרוש המשפטים, we will see that the bipartite division of the Damascus Document into separate sections of Admonition and Laws is rendered much more complex.²³ To begin with, important statements of law and legal scriptural interpretation are central to the Admonition itself, often interwoven with accounts of the community's origins, its self-understanding with respect to covenantal history, and its derision of adversaries for their legal laxity (e.g., "seekers after smooth things", "movers of boundaries"). Similarly, the section of the Admonition on the "Nets of Belial" (4:12 – 5:15) contains important rules, enunciated through scriptural exegesis, forbidding polygamy (or second marriage) (4:20 – 5:6) and niece-marriage (5:7–11), as well as condemnations of those who, through laxity with respect to sexual relations with menstruants, defile the sanctuary (5:6b–7), and, more generally, of those who spurn the "statutes of God's covenant" (5:12) (חוקי ברית אל), from whom the addressees are admonished to keep apart (5:11–15).²⁴ Furthermore, in CD 6:14b – 7:4a, following an admonishment to "all those who have been brought into the covenant" (וכל אשר הובאו בברית) not to enter the sanctuary to offer sacrifices (6:11b – 14a), we find a mini-corpus of twelve brief rules, most of whose more specific articulations are found in the section of Laws. It may be that this summary of the rules functions somewhat as does the Decalogue in Deut. 5:16–18 as part of the hortatory preamble to the laws proper.²⁵ There follows a series of promises of reward for obedience to the laws and warnings of consequences for disobedience, with a rule inserted regarding

other document from which the above laws have been taken, see *DJD* 18, p. 78. Cf. P. Mandel, "Inclusio: On the Final Section of the *Damascus Document* and Its Literary Significance" (Hebrew), *Meghillot: Studies in the Dead Sea Scrolls* 2 (2004), pp. 57–68.

23. See Hempel, *The Damascus Texts*, p. 88; *The Laws of the Damascus Document*, pp. 163–170.

24. Cf. CD 20:8–13.

25. See Hempel, *The Laws of the Damascus Document*, p. 169; A. D. H. Mayes, *Deuteronomy*, New Century Bible Commentary, Grand Rapids 1979, pp. 160–165.

the obligation of those who do marry and bear children to obey Torah laws regarding family relations (7:6b-9a; par. 19:1-5), followed by additional warnings of future punishment of the wicked and the community's backsliders (7:9b - 8:21a; par. 19:5b - 20:27a). In brief, the Admonition itself contains a significant number of rules, anticipating thereby the more concentrated and expanded collection of the Laws to come. Conversely, the Laws themselves, particularly those that structure the life of the community, stress the importance of collective instruction in the detailed history (as the sect understood it) of God's dealings with humankind:

This is the rule for the Overseer of the camp: He shall instruct the Many in the acts of God, and cause them to discern the wonder of His mighty deeds, and recount to them the happenings of eternity according to [their] interpretations.²⁶

Especially important for our understanding of the Damascus Document as a whole is the conclusion of the Admonition, according to CD (20:27b-34, with partial parallels in 4QD), which, after condemning those who have "broken the boundary of the Torah (התורה) גבול את גבול התורה" (20:25), blesses those who remain steadfast in their obedience of the laws, appearing just prior to the beginning of the Laws:²⁷

But all those who hold fast to these rules (כל המחזיקים במשפטים) במשפטים (האלה), going and coming in accordance with the Torah, who obey the teacher and confess before God, (saying): "Truly we have acted wickedly, we and our fathers, in that we have walked contrary to the statutes of the covenant, righteousness and truth are your

26. CD 13:7b-8; par. 4Q267 9 iv 3-5. The last word is פרתיה in CD 13:8, but פתריהם in 4Q267 9 iv 5. For the affinities of this passage with the Admonition, see Hempel, *The Laws of the Damascus Document*, p. 119. Hempel also argues that this passage may have been inserted from another context, where it related originally to the duties of the Maskil (wise leader), rather than the Overseer (מבקר). However, in its present, redacted setting, it clearly is part of the rules for the community.
27. The 4QD parallels are very fragmentary, but extend the text slightly: 4Q266 4 i 7-13; 4Q267 3 6-7. The translation that follows, with only slight modification, is from Knibb, *The Qumran Community*, p. 75.

judgments against us”; who do not act presumptuously against his holy statutes, his righteous precepts, and his true testimonies; who have been instructed in the first rules (החיסרו במשפטים הראשונים) in which the men of the community were governed;²⁸ who obey the teacher of righteousness and do not reject the statutes of righteousness when they hear them (לא ישיבו את חוקי הצדק) (בשמעם) – they will rejoice and be glad, and their heart will be strong, and they will triumph over all the sons of the earth, and God will make expiation for them, and they will see his salvation because they have taken refuge in his holy name.

First, it is unclear whether the expression “these rules” (המשפטים האלה) at the outset of this passage refers back to the summary of the duties of members in 6:11b – 7:4a, or forward to the collection of the Laws (CD 9–16, greatly enlarged by 4QD). Whatever its original reference, in its present redacted setting it could have been understood to refer to either or both.²⁹

The communal confession, provided as a direct quotation, is so similar to that found in IQS 1:24–26, as part of the annual covenant renewal ceremony at the Festival of Weeks, that they must be variants on the same confessional prayer.³⁰ As we have seen, the concluding passage of the Damascus Document (from 4QD fragments), with its ceremony of expulsion, is similarly placed in the third month, and also contains a prayer, there recited by the “priest in charge”. Just as the expulsion ceremony at the end of the Damascus Document, following the Laws, could be applied to the apostate cursed at the conclusion of the covenant renewal ceremony as described in IQS 2:11–18,³¹ so too the communal

28. On “first rules”, see above, n. 22.

29. See Knibb, *The Qumran Community*, p. 76. Compare ואלה החוקים למשכיל in 4Q266 5 i 17, in another transitional passage before the Laws, which could also point either back or forward. Similarly, see CD 12:20–21 for the same phrase in a transition between sets of laws. See below, n. 42, as well as above, nn. 4, 13.

30. See Falk, *Daily, Sabbath, and Festival Prayers in the Dead Sea Scrolls*, pp. 226–230.

31. See *ibid.*, p. 234: “That this ritual [of expulsion] occurs at the end of the covenant ceremony as described in IQS 1–2 and appears at the end of the *Damascus*

confession of CD, just prior to the Laws, could have been appropriately recited as part of that same ceremony, just prior to the expanded priestly blessing. Thus, the Laws of the Damascus Document are bracketed by two liturgical invocations of the annual ceremony of covenant renewal, in which new members were admitted, continuing members were promoted or demoted, and retrograde members were expelled. That is, the Laws are performatively preceded by the confession and blessing of the elect, and followed by the cursing and expulsion of the errant. In light of similar themes that run throughout the Admonition, beginning with its repeated rehearsal of the origins and history of the community's covenantal place within Israel's sacred narrative, the Damascus Document as a whole, especially its overall structure, takes on meaning in relation to the covenant ceremony, to which its parts could easily have provided elements of the liturgical "script", even as the covenant ceremony itself varied over time. As Daniel Falk has argued:

In CD, the confession comes at the end of a lengthy Admonition, during which God's deeds in the past and the sins of Israel were recounted, judgment was pronounced upon outsiders and backsliders, and blessing called upon those who "hold fast to these judgments" and confessed their sins. Since the excommunication ritual described at the end of the *Damascus Document*.. was explicitly intended for an annual covenant ceremony in the third month, and since the covenant ceremony in the *Community Rule* also probably took place during the Feast of Weeks following the calendar of *Jubilees*, it may be concluded that the confession of the *Damascus Document* is a variant of the one in IQS and was recited in the course of a Feast of Weeks covenant ceremony. That is, the context of the *Damascus Document* is not a description of a ceremony as in the *Community Rule*; rather, it is an allusion to it which appears in the course of an exhortation for the purpose of recalling the members to the initial act whereby they entered the covenant.³²

Document adds a measure of support to the theory that the *Damascus Document* reflects in some way the structure of the covenant ceremony".

32. *Ibid.*, p. 228.

Falk stresses that the very *structure* of the Damascus Document as a whole, with all of its variations between different recensions, “reflects in some way the structure of the covenant ceremony”.³³

There is one other aspect of the concluding passage to the Admonition in CD that I wish to emphasize. In contrast to the cursed who have not only disobeyed, but reviled the rules, those to be blessed do not only obey the rules, but they have been receptive to being “instructed in the first rules” (CD 20:31), and “do not reject the statutes of righteousness when they hear them” (CD 20:32–33; par. 4Q266 4 7). The emphasis here on collective *hearing* of the laws suggests that the annual covenant-renewal ceremony comprised not only the public recitation of history, confession, blessings, curses, and expulsion, but also the reading and perhaps study of חקֵי הַבְּרִית and מִשְׁפָּטֵי צְדָקָה, in other words, the ritualization of both law and legal study as part of the community’s performative reaffirmation of its covenantal bonds and identity. Those rules could have been selectively drawn, at least in part, from the Laws of the Damascus Document for recitation and possibly instruction in the annual ritual of covenantal reenactment.³⁴ Thus, as Michael Knibb comments here: “Perhaps [this is] an allusion to the solemn recital of the laws at ceremonies of the movement, for example the ceremony for the renewal of the covenant”.³⁵

This suggests that the section of Laws, whatever its origins and redactional history, whether as a whole or in its parts, be viewed in relation to, and not apart from, the larger structure and function of the Damascus Document, and that the Laws themselves functioned not just juridically, but also (if not mainly) pedagogically and liturgically, that is rhetorically and performatively, in a particular social setting. I will return to some specific implications of this suggestion below, but I should here

33. *Ibid.*, p. 234.

34. On the ritualization of reading and study at Qumran, see S. D. Fraade, “Interpretive Authority in the Studying Community at Qumran”, *JJS* 44 (1993), pp. 46–69, esp. 56–58. Such study may also have been a component in the examination of the members for promotion or demotion within the communal ranks. See 1QS 5:23–24, where each member is examined “every year” for “his spirit and his works [in Torah]”. It is likely that “every year” (שָׁנָה בְּשָׁנָה) refers to an annual occasion. See Knibb, *The Qumran Community*, p. 114. Cf. 1QS 6:22.

35. Knibb, *The Qumran Community*, p. 76, also p. 14.

stress that I am saying neither that the Laws of the Damascus Document were the only ones studied on the occasion of the annual covenant renewal ceremony (I have previously suggested this as a possible context for the use of 4QMMT³⁶), nor that this would have been the only time or context in which the Laws of the Damascus Document would have been read or studied.³⁷ However, I would agree with Falk³⁸ that when the Damascus Document was read or studied on other occasions, it would have functioned as a reminder, even a re-enactment, for its audience of their original entry and annual reconfirmation into the covenant.

Mention should first be made of another section of the Damascus Document, newly known from 4QD, and dubbed a "Catalogue of Transgressions", which its editors place after CD 20 but before the Laws, that is, as a transition between the Admonition and the Laws.³⁹

36. See S. D. Fraade, "To Whom It May Concern: 4QMMT and Its Addressee(s)", *RevQ* 19 (2000), pp. 507-526; idem, "Rhetoric and Hermeneutics in Miqṣat Ma'ase Ha-Torah (4QMMT): The Case of the Blessings and Curses", *DSD* 10 (2003), pp. 150-161. For strong affinities between the laws of the Damascus Document and those of 4QMMT, see C. Hempel, "The Laws of the Damascus Document and 4QMMT", in J. M. Baumgarten, E. G. Chazon & A. Pinnick (eds.), *The Damascus Document: A Centennial of Discovery. Proceedings of the Third International Symposium of the Orion Center, 4-8 February, 1998, STDJ* 34, Leiden 2000, pp. 69-84.
37. Another context could have been the nightly study sessions described in IQS 6:6-8 (לְרִישׁ מִשְׁפֵּט). The fact that the Damascus Document refers only obliquely to the context of its performative use is not an obstacle to my suggestion. Note Jeffrey Tigay's comment on the covenant ceremony of Deut. 29:9-20 (*The JPS Commentary: Deuteronomy*, Philadelphia 1996, p. 277): "Moses has alluded to this ceremony before..., but we do not know precisely when it took place or of what it consisted, since the text never actually narrates it. Other covenant texts from the ancient Near East likewise allude to ceremonies without narrating the actual performance of the agreement". Thus, parts of the Damascus Document could have provided partial scripts for use as part of the annual ceremony of covenant renewal, without the text as a whole having been a unified narrative script for that ceremony: I will return to this in my conclusions regarding the Damascus Document as an "anthology".
38. Falk, *Daily, Sabbath and Festival Prayers in the Dead Sea Scrolls*, p. 228, cited above (n. 32).
39. 4Q270 2 i 9 - ii 21; 6Q15 5 1-5.

However, this has led to some debate as to whether this "Catalogue of Transgressions" should be considered to form part of the Admonition or part of the Laws, since it could be considered akin to the warnings of the former (modeled loosely on Deut. 27), followed by a call to hearken (שמעו) that recalls similar calls earlier in the Admonition,⁴⁰ or to be the opening summary of the more fully stated rules of the latter.⁴¹ Finally, another fragmentary bridge text (4Q266 5 i 1-19; par. 4Q267 5 ii 1-7) has elements of both fish and fowl, that is, some vocabulary that is distinctive to the Admonition and other terminology that is distinctive of the Laws, pointing, as it were, in both directions.⁴²

All of this is to say that the redactional hand encountered here sought to tie the Admonition and the Laws to one another, thereby blurring any sharp demarcation between them. This suggests, to reiterate, that they need to be understood in rhetorical relation to one another, with the laws, through their recitation and study, serving to shape and to reinforce as much identity as practice.

A Legal-Historical Case

What are the legal-historical implications of such a rhetorical and performative view of the Laws of the Damascus Document? Space allows me to deal with one case only, and that briefly. As is well known, the sectarian Dead Sea Scrolls portray a community that, in severe criticism of the practices and impurities of the Jerusalem Temple and its priests, has separated itself from participation in its sacrificial rites.⁴³ However, at

40. 4Q270 2 ii 19; cf. CD 1:1; 2:2, 14; 4Q266 1 a-b 5.

41. See Hempel, *The Damascus Texts*, pp. 33-34; idem, *The Laws of the Damascus Document*, pp. 163-70; idem, "The Laws of the Damascus Document and 4QMMT", pp. 80-83.

42. See Hempel, *The Laws of the Damascus Document*, pp. 170-174. As noted earlier (above, n. 29), the phrase אלה החוקים למשכיל (4Q266 5 i 17b; CD 12:20-21), like similar phrases elsewhere in transitional passages, could point either forward or back or both. See also above, n. 13.

43. See CD 6:11b-14a (par. 4Q266 3 ii 17b-19); perhaps 4Q266 11 1-5; par. 4Q270 7 i 15-19. See also above, n. 12. For the pollution of the sanctuary, see CD 4:17-18; 5:6-7; 1QpHab 12:7-9. For the Essenes, see Philo, *Prob.* 76; Josephus, *Ant.* 18.19.

several points in the Laws of the Damascus Document, rules are given that presume sacrificial worship and participation in the Temple rites.⁴⁴ To give one example, from the section that begins, “concerning the Sabbath to guard it according to its precept”:

No man on the Sabbath shall offer anything on the altar except the Sabbath burnt-offering; for it is written thus: “Except your Sabbath offerings” (Lev. 23:38). No man shall send to the altar any burnt-offering, or cereal offering or incense, or wood, by the hand of one smitten with any uncleanness, permitting him thus to defile the altar. For it is written, “The sacrifice of the wicked is an abomination, but the prayer of the just is an agreeable offering” (Prov. 15:8). No man entering the house of prostration shall come unclean and in need of washing. And at the sounding of the trumpets for assembly, he shall go there before or after, and shall not cause the whole service to stop, for it is holy.⁴⁵

For discussion of the Essenes in this regard, see J. J. Collins, “Essenes”, in *Anchor Bible Dictionary*, New York 1992, vol. 2, pp. 621–622, 624; T. S. Beall, *Josephus’ Description of the Essenes Illustrated by the Dead Sea Scrolls*, Cambridge 1988, pp. 115–119; A. I. Baumgarten, “Josephus on Essene Sacrifice”, *JJS* 45 (1994), pp. 169–183, esp. 176. On attitudes toward the Temple in the Dead Sea Scrolls, see Ph. R. Davies, “The Ideology of the Temple in the Damascus Document”, *JJS* 32 (1982), pp. 287–301; J. Baumgarten, “Sacrifice and Worship Among the Jewish Sectarians of the Dead Sea (Qumran) Scrolls”, *HTR* 46 (1953), pp. 141–159; idem, “The Essenes and the Temple”, in *Studies in Qumran Law*, Leiden 1977, pp. 57–74; L. H. Schiffman, “Community Without Temple: The Qumran Community’s Withdrawal from the Jerusalem Temple”, in B. Ego, A. Lange & P. Pilhofer (eds.), *Gemeinde ohne Temple / Community without Temple: Zur Substituierung und Transformation des Jerusalemer Tempels und seines Kults im Alten Testament, antiken Judentum, und frühen Christentum*, Tübingen 1999, pp. 267–284; and, most recently, H. Evans Kapfer, “The Relationship between the Damascus Document and the Community Rule: Attitudes toward the Temple as a Test Case”, *DSD* 14 (2007), pp. 152–177.

44. See CD 9:13–14; 11:17 – 12:1a; 16:13–17; 4Q266 5 ii 4–7, 11; 4Q266 6 ii 12–13; 4Q271 2 8.
45. CD 11.17 – 12.1a; par. 4Q266 9 i 3–4; 4Q270 6 v 20–21; 4Q271 5 i 11–17. The translation, slightly modified, is from G. Vermes, *The Complete Dead Sea Scrolls in English*, New York 1997, p. 142.

Without going into the details of this list of rules, with their explicit and implicit scriptural interpretations, and possible polemics against other positions, it is *not* necessary to assume, as is usually done, that behind them lies a community that participated in sacrificial worship, whether in the Jerusalem Temple or some other holy site. Even if the “authors” of these rules considered the Temple to be defiled, by the impurities of those who entered or served there, and even if they did not perform sacrificial worship, they would still have found it meaningful, even obligatory, to expound the rules relevant to the offering of sacrifices on the Sabbath and the proper procedures for approaching and entering the holy place of worship.⁴⁶ The usual way that scholars have approached such passages, so as to reconcile them with others that express sectarian separation from the Temple, is to historicize them, on the presumption that they must reflect actual communal sacrificial *practice*. According to this presupposition, such rules must either derive from and represent a *past* stage in the community’s history, before its separation from the Temple in Jerusalem, or they are intended for *future* “better times”, when the community will once again be able to participate in the Temple worship, or they are said to derive from *another branch* of the sectarian movement, but whatever the solution, they are *not* relevant to the *present* time of a Qumran community that did not participate in Temple worship.⁴⁷ These sorts of

46. Similarly, G. A. Anderson (“Sacrifice and Sacrificial Offerings: Old Testament”, *ABD* 5, pp. 882–886) speaks of the “scripturalization of the cult” in Second Temple and early rabbinic Judaism (especially the Temple Scroll for the former and the Mishnah for the latter), but continuing as well through present-day traditional Jewish study of the laws of sacrifice: “the movement... to transform the sacrificial system from that of a physical reality into an exegetical reality...” (p. 885), both post- and pre-70 CE.
47. For recent examples of such approaches, see Hempel, “The Damascus Texts”, p. 31 (although she is much more cautious in this regard in *The Laws of the Damascus Document*, pp. 36–38); Falk, *Daily, Sabbath, and Festival Prayers in the Dead Sea Scrolls*, pp. 232–233; 241–242; J. M. Baumgarten & D. R. Schwartz in *The Dead Sea Scrolls*, p. 7 (“the CD laws about the Temple could be meant for better times”); L. H. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran*, Philadelphia 1994, p. 282; J. M. Baumgarten, *Studies in Qumran Law*, pp. 43–46. Even M. L. Grossman, whose *Reading for History in the Damascus*

positivist strategies will be abundantly familiar to scholars of the Mishnah, much of whose rules deal with the Temple, its priesthood, and its forms of worship some 150 years after the Second Temple's destruction in 70 CE.⁴⁸

Even if we presume that the Qumran Community at late stages in its development rejected marriage, private property, and Temple worship for its most elect members,⁴⁹ it hardly understood those practices as being outlawed by Torah law, and should not be presumed to have been any less preoccupied with the exposition of Torah laws relating to those subjects as a study practice of religious value and social meaning in its own right. Such legal expositions were no less, and perhaps much more, performatively significant in the *absence* of their practical actualization within the life of the community.⁵⁰ To take the above passage for example, the community's collective understanding and articulation of משפטים for the proper conduct of sacrificial Temple worship according to their understandings of rules of purity would have provided a powerful justification for their present *separation* from it, for their prayers as just substitutes for sacrifice,⁵¹ and for their solar festival calendar (which largely avoided the congruence of Festival and Sabbath sacrifices).⁵² In

Document: A Methodological Study offers a much-needed critique of historicist readings of the Damascus Document, understands its laws relating to sacrifice in terms of current communal practice (pp. 175–176).

48. For a long-overdue corrective, see I. Rosen-Zvi, "הגוף והמקדש: רשימות מומי, *Jewish Studies* 43 (2005–2006), pp. 49–87. For the sake of comparison, I count in the mishnaic tractate *Shabbat* twelve references to the temple, sacrifice, or priestly practice as if they were operative.
49. Note Josephus' statement (*War* 2.120–121) regarding the celibacy of the Essenes: "It is not that they abolish marriage, or the propagation of the species resulting from it". In other words, we could imagine the Essenes (whom I invoke here by way of analogy to, not necessarily identity with, the Qumran community) avoiding marriage for themselves even while expositing Torah rules for family life. Cf. CD 7:6–7; 16:10–12.
50. For study itself as a substitute for sacrificial worship, see S. D. Fraade, "Interpretive Authority in the Studying Community at Qumran", pp. 63–65, 58 n. 36.
51. See above, nn. 12, 50.
52. For fuller discussion, see J. M. Baumgarten, "Halakhic Polemics in New

other words, the ritualized recitation and/or study of such rules of temple and sacrifice would have been *especially* constructive of sectarian identity when performed in a ceremony of covenant renewal in the very here and now of the Qumran community's worship as a present, but not permanent, alternative to the Temple cult.⁵³

Conclusion

I hope to have opened some doors within the walls that all too often separate the Admonition from the Laws of the Damascus Document. Rather than seeing the former as a mere preface to the latter, or the latter as a mere appendage to the former, the two are deeply implicated in one another, just as they are in what I take to be the scriptural model for the Damascus Document, the Book of Deuteronomy.⁵⁴ As in that scriptural book, the central corpus of laws is as much framed by the recitational

Fragments from Qumran Cave 4", *Biblical Archaeology Today: Proceedings of the International Congress on Biblical Archaeology, Jerusalem, April 1984*, Jerusalem 1985, pp. 395–396; C. Werman, "CD XI:17: Apart from Your Sabbaths", in J. M. Baumgarten, E. G. Chazon & A. Pinnick (eds.), *The Damascus Document: A Centennial of Discovery. Proceedings of the Third International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, 4–8 February, 1998*, Leiden 2000, pp. 201–212; S. D. Fraade, "מבט חדש על הימדרש ההשוואתי: מגילות ים המלח ומדרשי חז"ל", in J. Levinson, Y. Elbaum & G. Hasan-Rokem (eds.) *Higayon L'Yonah: New Aspects in the Study of Midrash, Aggadah and Piyut in Honor of Professor Yonah Fraenkel*, Jerusalem 2006, pp. 261–284.

53. Others have similarly problematized the use of legal interpretations of the Damascus Document and other Qumran legal texts for the historical reconstruction of Qumran practice. See Ph. R. Davies, "Halakhah at Qumran", in Ph. R. Davies & Richard T. White (eds.), *A Tribute to Geza Vermes: Essays on Jewish and Christian Literature and History*, JSOTSup 100, Sheffield 1990, pp. 37–50; S. Metso, "In Search of the *Sitz im Leben* of the Community Rule", in D. W. Parry & E. Ulrich, *The Provo International Conference on the Dead Sea Scrolls: Technological Innovations, New Texts, and Reformulated Issues*, Leiden 1999, pp. 306–315; idem, "Methodological Problems in Reconstructing History from the Rule Texts Found at Qumran", *DSD* 11 (2004), pp. 315–335.

54. See above, n. 7.

narrative of Israelite scriptural history overall, as by the performative narrative of covenant renewal.⁵⁵ With the addition of the 4QD texts to our knowledge of the narrative structure and legal contents of the Damascus Document has come a greater appreciation of the fluidity of the redacted document as a composite text.

However, I would go a step further to claim that the redacted text(s) of the Damascus Document is (are) not simply a composite *drawn from* a variety of sources, but an anthology that was *drawn upon* so as to provide performative “scripts” (along with other texts and in other contexts) for the annual covenantal-renewal ceremony, which itself would have been fluid over time.⁵⁶ This would go a long way toward understanding the obvious disjunctions within the text in its several redactional recensions. Just as the Damascus Document would have provided a variety of alternative scripts for performatively recalling sectarian origins and understandings of history, with their emphasis on diverging paths and fates of those who embraced the laws of Torah (as the sect understood them to have been revealed over time) and those who spurned them, it would have provided a selective but representative digest of topically grouped laws, both for Israel as a whole and for the community in particular, whose recitation and study would have been as rhetorically powerful in the context of covenantal renewal and reaffirmation as those of confession, expulsion, blessing, and cursing.⁵⁷

55. See above, nn. 36–37.

56. Thus, the document would have served as a “source book”, from which the Maskil, or the Overseer, or the “priest in charge” would have selected from several categories of scripts on a given occasion. This would explain why we have within the Damascus Document several historical introductions, several passages beginning with “hearken” (שמעו), several legal collections, etc. For a similar functional understanding of the anthological collections of rabbinic midrash, see D. Stern, “The Anthology and the Polysemy in Classical Midrash”, in idem (ed.), *The Anthology in Jewish Literature*, New York 2004, pp. 108–139.

57. Compare Carol Newsom’s characterization (*The Self as Symbolic Space: Constructing Identity and Community at Qumran*, pp. 134–136) of the select laws incorporated into the Community Rule (which similarly mixes rules with hortatory prose): “They do not serve as reference materials to be consulted for information – even in the case of contradiction readers would know what was current practice and what was not – but rather as rhetorical expressions of

I do not claim to have explained all, or even most, aspects of the structure and history of the Damascus Document, depending as I do in these regards on the monumental work of others before me. Rather, I have argued that by looking at the legal and narrative sections of the Damascus Document in rhetorical relation to one another, we gain a different (and I hope, better) understanding of each, especially when viewed in terms of the performative force of the document as a whole and the way it might have functioned as a collection of ritual scripts for sectarian covenant renewal.

important aspects of the community's ethos. These excerpts function in a way that Nelson Goodman once described as 'serving as an example of', that is, as something that *exemplifies* that to which it refers... Not only does the content of such excerpts influence the one who immerses himself in them, but also the formal and aesthetic features that are part of the sample. These various sections are textual samples of the community's life, values, and ethos" (p. 135). Of course, there are several scriptural antecedents for the reading and teaching of Torah laws in the context of covenantal renewal or reaffirmation, which presumably would have involved selections from a larger body of legal traditions: Exod. 24:3-8; Deut. 31:9-13 (especially as rabbinically imagined in *m. Soṭah* 7:8 [with manuscript variants]; *m. Soṭah* 7:17); Josh. 8:30-35; 2 Kgs. 23:1-3; Neh. 8; 2 Chron. 17:7-9.