

# Hā-ʾîsh Mōshe

*Studies in Scriptural Interpretation in the  
Dead Sea Scrolls and Related Literature in Honor of  
Moshe J. Bernstein*

*Edited by*

Binyamin Y. Goldstein  
Michael Segal  
George J. Brooke



BRILL

LEIDEN | BOSTON

Library of Congress Cataloging-in-Publication Data

Names: Goldstein, Binyamin Y., editor. | Segal, Michael, 1972 editor. |  
Brooke, George J., editor. | Bernstein, Moshe J., festschrift honoree.  
Title: ha-Ish Moshe : studies in scriptural interpretation in the Dead Sea  
Scrolls and related literature in honor of Moshe J. Bernstein / edited by  
Binyamin Y. Goldstein, Michael Segal, George J. Brooke.  
Description: Leiden ; Boston : Brill, [2018] | Series: Studies on the texts  
of the desert of Judah ; volume 122 | Includes bibliographical references  
and index.  
Identifiers: LCCN 2017041674 (print) | LCCN 2017042723 (ebook) | ISBN  
9789004355729 (E-book) | ISBN 9789004354685 (hardback : alk. paper)  
Subjects: LCSH: Dead Sea scrolls. | Bible. Old Testament—Criticism,  
interpretation, etc. | Judaism—History—Post-exilic period, 586 B.C.–210 A.D.  
Classification: LCC BM487 (ebook) | LCC BM487 .175 2017 (print) | DDC  
296.1/55—dc23  
LC record available at <https://lcn.loc.gov/2017041674>

Typeface for the Latin, Greek, and Cyrillic scripts: "Brill". See and download: [brill.com/brill-typeface](http://brill.com/brill-typeface).

ISSN 0169-9962  
ISBN 978-90-04-35468-5 (hardback)  
ISBN 978-90-04-35572-9 (e-book)

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This book is printed on acid-free paper and produced in a sustainable manner.

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# The Temple Scroll as Rewritten Bible: When Genres Bend

*Steven D. Fraade*

## 1 Introduction

When Geza Vermes first coined the term “Rewritten Bible” (for which some prefer “rewritten Scripture/scriptures” as being less anachronistic) over fifty years ago, he had in mind those “postbiblical” (and inner-biblical) texts which paraphrase the scriptural narrative whether through conflation, harmonization, and/or supplementation.<sup>1</sup> In the days before the publication of the Temple Scroll (in Hebrew in 1977, and in English in 1983), the possibility of including legal texts from the Second Temple period within this rubric was not entertained. However even after the publication of the Temple Scroll, its exclusion from consideration as Rewritten Bible continued. Thus, in 1986, a “state of the field” collection of essays on “early Judaism and its modern interpreters” includes a chapter on “The Bible Rewritten (Narratives),” with nothing to suggest that there might be legal texts to be considered in this regard as well.<sup>2</sup>

1 See Geza Vermes, *Scripture and Tradition in Judaism: Haggadic Studies*, 2nd ed. (Leiden: Brill, 1973), 184–85, 228–29 (1st ed., 1961), although one of the articles in that book, in which the term is used, was originally published in 1958. For essays marking the fiftieth anniversary of this term, and in conversation with Vermes prior to his death, see József Zsengellér, ed., *Rewritten Bible after Fifty Years: Texts, Terms, or Techniques? A Last Dialogue with Geza Vermes*, JSJSup166 (Leiden: Brill, 2014). For the preference for “Rewritten Scripture” or “rewritten scriptural texts,” with reference to this preference among other scholars, see Sidnie White Crawford, *Rewriting Scripture in Second Temple Times* (Grand Rapids, MI: Eerdmans, 2008), 12. For the anachronistic aspects of the term “Rewritten Bible,” see Hindy Najman, *Seconding Sinai: The Development of Mosaic Discourse in Second Temple Judaism*, JSJSup 77 (Leiden: E. J. Brill, 2003). On the anachronism of using “Bible” this early (and the preference for “Scripture” or “scriptures”), see my comments in “Response to ‘Biblical Debates’: Yes and No,” in *What is Bible?*, ed. Karin Finsterbusch and Armin Lange, CBET 67 (Leuven: Peeters, 2012), 151–55. On the relation of the Temple Scroll to 4QRP, see Molly Zahn, “4QReworked Pentateuch C and the Literary Sources of the Temple Scroll: A New (Old) Proposal,” DSD 19 (2012): 133–58.

2 Daniel Harrington, “The Bible Rewritten (Narratives),” in *Early Judaism and its Modern Interpreters*, ed. Robert A. Kraft and G. W. E. Nickelsburg (Atlanta: Scholars Press, 1986), 239–47. In fact, this volume includes not a single chapter on pre-rabbinic Jewish legal writings.

Similarly, in his 1988 more expansive yet precise definition of Rewritten Bible, Philip Alexander includes as one of his defining characteristics that it both be based on a scriptural narrative and take the form of narrative itself.<sup>3</sup>

Eventually, however, this narrative requirement was loosened, if not eliminated, thereby allowing the inclusion of the Temple Scroll as the *sole* legal exemplar of Rewritten Bible, especially as argued by Moshe Bernstein,<sup>4</sup> and followed by Sidnie White Crawford, who states (after having compared the Temple Scroll to *Jubilees*):

The entire focus of the Temple Scroll is on legal matters; it contains almost no narrative material. My argument that the Temple Scroll belongs in the category Rewritten Scripture thus pushes the bounds of that definition beyond that given by Geza Vermes. I think it is legitimate to do that, however, since the author/redactor of the Temple Scroll uses the same techniques found in narrative texts to demonstrate that the extrapentateuchal legislation that he embraces was also given by God to Moses at the time of the Sinaitic revelation.<sup>5</sup>

All of this is set within an overarching scriptural narrative arc, of which she says, speaking of the author/redactor:

He also follows in his broad outline for the work the order of the canonical Torah, beginning with Exodus 34 and ending with Deuteronomy 23, although within the body of the text he moves around from book to book.<sup>6</sup>

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3 Philip S. Alexander, "Retelling the Old Testament," in *It is Written: Scripture Citing Scripture: Essays in Honor of Barnabas Lindars*, ed. D. A. Carson and H. G. M. Williamson (Cambridge: Cambridge University Press, 1988) 99–121, summarized in Crawford, *Rewriting Scripture*, 10–11.

4 Moshe J. Bernstein, "'Rewritten Bible': A Generic Category Which Has Outlived its Usefulness?" *Text* 22 (2005): 169–96, who surveys earlier scholarship on this question, and esp. 193–95 for inclusion of the Temple Scroll. His characterization of Rewritten Bible demands that it be "comprehensive or broad scope rewriting of narrative and/or legal material with commentary woven into the fabric implicitly, but perhaps *not* merely, a biblical text with some superimposed exegesis" (195; emphasis in original).

5 Crawford, *Rewriting Scripture*, 86. See also *ibid.*, 102: "The Temple Scroll thus presents us with a legal representative of the category Rewritten Scripture, at the point along the spectrum occupied by recognizably new compositions that make the same claim to authority as the base texts they are rewriting."

6 *Ibid.*, 87.

However, elsewhere Crawford argues that the overarching structure of the Temple Scroll is determined by its *conceptual* progression “from the most holy (the Temple and its ritual) to the less holy (ordinary life in the land).”<sup>7</sup> It is precisely the intersection of the scriptural and conceptual arcs that is so interesting in the compositional and exegetical creativity of the Temple Scroll at both the macro and micro textual levels.

My question is whether in regarding the Temple Scroll as the *sole* legal exemplar of the rubric Rewritten Bible (the price of admission being to argue for its broad correspondence to the pentateuchal narrative), we constrain our ability to recognize other aspects of its specifically legal structure and rhetoric that would align it with aspects of other legal texts of the late Second Temple period (or beyond), which would *not* usually be considered to fall within the category, except if so expanded as to become a meaningless delineator.

Similar risks, of course, inhere in the opposite effort, that is, limiting the category to very few exemplars, and to expect each to fall squarely within any one rubric. To give one example, in Vermes’s final edition of *The Complete Dead Sea Scrolls in English*<sup>8</sup> he includes the Temple Scroll in the division “The Rules,” that is legal texts, placing it between the War Scroll and 4QMMT, rather than within the division “Bible Interpretation,” where it could have kept company with 4QReworked Pentateuch and the Genesis Apocryphon, or, for that matter, in the division “Biblically Based Apocryphal Works,” where it could have cohabited with Jubilees.<sup>9</sup> Any of these would, it seems to me, have made sense, with each highlighting different literary, rhetorical, and ideological aspects of the Temple Scroll and different affinities (or disaffinities) with other texts commonly included within these divisions.

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7 Sidnie Crawford White, *The Temple Scroll and Related Texts* (Sheffield: Sheffield Academic Press, 2000), 62; eadem, *Rewriting Scripture*, 93–94.

8 Geza Vermes, *The Complete Dead Sea Scrolls in English: Revised Edition* (London: Penguin, 2004), vii–xii.

9 Compare the *Dead Sea Scrolls Reader*, ed. Donald W. Parry and Emanuel Tov, 2nd ed., 2 vols. (Leiden: Brill, 2014), where the Temple Scroll appears in Part 3 (“Parabiblical Texts”), section A (“Rewritten Bible”), along with the Genesis Apocryphon, Jubilees and 4QReworked Pentateuch, among others, but not in Part 1 (“Texts Concerned with Religious Law”). By contrast, the *Dead Sea Scrolls Handbook*, ed. Devorah Dimant and Donald D. Parry (Leiden: Brill, 2014) eschews all such divisions for their arbitrariness and presents the texts in sequential order according to the number of the composition and the Qumran Cave.

## 2 Arranging Laws by Topical Affinities

I shall next focus on a persistent aspect of the Temple Scroll which links it to both other texts of Rewritten Bible and to other legal texts more broadly that would not be normally admitted to that category, that being the arrangement of laws according to their topical affinities with one another. While this process of topical conglomeration is minimally evident within the multiple legal codes of the Torah, it becomes much more evident and extensive (and explicitly claimed) in a variety of texts of the late Second Temple period (and beyond).

The earliest wholesale evidence for this is to be found in the final two chapters of the book of Jubilees.<sup>10</sup> After narrating the story of the Exodus from Egypt, Jubilees gathers laws of Passover from a variety of biblical locations, adds some biblically unattested Passover rules, and presents them as a coherent unit (49:1–23), with the heading, “Remember the commandment which the Lord commanded you concerning the Passover ...” (49:1). This is followed by a similar grouping and expansion of Sabbath laws (50:1–13 cf. 2:25–33 in the context of narrating Creation) on the narrative occasion of the Israelites’ arrival at the Wilderness of Sin (Exod 16:1), one stop before Mt. Sinai (as is explicitly stated in Jub. 50:1), again beginning with a heading, “And behold the commandment of the sabbaths I have written for you and all the judgements of its laws (50:6).” Thus, as much as Jubilees distributes a variety of legal traditions across its narrative span, here it uses the scriptural narrative occasions of the first two instances of collective law-giving (instructions for the observance of the first Passover and the listing of Sabbath rules with respect to the gathering of the manna), to collect an assortment of laws which are otherwise scattered throughout Scripture and to integrate them seamlessly with those that are not scriptural at all, with little if any *explicit exegetical linking* of the latter to the former.<sup>11</sup> For example (Jub. 50:7–8):

10 I assume that these chapters were part of the ancient composition of Jubilees, without speculating at what point they might have been included. On this question more broadly for Jubilees, see Eibert J. C. Tigchelaar, “The Qumran *Jubilees* Manuscripts as Evidence for the Literary Growth of the Book,” *RevQ* 26.4 (104) (December 2014): 579–94.

11 For this tendency to extract laws from the narrative so as to regroup or re-narrativize them, see my article, “Nomos and Narrative Before *Nomos and Narrative*,” *Yale Journal of Law and the Humanities* 17 (2005): 81–96, esp. 85–89. On the relative absence of explicit legal exegesis (*midrash halakhah* in rabbinic terms) in late Second Temple writings, see my article, “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.



Six days you shall work, but the seventh is the sabbath of the Lord your God. You shall not do any work in it, you, or your children or your manservant or your maidservant, or any of your cattle or the stranger who is with you [following Exod 20:9–10]. And let the man who does anything on it die. Every man who will profane this day, who will lie with his wife, and whoever will discuss a matter that he will do on it so that he might make on it a journey for any buying or selling, and whoever draws water on it, which was not prepared for him on the sixth day, and whoever lifts up anything that he will carry to take out of his tent or from his house, let him die.<sup>12</sup>

Likewise, but now narratively detached, the Damascus Document contains a substantial core of laws, organized as *serakhim*, or topically grouped collections of rules, including both biblical laws and sectarian rules for communal organization and judicial and penal procedures. As in Jubilees, one of the longest of these *serakhim* contains twenty-six rules concerning prohibited activities on the Sabbath, gathered from throughout the Torah and organized under the heading, “Concerning the Sabbath to observe it according to its law” (CD X, 14). Similarly, “This is the rule for the Judges of the Congregation” (CD X, 4) and “This is the rule for the Guardian of the camp” (CD XIII, 7). Presumably, these groupings of laws under topical headings facilitated their usefulness, whether for didactic study or administrative reference, but more likely the former given the non-comprehensive scope of its contents. If so, they could have served as convenient digests of rules for the social settings of either nightly study of laws or the annual renewal of the covenant in the third month, to suggest just two.<sup>13</sup> Similarly, the internal communal rules of the *yahad* in Serekh Hayahad are organized under topical rubrics denoted by the word *serekh* in 1QS V, 1–X, 8, e.g., “This is the rule for the men of the Community ...” (1QS V, 1), to pick just the first such topical legal cluster.

The Second Temple writer who goes the furthest in systematically organizing the dispersed laws of the Pentateuch according to topical groupings is Philo of Alexandria, who, in his *On the Special Laws*, employs the Ten Commandments as “headings” (with each one also serving as a cardinal virtue) under which to organize the miscellaneous laws drawn from throughout the

12 From English translation by Orval S. Wintermute, in James H. Charlesworth, ed., *The Old Testament Pseudepigrapha*, vol. 2 (Garden City, NY: Doubleday, 1985), 142.

13 For the former, see 1QS V, 12–15, especially the phrase *לדרוש משפט*, as discussed by me in “Interpretive Authority in the Studying Community at Qumran,” *JJS* 44 (1993): 46–69, esp. 56–58. For the latter, see my article, “Law, History, and Narrative in the Damascus Document,” *Meghillot* 5–6 (2008): \*35–\*55.

Pentateuch, just as the specific laws of Exod 21–24 follow immediately upon the Ten Commandments of Exod 20.<sup>14</sup> However, upon completing his discussion of those laws that he has included under the rubric of the tenth commandment, Philo constructs a collection of laws bearing on “justice” (δικαιοσύνη), largely, but not exclusively drawn from Deut 16:18–18:22, which he was unable previously to include. Here is how he explains this additional topical grouping of laws, outside of the organizing structure of the Ten Commandments (*Spec. Laws* 4.133–135 [LCL]):

§133 Τούτων μὲν δὴ ἄλλισ. οὐδεὶ δ' ἀγνοεῖν, ὅτι ὡσπερ ἰδίᾳ ἐκάστῳ τῶν δέκα συγγενῆ τινα τῶν ἐπὶ μέρους ἐστίν, ἃ πρὸς ἕτερον γένος οὐδεμίαν ἔχει κοινωνίαν, οὕτως ἕνα κοινὰ πάντων συμβέβηκεν, οὐχ ἐνὶ ἡ δυσίν, ὡς ἔπος εἰπεῖν, τοῖς δὲ δέκα λογίοις ἐφαρμόττοντα

§134 ταῦτα δ' εἰσὶν αἱ κοινωφελεῖς ἀρεταί· καὶ γὰρ ἕκαστος ἰδίᾳ τῶν δέκα χρησμῶν καὶ κοινῇ πάντες ἐπὶ φρόνησιν καὶ δικαιοσύνην καὶ θεοσέβειαν καὶ τὸν ἄλλον χορὸν τῶν ἀρετῶν ἀλείφουσι καὶ προτρέπουσι, βουλαῖς μὲν ἀγαθαῖς ὑγιαίνοντας λόγους, λόγοις δὲ σπουδαίας πράξεις συνείροντες, ἵνα τὸ ψυχῆς ὄργανον εὐαρμόστως ὅλον δι' ὅλων συνηχῆ πρὸς ἐμμέλειαν βίου καὶ συμφωνίαν ἀνεπίληπτον

§135 περὶ μὲν οὐν τῆς ἡγεμονίδος τῶν ἀρετῶν, εὐσεβείας καὶ ὁσιότητος, ἔτι δὲ καὶ φρονήσεως καὶ σωφροσύνης εἴρηται πρότερον, νυν ἰδὲ περιτῆς ἐπιτηδεουούσης ἀδελφὰ καὶ συγγενῆ ταύταις δικαιοσύνης λεκτέον.

§133 Enough then of this. But we must not fail to know that, just as each of the ten separately has some particular laws akin to it having nothing in common with any other, there are some things common to all which fit in not with some particular number such as one or two but with all the ten Great Words.

§134 These are the virtues of universal value. For each of the ten pronouncements separately and all in common incite and exhort us to wisdom and justice and godliness and the rest of the company of virtues, with good thoughts and intentions combining wholesome words, and with words actions of true worth, that so the soul with every part of its being attuned may be an instrument making harmonious music so that life becomes a melody and a concert in which there is no faulty note.

§135 Of the queen of the virtues, piety or holiness, we have spoken earlier and also of wisdom and temperance. Our theme must now be she whose ways are close akin to them, that is justice.

14 See Philo, *Decalogue*, 19–20, 154–175; *Spec. Laws* 132–135.

In effect, Philo argues that the laws of justice are so constitutive of the system of virtues (and laws) *as a whole*, that they cannot be assigned to any single rubric, but must constitute an overarching one of their own.

Interestingly, it is the very same range of laws (similarly based overall on Deut 16–18, which Josephus refers to as the Mosaic “constitution” [πολιτεία]) that elicits from him the need to justify his gathering them and arranging them under a single topical rubric, interrupting thereby the flow of his narrative account of Moses’s life, just prior to his swan song (Deut 32) and death (Deut 34) (*Ant.* 4.196–198 [LCL]):

§196 Βούλομαι δὲ τὴν πολιτείαν πρότερον εἰπὼν τῷτε Μωυσέος ἀξιώματι τῆς ἀρετῆς ἀναλογούσαν καὶ μαθεῖν παρεξωνδὶ αὐτῆς τοῖς ἐντευξομένοις. οἷα τὰ καθ’ ἡμᾶς ἀρχήθεν ἦν, ἐπὶ τὴν τῶν ἄλλων τραπέσθαι διήγησιν. Γέγραπται δὲ πάνθ’ ὡς ἐκεῖνος κατέλιπεν οὐδὲν ἡμῶν ἐπὶ καλλωπισμῶ προσθέντων οὐδ’ ὅτι μὴ κατελέλοιπε Μωυσῆς.

§197 νενεωτέρισται δ’ ἡμῖν τὸ κατὰ γένος ἕκαστα τάξαι· σποράδην γὰρ ὑπ’ ἐκείνου κατελείφθη γραφέντα καὶ ὡς ἕκαστόν τι παρὰ τοῦ θεοῦ πύθειτο. Τοῦτου χάριν ἀναγκαῖον ἡγησάμην προδιαστείλασθαι, μὴ καὶ τις ἡμῖν παρὰ τῶν ὁμοφύλων ἐν τυχόντων τῇ γραφῇ μέμψις ὡς διημαρτηκόσι γένηται.

§198 ἔχει δὲ οὕτως ἡ διάταξις ἡμῶν τῶν νόμων τῶν ἀνηκόντων εἰς τὴν πολιτείαν. οὓς δὲ κοινούς ἡμῖν καὶ πρὸς ἀλλήλους κατέλιπε τούτους ὑπερεθέμην εἰς τὴν περὶ ἐθῶν καὶ αἰτιῶν ἀπόδοσιν, ἣν συλλαμβανομένου τοῦ θεοῦ μετὰ ταύτην ἡμῖν τὴν πραγματείαν συντάξασθαι πρόκειται.

§196 But here I am fain first to describe this constitution, consonant as it was with the reputation of the virtue of Moses, and withal to enable my readers thereby to learn what was the nature of our laws from the first, and then to revert to the rest of the narrative. All is here written as he left it: nothing have we added for the sake of embellishment, nothing which has not been bequeathed by Moses.

§197 Our one innovation has been to classify the several subjects; for he left what he wrote in a scattered condition, just as he received each several instruction from God. I have thought it necessary to make this preliminary observation, lest perchance any of my countrymen who read this work should reproach me at all for having gone astray.

§198 Here then is the code of those laws of ours which touch our political constitution. As for those which he has left us in common concerning our mutual relations, these I have reserved for that treatise on “Customs and Causes,” which God helping, it is our intention to compose after the present work.

Apparently, God did not help, since we do not have Josephus's projected "Customs and Causes," which we might reasonably assume would have been topically grouped and ordered. What I find most interesting and striking here is Josephus's expressed need to preempt (and thereby draw attention to) what he anticipates to be the criticisms of his "countrymen" for having tampered with/improved upon revelation as recorded by Moses (from direct divine dictation) by shaping the "scattered" (σποράδην) laws into a coherent "constitution" (much as Maimonides, a millennium later, sought to do, albeit much more extensively and with respect to talmudic law, in the introduction to his *Mishneh Torah*).<sup>15</sup> Josephus's preemptive strike presumes that his "countrymen" would have been in a position to compare and contrast the contents (if not the wording) of what was "bequeathed by Moses" with what was to be published by Josephus.<sup>16</sup>

### 3 The Temple Scroll as Arranger of Laws

It is against this backdrop, I suggest, that the pervasive practice of the Temple Scroll in topically grouping laws should be seen. Since some of the above analogues (approximate as they are) appear in texts commonly classified as Rewritten Bible (Jubilees and Josephus's *Jewish Antiquities*), others are not (the Damascus Document and Philo's *On the Special Laws*<sup>17</sup>), we must surmise that

15 See Moshe Halbertal, *Maimonides: Life and Thought*, trans. Joel Linsider (Princeton: Princeton University Press, 2014), 164–96. Compare the following passage from the *Fathers According to Rabbi Nathan* A 18 (ed. Schechter, 67; trans. Goldin, 90):

וכנגדן היה רבי יהודה הנשיא מונה שבחן של חכמים ... לרבי עקיבא קרא לו אוצר בלום. למה רבי עקיבא דומה? לפועל שנטל קופתו ויצא לחוץ. מצא חטים מניח בה מצא שעורים מניח בה כוסמין מניח בה עדשים מניח בה. כיון שנכנס לביתו מברר חטים בפני עצמן שעורים בפני עצמן פולין בפני עצמן עדשים בפני עצמן. כך עשה ר' עקיבא ועשה כל התורה טבעות טבעות.

"In like manner Rabbi Judah the Prince used to list the excellences of the Sages: ... Rabbi 'Akiḇa he called "A well-stocked storehouse." To what might Rabbi 'Akiḇa be likened? To a laborer who took his basket and went forth. When he found wheat, he put some in the basket; when he found barley, he put that in; spelt, he put that in; lentils, he put them in. Upon returning home he sorted out the wheat by itself, the barley by itself, the beans by themselves, the lentils by themselves. This is how Rabbi 'Akiḇa acted, and he arranged the whole Torah in rings."

16 Compare Philo, *Moses*, 2.40, where he says that someone fluent in Hebrew (Chaldaean) and Greek would be unable to detect any differences between the Hebrew biblical original and its Greek translation (of the Septuagint).

17 As I and others have argued, some of Philo's writings can be usefully characterized as Rewritten Bible, e.g., his *On the Life of Moses*. See my article, "Between Rewritten Bible and

this is not a characteristic of legal Rewritten Bible per se, but of legal codification (in a nascent sense) across literary forms and ideologies, finding its most extensive ancient Jewish expression ultimately in the Mishnah.<sup>18</sup> That the Temple Scroll does not draw attention to its version of this shared practice by signaling it with introductory words, as do Philo and Josephus (especially the latter who defends the practice), should not surprise us since they are individual authors who do not mask their authorial human voices, as does the author/redactor of the Temple Scroll, who pseudepigraphically represents it as a directly divinely communicated speech and text.<sup>19</sup> Perhaps some such introduction or justification appeared in the lost beginning of the first column of 11QT<sup>a</sup> (11Q19), but I rather doubt it. But even so, the topical grouping of laws, while prevalent in the Temple Scroll, does not explicitly define its structure or rhetoric overall, as it does the Mishnah, with the Temple Scroll incorporating a *mixture* of textual forms and conceits, including that of “Reworked Pentateuch,” as we shall shortly see.<sup>20</sup> Space allows us to consider only two cases drawn from the “Deuteronomic Paraphrase” of the Temple Scroll.

#### 4 The Case of the Law of the King

Like Josephus (*Ant.* 4.196–301) and Philo (*Spec. Laws* 136–238), and like Mishnah and Tosefta Sanhedrin (especially chaps. 2 and 4 respectively), the Temple Scroll contains a substantial unit (11QT<sup>a</sup> LI, 11–LXVI, 7) on, in Josephus’s terms, the Mosaic “constitution,” based on Deut 16:18–18:22, but drawing much more broadly on other scriptural verses from throughout what becomes the

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Allegorical Commentary: Philo’s Interpretation of the Burning Bush,” in *Rewritten Bible after Fifty Years*, 221–32.

- 18 This belies David Weiss Halivni’s characterization of the “Jewish predilection for justified law,” to which the Mishnah is the exception born of short-lived historical necessity: David Weiss Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law* (Cambridge, MA: Harvard University Press, 1986). For my critique, see “Interpreting Midrash 2: Midrash and its Literary Contexts,” *Proof 7* (1987): 284–300 (with corrigenda in 8 [1988]: 159–60).
- 19 This is conveyed throughout (with some exceptions) by God’s speaking in the first person singular and by the addressee being identified on two occasions as Moses: 11QT<sup>a</sup> XLIV, 5 identifies Aaron as the addressee’s brother (“Aaron your brother”); while 11QT<sup>a</sup> LI, 6–7 speaks of God’s speaking to the addressee “on this mountain” (= Mt. Sinai).
- 20 On the Reworked Pentateuch at Qumran, see Crawford, *Rewriting Scripture*, 39–59 (including bibliography).

Hebrew Bible.<sup>21</sup> This section is commonly referred to as the “Deuteronomic Paraphrase.”<sup>22</sup> It includes, or has inserted therein, the Law of the King of 11QT<sup>a</sup> LVI, 12–LIX, 21, based on Deut 17:14–20, but incorporates many other verses, or allusions to verses, especially from 1 Sam 8:4–22 and 10:17–27.<sup>23</sup>

The first ten lines (LVI, 12–21), follow fairly closely, with small (but significant) emendations, Deut 17:14–18.<sup>24</sup> For example, where MT Deut 17:16 has רק לו סוס ולא ירבה לו סוסים ולא ירבה לו סוסים (‘‘Only he must not multiply for himself horses, and he must not cause the people to return to Egypt to multiply horse[s]’’), 11QT<sup>a</sup> LVI, 15–17 has רק לוא ירבה לו סוס ולוא ישיב את העם מצרים למלחמה למען הרבות לו סוס וכסף וזהב (‘‘Only he must not multiply for himself horse[s], and he must not cause the people to return to Egypt for war in order to multiply for himself horse[s] or silver or gold’’). While some of the changes here appear to be for the sake of greater internal consistency (e.g., סוס, horse, consistently in the singular), the inclusion of למלחמה (‘‘for war’’) seeks to specify that the purpose (perhaps already implicit) of prohibiting return to Egypt is to preclude warfare (and plunder), perhaps thereby allowing it for other purposes (e.g., for trade).<sup>25</sup> In these regards, the passage so far resembles more closely Reworked Pentateuch than Rewritten Bible, at least of the more expansive type of the latter and may be thought of as a variant text.

21 For a good indication of the range of verses that are incorporated into any section of the Temple Scroll, see Michael O. Wise, *A Critical Study of the Temple Scroll from Qumran Cave 11*, SAOC 49 (Chicago: Oriental Institute of the University of Chicago, 1990), 210–34.

22 See Lawrence H. Schiffman, ‘‘The Deuteronomic Paraphrase of the Temple Scroll,’’ *RevQ* 15 (1991–92): 543–67.

23 For more detailed discussion, with comparisons between the Temple Scroll and early rabbinic literature (Mishnah, Tosefta, *Sifre Deut.*), see my article, ‘‘The Torah of the King’ (Deut. 17:14–20) in the Temple Scroll and Early Rabbinic Law,’’ *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. Although I make reference therein to the paraphrastic treatments of the king pericope by Philo (*Spec. Laws* 4.157–69) and Josephus (*Ant.* 4.223–24) they would repay revisiting in their own rights, and in comparison to one another.

24 While some of these might reflect a different scriptural base-text, the most important ones appear to be deliberate changes. For the two texts placed side-by-side, with differences in the Temple Scroll in italics, followed by discussion of the significance of the changes, see Crawford, *Rewritten Scripture*, 97–99. I retain Crawford’s translations of Deuteronomy and the Temple Scroll in the comparisons that follow.

25 Compare *Pss. Sol.* 17:33 (*OTP* 2:667–68): ‘‘(for) he will not rely on horse and rider and bow, nor will he collect gold and silver for war.’’ Thanks to Shani Tzoref for bringing this to my attention.

The most significant and far-reaching change appears in 11Q<sup>T</sup>a LVI, 20–21, which render Deut 17:18, וְהָיָה כִּשְׁבָתוֹ עַל כִּסֵּא מַמְלַכְתּוֹ וְכָתַב לֹא אֶת־מִשְׁנֵה הַתּוֹרָה, הַזֹּאת עַל־סֵפֶר מִלְפָּנֵי הַכֹּהֲנִים הַלְוִיִּים (“And when he sits securely on the throne of his kingdom, then he will write for himself a copy of this law in a book from before the levitical priests”) as וְהָיָה בְּשִׁבְתּוֹ עַל כִּסֵּא מַמְלַכְתּוֹ וְכָתְבוּ לּוֹ אֶת הַתּוֹרָה (“And when he sits securely on the throne of his kingdom, then *they* will write for him *this law* in a book from before the priests ...”). Aside from stressing the more active role of the priests in preparing a book (scroll) of law for the king, by removing the word מִשְׁנֵה (“copy”), הַתּוֹרָה (“this law”) now refers not to the present text of Deuteronomy, even if altered, but to the newly constructed, self-contained Law of the King that commences in the next line of the Temple Scroll (LVII, 1), with the demonstrative introduction, וְזֹאת הַתּוֹרָה (“And *this* is the Torah”<sup>26</sup>). From here through LIX, 21, where it picks up again Deut 17:20, the Temple Scroll gathers several laws relating to the monarchy, in some cases hinted at the immediate context of Deut 17:14–20, but in all cases drawing heavily (but not explicitly) from elsewhere in Scripture. Their table of contents could read: (1) The muster of the army (LVI, 1–5). (2) The king’s guard (LVII, 5–11). (3) The royal council (LVII, 11–15). (4) The king’s marriage (LVII, 15–19). (5) The prohibition against corruption (LVII, 19–21). (6) The laws of war (LVIII, 3–21). (7) Curse and blessing (LIX, 2–21).<sup>27</sup>

The author/redactor’s method can be discerned through mention of just three of these topics as examples. Deut 17:17’s prohibition of the king’s having “many wives” is hardly sufficient to suggest a section on the laws relating to the Queen. Yet the Temple Scroll does precisely this, drawing on and integrating many other verses from throughout Scripture<sup>28</sup> so as to include rules prohibiting the king from marrying a gentile woman, requiring him to take a wife from his “father’s family,” prohibiting him from having more than one wife during her lifetime, but permitting remarriage after her death.

Similarly, while Deut. 17:16, in the reworked version provided by the Temple Scroll (LVI, 16), prohibits the King from returning the people to Egypt for purposes of war, the Temple Scroll in its self-contained Law of the King draws on

26 Cf. Deut 4:44.

27 I have taken this breakdown from Crawford, *Rewriting Scripture*, 100; eadem, *The Temple Scroll*, 59.

28 Wise (*Critical Study of the Temple Scroll*, 229) lists the following: 1 Sam 8:13; 1 Kgs 11:1–2; Lev 21:13–14 (versional); Lev 18:18; and Deut 17:7. He suggests comparison with Deut 7:3; Ezek 9:12; Neh 10:31; 13:25; and Ezek 26:5–6.

many verses from elsewhere in Scripture<sup>29</sup> to provide a set of rules for royal warfare: the mustering of armies of different sizes depending on the scale of the threat from foreign troops and whether the war is defensive or offensive, the division of the booty, and inquiring of the High Priest, who seeks the oracular guidance of the Urim and Tummin.

Thirdly, while unattested in the king pericope of Deut 17:14–20, the Temple Scroll's self-contained Law of the King requires the king to be subservient to a royal council, mainly comprised of priests and Levites, whose approval he must seek in all matters of judgment and law. The only explicit tie here to the king pericope of Deuteronomy is the expression in the Temple Scroll (LVII, 14), *ולוא ירום לבבו מהמה* (“so that his heart not be lifted above them [= the members of the council]”), which is a relocating and re-construing of Deut 17:20, *לִבְלֹתִי לָרִים־לְבָבוֹ מֵאַחֵי* (“so that his heart not be lifted above his brothers [= his fellow Israelites]”). This is consistent with the Temple Scroll's persistent elevation of the authority of the priests (and Levites) throughout. Note that Yadin thinks that the royal council here, with its tripartite composition, derives from the composition of the high court of referral in the previous scriptural pericope (Deut 17:8–13, esp. 17:9, to which I will return momentarily).<sup>30</sup> Even so, Michael Wise identifies two other verses, Num 1:44 and 2 Chr 19:8, as contributing to the midrashic mix.

As we have seen, in this case, and as could be reinforced by other examples, the Temple Scroll has created (or inserted) a highly coherent collection of laws, here grouped together for their common application to the king. However, its inclusion here required the opening of a space in Deut 17:18, after *הַתּוֹרָה הַזֹּאת*, in a manner more in keeping with the Reworked Pentateuch, except that here the insertion is not just of one word (as with the insertion of *למלחמה* in 11QTA LVI, 16), but of a whole unit (three full columns) of topically grouped laws. Thus, two distinct forms of legal interpretation—Rewritten/Reworked Bible and the topical groupings of laws (proto-Mishnah)—are here combined in an inter-dependent manner that renders classification more complex than simply checking the appropriate box.

29 See Wise, *Critical Study of the Temple Scroll*, 229, who lists some 40 scriptural sources that inform this section of the Law of the King.

30 Yadin, *The Temple Scroll*, 1:350.



## 5 The Case of the High Court of Referral

Provisions are made in Deut 17:8–13 for a high court of referral, to which would come cases that were too difficult (or lacked precedent) to be adjudicated by lower, local courts, once Israel had settled in the land of Canaan. This court bears some similarities to, as well as major differences from, and is likely exegetically dependent upon, three earlier wilderness narratives. In those, Moses, unable to bear the burdens of judging all cases of internal conflict alone, establishes a court or council to hear such cases, only the most difficult or significant of which would be referred to him for adjudication, which he would decide via divine communication or by oracular means.<sup>31</sup> In contrast to its scriptural antecedents, the high court of Deut 17:8–13 is noteworthy both for its relative autonomy and for its being located in the single מקום (“place”) chosen by God. It alone makes the final determination of law or resolution of conflicts without explicit recourse to a higher authority. Its verdict is final and authoritative, even though it claims no prophetic or oracular means of communication with the divine, as was exercised by Moses. This is all the more remarkable in light of Deuteronomy’s (and the Temple Scroll’s) frank recognition of the corruptibility of human judges.<sup>32</sup> While we cannot know whether the scriptural text with which the author/redactor of the Temple Scroll (11QT<sup>a</sup> LVI, 1–11) worked was identical to that of the MT, in the absence of ancient biblical manuscript evidence to the contrary, we must consider the reworked version of the Temple Scroll with respect to what we have in the form of the MT, especially in the

31 See Exod 18:13–27; Num 11:10–17, 24–25; Deut 1:9–18. I have a much fuller study of the interpretation of Deut 17:8–13, focusing on the Temple Scroll in comparison to *Sifre Deuteronomy*, in Hebrew and English versions: “‘כי יפלא ממך דבר’ (דברים יז, ח-יג): ‘If a Case is Too Baffling for You to Decide ...’ [Deuteronomy 17:8–13]: Biblical Interpretation in the Pericope on the High Court—Between the Temple Scroll and Tannaitic Interpretation”, *Meghillot* 11–12 (2014–2015): 199–218; “‘If a Case is Too Baffling for You to Decide ...’ (Deuteronomy 17: 8–13): Between Constraining and Expanding Judicial Autonomy in the Temple Scroll and Early Rabbinic Scriptural Interpretation,” in *Sibyls, Scriptures, and Scrolls: John Collins at Seventy*, ed. Joel Baden, Hindy Najman, and Eibert Tigchelaar, JSJSup (Leiden: Brill, 2017). For Josephus’s paraphrase of the law of the high court, in the context of his regrouping of laws dealing with judicial matters, see *Ant.* 4.218. For Philo’s paraphrase, again in the context of his collecting of laws relating to justice, see *Spec. Laws* 4.190–191. I discuss both briefly in the aforementioned English article, 419 n. 41.

32 See Deut 16:18–20 (as well as Deut 1:16–17); 11QT<sup>a</sup> LI, 11–18.

absence of relevant variants in the LXX or SP (except as noted below).<sup>33</sup> I have prepared a chart comparing the two in parallel columns. Light text in both columns indicates a significant variant in wording between the Temple Scroll and MT. Bolded text appears in one of the texts but not the other. I begin with the Temple Scroll and correlate MT to it, rather than vice versa.<sup>34</sup>

Line	Temple Scroll col. 56 (ed. Yadin)	Deuteronomy 17 (MT)	Verse
1	*[א] אל ה' [ש] פטים אשר יהיו בימים ההמה [ ודרשתה והגידו לכה את ]	9 וְאֶל-הַשֹּׁפֵט אֲשֶׁר יְהִי בַיָּמִים הָהֵם וְדָרְשֶׁתָּ וְהִגִּידוּ לְךָ אֵת	9
2	הדבר אשר עליו ב'אתה לדרוש והגין דו לכה את המשפט	9 דָּבַר הַמִּשְׁפָּט:	9
3	ועשיתה על פי התורה אשר יגידו לכה ועל פי הדבר	10a, 11a וְעָשִׂיתָ עַל-פִּי הַדָּבָר אֲשֶׁר יִגִּידוּ לְךָ... / עַל-פִּי הַתּוֹרָה	10a, 11a
4	אשר יואמרו לכה מספר התורה ויגידו לכה באמת	11a אֲשֶׁר יוֹרֹדָה	11a
5	מן המקום אשר אבחר לשכין שמי עליו ושמתה לעשות	10b מִן-הַמְּקוֹם הַהוּא אֲשֶׁר יִבְחַר יְ-הוָה וְשָׁמַרְתָּ לַעֲשׂוֹת	10b
6	ככול אשר יורוכה ועל פי המשפט אשר יואמרו לכה	10b, 11b כָּכֹל אֲשֶׁר יוֹרֹדָה: / ... וְעַל-הַמִּשְׁפָּט אֲשֶׁר-יֹאמְרוּ לְךָ	10b, 11b
7	תעשה לא תסור מן התורה אשר יגידו לך ימין	11b תַּעֲשֶׂה לֹא תִסּוֹר מִן-הַדָּבָר אֲשֶׁר-יִגִּידוּ לְךָ יָמִין	11b
8	ושמאל והאיש אשר לוא ישמעו ועש בזדון לבלתי	11b, 12 וּשְׂמֹאל: / וְהָאִישׁ אֲשֶׁר-יַעֲשֶׂה בְּזָדוֹן לְבַלְתִּי	11b, 12
9	שמוע אל הכוהן העומד שמה לשרת לפני או אל	12 שָׁמַע אֶל-הַכֹּהֵן הָעֹמֵד לְשֵׁרֵת שֵׁם אֶת-יְ-הוָה אֶ-לֹהֵיךָ או אֶל-	12
10	השופט וימת האיש ההוא ובערתה הרע מישראל וכול	12, 13 הַשֹּׁפֵט וּמַת הָאִישׁ הַהוּא וּבַעֲרַתְּ הָרַע מִיִּשְׂרָאֵל: / וְכָל-	12, 13
11	העם ישמעו ויראו ולוא יזידו עוד בישראל	13 וְהָעָם יִשְׁמְעוּ וְיִרְאוּ וְלֹא יִזְדוּן עוֹד	13

33 There are no extant Qumran scriptural texts of Deut 17:8–13. Note that the only extant fragment of our scriptural passage in the Dead Sea Scrolls (2QDeut<sup>b</sup> [2Q11 in DJD 3:61], covering Deut 17:12–15) is identical to MT.

34 For a similar comparison, see Gershon Brin, *Issues in the Bible and the Dead Sea Scrolls* (Tel Aviv: Tel Aviv University and Hakibbutz Hameuchad, 1994), 173–75 (Hebrew).

Some changes, such as from references to God in the third person to God's speaking in the first person singular (lines 5, 9) are unremarkable for the Temple Scroll. Overall, lines 1 and 7–11 of the Temple Scroll appear to “follow” verses 9 and 11b–13 of MT. However, verses 10 and 11a appear to have been broken and rearranged. Among the seeming changes in the Temple Scroll, when compared to MT, are significant variations in word order, substitution of words, as well as entire interpolations.

Among the most striking of such variations are the transfer of the beginning of v. 11 (עַל־פִּי הַתּוֹרָה אֲשֶׁר יוֹרִיד) to an earlier position, following the beginning of v. 10 (וְנִשְׁיֵת עַל־פִּי הַדְּבָר אֲשֶׁר יִגִּידוּ לָךְ), and the interchanging of הַתּוֹרָה in the Temple Scroll for MT's הַדְּבָר (Temple Scroll lines 3, 7), and הַדְּבָר in the Temple Scroll for MT's הַתּוֹרָה (Temple Scroll line 3).<sup>35</sup> However, the most remarkable difference is the complete interpolation of מִסֵּפֶר הַתּוֹרָה וַיִּגִּדוּ לָכֶּה בְּאֵמֶת in line 4 of the Temple Scroll, without any equivalent in MT. Thus, where MT has in v. 11a עַל־פִּי הַתּוֹרָה אֲשֶׁר יוֹרִיד (“in accordance with the Teaching/Torah which they will instruct you”), the Temple Scroll has in lines 3–4:

וְעַל פִּי הַדְּבָר אֲשֶׁר יוֹאמְרוּ לָכֶּה מִסֵּפֶר הַתּוֹרָה וַיִּגִּדוּ לָכֶּה בְּאֵמֶת (“in accordance with the verdict which they will tell you [*vacat*] from the book of the Teaching [Torah] and which they will announce to you in truth”<sup>36</sup>). The Temple Scroll here clearly stresses that the source of the ruling to be announced by the court

35 The former interchange (הַתּוֹרָה for MT הַדְּבָר) also occurs in some witnesses to *Sifre Deuteronomy*, for which see Finkelstein's edition, 207 line 8 (according to the Venice printing and Ms London).

36 For a variety of translations of בְּאֵמֶת, see Yadin (“in sincerity”), Charlesworth (“truthfully”), Vermes (“in truth”), García Martínez (“accurately”), and Wise, Abegg, and Cook (“the truth”). Yadin (*The Temple Scroll*, 2:251, in note to line 4) gives examples from the Dead Sea Scrolls of forms of אֵמֶת that express a sectarian (exclusive) claim to (divine) truth. The language of 1QS I, 15 is particularly apt in relation to our case: וְלֹא לְסוֹר מִחֻקֵּי וְלֹא לְסוֹר מִחֻקֵּי וְלֹא לְסוֹר מִחֻקֵּי וְלֹא לְסוֹר מִחֻקֵּי (“and not to turn aside from his true laws [by] going either [to] the right or [to] the left”), as noted by Kister (*Tarbiz* 57 [1988]: 316). For the addition of אֵמֶת (“truth”) in the Dead Sea Scrolls to biblical idioms wherein it is absent, see 1QS I, 5; VIII, 2 (and its parallel in 4QS<sup>e</sup> [4Q259]); IX, 17 (and its parallels in 4QS<sup>d</sup> [4Q258] and 4QS<sup>e</sup> [4Q259]); 11Q5 (11QPs<sup>a</sup> [Psalm to the Creator]) XX, 10–11. Therein אֵמֶת (“truth”) is added to the scriptural idioms צְדָקָה וּמִשְׁפָּט (“righteousness and justice”) and מִשְׁפָּט צְדָק (“righteous justice”). Compare the above Dead Sea Scrolls texts with Gen 18:19; Prov 21:3; Ps 33:5 for the former, and Deut 16:18; Isa 1:21 for the latter. So far as I could determine, these biblical idioms never appear with אֵמֶת in all of classical rabbinic literature. Note also the expression יְהוּד אֵמֶת/אֵמֶתוֹ (“community of [his] truth”) in 1QS II, 24, 26 (partly restored); III, 7.

is the “book of Teaching/Torah,” and that it is to be communicated “in truth,” that is, reliably and accurately.

Like the king of the following section both in Deuteronomy and the Temple Scroll, who is to keep beside him at all times a Teaching/Torah written on a scroll,<sup>37</sup> which is to govern his royal actions, so too the high court is to rule in accordance with the “book of Teaching/Torah” and to transmit that ruling in faithfulness to that text, possibly reflecting the influence of the king pericope on that of the high court, as we saw previously in the opposite direction.<sup>38</sup> The subordination of political office to Mosaic Torah (that is, to the text of Deuteronomy itself) is a leitmotif of the larger unit of Deut 16:18–18:22.

One effect of the seeming transpositions and insertions in lines 3–4 is to delay, and thereby reduce the importance of מן המקום (“from the place”) as the authoritative source of the ruling by preceding, and thereby upending it with מספר התורה (“from the book of Teaching”). The authority of the court’s ruling derives less from its location (מקום), as important as that remains, than from the Torah text from which it rules and communicates באמת (“in truth”). It is tempting to think that the space left by the scribe before מספר התורה serves to accentuate that important altered detail.<sup>39</sup> Similarly perhaps, the Temple Scroll’s dropping of the demonstrative pronoun הַהוּא (“this”) from מן-הַמְּקוֹם הַהוּא (“from this place”) in verse 10b of MT, renders thereby the “place” as being somewhat less determinative.<sup>40</sup>

37 On this, see Yadin, *The Temple Scroll*, 1:344–45. For a detailed comparison of the “Torah of the King” in the Temple Scroll and early rabbinic literature, see S. D. Fraade, “The Torah of the King’ (Deut. 17:14–20) in the Temple Scroll and Early Rabbinic Law.”

38 Just as the king might be corrupted by excessive women and wealth, so too the judges can be corrupted by bribes. See Deut 17:17 for the former and Deut 16:18–20 (as well as Deut 1:16–17) for the latter. The Temple Scroll (11QT<sup>a</sup> LI, 11–18) goes even further in applying the death penalty to corrupt judges. See Yadin, *The Temple Scroll*, 1:383–85; 2:227–29; Jeffrey Stackert, “Before and After Scripture: Narrative Chronology in the Revision of Torah Texts,” *Journal of Ancient Judaism* 4 (2013): 175–81.

39 We have no way of knowing how the Temple Scroll would have rendered אֶל-הַמְּקוֹם (“to the place”) of Deut. 17:8 since it is not preserved. My contention is that through the insertion of מספר התורה prior to מן המקום, the Temple Scroll privileges the “book of Teaching/Torah” as the immediate *source* (and, in a sense, the authority) of the ruling, over the place in which the ruling is made. Note especially the parallel use of the locative מן and מן with מספר התורה and מקום respectively, as denoting originating sources of judicial authority (the “book” or the “place”).

40 I offer this suggestion somewhat tentatively since the demonstrative pronoun is lacking in LXX, while present in SP and Syr. Deut 17:10. It should be noted that this is the only scriptural occurrence of the phrase הַהוּא הַמְּקוֹם, except for Deut 12:3, which does not refer to the Temple site.

I am less certain how to understand the other major interpolation, that of transforming *הַדְּבָר אֲשֶׁר עָלָיו בְּ[אַתָּה לְדָרוּשׁ וְהִגִּי] דָּו לְכָה אֵת* in v. 9 to *הַדְּבָר אֲשֶׁר עָלָיו בְּ[אַתָּה לְדָרוּשׁ וְהִגִּי] דָּו לְכָה אֵת* in line 2.<sup>41</sup> The Temple Scroll may be seeking to limit the role of the high court to deciding only cases of civil dispute referred up to it from local courts, thereby excluding from its purview broader legislative decisions that are not so occasioned. This is in striking contrast to the assignment of broader legislative functions to the Sanhedrin in early rabbinic literature, which institution's authority is similarly grounded in Deut 17:8–13.<sup>42</sup> Whether or not, or to what extent, it is advisable to read the Temple Scroll in light of later rabbinic exegeses of Deut 17:8–13 is a question with which I deal in my fuller study of this section of the Temple Scroll in relation to early rabbinic interpretation of the same biblical passage (see above, n. 31).

Yigael Yadin, in comments to his edition of the Temple Scroll,<sup>43</sup> interprets the interpolation of *בְּאֵת בְּאֵת לְכָה וְיִגִּידוּ* as follows: “There is virtually no doubt that these changes were designed to prohibit the fixing of any law according to oral tradition, i.e., any law not written and interpreted in the Pentateuch.” And again, “[T]here is a plainly polemical element, castigating those who do not ‘declare in sincerity’ according to the Torah.” Although he does not mention them by name, Yadin would appear to be alluding to the Pharisees as the purveyors of “oral tradition,” against whom the Temple Scroll is polemicizing by requiring the court’s rulings to derive directly from the written Torah “in truth.”<sup>44</sup> Since there is, it seems to me, nothing inherently polemi-

41 Qimron reconstructs the text differently: *הַדְּבָר אֲשֶׁר עָלָיו בְּ[אַתָּה לְדָרוּשׁ וְהִגִּי] דָּו לְכָה אֵת*. This will not affect my argument.

42 See Fraade, *From Tradition to Commentary*, 83–87, for the rabbinization of the sorts of rulings to be made by the high court according to *Sifre Deut.* §152.

43 Yadin, *The Temple Scroll*, 2:251.

44 This understanding of the Temple Scroll as mounting a polemic against “the Oral Torah” (תורה שבעל פה) of the Pharisees is endorsed by Daniel R. Schwartz, “Law and Truth: On Qumran-Sadducean and Rabbinic Views of Law,” in *The Dead Sea Scrolls: Forty Years of Research*, ed. D. Dimant and U. Rappaport (Leiden: Brill; Jerusalem: Magnes Press and YadIzhak Ben-Zvi, 1992), 234 (referencing Joseph Baumgarten for the same view). Following Yadin, Schwartz claims that “[I]n the *Temple Scroll*, the paraphrase of this passage systematically substitutes תורה for דבר, thus indicating that one should follow the judges only when their rulings are indeed Torah.” The semantic evidence is hardly so “systematic” (see above, n. 35) and Yadin’s and Schwartz’s polemical inference from it is thereby exaggerated. Menahem Kister similarly endorses Yadin’s polemical reading, but with additional arguments: “Marginalia Qumranica,” *Tarbiz* 57 (1988): 315–16 (Hebrew: “עוללות מספרות קומראן”); idem, “Two Formulae in the Book of Jubilees,” *Tarbiz* 70 (2001): 298–300 (Hebrew: “על שני מטבעות לשון בספר היובלים”). For the most recent reiteration,

cal in the language of the Temple Scroll, and since we have no direct evidence for how the Pharisees would have interpreted Deut 17:8–13, Yadin’s confident claim can only be tested by looking at how the earliest rabbinic commentary to Deuteronomy interprets these same verses, which I do in the aforementioned articles of mine.<sup>45</sup> Nevertheless, the Temple Scroll’s emphasis, through subtle but significant textual emendation, on deriving law from “the book of the Torah,” and doing so “in truth,” suggests that for the author/redactor of the Temple Scroll, the high court of referral was not as autonomous of revealed truth as the biblical text (and its early rabbinic exposition) might suggest. In this, it is consistent with the sectarian Dead Sea Scrolls’ widespread emphasis on the revelatory “truth” of their prescribed teachings and practices throughout.<sup>46</sup>

## 6 Conclusions

The broadening of the rubric Rewritten Bible (with all of its difficulties) so as to include a legal text such as the Temple Scroll is, it seems to me, advantageous. However, the fact that the Temple Scroll is the *only* such extensive legal text that qualifies for inclusion is also problematic, as is any category of one. It should not inhibit us from acknowledging that the “rewriting” of a narrative scriptural text and the same of a legal text respond to different intellectual needs and accomplish different rhetorical goals, although not entirely. Nor should it blind us to the fact that a major aspect of the Temple Scroll’s Rewritten Bible is the grouping of laws according to topical rubrics (and not according

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see Elisha Qimron, *The Dead Sea Scrolls: The Hebrew Writings*, vol. 1, *Between Bible and Mishnah* (Jerusalem: Yad Ben-Zvi, 2010), 139–40 (Hebrew), xxxvii–xxxviii (English).

45 See above, n. 31. I do not presume that earliest rabbinic literature provides us with a window onto the Pharisees, but that the comparison can nevertheless be mutually illuminating. The question of the attitude of the Pharisees to revealed “oral Torah” (as distinct from received “ancestral tradition,” however recorded) pre-70 CE is fraught with methodological difficulties. See Josephus, *Ant.* 13.297; with which compare 17.41 and 18.12; Matt 15:1–12 (// Mark 7:1–13); *Megillat Ta’anit* scholion Tammuz 4/10 (ed. Noam, 78), citing Deut. 17:11. For discussion, see Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE–400 CE* (Oxford: Oxford University Press, 2001), 38–61; S. D. Fraade, “Literary Composition and Oral Performance in Early Midrashim,” *Oral Tradition* 14 (1999): 33–51, esp. 39–42. On the scholion to *Megillat Ta’anit* Tammuz 4/10, see the articles by Kister, cited above, n. 44, as well as Cana Werman, “The Torah and the *Te’udah* on the Tablets,” *Tarbiz* 68 (1999): 488–90 (Hebrew).

46 See above, n. 36.

to the progression of a narrative plot), something for which we have seen several analogues in late Second Temple literature (as in the later Mishnah), some of which might fit within the rubric of Rewritten Bible (as currently defined), whereas others of which (as whole redacted texts) clearly do not. As we have seen, several of these texts (e.g., Jubilees, and now the Temple Scroll) are of mixed styles and methods (e.g., Rewritten Bible, reworked Pentateuch, and topically grouped laws), which should not be smoothed over in the desire to fit each within in a single genus or species. In short, the Temple Scroll alerts us that such generic nooks are only useful so long as they remain nuanced, fluid, and porous, but also mutually sustaining. Thus, in two cases that we examined in some detail (and presumably many others), we might ask how the (“mere”) topical grouping of biblical laws, notwithstanding Josephus’s preemptive apology for the practice, provides structural cover for the introduction of more far-reaching (and tendentious) ideological “rewritings” of scriptural law, as in the Temple Scroll’s placing of the king under the authority of a priestly council, and its subsuming of the priestly high court to the authority of the Torah, as transmitted in (sectarian) “truth.”

# Hā-ʾîsh Mōshe

*Studies in Scriptural Interpretation in the  
Dead Sea Scrolls and Related Literature in Honor of  
Moshe J. Bernstein*

*Edited by*

Binyamin Y. Goldstein  
Michael Segal  
George J. Brooke



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