STRENGTH TO STRENGTH

ESSAYS IN APPRECIATION
OF SHAYE J. D. COHEN

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Early Rabbinic Midrash
between Philo and Qumran

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The subject of this essay was inadvertently suggested at the 2011 meeting of the Society of Biblical Literature. In a panel discussion of my then recently published volume of essays, titled *Legal Fictions*,[1] Moshe Bernstein commented that it was impossible to think that the early rabbis simply woke up one morning and began "doing *midrash halakhah*," that is, the *explicit* deriving or justifying of laws from Hebrew Scriptures in the form of running commentaries on scriptural books, or sections thereof, something for which we have no exact prerabbinic antecedents. Bernstein made this comment in support of the extensive and important work that he and others have done in seeking in the Dead Sea Scrolls the missing link, as it were, between the Hebrew Bible and early rabbinic law and legal interpretation.[2]

For a long time since the initial discovery of the Dead Sea Scrolls in 1947, but especially of late, this has been a burgeoning area of scholarship that has yielded very significant results, even if allowing for exaggerated claims of having discovered long-lost links in the chain of midrashic tradition, especially in its legal (or in rabbinic terms, halakhic) aspects. In addition to the groundbreaking work of American scholars such as Bernstein, Lawrence Schiffman, and Joseph Baumgarten, I would highlight the

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1. Steven D. Fraade, *Legal Fictions: Studies of Law and Narrative in the Discursive Worlds of Ancient Jewish Sectarians and Sages*, JSJSup 147 (Leiden: Brill, 2011).

2. Moshe J. Bernstein, "4Q252: From Re-Written Bible to Biblical Commentary," *JJS* 45 (1994): 1–27; Bernstein, "4Q252: Method and Context, Genre and Sources," *JQR* 85 (1994): 61–79; Moshe J. Bernstein and Shlomo A. Koyfman, "The Interpretation of Biblical Law in the Dead Sea Scrolls: Forms and Methods," in *Biblical Interpretation at Qumran*, ed. Matthias Henze, SDSSRL (Grand Rapids: Eerdmans, 2005), 61–87. Now, thankfully, Bernstein's collected articles have been published as *Reading and Re-Reading Scripture at Qumran*, 2 vols., STDJ 107 (Leiden: Brill, 2013).

recent books by Israeli scholars such as Vered Noam and Aharon Shemesh, for which I might be permitted to refer to my review of the latter.[3] It is fair to say that, today, any critical scholar working on early rabbinic law and legal hermeneutics cannot afford to ignore the comparative insights provided by the Dead Sea Scrolls, especially in light of their chronological, geographical, and, perhaps most importantly, linguistic proximity.

As I and others have argued, however, there are difficulties with a linear, developmental model that leads directly from the Hebrew Bible to the Dead Sea Scrolls to early rabbinic halakhah, and midrash halakhah in particular, whether in terms of form, content, or conception. To begin with, among the approximately thousand texts of the Dead Sea Scrolls, we have very few examples of explicit midrash halakhah, that is, the deriving or justifying of law from Scripture in such a way as to differentiate between the two, that is, to lead the reader/auditor from one to the other, as in the format of the continuous commentary. The same can be said for midrash aggadah, but that is not my focus here. I have argued elsewhere that in both cases the search has been largely (but not entirely) in vain.[4] Underlying my arguments is the assertion that the formal traits of commentary (lemma, linking language, comment) are central to its rhetorical function. As Heinrich von Staden says of an entirely different type of ancient commentary, "In the commentaries using full, complete lemmata, the formal arrangement of the two ancient texts—the original and the exegetical—has significant implications for the socio-scientific dynamics of the triangle author-commentator-reader."[5]

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3. Vered Noam, מקומראן למהפכה התנאית: היבטים בתפיסת הטומאה (Jerusalem: Yad Itzhak Ben-Zvi, 2010) (English title: *From Qumran to the Rabbinic Revolution: Conceptions of Impurity*); Aharon Shemesh, *Halakhah in the Making: The Development of Jewish Law from Qumran to the Rabbis*, Taubman Lectures in Jewish Studies (Berkeley: University of California Press, 2009). Cf. Steven D. Fraade, review of *Halakhah in the Making: The Development of Jewish Law from Qumran to the Rabbis,* by Aharon Shemesh, *JSJ* 43 (2012): 131–35.

4. Steven D. Fraade, "Looking for Legal Midrash at Qumran," in *Biblical Perspectives: Early Use and Interpretation of the Bible in Light of the Dead Sea Scrolls; Proceedings of the First International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, 12–14 May, 1996*, ed. Michael E. Stone and Esther G. Chazon, STDJ 28 (Leiden: Brill, 1998), 59–79 (= Fraade, *Legal Fictions*, 145–67); Fraade, "Looking for Narrative Midrash at Qumran," in *Rabbinic Perspectives: Rabbinic Literature and the Dead Sea Scrolls; Proceedings of the Eighth International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, 7–9 January, 2003*, ed. Steven D. Fraade, Aharon Shemesh, and Ruth A. Clements, STDJ 62 (Leiden: Brill, 2006), 43–66 (= Fraade, *Legal Fictions*, 169–92).

5. Heinrich von Staden, "'A Woman Does Not Become Ambidextrous': Galen and the Culture of Scientific Commentary," in *The Classical Commentary: Histories, Practices, Theory*, ed. Roy K. Gibson and Christina Shuttleworth Kraus, Supplements to Mnemosyne 232 (Leiden: Brill, 2002), 109–39, here 127. For the "turn to commentary" in ancient Judaism, see Steven D. Fraade, *From Tradition to Commentary: Torah and Its Interpretation in the Midrash Sifre to Deuteronomy*, SUNY Series in Judaica (Albany: State University of New York Press, 1991), 1–23.

In an article that appeared in a themed issue of Dead Sea Discoveries devoted to "The Rise of Commentary Texts in Ancient Near Eastern, Greek, Roman, and Jewish Cultures," Maren Niehoff, in comparing what she calls the "commentary culture(s)" in the land of Israel, comes to much the same negative conclusion, albeit somewhat overstated to my mind, in reviewing previous scholarship:

> The image, which emerges from these scholarly investigations, is one of homogeneous, internal development. Jews created a commentary culture from within their own community, transmitting from generation to generation their insights into their canonical books. On this reconstruction, the outside world and its Hellenistic culture mattered little, as Jews were engaged in a rather unique hermeneutic enterprise in Hebrew or Aramaic.[6]

Some Oddities of Midrash
When Viewed Comparatively

To be more specific, we search largely (but not entirely) in vain among the Dead Sea Scrolls for several characteristic and ubiquitous traits of Tannaitic midrash halakhah, which, I would argue cut across the Tannaitic midrashic corpora, irrespective of variations of hermeneutical terminology and posture, and irrespective of the assignment of the collections to the "schools" of either Rabbi Akiva or R. Ishmael. These traits I take to be (1) the *explicit* interpretation of one verse by means of another, commonly from different parts of Scripture, that is, the employment of secondary lemmata (Ὅμηρον ἐξ Ὁμήρου σαφηνίζειν ["explaining Homer from Homer"], attributed to Aristarchus); (2) the adducing of multiple legal opinions and/or scriptural interpretations, to be found on virtually every page of early rabbinic literature (whether Mishnah, midrash, or gemara),[7] and (3), perhaps most significantly and strikingly, the dialectical and dialogical rhetoric of "question and answer," whether between the midrashic text and Scripture, whether among its named or anonymous rabbinic tradents, or whether between the midrashic text and its readers/auditors, often beginning with an interrogative interrogation of a scriptural lemma in what might be thought of in literary terms (e.g., responding to inner-scriptural redundancies, gaps, or contradictions). It is not that specimens of these traits (especially the first two) cannot be found among the Dead Sea

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6. Maren R. Niehoff, "Commentary Culture in the Land of Israel from an Alexandrian Perspective," *DSD* 19 (2012): 442–63, here 443.

7. See Steven D. Fraade, "Rabbinic Polysemy and Pluralism Revisited: Between Praxis and Thematization," *AJS Review* 31 (2007): 1–40 (= *Legal Fictions*, 427–75).

Scrolls, but that they are so few and far between, relative to their ubiquity in early rabbinic midrash, as to be exceptions that prove the overarching rule of their absence. These traits differentiate early rabbinic midrash from both the predominance of "rewritten Bible" and the limited purview of continuous Dead Sea Scroll pesharim, the two most common forms of scriptural interpretation at Qumran.

Notwithstanding the long-noted similarities between citation language in early rabbinic midrash and Qumran exegesis, most commonly employing a form of the verbs אמר, and כתב,[8] we find nothing in Qumranic antecedents to rabbinic legal midrash that is analogous to such anonymous exegetical interlocutors, as expressed by. . . אחרים אומרים ("others say …") or . . . יש אומרים ("there are those who say …"), or to such dialogical rhetorical expressions as . . . אתה אומר . . . או אינו אלא ("You say … but it can only mean…" [school of R. Ishmael]), . . . יכול ("might it be possible [to say]?" ["school" of R. Akiva]), . . . שומע אני ("I might understand it [to mean] …" ["school" of R. Ishmael]), מה תלמוד לומר ("What does this come to teach?" ["school" of R. Akiva, but also of R. Ishmael]); למה נאמר ("Why is this said?" ["school" of R. Ishmael]); and . . . מניין ("Whence [do we learn this]?" ["school" of R. Akiva]); מה אני צריך ("For what do I need [this verse]?" ["school of R. Akiva"]); etc. While these rhetorical expressions might appear more or less frequently depending on whether a midrashic collection is assigned to the "school" of R. Akiva or R. Ishmael, their dialogical rhetorical posture is common to all.

To focus on another trait of tannaitic midrash, there is only one clear example in all of the Dead Sea Scrolls of a continuous scriptural commentary (pesher) that adduces multiple interpretations of a scriptural lemma (1QpHab I, 16–II, 10), but in that case, as I have previously argued,[9] they are not three alternative interpretations but a single threefold interpretation in that the pesher decodes the prophetic lemma so as to apply to three sequential chronological periods (past, present, future) in the life of the interpretive community.[10]

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8. See, most recently, Daniel A. Machiela, "The Qumran Pesharim as Biblical Commentaries: Historical Context and Lines of Development," *DSD* 19 (2012): 313–62, esp. 321–24.

9. Fraade, *From Tradition to Commentary*, 5–6.

10. Another example that is sometimes cited is 4Q169 (4QpNah) 3–4 I, 1–11, where the word for "lion" (ארי) is given several interpretations. However, that is not a multiple interpretation since each interpretation is to a different occurrence of the word in the lemma. On the topic more broadly, see Matthias Weigold, "Ancient Jewish Commentaries in Light of the Dead Sea Scrolls: Multiple Interpretations as a Distinctive Feature," in *The Hebrew Bible in Light of the Dead Sea Scrolls*, ed. Nóra Dávid et al., FRLANT 239 (Göttingen: Vandenhoeck & Ruprecht, 2012), 281–94.

From Alexandria Shall Come Forth Torah

Curiously, in order to find antecedents to these defining characteristics of the early rabbinic "culture of commentary," we have to turn to a very different geographic, cultural, and, I should stress, linguistic environment, to that of Alexandria Egypt, and in particular to the works of Philo of Alexandria, and his Alexandrian predecessors (especially Demetrius and Aristobulus, second century BCE, whose works of biblical interpretation and commentary have survived only in fragments). Here, too, there is a long scholarly lineage going back to the origins of the Wissenschaft des Judentums, but more recently to the classic works of Yitzhaq Baer, David Daube, Henry Fischel, Elimelech Epstein Hallewy, and Saul Lieberman. There has been, however, a recent renewal of scholarly interest in the Hellenistic antecedents and analogues to early rabbinic scriptural hermeneutics, most especially as embodied in Tannaitic midrash halakhah, as argued by Philip Alexander and Chaim Milikowsky.[11]

Similarly, there has been a renewed effort to explore the possible influence of Hellenistic forms of commentary on the Qumran pesher, especially in articles by Markus Bockmuehl and Reinhard Kratz, and a book by Pieter B. Hartog.[12] The essays in Maren Niehoff's edited volume, *Homer and the*

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11. See Philip S. Alexander, "Quid Athenis et Hierosolymis? Rabbinic Midrash and Hermeneutics in the Greco-Roman World," in *A Tribute to Geza Vermes: Essays on Jewish and Christian Literature and History*, ed. Philip R. Davies and R. T. White, JSOTSup 100 (Sheffield: JSOT Press, 1990), 101–24; Chaim Milikowsky, "Rabbinic Interpretation of the Bible in the Light of Ancient Hermeneutical Practice: The Question of the Literal Meaning," in *"The Words of a Wise Man's Mouth Are Gracious" (Qoh 10,12): Festschrift for Günter Stemberger on the Occasion of His 65th Birthday*, ed. Mauro Perani, SJ 32 (Berlin: de Gruyter, 2005), 7–28.

12. See Markus Bockmuehl, "The Dead Sea Scrolls and the Origins of Biblical Commentary," in *Text, Thought, and Practice in Qumran and Early Christianity: Proceedings of the Ninth International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, Jointly Sponsored by the Hebrew University Center for the Study of Christianity, 11–13 January, 2004*, ed. Ruth A. Clements and Daniel R. Schwartz, STDJ 84 (Leiden: Brill, 2009), 3–29; Reinhard Gregor Kratz, "Text und Kommentar: Die Pescharim von Qumran im Kontext der hellenistischen Schultradition," in *Von Rom nach Bagdad: Bildung und Religion in der späteren Antike und im klassischen Islam*, ed. Peter Gemeinhardt and Sebastian Günther (Tübingen: Mohr Siebeck, 2013); Kratz, "Text and Commentary: The Pesharim of Qumran in the Context of Hellenistic Scholarship," in *The Bible and Hellenism: Greek Influence on Jewish and Early Christian Literature*, ed. Thomas L. Thompson and Philippe Wajdenbaum, Copenhagen International Seminar (London: Routledge, 2014), 212-29; and for a critical assessment, Machiela, "Qumran Pesharim as Biblical Commentaries," 344–56; Pieter B. Hartog, *Pesher and Hypomnema: A Comparison of Two Commentary Traditions from the Hellenistic-Roman World*, STDJ 121 (Leiden: Brill, 2017). See, as well, Armin Lange and Pleše Zlatko, "The Qumran Pesharim and the Derveni Papyrus: Transpositional Hermeneutics in Ancient Jewish and Ancient Greek Commentaries," in *The Dead Sea Scrolls in Context: Integrating the Dead Sea Scrolls in the Study of Ancient Texts, Languages, and Cultures*, ed. Armin Lange, Emanuel Tov, and Matthias Weigold, 2 vols., VTSup 140 (Leiden: Brill, 2011), 2:895–922; Lange and Zlatko, "Transpositional Hermeneutics: A Hermeneutical Comparison of the Derveni Papyrus, Aris-

Bible in the Eyes of Ancient Interpreters (2012), similarly explore the parallels of Jewish commentaries (from the Second Temple to rabbinic period) to Homeric scholarship.[13] This scholarship emphasizes the shared rabbinic-Hellenistic Jewish commentary trait (but with important differences) of both acknowledging and incorporating *multiple* human interpretations of divinely revealed Scriptures.[14] While the fit is at best imperfect, the points of similarity are highly suggestive of a shared "culture of commentary," mutatis mutandis.[15]

From Babylonia Shall Come Forth Torah

In addition to fruitful comparisons of Tannaitic midrash halakhah with the Dead Sea Scrolls and Philo, there has been a recent return to the question of whether and to what extent early rabbinic scriptural commentary, as others have argued for the Qumran pesharim,[16] draws, even if indirectly, upon the rich tradition of Mesopotamian divinatory commentary, as applied to dreams, visions, and omens, for both structural and hermeneutical antecedents and influences.[17] Although the scholarly lineage of this line of inquiry is less robust than that of possible Hellenistic interlocu-

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tobulus of Alexandria, and the Qumran Pesharim," *JAJ* 3 (2012): 15–67. Most recently, see the special issue of *DSD* 24 (2017) on the theme "The Dead Sea Scrolls in Their Hellenistic Context," edited by Pieter B. Hartog and Jutta Jokiranta, who provide an excellent introduction (339–55) on the same theme. Of particular relevance to our topic in that special issue of *DSD*, is Benjamin G. Wright, "Were the Jews of Qumran Hellenistic Jews?," *DSD* 24 (2017): 356–77, with regard to "Commentary" (367–68), assessing Bockmuehl and Hartog in particular.

13. Maren R. Niehoff, ed., *Homer and the Bible in the Eyes of Ancient Interpreters*, Jerusalem Studies in Religion and Culture 16 (Leiden: Brill, 2012).

14. Niehoff, "Commentary Culture," 445–48.

15. For a much fuller treatment, see, most recently, Yakir Paz, "Rabbinic Biblical Exegesis in Light of the Homeric Commentaries" (PhD diss., Hebrew University of Jerusalem, 2014).

16. See Martti Nissinen, "Pesher as Divination: Qumran Exegesis, Omen Interpretation and Literary Prophecy," in *Prophecy after the Prophets? The Contribution of the Dead Sea Scrolls to the Understanding of Biblical and Extra-Biblical Prophecy*, ed. Kristin De Troyer and Armin Lange, CBET 52 (Leuven: Peeters, 2009), 43–60; Uri Gabbay, "Akkadian Commentaries from Ancient Mesopotamia and Their Relations to Early Hebrew Exegesis," *DSD* 19 (2012): 267–312; Machiela, "Qumran Pesharim as Biblical Commentaries, 327–34; Alex P. Jassen, "The Pesharim and the Rise of Commentary in Early Jewish Scriptural Interpretation," *DSD* 19 (2012): 363–98, esp. 385–98. Most recently, see Bronwon Brown-deVost, "The Compositional Development of Qumran Pesharim in Light of Mesopotamian Commentaries," *JBL* 135 (2016): 525-41; Brown-DeVost, *Commentary and Authority in Mesopotamia and Qumran.* Journal of Ancient Judaism Supplements 29 (Göttingen: Vandenhoeck & Ruprecht, 2018).

17. Machiela (see previous note) argues that the Mesopotamian influence was mediated by the Jewish Aramaic tradition of dream, vision, and omen interpretation, as found, most notably, in the book of Daniel and in the Aramaic Book of Giants. Jassen (see previous note) advances a similar line of argument.

tors, it too has important antecedents, especially in two important articles that appeared in the same year (1987): one by Stephen Lieberman, and another by Antoine Cavigneaux, both of which suggest an ancient Near Eastern backdrop to aspects of early rabbinic hermeneutics.[18] After all, even as some of the hermeneutical rules (*middot*) first attributed to Hillel may have their closest analogues in the methods of Alexandrian Homeric commentators (as per Daube and Lieberman[19]), rabbinic literature itself *imagines* them to have been imported by Hillel from *Babylonia*.[20] In this regard, recent consideration of this avenue of cultural transmission has been greatly in the debt of my Yale colleague Eckart Frahm, who recently published a volume titled *Babylonian and Assyrian Text Commentaries*: *Origins of Interpretation*,[21] and who, in a final chapter titled "The Legacy of Babylonian and Assyrian Hermeneutics,"[22] takes on with fresh energy and insight the question of possible connections between Abraham's (and Hillel's) homeland and early rabbinic midrash.

Once again, however, the similarities (e.g., multiple interpretations set alongside one another) are only as telling as the differences (e.g., no application of this commentary genre to legal, narrative, or historical texts). Nevertheless, the ancient Near Eastern scholastic legacy continued well into Greco-Roman times and the land of Israel. If I have emphasized the *dialogical* similarities between Tannaitic midrash and Hellenistic commentary ("how do you know that x means y?"), I would emphasize now that the *deictic* decoding manner of the same midrashic texts ("x means y") can be fruitfully compared to similar methods in Babylonian commentaries, notwithstanding their other differences. For example, note how lexical equivalencies that are midrashically denoted by the expression … אין ... אלא ("x can only mean y"), or how the demonstrative pronouns (הוא, אלה, זה) are used to connect scriptural signifier with midrashic

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18. Stephen Lieberman, "A Mesopotamian Background for the So-Called Aggadic 'Measures' of Biblical Hermeneutics," *HUCA* 58 (1987): 157–225; Antoine Cavigneaux, "Aux sources du midrash: L'herméneutique babylonienne," *AuOr* 5 (1987): 243–55. See also Jeffrey Tigay, "An Early Technique of Aggadic Exegesis," in *History, Historiography and Interpretation: Studies in Biblical and Cuneiform Literatures*, ed. H. Tadmor and M. Weinfeld (Jerusalem: Magnes, 1983), 169–89.

19. David Daube, "Rabbinic Methods of Interpretation and Hellenistic Rhetoric," *HUCA* 22 (1949): 239–65; Daube, "Alexandrian Methods of Interpretation and the Rabbis," *Festschrift Hans Lewald* (Basel: Helbing & Lichtenheim, 1953), 27–44 (reprinted in *Essays in Greco-Roman and Related Talmudic Literature*, ed. Henry A. Fischel [New York: Ktav, 1977], 165–82); Saul Lieberman, "Rabbinic Interpretation of Scripture," in *Hellenism in Jewish Palestine: Studies in the Literary Transmission, Beliefs and Manners of Palestine in the I Century B.C.E.–IV Century C.E.* (New York: Jewish Theological Seminary of America, 1962), 47–82.

20. See y. Pesaḥ. 6:1, 33a; b. Pesaḥ. 66a; but not in t. Pesaḥ. 4:13–14.

21. Eckart Frahm, *Babylonian and Assyrian Text Commentaries*: *Origins of Interpretation*, Guides to the Mesopotamian Textual Record 5 (Münster: Ugarit-Verlag, 2011).

22. Ibid., chapter 12, 368–83.

signified, a feature shared with apocalyptic manners of vision decoding.[23] These are similar to ancient Near Eastern analogues of mantic decoding, as they are, mutatis mutandis, to the sorts of decoding found in the Qumran pesharim. Needless to say, we often find the two manners of commentary, dialogical and deictic, occupying the very same page of Tannaitic midrashic commentary, neither of them being a pure type that is exclusive of the other. In this regard (and others) rabbinic midrash halakhah is considerably more heterogeneous in form than either the Qumran pesher or Philo's allegorical commentaries.

A Case Study: Neither Either/Or nor Neither/Nor

Let us now look at a short, specific sample of Tannaitic legal exegesis to get a closer look at the heterogeneity of forms and methods therein employed, some of which are more deictic, and therefore closer to the ancient Near Eastern and Qumranic models of textual decoding, and some of which are more dialogical, and therefore closer to the Hellenistic models of commentary, while not being reducible to either. The commentary is that of Sifre Deut. (§156) to Deut 17:14–20 on the "law of the king," treated by me elsewhere in greater length and depth (and in comparison with the Temple Scroll among other texts).[24] To begin with, it is important to note that some individual interpretations are attributed to individual named Tannaitic sages, while the commentary as a whole, and its editorial voice, is anonymous, a combination that contrasts with earlier forms of Jewish scriptural interpretation of all types. This is an unusual characteristic—of blended anonymity and attribution— that I have begun to treat elsewhere, but which requires much more attention in all branches of early rabbinic literature.[25]

In commenting on the scriptural phrase ואמרת אשימה עלי מלך ("[when]

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23. See Martha Himmelfarb, *Tours of Hell: An Apocalyptic Form in Jewish and Christian Literature* (Philadelphia: University of Pennsylvania Press, 1984); Himmelfarb, *Ascent to Heaven in Jewish and Christian Apocalypses* (New York: Oxford University Press, 1993).

24. Steven D. Fraade, "'The Torah of the King' (Deut. 17:14–20) in the Temple Scroll and Early Rabbinic Law," in *The Dead Sea Scrolls as Background to Postbiblical Judaism and Early Christianity: Papers from an International Conference at St. Andrews in 2001* ed. James R. Davila, STDJ 46 (Leiden: Brill, 2003), 25–60, esp. 49–58 (= Fraade, *Legal Fictions*, 285–319). For the Palestinian Talmud on the same, see Steven D. Fraade, "Priests, Kings, and Patriarchs: Yerushalmi Sanhedrin in Its Exegetical and Cultural Settings," in *The Talmud Yerushalmi and Graeco-Roman Culture*, ed. Peter Schäfer, 3 vols., TSAJ 93 (Tübingen: Mohr Siebeck, 2002), 3:315–33 (= Fraade, *Legal Fictions*, 323–44).

25. Steven D. Fraade, "Anonymity and Redaction in Legal Midrash: A Preliminary Probe," in מלאכת מחשבת: מחקרים בהתהוות ועריכת הספרות התלמודית (*Malekhet Mahshevet: Studies in the Redaction and Development of Talmudic Literature*), ed. Aaron Amit and Aharon Shemesh (Ramat-Gan, Israel: Bar-Ilan University Press, 2011), 9*–29*.

you say, 'I will set a king over me, [as do all the nations about me]'") (Deut 17:14), the midrashic commentary (§156) juxtaposes two interpretations, attributed to two mid-second-century named sages, Rabbis Nehorai and Judah, that are diametrically opposed to each other in their valuation of Israel's expressed desire for a king. It is as if the commentary stages a dialogue between them. R. Nehorai understands the verse to express denigration of Israel, taking his cue presumably from the verse's attributing the people's desire for a king to their wish to be like the surrounding non-Israelite peoples, reinforced by citation of a verse from 1 Sam 8:7. The latter verse understands the people's desire for a king as a repudiation of direct theocratic rule, that is, by God himself.

In stark contrast, R. Judah relies on the succeeding verse in Deuteronomy (17:15) to argue by way of a rhetorical question, and scriptural prooftext, how could the people be faulted for wishing to fulfill an *emphatic, direct* מצוה מן התורה ("command from the Torah"; presumably with divine authority) to establish a monarchy, שום תשים עליך מלך ("Surely, set a king over you!")? This is followed immediately by another rhetorical question, it not being clear which sage, if either, is asking it: If the desire to establish a monarchy was in fulfillment of a scriptural command, why were the people later "punished" for following through on that desire (alluding here to Samuel's predictions of the terrible consequences of establishing a monarchy, in 1 Sam 8)? In response we are told (again, it's not being clear by whom) that their error was not in establishing a monarchy per se, but in doing so before the appointed time.[26]

Although the two views of R. Nehorai and R. Judah remain unresolved, the presumed rhetorical conclusion would seem to favor R. Judah's view: they sought to fulfill a positive commandment but got the timing wrong. As if to give R. Nehorai another shot, the next phrase of the lemma, ככל הגוים אשר סביבותי ("as do all the nations about me"), is next cited, but with R. Nehorai's comment alone, that if the people's motivation for desiring a king was to be like the nations, it must have been to follow the nations in idolatrous worship, reinforced with a citation of 1 Sam 8:20.[27] Thus, the Sifre's commentary on Deut 17:14 constructs several "dialogues," both explicit and implicit: between Rabbis Nehorai and Judah, between Deut 17:14 and 15, between the lemma and 1 Sam 8, between the commentary's voices, both attributed and anonymous, between the biblical text and the implied auditor of the midrashic text, and, of course, between two very different views (already inner-scriptural) of Israelite monarchy.

In turning next its direct attention to Deut 17:15 as lemma, the commentary (§157) shifts from its previous dialogical mode to a more deictic mode of commentary, in which each textual element of the lemma

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26. For further discussion, see Fraade, "'Torah of the King,'" 49–50 n. 62.

27. Compare t. Sanh. 4:5, discussed in Fraade, "'Torah of the King,'" 50 n. 63.

in succession is provided with its succinct, declarative decoding, without recourse to attributions, dialogical rhetoric, or prooftexts. Scripture denotes the appointment not of a one-time king but of a monarchic dynasty; it excludes the appointment of a queen; it requires the prophetic selection of the king; and it requires that the king be from within the land of Israel, and from among the people of Israel.[28]

The commentary next shifts back to a dialogical mode in probing the meaning of the second occurrence of תשים עליך מלך ("Establish over you a king") in Deut 17:15. In encountering this phrase a second time within the same verse (the first being שום תשים עליך מלך), the anonymous voice of the commentary rhetorically asks, הלא כבר נאמר ("has it not already been said?"), and ומה תלמוד לומר ("so what is the meaning of this [seeming redundant scripture]?"). The answer to these rhetorical questions is that the repeated phrase comes to accentuate the awesomeness of the king (emphasizing the word עליך, "over you"). For added emphasis and specificity, the commentary now uses the phrase מכאן אמרו ("from here [= this verse] they said") to introduce the mishnaic tradition (from Sanh. 2:5) that, in keeping with the king's august status, no one is to use his regalia or to see him exposed. Thus, to the dialogical mix is added reference or allusion to another intertext, here that being the Mishnah, as we shall see again shortly. This practice, of explicitly drawing (and marking) mishnaic discourse into the structure of midrashic commentary (and vice versa), relatively common in Tannaitic midrash of both the R. Akiva and R. Ishmael schools, is remarkable for its lack of antecedent in the commentary modes of either Qumran or Philo. It should be noted, however, that, although parts of our midrashic commentary are to found in the Mishnah (Sanh. 2:4–5), there they do not proceed in scriptural order as they do here, since there they can be rearranged for rhetorical effect (leaving the king's awesomeness for last), whereas here the order of the scriptural text determines the order of midrashic comments.[29]

As an example of multiple interpretations of the same lemma, here marked by the phrase דבר אחר ("another matter"),[30] our commentary attends to another seeming redundancy in Deut 17:15, in that the verse states, [מקרב אחיך] תשים עליך מלך ("[from among your brothers] establish over yourselves a king"),[31] followed by לא תוכל לתת עליך איש נכרי ("You shall not establish over yourselves any foreigner"). This seeming repetition of the same requirement is decoded in deictic fashion as denoting, first, a positive obligation and, second, a negative prohibition (failure at

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28. For elaboration, see Fraade, "'Torah of the King,'" 50–51 nn. 65–67.

29. See ibid., 43–44, 51 n. 68.

30. On which see above, at nn. 7, 9, 14.

31. For this as the text-critically correct form of the lemma (*pace* Finkelstein's edition), see Fraade, "'Torah of the King,'" 51 n. 69.

each being punishable in its own right).[32] The expression מכאן אמרו ("from here [= this verse] they said") is employed again (but without reference to any rule recognizable from our Mishnah), to introduce a tradition that would provide an additional solution to the problem of the redundancy of לא תוכל לתת עליך איש נכרי ("you shall not establish over yourselves any foreigner"). Since that clause, viewed atomistically, does not refer specifically to a king, it can be freed from its scriptural context to refer to appointed communal leaders (פרנסים) more broadly, who must be men and not women.[33]

Finally (for present purposes), the last clause of Deut 17:15, אשר לא אחיך הוא ("who is not your kinsman"), is treated. Rather than interpreting the clause per se (perhaps its meaning was self-evident, but it too could have been understood as being redundant), the comment uses the lemma to recall a purportedly historical incident from late Second Temple times, more fully narrated in the Mishnah (Soṭah 7:8), in which King Agrippa publicly reads from sections of Deuteronomy as part of the septennial הַקְהֵל ceremony during the festival of Sukkot (Deut 31:9–13). Rabbinic tradition conflates the הקהל ceremony with the king's obligation to read from a Torah scroll (Deut 17:19), which larger passage (Deut 17:14–20) would be read by the king on the occasion of הקהל. On one such occasion, when King Agrippa came to our verse (17:15), with its prohibition of appointing a gentile as king, he began to weep, since, as the grandson of Herod he was partly Edomite, and possibly illegitimate as king. The assembled people allayed his fears by acclaiming him to be one of them, thereby confirming him as legitimate king and reader of Scripture on this occasion. In proclaiming, אחינו אתה אחינו אתה ("You are our brother, you are our brother"), they are speaking as much to the biblical lemma (אשר לא אחיך הוא) as to Agrippa: the scriptural exclusion does not apply to him/you.[34]

In linking the lemma to a "historical" figure and event, this brief comment might be compared to the practice of the Qumran pesharim, which systematically decode each successive word or clause of the prophetic scriptural lemmata so as to refer to "historical" figures and events in the present-day life of the community.[35] But that is about as far as the comparison goes. The Qumran pesharim, especially the continuous ones, apply only to what are, or are understood to be, prophetic Scriptures, pre-

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32. Ibid., 51 n. 70.

33. On the term and function of the פרנס, see ibid., 51–53; Fraade, "Local Jewish Leadership in Roman Palestine: The Case of the *Parnas* in Early Rabbinic Sources in Light of Extra-Rabbinic Evidence," in *Halakhah in Light of Epigraphy*, ed. Albert I. Baumgarten, Hanan Eshel, Ranon Katzoff, and Shani Tzoref, JAJSup 3 (Göttingen: Vandenhoeck & Ruprecht, 2011), 155–73.

34. See Fraade, "'Torah of the King,'" 45–47.

35. For an excellent summary of current scholarship on the pesher, see Shani Berrin, "Qumran Pesharim," in Henze, *Biblical Interpretation at Qumran*, 110–33.

sumed to be predictive (ominous) of the eschatological future, and are never applied to a legal scriptural text such as ours.[36] By contrast, there is no sense in our midrash that Deut 17:15 is being understood as being predictive of a future event. Furthermore, the "historical" fulfillments of the *predictive* biblical lemmata in the pesharim are understood to take place in eschatological times (אחרית הימים), whereas the Agrippa incident is rabbinically understood as having taken place in prior "historical" time. The Agrippa story, in its truncated "citation" as a comment to Deut 17:15, is simply a "historical" anecdote in which the commented upon lemma plays an uninterpreted role on one occasion of its being publicly read.

I hope to have demonstrated, in this one, limited textual sample, the *heterogeneous* nature of early rabbinic scriptural commentary in combining deictic and dialogic modes of interpretive discourse. While primary attention is paid therein to the sequence of scriptural words, phrases, and clauses that make up the base scriptural text, a plethora of "voices"—whether named or anonymous, whether scriptural or mishnaic, whether declarative or rhetorical—occupy the midrashic commentary's discursive world. Those diverse "voices" are enabled to converse with one another (as with the presumed midrashic student or auditor), in forms and manners that can be presumed in some cases to be "borrowed"—from both ancient Near Eastern and Greco-Roman cultures of commentary—while in others to have been transformed, and yet in others to be rabbinically "original."

Conclusion

The land of Israel (including the environs of Qumran) is and was traversed by well-traveled economic and cultural crossroads over land and sea, extending in virtually every direction and connecting diverse multilingual and multicultural realms, many of which were homes to Jewish communities (including Alexandria and Babylonia). It should not be surprising, therefore, that ancient Jewish cultural productions, such as early rabbinic midrash, Philonic allegorical commentary, and Qumran pesher embody linguistic and rhetorical choices between a wide array of intersecting options, only some of which have survived, that developed and persisted over time. This makes the tracing of their separate lineages all the more difficult, if not impossible.

If the academic scholarly penchant for extrarabbinic comparison and contextualization would belie the origins of midrash halakhah as spontaneous combustion, we should beware, if I may switch metaphors, of

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36. For the Temple Scroll's "rewriting" of our pericope, see Fraade, "'Torah of the King,'" 31–39.

putting all of our comparative eggs into any one basket (nor is any one such basket free of its own heterogeneity). Just as it is unlikely that the early rabbis woke up one morning and suddenly began doing midrash halakhah, it is also unlikely that we can understand its origins in terms of a simple *linear* development from any *one* comparative, cultural direction.

If I may even more widely generalize, long-lasting and wide-ranging cultural "revolutions" (as I would characterize the rabbinic culture of commentary) are rarely if ever the product of sudden, singular, homogeneous propellants. In short, we need to broaden our comparative gaze(s) in multiple directions. Even so, there will be distinctive features of Tannaitic midrash halakhah (as of the commentaries of Philo and Qumran) that lack clear antecedents or analogues. The broader comparative lens allows us to view both these distinctive and shared features in sharper relief, even if it does not permit us unilinearly to trace the "origins" of midrashic commentary to any one time, place, motivation, or interpretive culture, but to appreciate the rich multiplicity of intersecting and interacting possibilities and their incorporation into a variety of exegetical rhetorical forms and functions.