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Legal Witnessing in the Dead Sea Scrolls: Maintaining Purity and Holiness

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SETON HALL UNIVERSITY

LEGAL WITNESSING IN THE DEAD SEA SCROLLS: MAINTAINING PURITY
AND HOLINESS

A THESIS SUBMITTED TO

THE FACULTY OF THE DEPARTMENT OF JEWISH CHRISTIAN STUDIES

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BY

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For Lori

CONTENTS

LIST OF ABREVIATIONS

1QH   The Hodayot (The Thanksgiving Scroll)

IQM   The War Scroll

1QS   The Rule of the Community

1QSa   The Messianic Rule

B.   Babylonian Talmud

BDB   The Brown-Driver-Briggs Hebrew English Lexicon

CBQ   Catholic Biblical Quarterly

CD   The Damascus Document

JJS   Journal of Jewish Studies

JPS   Jewish Publication Society

JSDJ   Journal for the Study of Judaism in the Persian, Hellenistic, and Roman Period

JQR   Jewish Quarterly Review

M.   Mishnah

RQ   Revue de Qumran

RB   Revue Biblique

CHAPTER ONE

INTRODUCTION

According to the criminal legislation within the Torah, human beings were the only allowable witnesses. As such, the biblical laws of witnessing were formulated to provide the legal system with the ability to guard against the influences of false or illegitimate testimony.[1] This was done by legislating a process of co-verification, whereby only on the evidence of *two or more* witnesses could a case be prosecuted. A witness is therefore someone with the ability to recall facts or past events through first hand knowledge, for the purpose of verifying matters such as actions, statements, or legal transactions.[2]

The biblical concept of witnessing is rooted in the following texts:

On the evidence of two witnesses or three witnesses, he who is to die shall be put to death; he shall not be put to death on the evidence of one witness (Deut 17:6).

A single witness shall not rise up against a man on account of any iniquity or sin that he has committed; on the evidence of two or three witnesses a matter shall be confirmed (Deut 19:15).

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[1] Human witnesses were especially important in illiterate societies, such as ancient Israel. Oral contracts were commonplace, and as a result, the society sought to protect itself through the use of witnesses and their testimony. This is frequently reflected upon in the wisdom schools. Cf. Prov 25:18: "Like a war club, a sword, or a sharp arrow is one who bears false witness against a neighbor," Prov 12:17: "Whoever speaks the truth gives honest evidence, but a false witness speaks deceitfully." Also cf. Prov 6:16, 14:5, 19:5, 28:18.

[2] In the case of a capital crime, the ability to insure legitimate testimony becomes particularly important. The intrinsic value of life is explicitly understood in biblical law, as the demand to guard against false testimony is seen in the ninth commandment: "You shall not bear false witness against your neighbor (Ex 20:16)." Cf. J. Morgenstern, "The Book of the Covenant– Part II," *HUCA* 7 (1930), 76ff. He writes that Deut 19:16 can be understood as an elucidated version of the ninth commandment. Also see Anthony Phillips, *Israel's Criminal Law: A New Approach to the Decalogue* (Oxford: Blackwell, 1970), 142-6, in which he makes use of Morgenstern's assessment. Other biblical texts that condemn false witnesses are Ex 20:16, 23:1; Deut 5:20; Prov 6:19, 14:25, 19:5, 9, 21:28, 25:18.

If anyone kills a person, the murderer shall be put to death at the evidence of witnesses, but no person shall be put to death on the testimony of one witness (Num 35:30).

The religious pluralism of the Second Temple Period led to a variety of differing opinions as to how particular texts of the Torah were to be interpreted and reapplied. How these texts were reconstituted varied depending on the group and its social context. Groups such as the Pharisees, Sadducees, and Essenes maintained and developed legal codes that contained unique interpretations of law according to their religious experiences. The laws of witnessing shown above are of no exception to this phenomenon. In fact, the biblical laws of witnessing demand an interpretation as the phrase "two or three witnesses," is ambiguous. The special characteristics of the different sectarian movements of the Second Temple Period reveal how this ambiguity was resolved. Texts such as *The New Testament, Antiquities of the Jews, The Testament of Abraham*, and the *Dead Sea Scrolls* all exhibit creative and unique exegesis on these rules

This thesis seeks to discover the dynamics that were involved in allowing the Dead Sea Scrolls (DSS) community to interpret the Mosaic laws of witnessing in its unique form found in the *Damascus Document* (CD) 9: 16-23. The laws of witnessing in this passage are unparalleled to any other Jewish text of ancient Palestine; that is, the text suggests that the co-verification rule was reinterpreted to allow for the combination of single testimonies, or *testes singulares*, to allow for prosecution.[3] The text is as follows:

16 כל דבר אשר ימעל
17 איש בתורה וראה ריעהו והוא אחד אם דבר מות הוא ויזיעהו
18 לעיניו בהוכיח למבקר והמבקר יכתבהו בידו עד עשותו
19 עוד לפני אחד ושב והודיע למבקר אם ישוב ונתפש לפני

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[3]*Testes Singulares* is a term commonly used by canonists and legists. Cf. Bernard S. Jackson, "Damascus Document IX, 16-23 and Parallels," *RQ* 35, no. 3 (1978): 445.

20 אחד שלם משפטו ואם שנים הם והם מעידים על

21 דבר אחר והובדל האיש מן הטהרה לבד אם נאמנים

22 הם וביום ראות האיש יודיעה למבקר ועל ההון יקבלו שני

23 עידים נאמנים ועל אחד להבדיל הטהרה

Translation:

> *And every case in which a man violates the Law and his neighbor sees it and he is alone, if it is a capital case, he shall report him to the mebhaqqer. And the mebhaqqer shall write it in his hand until he does it again in the presence of one [witness], and he returns to report to the mebhaqqer. If he returns to the act and is caught in the presence of one, his judgment is made complete. And if there are two, one and one, to give testimony about a different (read אחר instead of אחד)[4] matter, the man shall be separated from the purity, if they confirm it on the day they saw the man and made it known to the mebhaqqer. But in matters of property, they will receive witnesses to confirm it. And on one [witness] he shall be separated from the purity.[5]*

In order to discover the dynamics involved, a number of things must be discussed. First, the identity and history of the community must be unpacked in order to determine the elements that were involved in its formation. Pertinent to this discussion are the conflicts that the community was born out of, as it can shed light on the formation and development of its characteristics. In order to accomplish this, two probable theories pertaining to the identity and history will be examined and compared.

Once this is accomplished, the characteristics of the community can be further defined. In particular, the concepts of purity, and holiness will be examined. These characteristics exhibited great influence on how law was interpreted and applied, including the area of legal witnessing.

Second, the laws of testimony and their developments found within the biblical and post biblical periods will be examined. Biblical rules of evidence clearly state that an

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[4]There is a wide variety of speculation as to the reading of this particular word, due to the condition of the original manuscript, i.e. the last character good be taken for a ד or a ר. Rabin, Vermes, Charles, and Yadin preferred to read אחר while Levine and Schechter read אחד.

[5] Author's translation.

accused party can only be convicted by the testimony of two witnesses. This practice was carried over and further developed in the post-biblical period. For matter of comparison, these laws will be briefly examined in order to ascertain similarities and differences.

The theological implications of legal testimony will also be examined. It is recognized that other Greco-Roman societies have many similarities in their legal codes and practices. However, it is the perception of these legal codes that establishes a different understanding of the function of law and its significance. This perception relates largely to the biblical community's theological outlook. Thus, the examination of these laws will also allow for an understanding of their theological importance to the biblically oriented community.

With the identity, history, and characteristics established, the text of CD 9:16-22 will be examined. Before determining the dynamics that allowed the community to derive such a rule, the grammar, syntax, vocabulary, and context will be examined. It is also important to unpack such words as בעל and the function of the *mebhaqqer*, as they have a definite impact on the passage. Next, the halakhic methods used to derive the law will be discussed. It is evident that reproof of the guilty party was an important function and had significant influence on the laws of witnessing that were developed and put into practice. Therefore this dynamic must also be included in the halakhic investigation. Finally, the discussion will focus on the need to establish such a rule. From the research of the first three chapters, it is clear that purity and holiness were of utmost importance to the community. With these dynamics in mind, it becomes clear that the laws of witnessing were developed to help maintain their strict sense of purity and holiness.

CHAPTER TWO

IDENTITY

The purpose of this section is to provide a framework that can be utilized to understand the identity, and history of the Dead Sea Scrolls community. This is necessary, as it will allow for the characteristics of the community to be more fully nuanced. In turn, understanding these characteristics of will show the dynamics at work that shaped the community's derivation of their laws of witnessing.

To accomplish this, two major hypotheses that have been postulated will be summarized and compared in order to discover if a general consensus can be established as a basis for the intentions of this thesis.

During the early years of Dead Sea Scrolls research investigators frequently lacked the proper critical skills for a controlled analysis of the data; this has often clouded the judgment of the scholarly community and its ability to reach a consensus. This is particularly true when it concerns the identification and history of the group. Already from the very early stages of this research, numerous attempts were made to identify the community with one of the known sectarian movements of the Second Temple Period. Y. Sussman writes that,

> Since the discovery of the fragments of the *Damascus Covenant* in the Geniza, every conceivable possibility has been suggested: Sadducees, according to Schechter; Pharisees according to Ginzberg and others; Essenes, according to others, Christians or Judaeo-Christians, Karaites, and others.[6]

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[6] Y. Sussman, "The History of the Halakhah and the Dead Sea Scrolls: Preliminary Talmudic

Part of the difficulty in assessing the community's identification and history is not necessarily based on a lack of sources, but rather, consists of understanding the external and secondary sources that are available and the contexts in which they were recorded and presented.[7] Moreover, in an effort to understand these sources, scholarship has occasionally succumbed to premature conclusions of both the identification and history of the community.

It is for this reason that scholars such as Philip R. Davies have urged others to refrain from making solid conclusions based upon external and secondary sources before the primary texts can be examined more thoroughly. Davies, in fact, views the methods introduced and used by early Dead Sea Scrolls scholars as misguided, and unsympathetically cites this approach as an "awful mixture," that can be conveniently labeled as "Albrightianism."[8] Further, he states that "history has indeed been the goal of much Qumran research but the methods used could not on the whole be characterized as those of a critical historian. Frequently they have been closer to fundamentalism."[9] While some may be tempted to lose heart at the sight of such skepticism, and indeed negativism, Davies has produced much new research and insight in the field.

In truth, perhaps the conclusions that were derived from prior study did leave something to be desired. However, as in any new field of study, this is to be expected,

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Observations on *Miqsat Ma'ase Ha-Torah* (4QMMT)," in *Qumran Cave 4*, ed. E. Qimron and J. Strugnell (Oxford: Clarendon Press, 1990), 191-92.
    [7] Curtis Hutt, "Qumran and the Ancient Sources," in *The Provo International Conference on the Dead Sea Scrolls*, ed. Donald W. Perry and Eugene Elrich (Leiden: Brill, 1999), 279.
    [8] Philip R. Davies, "The Prehistory of Qumran," in *The Dead Sea Scrolls: Forty Years of Research*, ed. Devorah Dimant and Uriel Rappaport (Leiden: Brill, 1992), 116.
    [9] Philip R. Davies, *Behind the Essenes: History and Ideology in the Dead Sea Scrolls* (Atlanta, GA: Scholars Press, 1987), 11.

and perhaps what was more lacking was a history of research to guide scholarship, rather than the methodology itself. Despite some continuing objections, [10] external and secondary sources have remained in use, albeit with a more refined and critical approach. [11]

Davies' warning is not without merit; however, this paper cannot limit itself to internal information only. The information that external sources (e.g. archaeology, paleography) have yielded is much too valuable to ignore. It is precisely through these sources that scholars have been able to provide a framework to define and identify the history of the community.

Accordingly, the conceptualization of the community's identification has greatly affected the understanding of its history. Based on this assumption then, the identity of the community will be examined first, followed by an examination of its history.

THE IDENTIFICATION OF THE COMMUNITY

By the early 1960's, a scholarly consensus had developed linking the Dead Sea Scrolls community to the Essenes. Then in 1980, Joseph Baumgarten renewed an interest in exploring the community's affinity with the Sadducean tradition by noting the similarity between certain legal statements found within the Dead Sea Scrolls and those

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[10] Cf. Davies, "The Prehistory of Qumran," 116-7. It is interesting to note that despite his criticism in this article, Davies concedes to somewhat of an Essene Hypothesis. Also cf. Shemaryahu Talmon, "Qumran Studies: Past, Present, and Future," *JQR* 85, no. 1-2 (1994): 1-31; *idem*, "The Community of the Renewed Covenant Between Judaism and Christianity," in *The Community of the Renewed Covenant: The Notre Dame Symposium on the Dead Sea Scrolls*, ed. Eugene Ulrich and James VanderKam (Notre Dame, IN: Notre Dame University Press, 1994), 3-26; *idem, King, Cult and Calendar in Ancient Israel* (Jerusalem: Magnes Press, 1986), 165-201.

[11] For a positive review of the scholarship that has taken place in the last fifty years of Dead Sea Scrolls research, see Adam S. Van Der Woude, "Fifty Years of Qumran Research," in *The Dead Sea Scrolls After Fifty Years: A Comprehensive Assessment*, vol. 1, ed. Peter W. Flint and James C. VanderKam (Leiden: Brill, 1998), 1-45.

attributed to the צדוקים in the *Mishnah*. In his article, "The Pharisaic-Sadducean Controversies about Purity, and the Qumran Texts,"[12] Baumgarten inquires as to the possibility of determining the position of the sect with regards to its halakhic purity regulations according to Tannaitic sources. With the publication of the *Halakhic Letter* (4QMMT) and subsequent research into the legal aspects of the community, a revised Sadducean theory has emerged which bears considerable weight.[13] It is therefore important to give a summary of both the Essene and Sadducean theories followed by an evaluation.

I. The Essenes

As mentioned earlier, the methodology utilized to construct the Essene hypothesis employs a wide variety of external and secondary sources with which the scrolls are compared. In particular, this hypothesis is developed from four kinds of evidence: (1)

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[12] Joseph Baumgarten, "The Pharisaic-Sadducean Controversies about Purity, and the Qumran Texts," *J JS* 31 (1980): 157-70.

[13] This is done primarily by the research of Lawrence Schiffman, "The Sadducean Origins of the Dead Scroll Sect," in *Understanding the Dead Sea Scrolls*, ed. Hershel Shanks (New York: Random House, 1992), 35-49; *idem, Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background Of Christianity, the Lost Library of Qumran* (Jerusalem: JPS, 1994), 83-96; *idem*, "The Qumran Scrolls and Rabbinic Judaism," in *The Dead Sea Scrolls After Fifty Years*, vol. II, ed. Peter Flint and James C. VanderKam (Leiden: Brill, 1998), 552-69; *idem*, "Halakhah and Sectarianism in the Dead Scrolls," in *The Dead Sea Scrolls and Their Historical Context*, ed. Timothy H. Lim (Edinburgh: T. and T. Clark, 2000), 123-43. Scholars such as Baumgarten have also paid considerable attention to Sadducean elements in the scrolls, although he has not been as aggressive in his conclusions. Cf. Joseph M. Baumgarten, "Liquids and Susceptibility to Defilement in New 4Q Texts," *JQR* 85, no. 1-2 (1994): 91-101; *idem*, "The Cave 4 Versions of the Qumran Penal Code," *JJS* 43 (Aug 1992): 268-76; *idem*, "The Laws of the Damascus Document: Between Bible and Mishnah," in *The Damascus Document: A Centennial of Discovery: Proceedings of the Third International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, 4-8 February, 1998*, ed. Joseph M. Baumgarten, Esther G. Chazon, Avital Pinnick (Leiden: Brill, 2000), 17-26; *idem*, "The Relevance of Rabbinic Sources to the Study of Qumran Law," in *Proceedings of the Twelfth World Congress of Jewish Studies. Jerusalem, July 29-August 5, 1997* (Jerusalem: World Union of Jewish Studies, 1999), 73-8; *idem*, "Sadducean Elements in Qumran Law," in *The Community of the Renewed Covenant: The Notre Dame Symposium on the Dead Sea Scrolls*, ed. Eugene Ulrich and James VanderKam (Notre Dame, IN: University of Notre Dame Press, 1994), 27-36; *idem*, "Pharisaic-Sadducean Controversies," 157-70.

Internal indications found within the scrolls, (2) archaeological data, (3), paleography, and (4) ancient sources such as Pliny, Philo and Josephus.[14]

Within these four sources of information, the identification of the Dead Sea Scrolls community as Essene is built upon two main foundations: (1) the locale description made by Pliny the Elder (77 C.E.), and (2) the parallels between ancient sources that wrote about the Essenes, such as Josephus (37-110 C.E.), to what is found in the scrolls.[15]

(1) In his work, *Natural History*, Pliny included a large survey of the Syro-Palestinian area. Included in this survey is an appraisal of the Dead Sea area, which he recorded to be inhabited by the Essenes. He writes:

> On the west side of the Dead Sea, but out of range of the noxious exhalations of the coast, is the solitary tribe of the Essenes, which is remarkable beyond all the other tribes in the whole world, as it has no women and has renounced all sexual desire, has no money, and has only palm-trees for company ... Lying below the Essenes was formerly the town of Engedi, second only to Jerusalem in the fertility of its land and in its groves of palm-trees, but now like Jerusalem and a heap of ashes (5:73).[16]

This description of the location, while not with pinpoint accuracy, seems to indicate the obvious, that is, that the Essenes inhabited the area later known as Qumran. This conclusion has not gone without criticism due to the fact that Pliny appears to have made some mistakes with regards to his description. For example, the text indicates that Engedi was second only to Jerusalem in fertility. This seems quite illogical; perhaps the

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[14] There are other ancient Greco-Latin sources that refer to the Essenes, but most are assumed to rely on Pliny, Philo, and Josephus. Some have suggested that Hippolytus and Dio Chrysostomus may be possible exceptions. Cf. Hutt, "Ancient Sources," 275, n.2.

[15] While not as critical, paleographical and archeological information has provided a firm time line to date certain events.

[16] Translation by James VanderKam, *The Dead Sea Scrolls Today* (Grand Rapids, MI: Eerdmans, 1994), 73.

text should read Jericho instead.[17] There are other problems with the text as well. The

date of composition is probably in the year 77 CE; however, Pliny writes about the

Essenes in the present tense. If de Vaux is correct in his excavation, the Essene

community was destroyed in 68 CE, which would mean that it did not exist when Pliny

wrote his survey.[18] While these problems do need to be considered, it seems unlikely that

Pliny did not know what he was writing about. Rather, it is more probable that he was

unaware of the destruction of the community in 68 CE, which is why he wrote in the

present tense. Of course, these types of references contain no value if one were to

contend that the scrolls did not belong to the group at Qumran, as Norman Golb

suggests.[19] However, the postulation of the Groningen hypothesis by Martinez[20] has

successfully dealt with these issues.

(2) The greatest amount of evidence for the Essene hypothesis is derived from a

corroboration of evidence from the ancient sources (Josephus, Pliny, and Philo) with the

scrolls. Of these scrolls, the Manual of Discipline, or Community Rule (1QS) seems to

reveal the greatest amount of pertinent information. It describes such areas as initiation

of new members, governing rules for daily life, ceremonies, as well as some theological

reflection. One such example is the parallel between Josephus and 1QS with regards to

eating the "pure meal." Josephus writes:

[17] Ibid.

[18] Roland de Vaux, *Archaeology and the Dead Sea Scrolls* (London: Oxford University Press, 1973).

[19] This is the theory of Norman Golb, who has been strongly criticized by the scholarly community. He suggests that the library was brought to Qumran from Jerusalem in 68 C.E., when zealots fled to Masada. Cf. Norman Golb, *Who Wrote the Dead Scrolls?: The Search for the Secret of Qumran* (New York: Schreiber, 1995).

[20] F. Garcia Martinez, "Qumran Origins and Early History: A Groningen Hypothesis," *Folia Orientalia* 25 (1988): 113-36; Garcia Martinez and A. S. Van Der Woude, "A Groningen Hypothesis of Qumran Origins," *RQ* 56, no. 14 (1990): 521-41.

After this purification, they assemble in a private apartment which none of the uninitiated is permitted to enter; pure now themselves, they repair to refectory, as to some sacred shrine. When they have taken their seats in silence, the baker serves out the loaves to them in order, and the cook sets before each one a plate with a single course. Before meat the priest says grace, and none may partake until after the prayer. When breakfast is ended, he pronounces a further grace; thus at the beginning and at the close they do homage to God as the bountiful giver of life (*Jewish War* 2:129-31).[21]

The Community Rule records that

Whenever there are ten men of the Council of the Community there shall not lack a priest among them. They shall all sit before him according to their rank and shall be asked their counsel in all things in that order. And when the table has been prepared for eating, and the new wine for drinking, the Priest shall be the first to stretch out his hand to bless the first-fruits of the bread and new wine (1QS 6:3ff.).

Other areas of similarity that have been examined are: a sense of determinism, a theology of afterlife,[22] abstaining from the use of oil, the communal approach to personal property, the sharing of the pure meal, abstaining from bodily functions on the Sabbath, and refraining from spitting in the midst of company.

Generally, most scholars appear satisfied with these parallels. However, careful re-examination has left some scholars skeptical of their usefulness due to discrepancies between classical sources that have been noted. In *Josephus' Description of the Essenes Illustrated by the Dead Sea Scrolls*, T. S. Beall notes that there are a total of 27 parallels between Josephus and the scrolls, 21 probable parallels, 10 cases of unconfirmed claims about the Essenes, and six disagreements between Josephus' Essenes and the relevant

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[21] Flavius Josephus, *The Antiquity of the Jews*, in *The Works of Josephus: Complete and Unabridged*, trans. William Whiston (Peabody, MA: Hendrickson, 1987).

[22] There are conflicting understandings of the Essene concept of afterlife. Josephus writes that the Essenes believe in the resurrection of the soul, but not the body. Hippolytus writes that the Essenes believed in a physical resurrection of the body with the soul.

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material contained in the Dead Sea Scrolls.[23] Some scholars see these discrepancies as easily explainable,[24] whereas others have taken them as an invitation to debunk the Essene hypothesis.[25] Still, others cautiously refrain from giving the sect any identity based on external sources.[26]

II. The Sadducees

The primary method used to explain a Sadducean identity of the community was developed through a comparative examination of the legal texts of the Qumran library with rabbinic material known in the Mishnah and Gemara. This effort became particularly developed when texts such as the *Temple Scroll* (11QTemple) and *The Halakhic Letter* (4QMMT) were made available.

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[23] T. S. Beall, *Josephus' Description of the Essenes Illustrated by the Dead Sea Scrolls* (Cambridge: Cambridge University Press, 1988.) Scholars have also noted discrepancies between the scrolls themselves. Lena Cansdale, in her book *Qumran and the Essenes*, cites these discrepancies, (such as CD and 1QS), and uses this information (along with other evidence) to suggest that "some other community or communities" were the authors and creators of the scrolls. Cf. Lena Cansdale, *Qumran and the Essenes: a Re-Evaluation of the Evidence* (Tübingen: J. C. B. Mohr, 1997), 34-40.

[24] Everett Ferguson, *Backgrounds to Early Christianity*, 2d ed. (Grand Rapids, MI: Eerdmans, 1993), 490 states, "The discrepancies are not enough to overthrow the Essene hypothesis or weaken the broad areas of agreement and even detailed similarities." Also cf. Frank Moore Cross, *Canaanite Myth and Hebrew Epic: Essays in the History of the Religion of Israel* (Cambridge MA: 1973), 331-2, who writes: "The scholar who would 'exercise caution' in identifying the sect of Qumran with the Essenes places himself in an astonishing position; he must suggest seriously that two major parties formed communistic religious communities in the same district of the desert of the Dead Sea and lived together in effect for two centuries, holding similar bizarre views, performing similar or rather identical lustrations, ritual meals, and ceremonies. He must suppose that one, carefully described by classical authors, left extensive ruins, and indeed a great library. I prefer to be reckless and flatly identify the men of Qumran with their perennial house-guests, the Essenes."

[25] P. Callaway suggests that these differences should not be treated lightly, and that there should be some differentiation from Qumran community and the Essenes as described in the classical sources. Cf. P. R. Callaway, *The History of the Qumran Community: An Investigation* (Sheffield: JSOT Press, 1988), 63-87; "Methodology, the Scrolls, and Origins," in *Methods of Investigation of the Dead Sea Scrolls and the Khirbet Qumran Site*, ed. Michael O. Wise, et al. (New York: The New York Academy of Sciences, 1994), 409-28.

[26] Talmon, "Qumran Studies: Past, Present, and Future," 1-31.

The particular laws in question deal directly with issues of ritual purity. The three most common examples will be given. The first law is found in the 11QTemple, while the remaining two are from 4QMMT.[27]

(1) Bones of Animals. Law from the biblical corpus is unclear as to which parts of a decomposing animal were rendered unclean. It appears as though only fleshy tissue that is subject to rapid decomposition was considered a source of defilement. Rabbinic contemplation on the matter followed suit, ruling that bones, nails, hides, and horns were not to be considered a source of defilement.[28] This ruling was not offered in the Dead Sea Scrolls. Instead, 11QTemple records the opposite:

> Whoever carries of their bones and of their carcasses hide, flesh, or nail shall wash his garments and bathe in water; when the sun goes down, afterwards he will be clean (51:4-5).

A controversy between the Pharisees and Sadducees with regard to this matter seems to exist in *m. Yadaim*:

> The Sadducees say, We cry out against you, O ye Pharisees, for ye say, 'The Holy Scriptures render the hands unclean,' [and] 'The writings of Hamiram do not render the hands unclean.' Rabban Johanan b. Zakkai said, Have we naught against the Pharisees save this!—for lo, they say 'The bones of an ass are clean, the bones of Johanan the High Priest are unclean.' They said to him, As is our love for them so is their uncleanness—that no man make spoons of the bones of his father or mother. He said to them, Even so the Holy Scriptures: as is our love for them so is their uncleanness; [whereas] the writings of Hamiram which are held in no account do not render the hands unclean (4:6).[29]

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[27] Summarized from Baumgarten, "Sadducean Elements," 20-30; "Pharisaic-Sadducean Controversies," 157-70.

[28] Cf. *m. Hullin* 9:1, *b. Hullin* 47b.

[29] Translation by Herbert Danby, *The Mishnah* (Oxford: Oxford University Press, 1987), 784.

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While the preceding passage is somewhat difficult to interpret, Baumgarten understands

it to state the Sadducees believed that bones of both a human and an animal were just as

impure as the flesh, which is in agreement with 11QTemple.[30]

(2) Liquid streams that cause impurity. Any stream of liquid that is poured into

an impure receptacle connects the impurity of the receptacle to the above container,

rendering it impure. 4QMMT:

> Regarding (poured out) liquid streams, we say that they do not have purity. And
> even the liquid streams do not separate between the impure and the pure. For the
> moisture of the liquid streams and (the vessel) which receives from them are both
> considered one identical moisture (B56-8).[31]

M. Yadaim. states:

> The Sadducees say: "We complain against you Pharisees. For you declare pure
> the (poured out) liquid stream" (4:7).

(3) Ashes of the red heifer. Described in Num 19, the ashes of the red heifer were

essential for purifying those who had contact with the dead. The Sadducees maintained

that after the rites were performed, there was a waiting period until sundown before

purity was declared. 4QMMT states:

> And (also) concerning the purity [ritual] of the [red] heifer of the sin-offering he
> who slaughters it and he who burns it and he who gathers its ash and he who
> sprinkles the water of purification – all these should become pure [only] at
> sundown, so that the pure should sprinkle upon the impure (B14-6).

M. Parah states:

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[30] Baumgarten, "Controversies," 163.

[31] This ruling corresponds to the Essenes' non-use of oil. The use of oil within the community
would have the potential of rendering a great many of its members unclean due to easy transference of
uncleanliness. CD 12:15-17 states: "All wood, stones, and dust which are defiled by human impurity, with
stains of oil on them, the one who touches them will be impure according to their impurity." Josephus,
Jewish War 2:123 also records: "Oil they consider defiling, and anyone who accidentally comes in contact
with it scours his person; for they make a point of keeping a dry skin and of always being dressed in
white."

And they would render the priest who burns the cow (red heifer) unclean, because of the Sadducees, so that they should not say, "It is done by one on whom the sun has set" (3:7).

Two main positions have developed in light of these parallels. Baumgarten, who recently suggested the connection, considers the possibility of differing types of Sadducees, namely, that the aristocratic type of Sadducees were not the same as the צדוקים portrayed in the Mishnah. The Mishnaic portrayal of the צדוקים were those of the "Zadokite type,"[32] which may find affinities with the בני צדוק recorded in the Dead Sea Scrolls. The essence of this argument depends on how one defines the term "Sadducean." Y. Sussman has nuanced this definition well by stating:

> The Sadducean halakhah mentioned in rabbinic literature was followed not only by Sadducean aristocrats of the other sources, but also by popular classes and fanatical religious sects, who even fought on its behalf. These sects wage a dual battle: a religious-*political* struggle (ethical and social) against the priestly Sadducean aristocracy, on the one hand, and a religious-*halakhic* struggle against the opponents of the strict Sadducean tradition (i.e., the Pharisees), on the other. Only from the perspective of the Pharisees were all the opponents of the Pharisaic tradition who followed similar halakhic practices included in the same category— those who deny the authoritative Pharisaic interpretation of the Torah's commandments. All of these were termed 'Sadducees,' regardless of whether they were 'Sadducees' by virtue of their social and political status, or only because of their halakhic tradition.[33]

Despite this differentiation given by Sussman, Baumgarten finds it difficult to identify the community as Sadducean. Instead, he finds it useful to continue referring to the community as Essene, albeit with halakhic tendencies that are similar to the Sadducean position recorded in Tannaitic sources. He states, "I therefore concluded

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[32] Baumgarten, "Controversies," 30.
[33] Y. Sussman, "The History of the Halakhah," 194.

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rather conservatively that the Sadducees and the Qumran exegetes, though distinct, follow similar and more stringent approaches in the area of purity."[34]

The second position, suggested by Lawrence Sehiffman, is more radical in nature, suggesting that the identification of the community is Sadducean. While the Essene hypothesis relies on sources such as Josephus and Pliny to reach its conclusions, Sehiffman relies primarily upon the halakhic similarities between the Sadducees described in Tannaitie and Dead Sea Serolls community.[35]

The development of this theory is based largely upon 4QMMT. Written by dissonant Zadokite priests, the letter contains twenty-two descriptions of laws and practiees that differ from those practiced by other priests, presumably in the Temple. Schiffman understands this letter to capture the essenee of the conflict within the priestly circles of the Temple of Jerusalem.[36] He, like many other scholars (see below), is also in favor of an origin that centers on the Maccabean/Seleucid conflict. However, he disagrees with other scholars as to who was involved in the conflict. Instead of *Hasidim* origins, as some scholars have suggested, he prefers to see the origins within the Sadducean circles of the Temple. When the Hasmoneans gained control of the Temple during the second century B.C.E., the priestly family of Zadok, who traced their origins to the time of Solomon, was ousted from the Temple. Control of the Temple was given

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[34] Baumgarten, "Pharisaic-Sadducean Controversies," 30.

[35] At the very least, he seeks to redefine current Essene perceptions by viewing the community's origins and emergence from the Sadducean tradition. As the group developed, it took the form of what has been recognized as Essene. Cf. L. Schiffman, "The New Halakhic Letter (4QMMT) and the Origins of the Dead Sea Sect," *BA* 53, no. 2 (1990), 69, and "The Sadducean Origins," 42.

[36] The priestly character of the Dead Sea Scrolls community is remarkably similar to that of the Temple community in Jerusalem. Cf. Bertil Gärtner, *The Temple and the Community in Qumran and the New Testament: A Comparative Study in the Temple Symbolism of the Qumran Texts and the New Testament*, Society for the New Testament Studies Monograph Series, ed. Matthew Black, no. 1 (Cambridge: Cambridge University Press, 1965), 7-9.

to Hasmonean priests, who had incorporated some Pharisaic tendencies. This created tension between the two groups and eventually a faction of the Zadokite lineage, unable to cope with the new reality, sought refuge in the Dead Sea wilderness. According to Schiffman, the reconstruction of this conflict is based on the comparison of certain laws of Sadducean flavor, and an understanding that the *Halakhic Letter* (4QMMT) is addressed to Jerusalem-based opponents within the Temple.[37] In summary of this theory, Schiffman writes that

> There is by now too much evidence proving that the community that collected those scrolls emerged out of sectarian conflict and that that conflict sustained it throughout its existence. The *Halakhic Letter* characterizes the conflict as a disagreement over points of Jewish law with those in control of the Temple in Hasmonean Jerusalem.[38]

It is important to understand that Schiffman does not deny the identification of the group as Essene in the later phases of the community's existence. It is understood that once the community separated from its Sadducean community in Jerusalem, it evolved into a separate identity, which incorporated new and different religious ideas. In other

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[37] In 4QMMT the legal interpretations are characteristically introduced with the formula "we say." This contrasts with the extended chain of named traditions that often precede halakhic traditions in the Mishnah and Talmud. The DSS community had a rich library, but they did not accept the traditions of other groups. This lack of esteem for tradition is also understood as a characteristic of the Sadducees. "The Sadducees" as Josephus writes, "own no observance of any sort apart from the laws; in fact, they reckon it a virtue to dispute with the teachers of the path of wisdom that they pursue" (*Ant* 18.1.4. par 16). M. Kister takes this to be the result of their reliance on their own exegesis of the Bible, which invariably entails innovation, without taking any human authority or tradition into account. Cf. M. Kister, "Some Aspects of Qumran Halacha," in *The Madrid Qumran Congress: Proceedings of the International Congress on the Dead Sea Scrolls, Madrid 18-21 March 1991*, ed. Barrera Trebolle, Julio C. Vegas, Luis Montaner (Leiden: Brill, 1992), 587-8. Also cf. Josephus, *Ant.* 13.10.6: "The Pharisees have delivered to the people a great many observances by succession from their fathers, which are not written in the law of Moses; and for that reason it is that the Sadducees reject them and say that we are to esteem those observances to be obligatory which are in the written word, but are not to observe what are derived from the tradition of our forefathers." L. H. Feldman also makes a note that despite this, Sadducees also had their own interpretive traditions. But these decrees or *gezeroth* (cf. *m Makkot* 1:6), were proclaimed by virtue of priestly authority, and were not presented as an oral Torah revealed by God to Moses and transmitted via an uninterrupted chain of tradition. Quoted in E. Schürer, *The History of the Jewish People in the Age of Jesus Christ (175 B.C. –A. D. 135)*, vol II, ed. by Geza Vermes (Edinburgh: T. and T. Clark, 1979), 408.

[38] Schiffman, *Reclaiming the Dead Sea Scrolls*, 89.

words, the community placed its origins under the umbrella of the Sadducean circle, but

gradually developed into the community that is understood to be Essene as described by

the classical sources. His suggestion is one way of understanding the strong priestly

language that is contained within the scrolls.

The strong halakhic parallels between the Sadducean halakhah, the Dead Sea

Scrolls halakhah, and the parallels found within Josephus, Philo, and Pliny leave one

wondering how to identify the community. From a distance, it appears as though an

impasse has been reached; however, when examining these two theories with greater

care, some middle ground appears. As mentioned earlier, Schiffman's theory does not

exclude the possibility of understanding some of the dynamics of the community as

Essene. Only when it comes to defining matters of halakhah and community origins does

he find a need to use the term Sadducean.

James C. VanderKam objects to this vocabulary based on the observation that it is

not possible to know which group developed first: Sadducean or Essene. While

VanderKam is willing to suggest that the Essenes may have had priestly origins, he is

unwilling to concede to the possibility that these origins may have been within

Sadducean circles. The origin of the Essene community is not easily defined, other than

to say that a conflict occurred, which resulted in separation.[39] He therefore suggests that

it is preferable not to speak of Sadducean influences when it pertains to the origins of the

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[39] VanderKam prefers to suggest that the conflict originated in priestly circles, but refrains from identifying them as Sadducean. He further nuances this conflict by suggesting that the calendar was a source of conflict. James C. VanderKam, "Calendrical Texts and the Origins of the Dead Sea Scrolls Community," in *Methods of Investigation of the Dead Sea Scrolls and the Khirbet Qumran Site: Present Realities and Future Prospects*, Annals of the New York Academy of Sciences, ed. Michael O. Wise and others, no. 722 (New York: New York Academy of Sciences, 1994), 371-88; "2 Maccabees 6, 7a and Calendrical Change in Jerusalem," *JSJ* 12 (1981): 58-60.

Dead Sea Scrolls community. Instead, he suggests that the only parallel between the Sadducees and the Essenes is their sense of priestly roots.[40]

It appears as though these arguments are centered more on a predetermined definition of "Essene" and Sadducee." If one defines the community through social and ethical parameters, the Essene identity becomes clear. If one defines the community halakhically, a Sadducean identity emerges.[41] As Sussman has written earlier, there is a considerable amount of leeway in determining who and what can be defined as a "Sadducean." However, in the end, it appears as though any sectarian group used to identify the community must be strongly clarified, whether one selects Essene or Sadducean. This paper will identify the Dead Sea Scrolls community as Essene. Yet, with this identification comes the realization of the strict Sadducean halakhic traditions contained within the scrolls, and that this halakhah lays the foundation for any sectarian community to exist.

> There can be no question that the only proper way to come to an understanding of that all encompassing phenomenon we call Judaism in any of its manifestations is to understand the legal and ritual tradition, that which is called *halakhah* in Rabbinic Judaism. Thus, the sectarian legal materials, alongside those of theological or doctrinal import, will begin to elucidate how the sect defined itself and what its place was among the constellation of sects and trends which made up the Judaism of the Second Jewish Commonwealth.[42]

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[40] James VanderKam, "The People of the Dead Sea Scrolls: Essene or Sadducean?" in *Understanding the Dead Sea Scrolls*, ed. Hershel Shanks (New York: Random House, 1992), 60.

[41] It is because of this problem that Shemaryahu Talmon suggests that the focus of Dead Sea Scrolls research should be strictly on the documents themselves, without underscoring the commonalities and parallels with other Second Temple Period groups. In this way the clearest picture possible of the community will emerge and its place within history will be defined more accurately. When external sources are utilized the community emerges with a number of elements from many sectarian groups of the Second Temple Period. Thus, depending on the evidence examined, the community can be identified as Zealotic, Pharisaic, Sadducean, Hasidim, and Essene. Cf. Talmon, "Qumran Studies," 1-31; *idem*, "The Community of the Renewed Covenant: Between Judaism and Christianity," 3-26; *King, Cult and Calendar*, 165-201.

[42] Lawrence H. Schiffman, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony, and the Penal Code*, Brown Judaic Studies, ed. Jacob Neusner and others, no. 33. (Chico, CA: Scholars Press, 1983), 19.

CHAPTER THREE

ORIGINS AND HISTORY

As it was already mentioned above, by the early 1960's, the identification of the

scrolls community as the Essenes[43] developed into the most popular consensus within the

scholarly community.[44] Since the community did not leave any works explicitly

pertaining to their own sense of origins and history, scholars have reconstructed their

history through a variety of sources.

Jerome Murphy-O'Connor has produced an assortment of studies that examine

the origins and history of the Dead Sea Scrolls community employing literary-critical

methods of study.[45] The primary text for his study is the Damascus Document

(designated CD), since it has been long recognized to contain the greatest amount of

historiography.[46] Literary accounts of the community origins are usually referred to in

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[43] The dating of the scrolls also reached a general scholarly consensus around the same time, placing the scrolls primarily in the Hasmonean period (152-63 B.C.E.) and the Early Roman period (63 B.C.E.—68 C.E.). This evidence is supported through archaeology and paleographical data.

[44] Cf. Y. Sussman, "The History of the Halakhah and the Dead Sea Scrolls," n. 3.

[45] Jerome Murphy-O'Connor, "The Essenes and Their History," *RB* 81 (1974): 222-3, 225-9; "The Damascus Document Revisited," *RB* 2 (April 1985), 228-9. For a similar approach to the laws of CD, cf. Charlotte Hempel, *The Laws of the Damascus Document: Sources, Tradition and Redaction, Studies on the Texts of the Desert of Judah*, ed. F. Garcia Martinez and A. S. Van Der Woude, vol 29 (Leiden: Brill, 1998). She has accomplished this study largely through literary critical methods, such as redaction and form criticism focusing exclusively on the internal evidence of the scrolls, without regard for comparative study.

[46] CD is most often assumed to contain many earlier laws and regulations regarding congregational and disciplinary matters. It is also believed by some scholars that the community(ies) of CD preceded the sectarian Qumran community. This theory has enabled scholars to utilize CD as a source that was redacted and used in other texts. A recent study by Hempel on such texts as the Damascus Document (CD and 4QD) and the Community Rule (1QS and 4QS) suggest that the Damascus Document was utilized as a source document for the Community Rule's entry procedures into the Qumran community. She maintains that CD 15:5b-10 was utilized, in combination with 1QS 5:7c-9a, to form the entrance procedure described in 1QS 6:13b-23, in Charlotte Hempel, "Community Structures in the Dead

CD 1:3-11a, 2:8b-13, 3:12b-412a, and 4:20-6:11a. Viewing CD from a compositional-critical perspective has contributed to an understanding of a long evolutionary process with which the Essene community was formed. Indeed, through examining the historical elements within CD as redactionary, scholars began to see more of a range of historical probabilities rather than absolutes, allowing the history and structure of community to be understood as more of an evolving process.[47] As such, Murphy-O'Connor has submitted that the origins of the community in CD can be found already in the Babylonian period, and that the group of Jews came to Jerusalem around 165 BCE.[48] In his article, "The Essenes and Their History," Murphy-O'Connor cites eight reasons for placing the origins of the community in Babylon. They are as follows:

> (1) The interest in divination and astrology; (2) the curiosity about the virtues of plants and stones; (3) the correct vocalization of Assyro-Babylonian words and names in *1 Q Isa*; (4) the presence of Iranian themes; (5) the fact that the legislation in CD was designed for a community living in a gentile environment;[49] (6) Josephus' note that the Essenes were "Jews by birth" (BJ 2:119); (7) the links between Essene doctrine and the Colossian heresy explained by the deportation by Antiochus III of 2000 Jewish families to Phrygia; (8) the connection between

Sea Scrolls: Admission, Organization, Disciplinary Procedures," in *The Dead Sea Scrolls After Fifty Years*, vol. II, ed. Peter Flint and James C. VanderKam (Leiden: Brill, 1998), 70-4. Schiffman writes that while it is possible to view CD as a source for the modified entry procedure in IQS, it may be more probable to view CD as legislation for sectarian groups scattered throughout Palestine. The differing entrance procedures are due to the different sectarian settings, that is, CD legislates those who are living in special "camps" throughout Palestine while IQS specifically governs those at Qumran. Cf. Schiffman, "Reclaiming the Dead Sea Scrolls," 101.

[47] Robert A. Kugler has examined the priesthood within the Scrolls through textual and literary critical methods, concluding that the authoritative (i.e. Priests and Levites etc.) and hierarchal structures mentioned within the texts evolved considerably over time. He concludes that "the absence of any reference to Zadokites in the earliest recension of the Community Rule, the inconsistent use of priestly titles, and the indications that only over time the central texts offered an elevated role to named priests of any sort" is a strong indication for such an evolutionary process. Cf. Robert A. Kugler, "Priesthood at Qumran," in *The Dead Sea Scrolls After Fifty Years*, vol. II, ed. by Peter Flint and James C. VanderKam (Leiden: Brill, 1998), 93-116.

[48] The view that CD 9-16 contains legislation for a Jewish community living among the pagans was first put forward by Jewish scholars of the caliber of Louis Ginzberg, M. H. Segal, and Samuel Iwry. Also cf. J. Murphy-O'Connor, "The Damascus Document Revisited," *RB* 2 (April 1985), 227.

[49] This supposition is based on the halakhot in CD 9-16 seems to presuppose a pagan environment. Cf. CD 9:1: "Any may who destroys a man among men by the statutes of the gentiles is to be put to death."

two of the halachot of Anan ben David, the founder of Karaism in Babylon, and Essene teaching.[50]

Murphy-O'Connor admits that his arguments maintain a greater persuasiveness when examined accumulatively, and even then, they are not conclusive.

It is not surprising then, that some have objected to this study. Scholars such as Michael Knibb[51] have been able to propose alternative explanations to particular aspects of Murphy-O'Connor's position, although these arguments do little in constructing an alternative theory. According to Schiffman, the halakhic rulings found in CD 9-16 lend themselves to a broader and more traditional understanding of halakhah within the larger framework of early Judaism.[52] While Schiffman uses halakhah to make the argument, others such as Martinez approach the problem from a different perspective, suggesting that the homogenous make-up of the library found at Qumran may produce clues to the community's origins.[53] He suggests that the origins of the community are found in apocalyptic communities within the Essene movement of the third and second centuries. His suggestion is based on the number of Palestinian apocalyptic works found at Qumran such as 1 Enoch, and also the number of pre-Maccabean literary texts[54] that seem to find similarity with the Dead Sea Scrolls. George W. E. Nickelsburg has also pondered this problem, specifically examining the presence of Enochic material in the library. While the provenance of this material is still in question, Nickelsburg suggests "in the

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[50] Murphy-O'Connor, "The Essenes and Their History," *RB* 81 (1974): 222-3, 225-9; "The Damascus Document Revisited," 228-9.

[51] Michael Knibb, *Exile in the Damascus Document, JSOT* 25 (1983): 99-117. He has suggested that the exilic situation in CD does not have to refer to an actual event, but rather, it may have been used as a theological metaphor to mark the establishment of the community.

[52] L. H. Schiffman, "Legislation Concerning Relations with Non-Jews in the Zadokite Fragments and Tannaitic Literature," *RQ* 11 (1982-84): 379-89.

[53] Martinez and Van Der Woude, "Qumran Origins," 521-41.

[54] Cf. the Astronomical Book, the Book of the Watchers and the Dream Visions of 1 Enoch, and Jubilees.

Apocalypse of Weeks, the implicit attitude towards the temple and the description of the rise of the community are strong evidence for a historical connection between the author of this text and the authors of the relevant Qumran writings."[55] Most recently, in her study of the community origins as recorded in CD, Hempel also favors using psuedepigraphal works when discussing the Admonition (CD 1-8). While caution must again be given in determining the authorship of these texts, Hempel is quite in favor of using the pseudepigrapha for determining the inception of the apocalyptic movement of the Dead Sea Scrolls community. She views the community in CD as an offshoot of a broader "parent" movement that is recorded in the psuedepigraphal work. She writes,

> It has frequently been pointed out that where the Damascus Document is talking about the Qumran community's earliest history, it is most probably referring to the same pious movement the emergence of which is mentioned in the pseudepigrapha. One can deduce from my discussion that those parts of the Damascus Document are not only talking about the same pious movement but were also composed by the same movement.[56]

The Babylonian/Palestinian question bears more consequence on the pre-history of the Essenes. However one seeks to define these origins is of little import except that one gains a better understanding of dynamics and processes involved in the development of the community prior to its recognizable state. If there was a defining moment that

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[55] George W. E. Nickelsburg, "The Epistle of Enoch and Qumran," *JJS* 33 (Spr-Aut 1982): 347; "1 Enoch and Qumran Origins: The State of the Question and Some Prospects for Answers," in *Society of Biblical Literature Seminar Papers*, ed. K. H. Richards, no 25 (Atlanta: Scholars Press, 1986), 342-60.

[56] Cf. Charlotte Hempel, "Community Origins in the Damascus Document in Light of Recent Scholarship," in *The Provo International Conference on the Dead Sea Scrolls*, ed. Donald W. Parry and Eugene Ulrich (Leiden: Brill, 1999), 316-29. Also cf. Devorah Dimant, "Qumran Sectarian Literature," in Jewish Writing of the Second Temple Period: Apocrypha, Pseudepigrapha, Qumran Sectarian Writings, Philo, Josephus, ed. Michael E. Stone (Philadelphia, PA: Fortress Press, 1984), 483-548.
544; "New Light from Qumran on the Jewish Pseudepigrapha—4Q390," in *The Madrid Qumran Congress*, ed. Trebolle Barrera and Vegas Montaner, vol. 2 (Leiden: Brill), 405-58.

solidified and established the Essene movement, perhaps the Temple cult in Jerusalem can be found responsible.[57]

According to Milik,[58] the beginnings of the Qumran community are found within the *Hasidim* group (that later became known as Essene).[59] *Ab initio*, the *Hasidim* supported the Hasmonean revolt against Antiochus IV Epiphanes. Although his Hellenizing programme with Judaea was strongly supported by some of the Jewish elite, many opposed the idea with strong religious conviction. The Second Book of Maccabees records:

> There was such an extreme of Hellenization and increase in the adoption of foreign ways because of the surpassing wickedness of Jason, who was ungodly and no true high priest, that the priests were no longer intent upon their service at the altar. Despising the sanctuary and neglecting the sacrifices, they hurried to take part in the unlawful proceedings in the wrestling arena after the signal for the discus-throwing, disdaining the honors prized by their ancestors and putting the highest value upon Greek forms of prestige (4:13-15).

If looting the Temple in 169 B.C.E. did not provide the fuel for a revolt, Antiochus' prohibition of the Jewish religion and rededication of the Jerusalem Temple to Zeus in 167 B.C.E. certainly did. Supported by such groups as the *Hasidim*, the priest Judas Maccabeus led a successful revolt recapturing Jerusalem. Worship was restored to the Temple; however, major shifts in power within Jerusalem led to religious and social upheaval.

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[57] For a helpful review, cf. Philip R. Davies, *Behind the Essenes*, 15-31; Ferguson, *Backgrounds to Early Christianity*, 488.

[58] Cf. J. T. Milik, *Ten Years of Discovery in the Wilderness of Judaea*, trans. J. Strugnell (Naperville, IL: Allenson, 1959), 49-98. F. M. Cross, *The Ancient Library of Qumran.* For a helpful review, cf. Philip R. Davies, *Behind the Essenes*, 15-31; Ferguson, *Backgrounds to Early Christianity*, 488.

[59] As Schiffman mentions above, however, it is also possible to see the origins of the group within the Sadducean group of the Temple community.

The Zadokite High Priest Onias III was murdered, and succession of the Zadokite
High Priesthood was broken. When the Hasmoneans gained control of the High
Priesthood, Alcimus was appointed High Priest (I Macc. 7:12-20). Jonathan and Simon
Maccabeus ensured further Hasmonean control of the Pontifical office. It was then that a
group of pro-Zadokites affiliated with the *Hasidim* rose up in opposition to Hasmonean
rule of the Temple. Most scholars agree that this group eventually became known as the
Essenes, under the leadership of the 'Teacher of Righteousness." *1 Maccabees* 14:30-45
records a number of new priestly regulations which Milik has understood to be a possible
cause for a schism: Simon is chosen High Priest without Seleucid consent, his decrees
must be obeyed by all Jews, and no priest was allowed to convene an assembly without
his permission.

Another conflict between that may have resulted in the Qumran exodus was
centered upon calendrical concerns. As VanderKam has shown is his article *Calendrical
Texts and the Origins of the Dead Sea Scrolls Community*, there may have been a
calendrical change in 160s B.C.E., brought about by the Seleucids, which was
incorporated into the Temple priesthood. The calendar provided the ability to enter
sacred time, as it enabled the structure and rhythm to religious life. In addition to
providing the correct time for Sabbaths and festivals, it also gave a timetable for the
priestly ministry within the Temple. Any change would have surely brought about
conflict, as the rhythm of religious cult would have shifted.[60]

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[60] Cf. James C. VanderKam, "Calendrical Texts and the Origins of the Dead Sea Scrolls
Community," 375.

At this point, the exact nature of the conflict can be debated without proper resolve. Despite this, it is important to recognize that the leader of this group, given the title "Teacher of Righteousness," fought against the newly established High Priesthood in Jerusalem, led by the 'Wicked Priest.' In the face of defeat, the Teacher withdrew to Qumran and established a community in exile.[61] Some scholars, such as Vermes, Murphy-O'Connor, VanderKam, and Milik have argued that Jonathan is the likely candidate for the "Wicked Priest" (160—142 B.C.E), whereas others, such as F. M Cross, have argued favorably for Simon (142—135 B.C.E.).

With these observations in mind, it seems probable to suggest that a newly established High Priest in the mid-second century pursued a different policy of rule than the Essene sectarians desired. Accordingly, the first actual phase of the community seems to be framed from the time of the Maccabean revolt (168-7 B.C.E.) until the rule of John Hyrcannus (134-104 B.C.E.).

The second phase is understood to be the period from Hyrcannus to Herod (37-4 B.C.E.). Based on archaeological evidence, this phase is thought to have occurred when the community flourished to its greatest extent. This is the phase when the buildings at Qumran reached their definitive form. Archaeological evidence points to great expansions that were made to the infrastructure, which resulted from rapid growth in the community. The third phase contained the event of an earthquake in 31 B.C.E., and is understood in reference to Herod's reign, which was from 37-4 B.C.E. Due to the

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[61] This location of this exile is cited as Damascus (CD 7: 18-20), but whether this was the actual geographical location or metaphorical term, alluding simply to a place of exile is still under debate. Finkel writes that both the Judean desert and Damascus represent the outer boundaries of the land of New Israel in the end time. Cf. Targum Zech 9: lff. Asher Finkel, *The Departures of the Essenes, Christians, and R. Yohanan ben Zakkai from Jerusalem*, in *Wie Gut Sind Zelte Jaakow*, ed. R. Mayer (Bleicher Verlag, 1986), 33.

destruction created by the earthquake, it appears as though the community site at Qumran was abandoned, probably due to a crack within the cistern. (4) The last and final phase ends with the Jewish revolt (68 C.E.). At about the beginning of the Christian, or Common Era, the site at Qumran underwent reconstruction and subsequent occupation. However, in an attempt to overthrow Roman rule, Jewish zealots took control of Jerusalem, only to be utterly destroyed and defeated, along with the community of Qumran.

CHAPTER FOUR

CHARACTERISTICS

With the identity and history of the Essenes sufficiently explored for the purposes

of this thesis, a brief overview of certain characteristics of the community will be given.

This must be accomplished to better understand the principles and dynamics that shaped

their understanding of halakhah, and, subsequently, laws of witnessing in CD 9:16-23.

The prominent influences that developed these characteristics are the priestly (or

Sadducean/Zadokite) roots from which the community developed. The following

features of the community will be examined, as influenced by their priestly perspective:

(1) purity, (2) holiness.

PURITY

The principal reason for separation and purity is to produce holiness, as Lev 20:25

states: "You shall be holy to me; for I the Lord am holy, and have separated you from the

peoples, that you should be mine."[62] When this was achieved, the presence of God was

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[62] For a more thorough review of these dynamics, cf. Asher Finkel, *The Pharisees and the Teacher of Nazareth: A Study of Their Background, Their Halakhic and Midrashic Teachings, the Similarities and Differences*, 1964; reprint (Leiden: Brill, 1974), 42-57. He writes that, "a nation seeking a status of holiness (i.e. the adoption of theocratic rule) must accept, according to the Priest Code prescription, restriction on the habits of food, apparel, cohabitation and the upkeep of the household. In the Pharisaic schools "holiness," the key-word of the Priestly Codes, is identified with the word "separation." Separation from the heathens and foreigners in order to preserve the identity of the Jewish people; separation of classification among its own members, segregating the priests and the strict observers of the Code from the non-observers, the boorish and the common folk," at 43. One should also note the relationship between purity and holiness. Milgrom has demonstrated the relationship in the following diagram:

HOLY   → desecrate, desanctify → PURE/COMMON → pollute → IMPURE
IMPURE   → purify →   PURE/COMMON → sanctify → HOLY

understood to manifest itself within the Temple of Jerusalem, allowing the people to cultivate a deep sense of communion and reverence through its religious services. Consequently, whenever acts of desecration and pollution were believed to occur (such as Temple desecration), God's presence was understood to depart. It is important to understand that holiness is created by the power of the human will. Jacob Milgrom writes that while God defines and requires holiness, its actualization is under human control. He understands that consecration occurs by "human will or intention, expressed by word and deed, by declaration and setting aside."[63] When two or more groups of people do not agree on the intention or actualization, the event of a religious crisis can ensue, instigated by social and religious upheaval.[64]

In a similar fashion, the self-exile of the Essenes from Jerusalem in the mid second century was brought about specifically because they believed that their sense of purity was compromised by the actions of others. As a result, the community left the Jerusalem cult to avoid defilement. 1QPesher Habakkuk 12:7 notes: "the city in which the evil priest has undertaken abominable actions so as to render the Temple impure." This attitude can also be seen in the CD:

Pure is considered the normative state. From there, the pure can be rendered either impure or holy. Something that is impure can be never rendered holy unless it first goes through a purification process. Cf. Jacob Milgrom, "The Dynamics of Purity in the Priestly System," in *Purity and Holiness: The Heritage of Leviticus*, ed. M. J. H. M. Poorthuis and I. Schwartz (Leiden: Brill, 2000), 30.

[63] Milgrom understands that the priestly concept of consecration was based on oral declaration (cf. Judges 17:3). Cf. Jacob Milgrom, *Leviticus 1-16: A New Translation with Introduction and Commentary*, The Anchor Bible, ed. David Freedman (New York: Doubleday, 1991), 485-6.

[64] Finkel observes that it is during these times that charismatic leaders, such as the Teacher of Righteousness, arose to lead the people. He writes that in the event of religious crisis "prophetically minded teachers respond with a call to repentance and the renewal of the covenantal life. The biblical categories and prophetic ideas, which mark the community's God-consciousness, receive particular meaning by the actions and the words of the teachers. To follow the way of the teacher, that is to accept his teachings and to imitate his righteous life, was translated by his disciples as a true response and expression before God's presence which they were seeking." Asher Finkel, *The Departure of the Essenes, Christians, and R. Yohanan ben Zakkai from Jerusalem*, in *Wie Gut sind Diene Zeite Jaakow* ed. R. Mayer (Bleicher: Verlag, 1986), 33

And all who were brought into the covenant are not to enter the sanctuary to light his altar in vain, but rather are to be "closers of the door" of whom God said, "Who of you will close my door and not light my altar in vain?" (Mal 1:10) – unless they take care to perform according to the exact requirements of the Torah during the time of evil and to separate themselves from the sons of the pit and to refrain from the wicked wealth which is impure due to oaths and dedications and to being the wealth of the sanctuary, for they (the sons of the pit) steal from the poor of his people, preying upon widows and murdering orphans (cf. 2 Mac 3:10) – and to distinguish between the impure and pure and make known the difference between the holy and profane, and to observe the Sabbath day in its exact detail, and the appointed times and the day of fast as it was found by those who entered into the new covenant in the land of Damascus (6:11-19).

As such, the Essenes separated from the Jerusalem Temple in order to maintain their own understanding of holiness and purity. Mary Douglas writes that "purity is the enemy of change, of ambiguity and compromise."[65] In this way, the community that left for Qumran did so because their sense of purity was compromised by change, possibly through the usurpation of Temple rulership from the Zadokite lineage by the Hasmoneans (cf. chapter three). Thus, they retreated to the Judean wilderness, preserving their proper order, which allowed them to continue the enjoyment of God's presence through ritual purity, the study of Torah, and liturgical worship.[66] 1QS reads:

> They are to be separated from within the dwelling of the men of sin to walk to the desert in order to open there His path. As it is written: "In the desert, prepare the way of the .... [Lord], straighten in the steppe a roadway for our God." This is the study of the law that he commanded through the hand of Moses, in order to act in compliance with all that has been revealed from age to age (8:13-15).

That the community believed God's presence to still reside with them is found in the 11QTemple:

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[65] Mary Douglas, *Purity and Danger* (Harmondsworth: Penguin Books, 1970), 191.

[66] Another possible reason for leaving Jerusalem was the threat of physical harm. Hartmut Stegemann, among others, has suggested that the 'Wicked Priest' attempted to murder the 'Teacher of Righteousness.' Cf. 4QpPs* 1-10, 4:7-10; 1QpHab 8:9-13; 9:8-12; 11:16-12:6, 9-10, in Hartmut Stegemann, *The Library of Qumran: On The Essenes, Qumran, John the Baptist, and Jesus* (Grand Rapids, MI: Eerdmans, 1993), 157. Also cf. Geza Vermes, *An Introduction to the Complete Dead Sea Scrolls* (Minneapolis, MN: Fortress Press, 1999), 142. He writes, "Even in his 'place of exile' the Teacher continued to be harassed and persecuted by the Wicked Priest."

> I shall accept them and they shall be my people and I shall be before them
> forever. I will dwell with them forever and will sanctify my sanctuary by my
> glory. I will cause my glory to rest on it until the day of creation on which I shall
> create my sanctuary, establishing it for myself for all time according to the
> covenant which I have made with Jacob (29:6-10).

Moreover, the Qumran community believed that if they maintained a pure status in their

exile, God's presence would continue to reside with them until they would be restored to

their rightful place in Jerusalem.[67]

The establishment of the community in the desert was conceived in the same way

that the historical Israel was thought to have existed during the Exodus event. The

theocratic structure of the community resembled a "world construction of their past,"

which resembled the "Mosaic example of encampment."[68] This was because the

community understood itself to be an extension of the true Israel, dividing itself into the

categories that were used in Num 31:14, 48, 52. Indeed, camp terminology abounds

within the scrolls, utilizing such expressions as "thousands, hundreds, fifties, tens." CD

reads:

> And this is the rule for the settlers of the camp who walk in accordance with these
> rules during the time of wickedness until the arising of the Messiah of Aaron and
> Israel: From a minimum of ten men, by thousands, hundreds, fifties and tens . . .
> (12:23-13:1)

The time in the wilderness was not understood to be permanent. Rather, it was

understood as an interim period, cited above as the "time of wickedness," in which they

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[67] This understanding of God's presence, or *Shekinah* is found in *Sifre Numbers* 35:34: "The Israelites are dear (to God), for whenever they went into exile, the *Shekinah* was with them. They went into exile in Egypt: The *Shekinah* was with them, because Scripture says, 'Was I not exiled in the house of your fathers when they were in Egypt in the house of Pharaoh?' (1 Sam 2:27) . . . and when they come back home the *Shekinah* returns with them." Cf. Karl McDaniel, "The Son of Man and Apocalyptic Restoration: Culmination in the Gospel of Matthew,"(M.A. diss., Seton Hall University, 2002), 74-6.

[68] Asher Finkel, "The Theme of God's Presence and the Qumran Temple Scroll" in *God and His Temple: Reflections on Professor Samuel Terrien's The Elusive Presence: Towards a New Biblical Theology*, ed. Lawrence E. Frizzell (South Orange, NJ: Seton Hall University, 1984), 45.

would wait in preparation for the purification and re-establishment of the legitimate Temple and its worship in Jerusalem.[69] This physical encampment also influenced their sense of purity and holiness. Deut 23:15 says, "For the Lord your God walks in the midst of your encampment ... let your encampment be holy." "Thus they lived by a heightened sense of purity even outside of Jerusalem at a time when, in their eyes, the Temple itself was polluted."[70] Despite such criticisms toward the Temple, the Essenes never regarded themselves to have permanently replaced or superseded it. Indeed, concepts of Temple, priestly separation, and purity can be clearly seen as the primary influence upon the ideology of the community.[71] However, purity as a state of being was not the final goal of the community. Instead, the efforts to attain purity were for the purpose of achieving holiness.

HOLINESS

From Milgrom's diagram shown earlier in this chapter, it is clear that purity was regarded as a stepping-stone for achieving holiness. Perhaps the words of Rabbi Pinhas b. Jair, despite the fact of their anachronism in regard to this situation, are able to give some explanation as to how holiness was understood to be achieved in the manner discussed above: "Heedfulness leads to diligence, diligence to cleanliness, cleanliness to

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[69] This hope of restoration was largely fueled by apocalyptic and eschatological modes of thinking, which deeply affected their life in the desert. As CD 12:23-12:1 states, albeit implicitly, the community was awaiting the arrival of the Messiahs of Aaron and Israel, who would establish a permanent Temple of divine institution, following a physical confrontation with those in opposition.

[70] Finkel, "Departure," 35, Lawrence Schiffman, "The Community's Withdrawal from the Jerusalem Temple," in *Gemeinde Ohne Temple: Community without Temple*, ed. Beato Ego, Armin Lange and Peter Pilhofer (Tübingen: Mohr Siebeck, 1999), 267-83.

[71] 1QS provides many examples that suggest the community understood itself to represent the sons of Zadok, which contained Priests and Levites of the Zadokite linage. Cf. IQS 5:9, CD 4:2-4; IQSa 1:2, 24; 2:3. Compare with *The Book of the Priestly Courses*, which shows that the community organized a priestly rotation in a similar style to the Jerusalem cult.

separation and separation to holiness."[72] Indeed, it was through strict rules of separation

and purity that a high status of holiness was achieved. The community specifically

referred to itself as a בית קודש (holy house),[73] which is a clear and obvious reference to

the Temple of Jerusalem. This reference can be further divided; the laity (Israel) is

understood to be the sanctuary, which is holy, and the priests (of Aaron) are understood

as the holy of holies.[74] 4QMMT records: "Because they (Israel) are holy, and the sons of

Aaron are most holy

(קודשי קודשים)."[75] Other examples are as follows: "holy among the peoples" (IQ343

2:6); "assembly of holiness" and "holy community" (1QS 5:20; 9:2); "holy council"

(1QH 15:10, 1QM 3:4, CD 20:25), "holy ones" (1QM 6:6); "congregation of the men of

perfect holiness" (CD 20:2-7; 1QS 9:20).

The community's highly conceptualized state of holiness allowed for them to

substitute the ritual sacrifices of the Temple by other means, such as the "gift of the lips,"

(i.e. prayer), and the offering of "righteousness" (1QS 9:3-5).[76] Not only were the actions

of the community considered an appropriate substitute, but they were also understood to

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[72] B. Abhodah Zarah 20b, also cf. m. Sotah 9:15, quoted in Finkel, *Teacher of Nazareth*, 43. For a general description of the principles of separation and purity within the Second Temple Period, see ibid. 42-57.

[73] There seems to be an interplay between the words קודש and יחד. בית קודש = בית יחד in 1QS 9:6. Other parallels of a similar nature are: אנשי היחד and אנשי הקודש, as well as עצת היחד and עצת הקודש in Qimron and Strugnell, *Qumran Cave 4*, 173.

[74] 1 Chro 23:13: "The sons of Amram: Aaron and Moses; and Aaron was set apart, he and his sons forever, that he should sanctify the most holy things, to burn incense before the Lord, to minister to Him, and to give the blessing in His name forever."

[75] Qimron and Strugnell, *Qumran Cave 4*, 57. It is important to note that the phrase קודשי קודשים was used interchangeably for both priests and angels. For example, in the *Songs of the Sabbath Sacrifice* (4Q400) 1: 19 states: "he (God) has established for himself priests of the inner sanctum, the holiest of the holy ones." It is clear from the context of this passage that the 'inner sanctum" refers to the heavenly Temple.

[76] Compare with Ps 141:2: "May my prayer be as incense before you, and lifting up of my hands as an evening sacrifice."

provide the opportunity for atonement. 1QS 8:10 states: "And they (the members of the community) shall be an agreeable offering, atoning for the Land and determining the judgment of the wickedness, and there shall be no more iniquity." The community considered itself to be a virtual Temple, in temporary substitution for the defiled Temple in Jerusalem.[77] 1QS 9:3ff records:

> Live in accordance with these rules in order to establish the spirit of holiness in truth eternal, in order to atone for the fault of the transgression and for the guilt of sin and for approval for the earth, without the flesh of burnt offerings and with the fats of sacrifice—the offering of the lips in compliance with the degree will be like a pleasant aroma of justice and the correctness of behavior will be acceptable like a freewill offering—at this moment the men of the community shall set themselves apart . . . .

Furthermore, the close affinity to priestly language and Temple ideology suggests that the sect developed a highly conceptualized and priestly mentality to define the *entire* community.

This aspect of holiness can also be demonstrated in the community's hierarchal construction. Within the community, each member is placed in a definite place in strict order of rank. The term used for this order is תכון. The verb תכן appears numerous times in the Old Testament, and is often found in passages dealing with creation. According to BDB, it means, "to regulate, measure, and estimate."[78] Note 1 Chr 16:30, which states that "all the world is firmly established (תכון)," and Ps 75:3, "When the earth totters, with all its inhabitants, it is I who keep its pillars steady (תכנתי)." In this

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[77] A. R. C. Leaney writes that "the connection of the sect with the Temple and its priesthood is twofold: The sect arises historically from a desire to replace both the defiled Temple and the defiled priesthood, and the conception of its organization derives directly from that of the priests organized for Temple duty." Cf., A. R. C. Leaney, *The Rule of Qumran and its Meaning: Introduction, Translation, and Commentary* (Philadelphia: Westminster Press, 1966), 94-5.

[78] Francis Brown, S. R. Driver and Charles A. Briggs, *The Brown-Driver-Briggs Hebrew English Lexicon* (Boston, MA: Houghton, Mifflin and Company, 1906; reprint, Peabody, MA: Hendrickson Publishers, 2001), 1067.

way, the word denotes an "order drawn up from a higher dignity."[79] This same word

appears in the Dead Sea Scrolls, albeit in its nominal form. However, the meaning is the

same, that is, it denotes an order of creation which has been projected into the structure of

the sect. For example, upon entering the community, every member is registered

according to his תכון (cf. 1QS 6:22, 7:21, 8:19, 9:2). The position of rank works in

correspondence with the periods of ordained time to determine one's mode of life.[80] This

hierarchal order was considered holy, as God ordained it (cf. 1QS 10:9: לתכון קודשו).

Forkman writes:

> It was this holy order which characterized the rules of membership in Qumran.
> The one who violates this must be given another place within it, another rank,
> further away from the center of the sect. That which could not be fitted in, had to
> be thrust out.[81]

Thus, holiness appears to be the main motivating factor for its communal

structure and the development of a strict legal observance.[82] But it is important to ask

why was holiness so important? In his article, *Holiness in the Dead Scrolls*,[83] Jacobus

Naude has analyzed the root of קודש (holy), concluding that the various forms of the

verb denote:

> (a) A cultic/religious activity performed, (b) to accomplish withdrawal of
> somebody (or someone) who obeys the stipulations of the community/God, or of
> any object from profane use; (c) to submit to the distinctive rules of religion or to
> God's will.

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[79] Göran Forkman, The Limits of the Religious Community: Expulsion from the Religious
Community within the Qumran Sect, Within Rabbinic Judaism, and Within Primitive Christianity,
Conietanea Biblica New Testament Series, no. 5, (Lund: CWK Gleerup, 1972), 77.

[80] Forkman, The Limits of the Religious Community," 77.

[81] Ibid.

[82] 1QS 9:3: "live in accordance with these rules to establish the spirit of holiness in truth
eternal..."

[83] Jacobus Naude, *Holiness in the Dead Scrolls*, in *The Dead Sea Scrolls After Fifty Year*, vol. 2,
ed. by James VanderKam and Eugene Ulrich (Leiden: Brill, 1998), 186.

In this way, whatever is considered קודש is on the side of, or within the realm of God.[84]

The consequences of this are twofold. Firstly, holiness allows divine revelation. The community understood that its holy status allow itself to be intimately linked with the heavenly realm, which allowed for divine revelation.[85] Despite the removal of God's presence from the Temple, the community understood that access to God was still possible, albeit through visionary experiences and celestial ascents.[86] Under the right circumstances, one could ascend into the heavenly realm and commune with angels (cf. 1 Enoch 14). These angels would act as guides and interpreters of the visionary experience, disclosing heavenly secrets. That the community understood itself to be in communion with angels is well known. Leaney suggests that

> This fellowship with the heavenly company helped to explain the divine character of the knowledge of cosmos and calendar which they held and which ruled their practice, a practice shared with the angels. The association of angels with priests arises from the conviction that the priests are like the angels of the presence in serving 'before God.'[87]

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[84] Ibid., 193.

[85] This seems to be closely connected to apocalyptic modes of thinking. D.S. Russell writes that apocalyptic books are esoteric in nature, containing revelations and divine secrets that were "made know to certain illustrious individuals of the past who subsequently recorded them in their secret or 'hidden' books for subsequent instruction and encouragement of the righteous and elect among God's people." For example, the heavenly tablets in *1 Enoch*, *Jubilees*, and *The Testament of the Twelve Patriarchs* record the secrets of the ages that only a select few have the privilege to read and record. While many of these secrets are eschatological, a majority of them are legal in nature, revealing ritual, criminal, and civil laws that were understood to be practiced in Heaven. In Jubilees 32:21-2, the heavenly tablets given to Jacob at Bethel have been recognized as a 'statute book of the Theocracy." The author of Jubilees regarded the Pentateuch as "the book of the first law." In this way, the divine secrets that had been revealed to him were regarded as a second law, which is remarkably similar to the presentation of laws in the *Temple Scroll*. The Mosaic Law then, was regarded as final and complete, though it was subject to continual exegesis, as God's revelation was not considered complete. The Qumran exegetes recognized the authority of the Pentateuch; however, they also understood it as one revelation among others within their writings. Cf. D. S. Russell, *The Method and Message of Jewish Apocalyptic* (Philadelphia: Westminster Press, 1964), 107-8; Baumgarten, "Oral Law," 34.

[86] Indeed the expanded interest in the heavenly realm and the possibility of ascension are common in apocalyptic movements and their literature.

[87] Leaney, *The Rule of Qumran*, 95. For an excellent summary of the divinely inspired calendar, Cf. Christopher Rowland, *The Open Heaven: A Study of Apocalyptic in Judaism and Early Christianity* (London: SPCK, 1982), 120-2.

The *Thanksgiving Psalms* record that "the corrupt spirit you have purified from the great sin so that he can take his place with the host of the holy ones, and can enter into communion with the congregation of the sons of heaven" (1QH 11:21-2).

The establishment of the community as a symbolic Temple connected itself to the heavenly realm—the highest form of cult[88]—where humans could join the angels in singing praises to God. Liturgy and worship therefore maintain an important function, linking the heavens with those on the earth. Crispin H. T. Fletcher-Louis writes that

> One frequently finds that transformation takes place in the context of the worship of the heaven and joining of an angelic liturgy. This is of the utmost importance of the Qumran community for whom the belief that sectarian members have been removed from the mundane realm to the heavenly realm wherein they receive a new 'divine' identity is inextricable from their practicing Temple liturgy. Even though their worship is physically removed from the Jerusalem Temple it is clearly defined by, and over against its hermeneutical framework.[89]

In this way, the community was able to partake in the angelic realm, even while on earth. This concept finds parallels in the *Epistle of Enoch* 104:2, 4, 6, which records that the righteous "will shine like the lights of heaven and will be seen and the gate of heaven will be opened to you . . . you will have great joy like the angels of heaven . . . for you shall be associates of the host of heaven."

Another goal in the effort to sustain high status of holiness in the community was for the purpose of power. As Harrington writes, "The divine energy fights wars. God

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[88] Cf. John J. Collins, "Powers in Heaven: God, Gods, and Angels in the Dead Sea Scrolls," in *Religion in the Dead Sea Scrolls*, ed. by John J. Collins and Robert A. Kugler (Grand Rapids, MI: Eerdmans, 2000), 13. The community derives its holiness from the presence of God's glory. Harrington writes, "Holiness becomes a dynamic activity the boundaries of which can be expanded or diminished. It becomes a reciprocal process, whereby, in Milgrom's words 'God sanctifies Israel in proportion to Israel's self-sanctification.'" Hannah K. Harrington, "The Halakah and Religion of Qumran," in *Religion in the Dead Sea Scrolls*, ed. John J. Collins, Robert A. Kugler (Grand Rapids, MI: Eerdmans, 2000), 86. Also cf. Jacob Milgrom, *Leviticus 17-27* (Garden City, NY: Doubleday, 2001).

[89] Crispin H. T. Fletcher-Louis, *All the Glory of Adam: Liturgical Anthropology in the Dead Sea Scrolls* (Leiden: Brill, 2002), 61.

can deliver because he is holy (Exod 15:11)."[90] The apocalyptic attitude of the

community was such that they, the Sons of Light, were to fight against the Sons of

Darkness in an eschatological battle that would usher in the Messianic age. The victory

of the Sons of Light was dependent on the armies of God (angels), as they were

understood to fight together (11Q13 2:9, 1QM 12:1-8). Scripture is clear in that God will

only fight for Israel if holiness is maintained with the camp. Deut 23:14 states:

> Because the LORD your God travels along with your camp, to save you and to
> hand over your enemies to you, therefore your camp must be holy, so that he may
> not see anything indecent among you and turn away from you.

Accordingly, the Qumran community understood that the angels of God that were to fight

with them could not tolerate impurity within the camp (11Q13 2:9, 1QM 12:1-8). Thus,

1QSa 2:5 states that any physically impaired person will not be able to fight in the

apocalyptic battle because of the presence of holy angels (cf. 1QSa 3:3ff).

HALAKHAH[91]

As it was already mentioned in the previous chapter, the halakhah of the Essenes

closely resembles that of the Sadducees/צדוקים as recorded in Tannaitic sources. These

similarities compare remarkably well to the community's preoccupation with legal

observances of rituals and purity. As such, the community's need to achieve separation

and holiness was actualized through its legal halakhah. Harrington observes that of the

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[90] Harrington, "Halakhah," 86.

[91] While there are some scholars who understand the term 'halakhah' to denote a distinctive rabbinic phenomenon, it is used here is a broad sense, denoting the "mix of ritual, civil, and moral law constituting the Jewish legal system in all its forms," in Lawrence Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* (Jerusalem: JPS, 1994), 246. Compare with P.R. Davies who suggests "that halakhah at Qumran is a seriously misleading slogan," in P. R. Davies, *Halakhah at Qumran*, in *A Tribute to Geza Vermes: Essays on Jewish and Christian Literature and History*, ed. P. R. Davies and R. T. White (Sheffield: JOST Press, 1990), 48-9.

halakhic material, a majority of passages are concerned with separation, purity, and

holiness:

> In the *Damascus Document* JozefT. Milik has listed twenty-three legal passages. Fifteen deal with ritual purity and matters of the priesthood. In MMT, all of the laws deal in some way with matters of ritual purity. The six fragments of *Tohorot* are a group of texts totally devoted to rules of purification. *Ordinances A* (4Q159) centers around the purity of agriculture offered to the Temple. *Ordinances B* (4Q513) deal with the marital purity of priests, the protection of holy food, and the depth of an immersion pool. The *Temple Scroll* deals with purity, holy festivals, and sacrifices. In short, the majority of this material is concerned with a broad range of purity matters.[92]

When examining these laws, a common principle seems to emerge, that is, the

community intensified its purification regulations whenever possible, often adding a

stricter dimension to their law.[93]

With regards to this principle, three distinct tendencies seem to occur.[94] Firstly,

the required purity of the Temple was extended to the entire city of Jerusalem. For

example, the 11QTemple and the *Messianic Rule* (1QSa) require at least a three-day

purification for impure persons entering into Jerusalem (1QSa 1:25-6; 11QTemple 19

45:7-12). There is also a prohibition against the physically impaired to enter Jerusalem

(11QTemple 19 45:12-14; 1QM 7:3-5; 4QMMT B 42-57), of sexual intercourse

(11QTemple 19 45:11-12; CD 12:1-2), as well as a ban on bringing dogs into Jerusalem

(4QMMT B 58-62). Secondly, the purity regulations of the priests were extended to all

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[92] Harrington, *The Halakah and Religion of Qumran*, 78.

[93] On the principle of intensifying the laws of Torah, see Robert A. Kugler, "Halakic Interpretive Strategies at Qumran: A Case Study," in *Legal Texts and Legal Issues: Proceedings of the Second Meeting of the International Organization for Qumran Studies in Cambridge, 1995*, ed. Moshe Bernstein, Florentino Garcia Martinez, and John Kampen (Leiden: Brill, 1997), 131-40; Hannah K. Harrington, "Interpreting Leviticus in the Second Temple Period: Struggling with Ambiguity," in *Reading Leviticus: A Conversation with Mary Douglas*, ed. John F. A. Sawyer, JSOT sup, no. 227 (Sheffield: Sheffield Academic Press, 1996), 225. Harrington notes that this principle is especially prevalent when the exegeting ambiguous laws from the book of Leviticus.

[94] Cf. Florentine Garcia Martinez, Julio Trebolle Barrera, *The People of the Dead Sea Scrolls*, trans. Wilfred G. E. Watson (Leiden: Brill, 1995), 142-57.

members of the community. The Qumran community limited its membership only to those who were without physical handicap. 4QMMT states:

> Also concerning the blind who cannot see so as to beware of all mixture, and cannot see the mixture that incurs reparation-offering; and concerning the deaf who have not heard the laws and the judgments and the purity regulations, and have not heard the ordinances of Israel. They should revere the sanctuary. Since who has not seen or heard does not know how to obey the law ... [95]

This restriction was designed to ensure that purity and holiness are maintained. Yadin connected this passage to Lev 21:17, which prohibits only priests with defects from offering sacrifices.[96] Thirdly, the causes of pollution were extended. For example, one concern was that certain types of cooking pot would, if contaminated by something impure, contaminate all food within them. According to Lev 11:32-3, any vessel that is made out of wood, a garment, skin, sack, or earthenware is susceptible. The Rabbis limited the susceptibility to impurity to a few materials that form usable receptacles on the basis of this verse.[97] However, the sectarians understood that even stoneware was susceptible to impurity, including stone floors (a usable receptacle?) and stone pots (cf. CD 12:15-8, 11QTemple 49:13-6).

In another example, biblical law required that all Israelites avoid food that has been open in a house of a deceased person. However, according to the *Temple Scroll* (48:9), the truly pure person will avoid even the food that has been in sealed jars. From

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[95] Also cf. 1QSa 3:3ff which reads: "But none of those who are afflicted by any human uncleanness may enter into the congregation of God. And any one who is afflicted so as to be unable to fulfill any function in the congregation, likewise any one who has bodily affliction, mutilated in his feet or hands, lame or blind or deaf or dumb or afflicted by any bodily imperfection, which can be seen by the eyes, or an old man who stumbles so that he cannot control himself in the midst of the congregation of the renowned men, for holy angels are in their congregation."

[96] Yadin Yigael, ed. *The Temple Scroll*, vol 1. (Jerusalem: Israel Exploration Society, 1983), 224. However, Qimron and Strugnell have instead suggested Deut 18:13 as the basis for the law: "you shall be without blemish when you are near God." Cf. E. Qimron and J. Strugnell, *Qumran Cave 4. Miqsat Ma'ase ha-Torah*, DJD 14 (Oxford: Clarendon Press, 1994). 160.

[97] See the discussion in Harrington, "Interpreting Leviticus," 233.

these short examples, it is clear that a priestly concept of separation and purity, albeit at a heightened state, was imposed. While there may be many explanations as to why this intensification took place, the most logical explanation seems to be that intensification was believed to increase God's favor upon Israel.

CONCLUSIONS

When synthesizing the information from the last three chapters, the following information emerges. The Qumran group appears to be orientated towards a priestly, or possibly Sadducean perspective of halakhah. Other internal factors also suggest that the group originated within the Temple cult of Jerusalem, but became involved in a conflict with the new (possibly Hasmonean) Temple leadership, which adopted certain codes of halakhah contrary to what the group believed. These halakhic differences lead the community to condemn the Temple as impure, and sought to maintain their sense of purity by exiting the city to practice and develop their own codes of behavior. As already shown, purity and holiness was understood as an absolute necessity in order to enjoy the presence of God, and ensure the survival of the group. From this necessity comes forth one of the primary principles of Qumran law, that is, the community intensified its regulations so that a higher form of purity would result. This was probably because of the threat of impurity resulting from within the Jerusalem cult. It this way, it seems likely that the community understood purity and holiness to increase God's presence, power, and blessing amongst Israel.

It is upon these principles that the laws of witnessing in CD 9:16-23 can be built. Indeed, it was through the legal system that purity was maintained. The laws of witnessing were a vital component to that maintenance as immorality and sin could only be punished by the testimony of witnesses. The need to create as system whereby the community was able to affectively deal with guilty persons was compounded by their intensified need for ritual purity. Chapter six will attempt a more in-depth study of the dynamics of how legal witnessing as they were based on principles previously discussed. But first, a brief overview of the laws of witnessing within the Second Temple Period will be discussed to gain a better sense of the uniqueness of CD 9:16-23.

CHAPTER FIVE

THE LAWS OF WITNESSING

This chapter seeks to summarize the development of the laws of witnessing and

testimony within the Second Temple Period and Rabbinic Judaism for comparison with

the laws of witnessing found within CD 9:16-23 in order to ascertain similarities and

differences.

The verb עוד in ancient Semitic languages carries the meaning of repetition, or

persistence.[98] However, in the Hebrew language, the word was developed into such

meanings as "witness," or "to be a witness," or "to call as a witness," in both verbal and

nominal forms (cf. עד, עדות, תעודה). Van Leeuwen suggests that the common Semitic

understanding of the word is what allowed the Hebrew language to develop the meaning

of "witness." He writes that "one understands the meaning 'admonish,' 'warn,'[99] as

implying 'state repeatedly and urgently,' and 'attest, witness' as implying an act through

which a person 'brings something back,' i.e., refers to a past event by means of the

spoken word."[100]

The concept of a witness refers to the ability to recall facts or past events through

first hand knowledge. Human witnesses were especially important in illiterate societies,

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[98] BDB, 728.

[99] In this way, עוד carries a sense of warning, reproof, and prohibition. In Ex 19:21, Moses is told by God to warn (העד) the people of the consequence of approaching the holy mountain. Also, cf. Gen 43:3; I Kgs 2:42; 1Sam 8:9. Warning and reproof become an essential component to the act of witnessing in later periods in both Jewish and Christian traditions. See below.

[100] C. Van Leeuwen, "עד 'ēd witness," TLOT II, 839.

such as ancient Israel. Oral contracts were commonplace, and as a result, the society sought to protect itself through the use of witnesses and their testimony.[101]

The idea of witnessing then, while still maintaining its legal sense, often occurred in settings other than the courtroom. For example, Moses calls upon heaven and earth (Deut 4:26) to witness the people's agreement to God's covenant, and therefore to subject themselves to his blessings and curses. The participants in Ruth 4:7ff agree orally on the purchase of property. Here, the elders at the gate were charged with the formula: "you are witnesses," at which point they responded, "we are witnesses." Such things as animals or stones could also be invoked as a witness between particular agreements, in the sense that they would remind the parties of their commitment (cf. Gen 31:44, 48, 52). God is considered a witness to those whom he both judges and prosecutes (Mal 3:5). He is also envisioned as a witness to prophetic warnings (Mic 1:2, Mal 2:14).

When dealing with the criminal legislation within the Torah, human beings were the only allowable witnesses. As such, the laws of witnessing and testimony in the Torah were formulated in such a way as to provide the legal system with the ability to guard against the influences that false or illegitimate witnesses may have on a particular case. In the case of a capital crime, the ability to insure legitimate testimony becomes particularly important. Both of these ideological concerns are represented in the Decalogue. The intrinsic value of life is explicitly understood, as the demand to guard

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[101] This is frequently reflected upon in the wisdom schools. Cf. Prov 25:18: "Like a war club, a sword, or a sharp arrow is one who bears false witness against a neighbor," Prov 12:17: "Whoever speaks the truth gives honest evidence, but a false witness speaks deceitfully." Also cf. Prov 6:16, 14:5, 19:5, 28:18.

against false testimony is seen in the ninth commandment:[102] "You shall not bear false witness against your neighbor (Ex 20:16)."

The biblical procedure for legal cases then, is to provide the court with *more than one* witness in its legal proceedings for the purpose of verifying evidence. The following biblical passages are pertinent to the discussion:

> On the evidence of two witnesses or three witnesses, he who is to die shall be put to death; he shall not be put to death on the evidence of one witness (Deut 17:6).

> A single witness shall not rise up against a man on account of any iniquity or sin that he has committed; on the evidence of two or three witnesses a matter shall be confirmed (Deut 19:15).

> If anyone kills a person, the murderer shall be put to death at the evidence of witnesses, but no person shall be put to death on the testimony of one witness (Num 35:30).

It is quite likely that these passages are not in their original form and underwent development before reaching canonical form. This next section will briefly summarize that development, which will be followed by a short survey of the use of these laws in early Judaism, for the purpose of contrasting the DSS concept of witnessing.

THE DEVELOPMENT

The character of the pre-exilic legal system in ancient Israel is difficult to define and therefore a wide variety of theories exist.[103] Social and anthropological issues of monarchal judicial systems, governmental centralization, *paterfamilias*, and social and judicial linage systems need to all be considered. Theological issues such as divinely

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[102] Cf. J. Morgenstern, "The Book of the Covenant– Part II," *HUCA* 7 (1930), 76ff. He writes that Deut 19:16 can be understood as an elucidated version of the ninth commandment. Also see Anthony Phillips, *Israel's Criminal Law: A New Approach to the Decalogue* (Oxford: Blackwell, 1970), 142-6, in which he makes use of Morgenstern's assessment. Other biblical texts that condemn false witnesses are Ex 20:16, 23:1; Deut 5:20; Prov 6:19, 14:25, 19:5, 9, 21:28, 25:18.

[103] Robert R. Wilson, "Israel's Preexilic Judicial System," *JQR* 74 no. 2 (1983), 299-30.

inspired law and the Deuteronomic history are also among some of the intricate details that must be discussed to understand the milieu properly. Adding further to the discussion is the evolution of laws and legal codes that made up the system. While most of these issues are far beyond the scope of this chapter, it is sufficient to suggest that the laws of witnessing are probably part of the general developmental characteristics of law.

A. Phillips writes that during the pre-exilic period "it is probable that originally the evidence of a single witness would have been sufficient," and suggests that Deut 19:15b was perhaps added to conform to later to the evolving Israelite legal legislation.[104] He further states that "since the provision prohibiting conviction on the evidence of a single witness seems to be emphasized by the Deuteronomist, this would indicate that it is new legislation, which is confirmed by the fact that the priestly legislator found it necessary to repeat the enactment (Num 35:30) ..."[105] Phillips goes on to suggests that the testimony of two witnesses in the capital case against Naboth in 1 Kgs 21:10-13 was later added in order to conform to the evolving Deuteronomic legislation.[106] Taking this

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[104] Phillips, *Criminal Law*, 23. Greco-Roman law, however, seems to have accepted single witnesses well into the post-biblical period. H. Van Vliet writes: "We must conclude that no proof can be furnished of the contention that Roman rules of procedure excluded the single witness. That exclusion would have been against the spirit of Roman law. The judge was according to Roman law entirely committed to the nature of the case and to his own judgment; the truth that had to be sought was a real one, not a formal one only, and therefore the drawing up of binding rules of evidence was not only unnecessary, but even impossible." He goes on to write to that even "sole circumstantial evidence was allowed." Cf. Hendrik Van Vliet, *No Single Testimony: A Study on the Adoption of the Law of Deut 19:15 Par. Into the New Testament* (Utrecht: Kemink, 1958), 16. Perhaps the introduction of *unus testis, testis nullus* within Roman society, which was no doubt influenced by the biblical text, should be credited to Constantine (334 C.E.). He decreed: "In a similar manner we sanctioned that no judge should easily allow the testimony of only one person to be admitted in any case whatsoever. We now manifestly sanction that the testimony of only one witness shall not be heard at all, even though such witness should be resplendent with the honor of the glorious senate." Cf. *Cod. Theod.* XI 39:3, quoted in Vliet, *Testimony*, 11.
[105] Phillips, *Criminal Law*, 23.
[106] Compare with Jackson who writes, "At a later date within the biblical period there did develop a requirement of two witnesses. At first it seems to have been limited to capital cases, idol-worship, murder being specifically mentioned. Cf. B. S. Jackson, *Theft in Early Jewish Law* (Oxford: Clarendon

suggestion further, Duane L. Christensen has argued that the story of Naboth seems to

incorporate laws of Deut 14-21 in a midrashic fashion. He writes that

> The law of false witnesses was used to shape further details in the story of King
> Ahab and Naboth's vineyard (1 Kgs 21:7-13). In the case of Naboth, that two
> witnesses testified (1 Kgs 21:9) suggests at least procedural conformity to proper
> practice. The false witness in the law concerns the matter of סרה (defection) – a
> term that is used else where only for defection from God in a religious sense
> (Deut 13:5; Isa 1:5, 31:6, 59:13; Jer 28:16, 29:32). In the story it is clear that
> Jezebel was the main false witness, but she organized two others in the court
> proceedings." Naboth was accused of defection from God (cursing God).[107]

David Daube argues that certain laws within the biblical text contain emendations

that bring about a fuller understanding of the law. In some cases, the emendation may

simply be an appendix at the end of the law, but in other cases, this appendix causes the

original wording of the law to be inadequate, and therefore the entire law is reworded.[108]

He further suggests that the ancient method of emendation can often leave the code or

text with the appearance of an illogical sequence. Despite this appearance, the very

nature of the addition is in fact, to bring about a greater sense of precision and

completeness to the law. This type of phenomenon is nothing new, as legal drafting

always tends to become more precise and complete over time. Moreover, a common

feature of the evolution of law is make implicit things explicit.[109] Biblical and other

Ancient Near East documents are more complicated in discerning these kinds of

developments due to the problem of establishing relationships between certain texts, and

reconstructing the original sources.

Press, 1972), 226. Also cf. Jackson, "Two or Three Witnesses," in *Essays in Jewish Comparative Legal History*, Studies in Judaism in Late Antiquity, ed. Jacob Neusner, no. 10 (Leiden: Brill, 1975), 153-71.

[107] Duane L. Christensen, *Word Biblical Commentary, Volume 6A: Deuteronomy 1: 1-21:9, Revised*, ed. Bruce M. Metzger, David A Hubbard, Glenns W. Barket (Nashville, TN: Thomas Nelson Publishers, 2001), 428.

[108] David Daube, *Studies in Biblical Law* (Cambridge: Cambridge University Press, 1947), 74-99.

[109] Jackson cites several examples that have discussed this phenomenon in a modern context. Cf. Jackson, *Two or Three*, 164.

This does not mean that it is not possible to reasonably reconstruct the early development of a law. There are many fine example of legal development in many ancient texts. For example, the Laws of Lipit-Istar 10 (LI) and Laws of Hammurabi 59 (LH) are sometimes understood as being the same law, but they maintain differences due to legal developments.[110] They read:

> LI 10: If a man cuts down a tree in a garden of (another) man, he shall pay one-half mina of silver.

> LH 59: If a man has cut down a tree in a man's plantation without (the knowledge of) the owner of the plantation, he shall pay half a maneh of silver.

What the legal drafter interpreted to be implicitly suggested in LI 10 became explicitly written in LH 59. It was implicit in LI that the owner of the tree did not know that it was cut down, however in LH 59 this is made explicit. The same type of phenomenon can be seen in biblical law. B. S. Jackson has argued in *Theft in Early Jewish Law* that Ex. 22:8 and Deut 22:3 are both secondary additions to the text, for the purpose of making an implicit matter more explicit, and more complete.[111]

The biblical laws of witnessing, particularly in Deut 19:15, can also be considered as part of this phenomenon. Von Rad and others recognize this tendency toward completeness in the Deuteronomic codes, maintaining that the final redacted form of the text carries several layers of legal strata.[112] At first glance, the law of witnessing in Deut

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[110] Cf. G. R. Driver, J.C. Miles, *The Babylonian Laws* (Oxford: Oxford University Press, 1952) cited in Jackson, "Two or Three," 162.

[111] Jackson, *Theft*, 101-3: Ex 22:8: If the thief is not caught, the owner of the house shall be brought before God, (or "before the judges") to determine whether or not the owner had laid hands on the neighbor's goods. Deut 22:3: You shall do the same with a neighbor's donkey; you shall do the same with a neighbor's garment; and you shall do the same with anything else that your neighbor loses and you find. You may not withhold your help.

[112] Gerhard Von Rad, *Deuteronomy: A Commentary* (Philadelphia: Westminster Press, 1966), 129. He writes, "The latter (Deut 19:15) contains several strata, and already takes into account the recent institutions of a body of judges established by the State." Also cf. Bernard M. Levinson, *Deuteronomy and*

19:15 does not appear to contain certain strata with which one may be able to identify an evolution, or a movement towards completeness. However, the use of the formula "X or (X+1)" (two or three) seems to be as precise as the Hebrew language allows. Moreover, it is certainly more precise than Num 35:30, which simply states: "but no person shall be put to death on the testimony of one witness" (no less than X). What may be inferred from this is that the "or (X+1)" of the "X or (X+1)" formula is to be seen as the explicit statement that could have easily been left implicit, just as in Num 35:30. Jackson writes, "It is a characteristic of developing drafting that completeness (although not consistency of completeness) is sought by such formulations."[113]

LAW IN OPERATION:
AN EARLY JEWISH CONCEPT OF WITNESSING

While one may catch only a glimpse of the laws of witnessing and testimony in use the Hebrew Bible (i.e. the story of Naboth in 1 Kgs),[114] the established rule of "two or three witnesses" is clearly observed in such texts as *Josephus, The Testament of Abraham, Susannah*, and the *New Testament*. Indeed, the legal reflection found within the period is such that biblical laws continued to be refined, re-interpreted, and re-applied.

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the Hermeneutics of Legal Innovation (New York: Oxford University Press, 1997), 123ff.

[113] Jackson, "Two or Three," 169.

[114] Wilson comments on this by stating: "There is little evidence to indicate how the system operated. Outside the Book of Deuteronomy, the laws themselves say almost nothing about the covenant's enforcement mechanisms, and most of the available information must be gleaned from narratives that are only peripherally interested in court proceedings," in Wilson, "Preexilic Judicial System," 229-30.

I. Josephus

As to be expected, Josephus conforms to the Mosaic legislation of "two or three witnesses." His review of the Pentateuchal law is as follows: "But let not a single witness be credited; by three, or two at the least, and those whose such testimony is confirmed by their good lives" (*Ant.* 4.8.15).[115] He leaves no comment on this review; however, it seems obvious that he regarded three witnesses as preferable to two. This preference evidently shows up in his version of the story of Naboth. In the story, he writes that Jezebel ordered the corroboration of "three bold men ready to bear witness that he had blasphemed God and the king" (*Ant.* 8.14.8).[116] This is of course, a variation from the two witnesses recorded in the Masoretic text and the Septuagint.

When investigating these passages, one is left with a variety of questions. Does Josephus's Naboth story suggest that three witnesses are necessary for capital punishment, or does it simply confirm his preference for three witnesses as opposed to two? Ginzberg has suggested that "this presupposes the old Halakhah according to which in cases involving capital punishment three witnesses, one accuser and two witnesses, are necessary."[117] Schiffman follows suit, suggesting that Josephus understood capital crimes to require three witnesses, whereas other matters required two, which would be in

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[115] Flavius Josephus, *The Antiquity of the Jews*, in *The Works of Josephus: Complete and Unabridged*, trans. William Whiston (Peabody, MA: Hendrickson, 1987).
[116] Ibid.
[117] Louis Ginzberg, *The Legends of the Jews*, vol 6 (JPS, 1956 reprint; Baltimore, MD: The John Hopkins University Press, 1998), 312.

agreement with "the traditions of the Qumran sect" (see below).[118] However, one

wonders if this assumption can be substantiated based on the evidence provided.

II. Testament of Abraham

Ginzberg's evidence for "the old Halakhah" mentioned above is found in the

Testament of Abraham, an apocalyptic work. Recent studies seem to indicate the text is

of a predominantly Jewish work. Of special note in this text is Abraham's vision of the

heavenly court, which is passing judgment to the souls of the righteous and the wicked.

Recension A records the judgment process being carried out by three people, Abel, and

two angels. The text records that

> Through three judgment seats shall be the judgment of the world and recompense.
> Therefore, a matter shall not be finally decided according to one or two witnesses,
> but every matter shall be established according to three witnesses (*T. Abraham*
> A13).[119]

Recension B also contains the same legal statute, albeit in a different setting. The text

records:

> The judge then instructed him who writes the records to come, and behold,
> cherubim bearing two books, and there was an exceedingly large man with them.
> He had three crowns upon his head and one crown was higher than the other two
> crowns. The crowns are called the crowns of witness (*T. Abraham* B 10).[120]

The judgment of souls is certainly of a capital importance, which may explain why three

"witnesses" are required. In any case, the text seems to correspond with Josephus.

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[118] L. H. Schiffman, "The Qumran Law of Testimony," *RQ* 8, no. 4 (1975): 608; *Sectarian Law*,
75.

[119] *The Testament of Abraham: The Greek Recensions*, trans. Michael Stone (Missoula, MT:
Society of Biblical Literature, 1972).

[120] Translation by Michael Stone.

Although these passages are found within an apocalyptic context, they certainly exhibit the author's understanding of the number of witnesses that must testify in a legal situation. Indeed, the esoteric nature of divinely revealed secrets in apocalyptic literature is often that of criminal law and legislation.[121]

III. Susanna

Unlike the last two texts, the story of Susanna (100 B.C.E.) only requires two witnesses for a capital matter. In this way, the story is more closely related to the rabbinic rules of witnessing. The story demonstrates the importance of critically examining the testimonies, as the corroboration of two false witnesses would have sent Susanna to her execution if not for Daniel's challenge to the verdict.

The story involves two elders. As friends of Susanna and her family, they often visited her home. Over time the elders became infatuated with Susanna. One day they surprised her while she was bathing and insisted that she have sexual relations with them. If she did not, they would frame her as having adultery (a capital crime). When she refused, the elders raised a large commotion at which point the household ran in, only to be confronted with the eider's accusations. The next day, Susanna was convicted in court by the testimony of the two elders. Daniel, however, challenged the conviction, asking the elders "under which tree did you see them making love?" Each gave a different answer, thus vindicating Susanna of all charges.[122]

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[121] J. Baumgarten, "The Unwritten Law in the Pre-Rabbinic Period," in *Studies in Qumran Law*. Studies in Judaism in Late Antiquity, ed. Jacob Neusner, no. 24 (Leiden: Brill, 1977), 34-5.
[122] For specific commentary, cf. Carey A. Moore, *Daniel, Esther and Jeremiah: The Additions*, The Anchor Bible (Garden City, NY: Doubleday, 1977), 77-116.

IV. New Testament

The laws of witnessing appear numerous times within the New Testament. However, it appears to have been adapted for situations outside of the court. For example, Jesus sends his disciples out to preach in pairs, which could possibly signify a concern for co-verifying and proving the message of the disciples. In this same way, two of John's disciples come to verify if Jesus is the Messiah. Luke 7:17-21 records:

> This word about him (Jesus) spread throughout Judea and all the surrounding country. The disciples of John reported all these things to him. So John summoned two of his disciples and sent them to the Lord to ask, 'Are you the one who is to come, or are we to wait for another?' [123]

Paul appeals to the law of witnesses prior to his third visit to the Corinthians. 2 Cor 13:1:

> This is the third time I am coming to you. 'Any charge must be sustained by the evidence of two or three witnesses' (Deut 19:15). I warned those who sinned previously and all the others, and I warn them now while absent, as I did when present on my second visit, that if I come again, I will not be lenient.

From these short examples, it is clear the law was used in many difference circumstances and situations. In such texts as Josephus and Susannah, the rule of testimony is used in legal setting, whereas the New Testament seems to adopt the law in a variety of situations for establishing theological facts.[124]

V. The Rabbis

The large amount of Rabbinic literature related to this issue cannot be fully appreciated here. Rather than attempt a complete survey, a few points will be considered.

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[123] Cf. John F. Craghan, "A Redactional Study of LK 7:21 in the Light of DT 19:15," *CBQ29* (1967): 354-67.

[124] This is also true of the Rabbinic period, cf. David Daube, "The Laws of Witnessing in Transferred Operation," *Journal of the Ancient Near Eastern Society of Columbia University* 5 (1973): 91-3.

The Rabbinic understanding of witnessing is also based on the Mosaic Law, where the testimony of at least two witnesses was sufficient in both capital and non-capital crimes.[125] *M. Makkot* 1:7 and 8 show that the number three in Deut 17:6 and 19:15 indicates that a group of more than two is to be treated the same as two witnesses to an event. Yet, there also seems to be some indication in the later period of allowing one witness to testify in certain civil matters, but under no circumstances was a court to reach a verdict on the testimony of a single witness in a capital crime.[126]

The rule of "two or three witnesses" led to many practical problems within the rabbinic courts. In particular, the Rabbis grappled with such questions as perjury, a crime attested by only one witness, and guilt that is established only through circumstantial evidence.[127] However, they maintained the two witness rule with such fervor that even clear circumstantial evidence given by one testimony was not accepted. For example:

> And once Judah ben Tabbai entered a ruin and found a slain man still writhing, and a sword still dripping blood was in the hand of the slayer. Said Judah ben Tabbai to him: "May evil come upon me if it be not true that either I or you have killed him. However, what can I do, since the Torah has said, *At the mouth of two witnesses ... shall a matter be established.* But he who knows all even master of the thoughts of man, will exact punishment of that man. Hardly had he come out from that place when a serpent bit him and he died (*Mekilta, T. Kaspa* 23:6-12).[128]

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[125] Contra Josephus.

[126] "The sufficiency of a single witness was, however, recognized in certain situations concerning personal status. See *b. Hull.* 10b, *b. Bekh.* 41a, *b. Ker.* 12a." Cf. Bernard S. Jackson, "*Testes Singulares* in Early Jewish Law and the New Testament," in *Essays in Jewish and Comparative Legal History,* Studies in Judaism in Late Antiquity, ed. Jacob Neusner, no. 10 (Leiden: Brill, 1975), 186, n. 46.

[127] Jacob Neusner, "'By the Testimony of Two Witnesses' in the Damascus Document IX, 17-22 and in Pharisaic-rabbinic Law," *RQ* 8, no. 2 (1973), 205.

[128] *Mekilta de-Rabbi Ishmael: A Critical Edition on the Basis of the Manuscripts and Early Editions with An English Translation, Introduction, and Notes,* vol. 3, ed. Jacob A. Lauterbach (Philadelphia, PA: JPS, 1935), 170-1.

From this passage it is clear that the statute was important enough to preserve at the risk

of releasing a few criminals. In these cases, the Rabbis relied upon divine justice instead

of the court.[129]

For this very short survey, it is clear that the rules of witnessing were adapted to

various situations depending on the context and the biblical hermeneutics involved.

However, the essence of the law, which is to protect against false witnesses, exists in

every context. It is also clear that rules of witnessing were designed to maintain a sense

of duty and communal responsibility within God's community.

COMMUNAL RESPONSIBILITY

The laws of witnessing and testimony were intimately connected to the health and

well-being of the community as it related to God. The administration of justice was

considered to be part of the divine will of God. Thus, the Law provided an avenue not

only for legal reflection, but theological reflection as well.[130] A submission to the Torah

and its legal precepts insured that the community would be able to function properly as a

covenantal partner with God. Therefore, it was the community's responsibility to

maintain its good standing with its neighbors and with God. The fundamental idea of

presence, contact, and relationship can all find expression in the root of עד. H. Van Vliet

suggests that these concepts are necessary in understanding the way in which the witness

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[129] The reliance upon divine justice is also seen in *m. Sanhedrin.* 9:5: "He who kills someone not before witnesses—they put him in prison and feed him *the bread of adversity and the water of affliction* (Is 30:20), in *The Mishnah A New Translation,* trans. Jacob Neusner (New Haven, CT: Yale University Press, 1988).

[130] Calum M. Carmichael, "Deuteronomic Laws, Wisdom, and the Historical Traditions," *JSS* 12 (1987): 198-206. He maintains that the substance of the laws of witnessing is found in the wisdom tradition. His book *The Laws of Deuteronomy* (London: Cornell University Press, 1974) also discusses parallel themes in the wisdom tradition and Deuteronomy. Cf. Prov 6:19; 14:4, 25; 19:5, 9, 28; 21:28; 25:28.

was viewed. He writes, "He is related to the wrongdoer. He was in his presence. He had

contact with him . . . He is also related to him by the fact that he is a co-member of the

Covenant. He is a brother, a limb of that 'corporate personality' that has to be swayed by

the Law of the Lord."[131] Because the community accepted the divine covenant, it had a

responsibility to govern itself according to the prescription. Witnesses not only

contributed to governing the community, they contributed to God's justice being done.[132]

In this way, the false testimony of a witness was a grave offense, not only because it

jeopardized another individual or party, but also because it was a mockery of the divinely

established system of justice. Aiding a false witness was also considered a grave offense

(Ex 20:16, Ex 23:1ff). It is interesting to note that the false witness in Deut 19:15 is

described in very similar terms to the false prophet in Deut 13:7-10. Both are involved in

speaking falsely: the witness accuses the individual or party of violating the law, and the

prophet speaks apostasy.[133] Both cases are seen as evil and must be purged from the

presence of the community through capital punishment.

Another aspect of the term עד that is related to communal responsibility is the

way in which punishment was administered. In biblical times, the accusing witnesses

carried out the execution for capital crimes. Administrating the punishment was designed

to ensure a true testimony, for which the witness was willing to accept full responsibility.

The method of execution was often stoning, because it was administered communally, in

that most of the community could take part in casting the stones.[134] However, the

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[131] Van Vliet, *Testimony*, 68.

[132] Ibid., 66.

[133] Carmichael, *The Laws of Deuteronomy*, 115.

[134] Cf. Lev 24:14, Num 15:35ff, Deut 17:6, 21:21, 22:21. References to an Israelite assembly in later literature use the expression קהל instead of עדה. In the LXX, the term עדה is commonly translated

witnesses of the courtroom were responsible to cast the first stones; "The hands of the witnesses shall be the first against him to put him to death, and afterward the hands of the people. So you shall put away the evil person from you" (Deut 17:7, also cf. Deut 13:10-11). With the offender permanently removed, the covenantal community is no longer in a jeopardous situation, both in protecting its citizens, and in keeping the covenant. If the testimonies of the witnesses were false and they cast the first stones, they would be guilty for a wrongful execution, which in effect is murder. If such an action ever took place, the false witnesses would produce a homicidal act, and the court would be justified in seeking capital punishment for the false witnesses.[135]

συναγωγη.

[135] The Pharisees and the Sadducees famously disagreed on this matter (cf. *m. Makkot* 1:6). According to Deuteronomic law, one should reciprocate the punishment of the accused onto the witnesses if their testimony is false. Thus, the witness who falsely accuses someone of a capital crime is to be executed. To this, both parties were in agreement. However, a problem arose if the testimony was discovered to be false before the accused party had been executed. The Pharisees ruled that the witnesses must be executed regardless of the outcome of the trial. Intention was deemed just as liable. The Sadducees disagreed, and ruled that the accusing party should not be executed as a murderer if accused were alive and well. Schwartz understands this difference to derive from the perceived gravity of misleading the court. The Pharisees took this offense very seriously as the derived their own authority from the court (cf. chapter 4). The Sadducees however, derived their sense of authority from their priestly lineage, in Schwartz, "Law and Truth," 229-40.

CHAPTER SIX

THE LAWS OF WITNESSING IN CD 9:16-23

The last section briefly summarized the laws of witnessing as they occur within

the biblical and post-biblical traditions. These rules are captured in such texts as Deut

17:6; 19:15; and Num 35:30, and they clearly require two or more witnesses to testify in

all legal cases.[136] While there may be a variety of reasons for this ruling, it seems to have

been developed as a protection against false testimony. There is some debate

surrounding the issue of the number "two or three;" however, it is clear from the texts

examined that more than one witness was required for every situation.

Within the DSS, the laws of witnessing appear to be interpreted in an entirely

unique way. CD 9:16 appears to be interpreting the biblical rule of witnessing in such a

way as to allow for the combination of singular testimonies to crimes committed by the

same person for the purpose of a conviction. It must be noted however, that this

procedure may be a reference to a special circumstance, but does not necessarily mean

that the community rendered the more common understanding of the law of "two or

three" witnesses obsolete. In other words, the text may allude to a special evidentiary

procedure that was utilized when there were not two witnesses to the same crime.

Schiffman notes that the text of CD often deals with special cases only, while omitting

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[136] Some possible exceptions were noted with Rabbinic legislation.

general rules.[137] If this is true, the more common law of "two or three" witnesses may simply be implied or implicitly understood, whereas the specialized procedure discussed in CD 9:16-23 would require explicit mention within the legal code.[138]

Before determining the dynamics that allowed the community to derive such a rule, the grammar, syntax, vocabulary, and context will be examined.

The text will be grouped into three sections according to Jackson's divisions. [139] This is done to gain a better sense of how the passage flows. His first division is as follows:

CD 9:16b-20a – Part I

16 כל דבר אשר ימעל
17 איש בתורה וראה ריעהו והוא אחד אם דבר מות הוא וידיעהו
18 לעיניו בהוכיח למבקר והמבקר יכתבהו בידו עד עשותו
19 עוד לפני אחד ושב והודיע למבקר אם ישוב וניתפש לפני
20 אחד שלם משפטו

Translation: [140]

> *And every case in which a man violates the Law and his neighbor sees it and he is alone, if it is a capital case, he shall report him to the mebhaqqer. And the mebhaqqer shall write it in his hand until he does it again in the presence of one [witness], and he returns to report to the mebhaqqer. If he returns to the act and is caught in the presence of one [witness], his judgment is made complete.* [141]

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[137] Schiffman writes that the CD often deals with special cases while omitting the general rules in, Schiffman, *Sectarian Law*, 73.

[138] 11QT 64:7 does refer to the law of "two or three" witnesses. It states: "On the evidence of two witnesses and on the evidence of three witnesses he shall be put to death, and they shall hang him on a tree." That this text explicitly mentions the law of "two or three" witnesses is important; however, for the purposes of this thesis it does little to solve the question stated above. The relationship between 11QTemple and CD, the context of this law and its interpretation must be examined before its relevance can be determined.

[139] Jackson, "Testes Singulares," 172.

[140] Author's translation.

[141] The phrase "his judgment is made complete" שלם משפטו seems to refer to a conviction. The exact phrase is also used in 4Q266, frag. 18 5:15-6 referring to the penalty expulsion: "And the one who has been expelled will leave, and the man who eats from his riches, and the one who seeks peace, (the one who has been expelled), and the one who is in agreement with him. And his sentence will be written down in the *mebhaqqer's* hand ... and his judgment will be complete (שלם משפטו)." From these two passages it appears as though both the reproof and the judgment are recorded by the *mebhaqqer*.

The translation offered above suggests that the offense must be witnessed on three

different occasions. This aspect of the translation has been debated by some but has since

been largely accepted by most scholars.[142] A small minority has suggested that the text

implies that only two capital offenses have occurred, but in order to interpret the passage

in this manner one must construct the passage differently.[143] ושב והודיע למבקר in line

19 would have to be seen as part of the clause beginning with עד עשותו in line 18. This

seems highly unlikely for a number of reasons. Firstly, ושב would then have to be read

with the witness as its subject, not the offender. Based on the context, this seems

illogical to suggest that the witness is to 'return' to the Overseer after the second offense

has been committed unless the legal procedure actually requires the same witness for all

three offenses. This does not seem to be the case. Rather, it seems more plausible to

suggest that the offender is the subject of ושב, and he is the one who returns to commit a

capital crime a second and third time.

Another indication that the passage is dealing with three witnesses is the fact that

Part II becomes obscure if only two witnesses instead of three were part of the preceding

matter in 'Part I.' This would suggest an unnecessary redundancy as 'Part II,' of the text

clearly deals with a legal situation where two witnesses are involved. As it seems, 'Part

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It is unclear from the passage if a capital punishment i.e. execution was given. In 1QS the greatest penalty imposed on a community member is expulsion. In CD however, there does seem to be numerous instances where the death penalty is envisioned. CD 10: I records that the judges may invoke the death penalty if the witnesses are deemed competent. 11 QTemple 64:6-13 records that an informer against his own people must be put to death.

[142] Cf. B. A. Levine, "Damascus Document IX, 17-22: A New Translation and Comments," *RQ* 8 (1972-5): 195-6; Neusner, "By The Testimony of Two Witnesses" 197-217; Schiffman, "The Qumran Law of Testimony," 603-12; James L. Kugel, "On Hidden Hatred and Open Reproach: Early Exegesis of Leviticus 19: 17," *HTR* 80, no. I (1987): 43-61; Charlotte Hempel, *The Laws of the Damascus Document*, 94-6.

[143] For a review of the interpretations of this texts, cf. Neusner, "By the Testimony," 199-202. From his summary, it appears as though both Vermes and Ginzberg understand the case to be complete after only two successive incidents instead of three.

I' deals with the legal issue of a single witness in a tripartite situation, whereas 'Part II'

deals with a witness in a dual situation.

CD 9:20b-22 – Part II

20 ואם שנים הם והם מעידים על
21 דבר אחר והובדל האיש מן הטהרה לבד אם נאמנים
22 הם וביום ראות האיש יודיעה למבקר

Translation:

> *And if there are two, one and one, to give testimony about a different (read אחר instead of אחרו)*[144] *matter, the man shall be separated from the purity,*[145] *if they confirm it on the day they saw the man and made it known to the mebhaqqer.*[146]

It is still plausible to read אחרו, as Schechter and Levine did, which would then read:

"But if they are two witnesses, and they each testify to *one* case" (instead of, "a *different*

case"). But what this would then suggest is that two witnesses to the *same crime* are not

enough to convict a person of a capital crime, and so they would be subjected to a lesser

punishment of exclusion from the 'purity.' In other words, the court must have no less

than three witnesses to the same capital crime for the case to be processed.[147] If there are

fewer than the minimum, the court can only instruct the offender to be excluded from the

pure meal. This may be possible as there are sources from the Second Temple Period

that attest to a minimum of three witnesses.[148] However, to suggest that the CD 9:16-23

is based on the tradition found in Josephus and *The Testament of Abraham* leaves too

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[144] There is a wide variety of speculation as to the reading of this particular word, due to the condition of the original manuscript, i.e. the last character could be taken for a ד or a ו. Rabin, Vermes, Charles, and Yadin preferred to read אחר while Levine, and Schechter read אחרו.

[145] Vermes translates it as 'pure meal.' Cf., Geza Vermes, *Discovery in the Judean Desert* (New York: Desclee, 1956).

[146] Author's translation.

[147] Contra the presupposition stated earlier.

[148] The problem is much too uncertain to suggest the both Josephus and *The Testament of Abraham* are within the same tradition as the Qumran community. Cf. the sections on Josephus and *The Testament of Abraham* in chapter three for a short review.

much uncertainty.[149] Instead, Jackson brings a helpful proposal to this problem. He states that if Schechter's and Levine's translation is what the author had intended, why would there be stress of the "two witnesses?" The author could have simply stated in the opening sentence, "If the witnesses testify to offenses of a different case ..." Again; there would have been no need to state "two witnesses."[150] He then gives his reading of the passage:

> The only distinction between 'Part I' and 'Part II' is indicated in the opening words of 'Part II,' ואם שנים הם. *Testes singulares* are still contemplated, and this is the meaning of דבר אחר. Each witness testifies to a separate offence. But as there are only two, not three as in 'Part I,' the case is not complete, and only an inferior sanction is imposed.

Based on this reading of the 'Part I' and 'Part II,' it seems to be that the text thus far is dealing strictly with a legal procedure, which only deals with one witness to the capital offense, *testes singulares*. If three witnesses testify, the case is complete. If two witnesses testify a lesser penalty is imposed.

CD 9:22b-23 – Part III

22 ועל ההון יקבלו שני :
23 עידים נאמנים ועל אחד להבדיל הטהרה :

Translation:

> *But in matters of property, they will receive two witnesses to confirm it. And one [witness] he shall be separated from the purity.*

This statement appears to be quite self-explanatory. However, here again Jackson notices a discrepancy between the capital offense procedure and this civil offense procedure. He notes:

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[149] For a short review of the law of witnesses in those texts, cf. chapter 4, n. 25.
[150] Bernard S. Jackson, "Testes Singulares," 179.

"We are not told if the witnesses are *contestes*, and in the context of 'Part I' and 'Part II', the natural implication is that *testes singulares* are still in contemplation. Indeed, one might argue that if such a procedure were admissible even in capital offences, one should certainly expect it in property offences."[151]

Given the context, however, it seems more likely that 'Part III' was to be read and interpreted with the first two parts in mind (I and II). 'Part III' was read to be an equivalent to 'Part I' but on a lower scale, and the last clause of 'Part III' was to be read as an equivalent to 'Part II.' The only difference between the two case procedures is the number of witnesses, which is due to the severity of the offense committed. If the number of witnesses to the case did not meet the legal standard, the option was available to separate the offender from the 'purity.' The following chart visualizes the procedure:[152]

	Capital Matter	Concerning Property
Reproof	One witness	One witness
Setting apart from the Purity	Two witnesses	One witness
Judgment	Three witnesses	Two witnesses

In summary, CD 9:16-20 records a special procedure whereby a capital case may prosecuted even if it is witnessed only by one person. The judgment is rendered complete (שלם משפטו) if three singular witnesses observe a capital crime on three different occasions. If only two capital crimes were observed by single witnesses, a non-capital sanction may be imposed whereby the guilty party is excluded from the 'pure

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[151] Ibid., 180.

[152] Cf. Göran Forkman, *The Limits of the Religious Community: Expulsion from the Religious Community within the Qumran Sect, Within Rabbinic Judaism, and Within Primitive Christianity*, Conietanea Biblica New Testament Series, no. 5 (Lund: CWK Gleerup, 1972), 49.

meal.' For cases of non-capital matters, two witnesses to different events are acceptable
to the complete the case, whereas one witness is acceptable to exclude the guilty party
from the 'pure meal.'

THE TERM מעל

The use of the term מעל[153] in this passage is another indication of the priestly
character of the community. All occurrences of the word within the Hebrew Bible are
late, finding usage in such texts as Ezekiel, the Holiness Code, Priestly Code, the
Chronicles, Daniel, and the Deuteronomistic history. R. Knierim writes that within these
texts, the word belongs to "priestly diction."[154] Often rendered as 'unfaithful,' the act of
מעל is understood to be a sinful act directed towards God by an individual or group.[155]
This is often characterized by the formula ומעלה מעל ביהוה ("to commit unfaithfulness
towards the Lord.") found in passages such as Lev 5:21;[156] 26:40; Num 5:6. There are
two categories that fall under מעל:[157] the trespass upon God's sancta[158] and the violation
of the covenant oath.[159] These two categories are both ultimately connected to sin against
God. Milgrom writes: Trespass upon sancta is simultaneously trespass upon the covenant

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[153] In the CD 9:16 it is translated as 'violate' to give the word a legal sense; however, it also
maintains a theological force that can be translated as 'unfaithful.' -

[154] R. Knierim, "מעל m'l to be unfaithful," in *Theological Lexicon of the Old Testament*, vol. 2,
ed. Ernst Jenni and Claus Westermann (Peabody, MA: Hendrickson Publishers, 1994), 681.

[155] This meaning seems to suggest a nuptial context and was carried over to describe human acts
of infidelity to one another. Cf. Num 5:12: "a man whose wife goes astray and commits מעל against him."

[156] Lev 5:21 : "When any of you sin and commit unfaithfulness (מעל) against the LORD by
deceiving a neighbor in a matter of a deposit or a pledge, or by robbery, or if you have defrauded a
neighbor, or have found something lost and lied about it-if you swear falsely regarding any of the various
things that one may do and sin thereby-when you have sinned and realize your guilt, and would restore
what you took by robbery or by fraud or the deposit that was committed to you ..."

[157] For a discussion of these two categories, cf. Jacob Milgrom, *Cult and Conscience: The Asham and the
Priestly Doctrine of Repentance*, Studies in Judaism in Late Antiquity, ed. Jacob Neusner, no. 18 (Leiden:
Brill, 1976), 17.

[158] Cf. 2 Chr 26:16-18; 28:19.

[159] Lev 26:15, 40; Ez 17:18, 20.

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since reverence for sancta is presumed in the covenant relationship."[160] The gravity of

such an offense is seen in such passages as Ezek 14:3; 15:8; 1 Chr 9:1; and 2 Chr 12:2,

which predict destruction and exile as a result of מעל. 2 Chr 36:14 suggests that מעל

was the cause of Judah's downfall because "they contaminated the house of the Lord

which He had sanctified in Jerusalem." These two categories of מעל are also found in

the Dead Sea Scrolls. CD 8:46 records: "At the times of Israel's מעל they contaminated

the sanctuary," which is a clear example of sancta trespass. For an example of covenant

violation see 1QH 4:34: "For I recall my wrongs and the מעל of my fathers when

evildoers rose up against your covenant."

The context of CD 9:16, however, somewhat complicates the meaning of מעל.

The text records that a person involved in the crime commits מעל against the *Torah*,

rather than God. As mentioned in the preceding sentences, מעל signifies sin against God

by violating the covenant oath or trespasses against the Sanctum, i.e. Temple. However,

the Qumran community was without Temple, and as such could not trespass the Temple

sancta. In this instance, it appears as though the laws of Torah were regarded as the

Sanctum of the community, which, if they were broken, were taken as a direct violation

against the divine.

That the community understood iniquity to be a source of impurity is clear.[161]

Therefore, the offender must be removed from the 'purity,' as it relates to the offense.

Separation from the 'purity' most likely referred to the ritual purity of the community,

that is, the individual would be viewed as ritual impure, either due to the fact that an

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[160] Milgrom, *Cult and Conscience*, 21.

[161] Cf. Schiffman's discussion on this issue in *Sectarian Law*, 76. Perhaps 1QS 4:20 is applicable here. It records: "God will refine, with his truth, all of man's deeds, and will purify for himself the configuration of man, ripping out all spirit of deceit from the innermost part of his flesh, and cleansing him with the spirit of holiness from every irreverent deed."

offense was committed, or because of some infraction of a purity regulation while the offense was in progress. In 1QS, it is clear that 'separation from the purity' occurs before one is excommunicated from the community (Cf. 1QS 6:25, 7:3, 16, 8:24). Indeed, whenever a person could be shown, even with minimum testimony, to have transgressed, he was prohibited from contact with the purity, lest other members become impure as well.[162]

Removing a member from the 'purity' is therefore a defensive act to protect the community against impurity. This notion was also understood in the initiation ritual of someone seeking membership. This process was extended over a period of three years, in which the individual graduates to higher stages of purity until he is able to touch the liquid food of the community. Only then did the individual become a full member.[163] Further, if one commits an offense and it is rendered impure, the state of purity of the entire community could become jeopardized. The phrase, 'separate from purity' has been interpreted as excluding the offender from the communal meal, which was always consumed in a state of ritual purity.[164] With regard to the actual punishment of excluding the member from the 'purity,' there is no indication in the present context of how it would take place. However, there may be a text in 1QS that could possibly indicate to some extent what took place when there was such a ruling. 1QS 6:25 reads: "Knowingly concerning goods, he shall be excluded from the pure food of the Many for a year and shall be sentenced a quarter of his bread." This text may suggest a common link to CD 9: 16-23, but the exact relationship between the to texts is debatable. Josephus writes an

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[162] Schiffman, *Sectarian Law*, 76.
[163] The community believed that liquids were the most susceptible to impurity and, in turn, were also the greatest source of impurity to the community. They believed that the impurity of a liquid did not decrease regardless of how many times the substance had been transferred.
[164] Cf. Geza Vermes, *Discovery in the Judean Desert*, 174.

interesting account on a disciplinary procedure practiced by the Essenes. There is no doubt that this text refers the excommunication of an individual from the community. It states:

> But for those that are caught in any heinous sins, they cast them out of their society; and he who is thus separated from them, does often die after a miserable manner; for he as is bound by the oath he hath taken, and by the customs he hath been engaged in, he is not at liberty to partake of that food that he meets with elsewhere, but forced to eat grass, and to famish his body with hunger till he perish; for which they receive many of them again when they are at their last gasp, out of compassion to them, as thinking the miseries they have endured till they come to the very brink of death, to be a sufficient punishment for the sins they had been guilty of (*Wars of the Jews*, II, 8:8).[1]

THE MEBHAQQER

The role of the *mebhaqqer* (מבקר) must also be examined. There is a wide variety of ways in which this title has been translated. Words such as "Inspector,"[166] "Guardian,"[167] "Overseer,"[168] and "Examiner"[169] have all been used. Scholars have long pointed out that in such texts as 1QS, the duties of the *mebhaqqer* are often difficult to distinguish between other individual leaders of the community such as הפקיד.[170] Indeed, some have even suggested that the two individuals are the same person.[171] These points

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[165] Flavius Josephus, *The Wars of the Jews*, in *The Works of Josephus: Complete and Unabridged*, trans. William Whiston (Peabody, MA: Hendrickson, 1987).

[166] Cf. CD 14 translated by Martinez, *The Dead Sea Scrolls Translated*, 44.

[167] Vermes, *Complete Dead Sea Scrolls*, 104.

[168] E. Eshel, "4Q477: The Rebukes by the Overseer," *JJS* 45 no. 1 (1994), 111-22.

[169] CD 9:17-20 in Joseph M. Baumgarten and Daniel R. Schwartz, "Damascus Document," in *The Dead Sea Scrolls*, vol. 2., ed. James Charlesworth (Louisville, KY: Westminster Press, 1994), 44; Jastram, "Hierarchy," 357.

[170] Jastram, "Hierarchy," 357; M. Weinfeld, *The Organizational Pattern and the Penal Code of the Qumran Sect: A Comparison with Guilds and Religious Associations of the Hellenistic-Roman Period*, Novum Testament et Orbis Antiquus, no. 2 (Fribourg: Editions Universitaires, 1986), 21. He also suggests that at certain places, the two titles seem to indicate the same person. So does Leaney, *The Rule*, 195-6.

[171] Jastram, "Hierarchy," 358.

are of no consequence to this thesis as it only seeks to explore the role of the *mebhaqqer* as it relates to CD 9:16-23.

In CD, the *mebhaqqer* is understood to be at the head of the camp. He is clearly a high-ranking official in the community undertaking many responsibilities. CD 13:7-13 records:

> And this is the rule of the Examiner (מבקר) of the camp: Let him instruct the Many about the works of God, and allow them to discern the wonder of his mighty deeds, and relate to them the happenings of eternity together with their interpretations. Let him pity them as a father does his children and watch over them in all their distress as shepherd for his flock. Let him loosen all chains that bind them so that there shall be none deprived and crushed in his congregation. And whoever joins his congregation, let him examine him with regard to his works and his intelligence, his strength and might, and his wealth. Let them inscribe him in his place according to his inheritance in the lot of light. Let no one of the sons of the camp dare to bring a man into the congregation except by the word of the Examiner of the camp. None of those who entered the covenant of God shall buy from or sell to the Sons of Dawn; rather, let them give from hand to hand. Let no man do anything involving buying or selling without informing the Examiner of the camp.[172]

From this passage it is clear that the *mebhaqqer* acted as a teacher, healer, Shepherd. He examined, approved, and ranked every new member into the community, and supervised the business of the community members.

He was also involved in the organizational structure and ranking of the community members according to their status. Further, he oversaw the assemblies of the community, insuring proper order was kept. CD 14:11-2 records: "And any matter about which a person may wish to speak, let him address the Examiner, whether concerning a dispute or judgment."[173]

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[172] Translation by Baumgarten and Schwartz in *The Dead Sea Scrolls*, vol. 2, ed. James Charlesworth. Also cf.CD 13:6; 14:10; 15:7-11.

[173] Ibid.

Alongside these descriptions of the *mebhaqqer* was the responsibility to record

any of the offenses committed and the corresponding judgments.[174] These offenses were

recorded when the guilty party had been reproved. The biblical rules of reproof found in

Lev 19:17-8 were incorporated into the legal system of the community (see below)

whereby any offense committed, whether criminal or otherwise, must be reproved before

the community can take appropriate action. That the judgments of certain crimes were

also recorded by the *mebhaqqer* is clear from such texts as 4Q266. In this fragment, the

penalty of expulsion was recorded:

> And the one who has been expelled will leave, and the man who eats from his
> riches, and the one who seeks peace, (the one who has been expelled), and the one
> who is in agreement with him. And his sentence will be written down in the
> *mebhaqqer's* hand ... and his judgment will be complete[175] (4Q266 frag 18 5:15-
> 6).

The fact that the offenses and judgments were recorded by the *mebbaqqer* is quite

logical. After all, it is the *mebhaqqer* who is charge of the structure of the community;

therefore, he should know if demotions, promotions, or expulsion were in order. 1QS

5:24-5 records: "And their spirit and their deeds must be tested, year after year, in order

to upgrade each one to the extent of his insight and the perfection of his path, or to

demote him according to his failing" (cf. CD 13:12, 14:3-4; 1QS 6:10, 22, 26, 7:21, 8:19,

9:2). According to Metso, this passage indicates that lists of offenses were probably used

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[174] The act of recording the crime by the *mebhaqqer* along with reproof seems to be the key
components to allowing for conviction. Recording the crime had many practical purposes within the
community; however, it also seemed to work with the same principles that the court relied on in Rabbinic
Judaism. In biblical law and Rabbinic Judaism, nature of the word עד (witness) implies a recreation of the
event through the oral testimony of witnesses. At Qumran, it appears as though recording the events allows
for the recreation of events in a similar manner. Furthermore, the act of recording the separate events
allows for them to become cemented to together to form one conviction.

[175] Note the same phrase, שלם משפטו, is used in CD 9:20.

in the member's yearly inspection and ranking.[176] These offenses were recalled during

the ceremony to determine the rank of the members. 4Q477 confirms this process,

stating that the reason for the reproof was "to make their offense remembered."[177] From

CD 9:16-23, it is obvious that these lists were recorded by the *mebhaqqer*. Through this

procedure, the community was able to set apart the guilty party to allow for education,

repentance, and purification.

On a side note, there seems to be a similarity between the act of recording

offenses and judgments by the *mebhaqqer* and the recording of offenses and judgments in

heaven by the divine office. That the heavenly angels were involved in this activity

seems to be a common motif in Jewish and Christian traditions. Dan 7:10[178] and Rev

20:12 both speak of books[179] that record the actions of people that were opened for

judgment. Rev 20:12 states:

> And I saw the dead, the great and the small, standing before the throne; and books
> were opened: and another book was opened, which is [the book] of life: and the
> dead were judged out of the things which were written in the books, according to
> their works.

Other passages that suggest a heavenly "record book" are found in Ps 136: 16,

69:29; Mal 3:16; and Isa 65:6. Also cf. *m. Abot* 2:1 which clearly refers to God as a

record keeper: "Know what is above you: An eye which sees, and an ear which hears, and

all your actions are written down in a book."[180]

Apocryphal literature also contains many example of this phenomenon. The

Book of Jubilees records:

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[176] Sabrinna Metso, "Constitutional Rules at Qumran," in *The Dead Sea Scrolls After Fifty Years*, vol I, ed. Peter Flint and James C. VanderKam (Leiden: Brill, 1998), 205.

[177] Esther Eshel, "The Rebukes by the Overseer," 111-22.

[178] "The court sat in judgment, and the books were opened ..."

[179] Another term often used is "Heavenly Tablets."

[180] *The Mishnah: A New Translation*, trans. Jacob Neusner (New Haven, CT: Yale University Press, 1988).

> And the judgment of all is ordained and written on the heavenly tablets in righteousness—even the judgment of all who depart from the path which is ordained for them to walk in . . . judgment is written down for every creature and for every kind (3B-4)

Another example is *Test. Abraham* 10B: "The judge then instructed him who writes the records to come, and behold, cherubim bearing two books . . ." Other related passages are 1 Enoch 81:4; 89:61ff; 90:14ff; 98:7; 104:7

The motif of the divine record book also occurs within the DSS. CD 20: 19-20 records that God will listen to the words of those who "convert from the sin of Jacob" and write them down in a "book or remembrance" until "salvation and justice will be revealed to those who fear God." Other passages such as 1QH 9:24; 1QM 12:3; 1QS 10: 6, 8, 11 also give the image of a heavenly record book as well as the engraving tool used.

That the *mebhaqqer* kept records of the behavior of community members could be understood in purely practical terms; that is, it served a legal function in the court. This function is not denied. However, it may also be possible to understand the actions of the *mebhaqqer* as analogous to the actions that took place in Heaven. It is commonly understood that the community understood itself to function analogically to the community of priestly angels of the Heavenly Temple. Devorah Dimant has listed numerous activities that the community understood itself to take part in alongside angels. The character/tasks are: Form a special community, be in covenant with God, received special laws, offer bloodless sacrifices, exist in perfect purity, no sin/evil in their midst, praise God, they expiate, possess divine wisdom, their task is to teach.[181] In this way, the

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[181] Devorah Dimant, "Men As Angels: The Self-Image of the Qumran Community, "in *Religion and Politics in the Ancient Near East*, ed. Adele Berlin, Studies and Texts in Jewish History and Culture (Bethesda, MD: University Press of Maryland, 1996): 100-1.

laws practiced by the community were also understood to have a heavenly counterpart.[182]

These laws were understood to be revealed to the community through divinely inspired

exegesis, and were carefully transmitted to those who had fully entered the community.

At this point, the suggestion that the practice of record keeping to be analogous with a

heavenly counterpart seems logical; however, more study needs to be devoted to this

subject to determine its feasibility.[183]

HALAKHIC DERIVATION

There has been a variety of suggestions relating to the text that was used

halakhically to derive CD 9:16-23. It is not surprising that a majority of scholars, such as

B. A. Levine, L. Schiffman, J. Neusner, and Yigal Yadin do not see CD 9:16-23 as

parallel to any Rabbinic material interpreting the Mosaic law (Deut 17:6, 19:15, Num

30:35) of witnesses. In Talmudic law, separate offenses cannot be combined to produce a

case against an offender. Levine writes:

> According to the *Damascus Document* it is possible to combine separate
> successive commissions of the same act, by the same person, for the purpose of
> testimony in prosecution. In Talmudic law the distinctiveness and unity of each
> act is inviolable as regards to human behavior. To be sure, עדית מצטרפת is
> well-known in Talmudic law. But separate offenses cannot be combined.[184]

Due to this dissimilarity, Levine has proposed that the community derived its legal

procedure of witnessing from a different source. He has suggested that the legal

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[182] This concept is also found in the book of Jubilees, where all the entire Torah is written onto heavenly tablets and is known by the angels.

[183] The same analogous relationship appears in the NT. Matt 16:17-19 states: "And Jesus answered him, 'Blessed are you, Simon son of Jonah! For flesh and blood has not revealed this to you, but my Father in heaven. And I tell you, you are Peter, and on this rock I will build my church, and the gates of Hades will not prevail against it. I will give you the keys of the kingdom of heaven, and whatever you bind on earth will be bound in heaven, and whatever you loose on earth will be loosed in heaven.'"

[184] B. A. Levine, "Damascus Document IX, 17-22: A New Translation and Comments," *RQ* 8, no. 2 (1973): 196.

procedures regarding animal control (ox goring), found in Ex 21:28-9, are the source for CD 9:16-23. He states that there are a number of similarities, such as: the recording of the offense, and the administration of capital punishment after three occurrences of the offense. These measures are also part of the legal procedure in CD 9:16-23; however, the legal procedures of animal control are applied to human beings.[185]

Based on his assessment of the relationship between CD 9:16-23 and "pre-70 pharisaic-rabbinic rulings,"[186] Neusner reaffirms Levine's suggestion and adds to it: "Perhaps the warning of the *mebhaqqer* (Overseer) on the basis of the testimony of a single witnesses is meant to indicate to the accused to tame his evil impulse," known as *hatra 'ah*, in Rabbinic Judaism.[187] At this point, Neusner allows for the possibility of a parallel between CD and Rabbinic Judaism. His suggestion of rebuking "the accused to tame his evil impulse" has many parallels to early rabbinic teachings, as a warning of rebuke (*hatra 'ah*) for offenses is found in many places in early Jewish tradition.[188] Many scholars agree, however, that this is not similar to the *hatra 'ah* regulation based on the fact that legal reproof in Rabbinic Judaism must take place before the occurrence of the crime, whereas in CD the reproof occurs after.[189]

It seems more likely that CD 9:16-23 made use of the same Mosaic texts that the

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[185] Ibid.

[186] Neusner, "By the Testimony," 204. Neusner's article was written to address Ginzberg's assessment of CD 9:16-23 as parallel to Pharisaic rulings on the matter. To examine this assessment, he analyzes early strata within Tannaitic literature, which he describes as "pre-70 Pharisaic-rabbinic rulings."

[187] Ibid.

[188] Cf., Ze'ev W. Falk, *Introduction to Jewish Law of the Second Commonwealth* (Leiden: Brill, 1972), 120.

[189] Jackson, "Damascus Document IX, 16-23 and Parallels." *RQ* 35, no. 9 (1978): 445-50; Falk, *Jewish Law*, 119-22; Schiffman, "Reproof as a Requisite for Punishment in the Law of the Dead Sea Scrolls," *Jewish Law Association Studies*, vol. 2, ed. B. S. Jackson (Atlanta, GA: Scholars Press, 1986), 73-4.

Rabbinic traditions utilized for the laws of legal witnessing, that is, Deut 17:6, 19:15, Num 20:35. In other words, the same biblical texts were utilized in the Qumran and Rabbinic traditions, but the halakhic methods were different.

At this point, it is important to refer back to chapter three regarding the dynamics of priestly law. As already shown, the community contains a number of halakhic similarities to Sadducean-Zadokite traditions. If this theory holds true, it would definitely provide an answer as to how and perhaps why the halakhah differs.[190]

Schiffman seems to supply the best answer as to how the community derived its legal procedure, not only because he recognizes the fundamental differences between the Qumran community and Rabbinic community in this particular instance, but he also seeks to define the interpretation of the Mosaic law of witnessing based on the internal evidence of the scrolls, rather than by solving the problem through external evidence. He writes:

> It would appear that from the point of view of hermeneutics, the sect maintained that in groups of numbers, each had to have its own significance. In regard to the law of testimony, the same rule prevailed. If the Torah enjoined conviction by two or three witnesses, one could safely assume that the intention was for capital crimes to require three witnesses and for monetary matters to require only two.[191]

He bases his assessment on a paradigm he developed through a study of the laws of Sabbath limits in the DSS community.[192] CD 10:21 states: "Let him not walk about outside of his city more than a thousand cubits." In a seemly contradicting statement, CD 11:5-6 states: "Let no man walk after an animal to pasture it outside of his city except

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[190] Cf. the study by Hannah K. Harrington, "Interpreting Leviticus in the Second Temple Period: Struggling with Ambiguity," in *Reading Leviticus: A Conversation with Mary Douglas*, ed. John F. A. Sawyer, JSOT sup, no. 227 (Sheffield: Sheffield Academic Press, 1996), which has adequately shown the phenomenological differences between Rabbinic and Qumran sectarian concepts of law.

[191] Schiffman, "The Qumran Law of Testimony," 603-12, 607.

[192] Schiffman, *The Halakhah at Qumran*, 92-3.

two thousand cubits." Mosaic law is clear that on the Sabbath, "every man is to remain in his place." However, the verse did not define what "remain in his place," meant, so through the process of Midrash, the terms were explicitly defined. In order to accomplish this, the DSS community made use of a passage in Numbers (35:4) to define Sabbath limits. But, because there are two different measurements in the passage, the community gave specific procedures for each measurement. Thus, the measurement of one thousand cubits was the maximum that a man could walk, and two thousand cubits was the maximum that a man could walk to pasture his animals.[193] Schiffman applies this same understanding to the text of CD 9:16-23, whereby a specific interpretation was given to the number three and to the number two found in Deut 19:15. For the laws of singular witnessing then, three witnesses were required for a capital conviction, whereas two were required for civil matters.

REPROOF AS TESTIMONY

Schiffman's interpretation of the number three and two does not complete the discussion of the dynamics within the passage. There is also the influence of another legal statute developed by the Qumran community, that is, the law of reproof, or open reproachment.[194] This theme is introduced at CD 9:2 and continues to 9:23, linking the

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[193] Note the parallel in CD 10:21 which states, "חוץ לעירו על אלף באמה" to Num 35:4: "אמה" העיר וחוצה אלף. Also note the parallel in CD 11:5-6 which states, "אם אלפים באמה חוץ מעירו כי" to Num 35:5 "אלפים באמה ... מחוץ לעיר.

[194] While the Qumran community interpreted Lev 19:17-8 in a forensic sense, other traditions, found in the *Testament of Gad* 4:1-3, develop the text morally. The text states: "So beware of hatred, my children, because it leads to lawlessness against the Lord himself. For it does not wish to hear his commandments concerning love of neighbor, and it sins against God. For if a brother stumbles, it wants to report it forthwith to everyone, and is eager for him to be brought to trial for it and punished and put to death." For the discussion of this passage and its connection to Lev 19, cf. Kugel, "On Hidden Hatred and

various laws together. The ground rules for the law of reproof is found in Lev 19:17-8, which states:

> You shall not hate in your heart anyone of your kin; you shall reprove your neighbor, or you will incur guilt yourself. You shall not take vengeance or bear a grudge against any of your people, but you shall love your neighbor as yourself: I am the Lord.

It is widely noted that reproof was of importance to early Jewish and Christian communities. Many New Testament and Pseudipegraphical works refer to in some form or another.[195] What sets CD 9:16-23 apart is that reproachment was understood in a judicial sense, whereby it was considered forensic evidence in a legal court (cf. CD 9:16-23). Lev 19:17 was interpreted by the community as a commandment for the individual to report and reprove the guilty party in the presence of the *mebhaqqer* even if he is the only witness.[196] This action understood as an essential legal procedure in order for the judgment of an offense to be delivered.[197]

As part of this process the accuser must be able to document in the judicial hearing that he is not a vengeance seeker, having used the offender's misstep to settle some old score. If the accuser did not reproach the guilty party, but later made an accusation, he violates the precepts set forth in Lev 19:18 by secretly bearing a grudge in his heart and then taking vengeance.

1QS 5:24-6:1 encourages community members

> To reprove each his neighbor in truth, humility, and lovingkindness to a man: Let him not speak to him in anger or complaint or stubbornly or in jealousy (caused) by an evil disposition. Let him not hate him intractably, for on that day shall he

Open Reproach," 50-1
[195] Cf. Kugel for a review.
[196] Ibid
[197] Kugel, "On Hidden Hatred and Open Reproach," 43-61.

reprove him, lest he bear guilt because of him.[198]

That the person must reproach his neighbor not out of vengeance, but from a loving concern, is clear in this passage. The chiastic structure shows that reproof must not be done out of hatred ... but love.[199]

	v. 17	v. 18
Prohibition	You shall not hate your kinsperson in your heart	You shall not take revenge or bear a grudge against members of your people
Remedy	Reprove your fellow opnly	You shall love your fellow as yourself
Rationale	So that you will not bear punishment because of him	I am the LORD

CD 9:2-8 further illuminates this understanding of the text:

> And as to that which he said, "You should not take vengeance nor keep a grudge against the sons of your people," (Lev 19:18). Anyone of those who enter the covenant who brings a charge against his neighbor without reproof before witnesses, but brings it in his burning wrath or tells it to his elders to put him to shame, is taking vengeance and bearing a grudge (נוטר). It is written only, "He takes vengeance against his adversaries and keeps a grudge against his enemies." If he was silent from day to day and in his burning wrath charged him with a capital offense, his iniquity is upon him, for he did not fulfill the ordinance of God which says to him, "You shall surely reprove your neighbor so that you do not bear sin because of him" (Lev 19:17).[200]

The law is additionally fortified through linking the participle נוטר in CD 9:4 with Nahum 1:2. The passage states: "A jealous and avenging God is the LORD, the LORD is avenging and wrathful; the LORD takes vengeance on his adversaries and rages against his enemies." This passage is an indication that only God is allowed to take vengeance or bear a grudge.[201]

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[198] Schiffman's translation, cf. *Sectarian Law*, 93.

[199] For the discussion, cf. Jacob Milgrom, *Leviticus 17-22: A New Translation*, The Anchor Bible, ed. David Freedman (New York: Doubleday, 2001), 1646-7.

[200] Translation by Baumgarten and Schwartz.

[201] Perhaps Deut 32:35 was also on the mind of the exegete: "Vengeance is mine, I will repay, says the Lord."

It is clear from the passages discussed thus far that if the accuser does not

reproach the guilty party in the proper manner described above, he will "bear guilt/sin

because of him." According to CD, this phrase implies two things. First, if the accuser

does not reproach the offender, but rather reports it to the community, an act of

vengeance is understood to have taken place and the accuser is charged with the sin.[202]

Second, the phrase also implies that if someone sees an offense committed and does not

reprove the guilty person, but instead uses the offense as a means of vengeance or wrath,

the accuser actually bears the guilt of the offender.[203] CD 9:7 states that "If he was silent

from day to day and in his burning wrath charged him with a capital offense, his iniquity

(offender) is upon him (the accuser)." While these two implications are similar, the

second one is related to the individual who saves the information for a time when he is

angry with the offender. In this way, the accuser is guilty of vengeance seeking, but must

also bear the penalty of the sin committed by the guilty party.[204]

SYNTHESIS

One final question will be examined: What would cause the DSS community to

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[202] Cf. CD 6:1: "And also let no one bring a charge against his neighbor before the assembly which is not with reproof before witnesses."

[203] Whether the accuser bears the same punishment as the offender is unclear. CD suggests that this may be the case, however; a different penalty for those of bear a grudge and seek vengeance is found in 1QS 7:8: "And whoever bears a grudge against his neighbor, which is not according to the regulations, shall be fined for six months. And thus also for him who takes vengeances for himself regarding any matter."

[204] The NT was also concerned with reproachment. It is widely noted that the Qumran concept of reproof is similar to Matt 18:15-7: "If another member of the church (if your brother) sins against you, go and point out the fault when the two of you are alone. If the member listens to you, you have regained that one. But if you are not listened to, take one or two others along with you, so that every word may be confirmed by the evidence of two or three witnesses. If the member refuses to listen to them, tell it to the church; and if the offender refuses to listen even to the church, let such a one be to you as a Gentile and a tax collector. For a review of the similarities and differences, see Timothy R. Carmody, "Matt 18:15-17 in Relation to Three Texts from Qumran Literature," in *To Touch the Text: Biblical and Related Studies in Honor of Joseph A. Fitzmyer*, ed. Maurya P. Hogan and Paul J. Kobelski (New York: Crossroad Publishing, 1989).

halakhically derive its legal conclusions in CD 9:16-23 in such fashion?

It has already been noted that the Mosaic Law requires two or three witnesses for the establishment of facts, including the conviction of criminals. But what can the court do if one witness sees the crime? In rabbinic law, the court can do nothing.[205] This, however, makes it possible for someone to commit a long series of capital offenses, each witnessed by one person – and walk around free. One would agree that he is a murderer, but for the sake of preserving the system, he would have to be left unpunished. And, in fact, rabbinic literature tells a few stories to demonstrative their refusal to prosecute.[206]

To be sure, the preservation of the legal system at Qumran was important; however, they believed much more was at stake if a guilty party was able to avoid prosecution due to a technicality. Sinfulness and impurity were linked together in the community, which created a need whereby wrong behavior had to be prosecuted for the purpose of maintaining their holy status. This was a necessity for them because they understood God's favor to be upon them only when they were believed to be holy. In other words, the fortunes or misfortunes of the community were directly linked to their ability to maintain a pure and holy society. These dynamics created a highly developed need to convict offenders *for the purpose of maintaining their holy statutes*, even when one individual was the only witness.[207]

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[205] Cf. "Jackson, Testes Singulares," 187-93. *M. Sanhedrin* 9:5 is often thought of as an exception to the ruling. "He who kills someone not before witnesses – they put him in prison and feed him 'the bread of adversity and the water of affliction" (Isa 30:20). Perhaps one could interpret this text as a reliance upon heaven to perform the right judgment when the earthly court is unable to do so.

[206] For a review of such examples, cf. Neusner, "By the Testimony," 205.

[207] Jackson writes: "While this is biblical exegesis, it results in making the legal process conform to reality, for if three separate witnesses all reported seeing a man perform the same crime on different occasions, we would believe them and want to be able to prosecute." Cf. Jackson, "Testes Singulares," 239.

Using the halakhic method of interpretation (discussed by Schiffman), the scribes at Qumran interpreted Deuteronomy's reference to "two or three witnesses" to mean that three witnesses separately could convict a man (CD 9:16-22), whereas two witnesses were enough to convict a man of a civil matter.[208] However, if the required number of witnesses were not available, the court had the option of removing the offender from the 'purity.' In capital cases, two witnesses must testify for the procedure to take place, but in matters of property (civil law), only one witness was required.

With only one witness required in this situation, the dimension of the legal reproof must have been added so that the singular witnessing rule could not be misused. Since no co-verification could take place, individuals may have been tempted to utilize the singular witness rule as a means of taking vengeance against another community member. In this way, reproof must be carried out in the specified manner, so to make sure that love, and not hate, is the motivating factor.

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[208] It seems to be irresponsible to have to warn someone with regards to a capital case three times before action will take place (although, perhaps it was better than doing nothing). It becomes important then, to determine what a capital case could mean in this instance. Perhaps, it could mean swearing by God's name which is found to be a capital case in CD 15:1-2. If indeed there is Sadducean influence in CD, it would strengthen the validity of this comment since Sadducees believed that swearing by God is blasphemy. In that case it would make much sense to warn a person three times; for, as Ben Sira states "who doesn't sin with his mouth?" Quoted in Kugel, "On Hidden Hatred and Open Reproach," 48. Schiffman also ponders this problem and writes: "It might be wondered how the Qumran sect would allow a man who had been seen in the act of two murders (capital crime) remain at large. The capital cases under discussion here are clearly infractions of ritual law (such as oaths). The sect must have had a means of protection against violent criminals, even in cases where a conviction was technically impossible. Cf. *M. Sanhedrin* 9:5 for the Tannaitic solution to this problem." Cf. Schiffman, "Laws of Testimony," 604.

CHAPTER SEVEN

CONCLUSION

The laws of witnesses and testimony found in the biblical tradition were interpreted in a variety of ways within the Second Temple Period. In order to better understand the development of these laws within the Dead Sea Scrolls, the history and the characteristics of the community were defined. Depending on the sources and criteria used, it was seen that one could identify the community with the Essenes if the evidence was directed to the social and ethical parameters of the group. If its laws were examined, a Sadducean, or Zadokite tendency strongly emerges.

The history and characteristics of the Qumran community also enabled one to better identify the dynamics at work within its laws. The primary concern of the community and its laws was one of purity, and holiness. These tendencies and concerns can be identified as priestly as they maintained a strong emphasis with the Levitical codes, as well as an intensification and reapplication of many of these laws.

The laws of witnessing in CD 9:16-23 can also be understood as a means for maintaining their strict understanding of purity and holiness. Witnessing plays an important role in any society; however, in the Qumran community, the ability to convict guilty persons was linked to the their holy status as community. Sin was a cause of impurity and therefore had to be aggressively contained. This is clearly seen in the fact that a guilty party could be excluded from the 'purity' by only *one* accusation of a community in matters of property.

WORKS CITED

Baumgarten, Joseph M. "Liquids and Susceptibility to Defilement in New 4Q Texts," *JQR* 85, no. 1-2 (1994): 91-101.

_____. "Sadducean Elements in Qumran Law." In *The Community of the Renewed Covenant: The Notre Dame Symposium on the Dead Sea Scrolls*, ed. Eugene Ulrich and James VanderKam, 27-36. Notre Dame, IN: University of Notre Dame Press, 1994.

_____. *Studies in Qumran Law*. Studies in Judaism in Late Antiquity, ed. Jacob Neusner, no. 24. Leiden: Brill, 1977.

_____. "The Cave 4 Versions of the Qumran Penal Code." *JJS* 43 (Aug 1992): 268-76.

_____. "The Heavenly Tribunal and the Personification of *Sedeq* in Jewish Apocalyptic." Principat 19, no. 2 (1979): 233-36.

_____. "The Laws of the Damascus Document: Between Bible and Mishnah." In *The Damascus Document: A Centennial of Discovery: Proceedings of the Third International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, 4-8 February, 1998*, ed. Joseph M. Baumgarten, Esther G. Chazon, Avital Pinnick, 17-26. Leiden: Brill, 2000.

_____. "The Pharisaic-Sadducean Controversies about Purity in the Qumran Texts." *JJS* 31 (1980): 157-70.

_____. "The Relevance of Rabbinic Sources to the Study of Qumran Law." In *Proceedings of the Twelfth World Congress of Jewish Studies, Jerusalem, July 29-August 5, 1997*, 73-8. Jerusalem: World Union of Jewish Studies, 1999.

Beall, T.S. *Josephus' Description of the Essenes Illustrated by the Dead Sea Scrolls*. Society for the New Testament Studies Monograph Series. Cambridge: Cambridge University Press, 1988.

Broshi, Magen. *The Damascus Document Reconsidered*. Jerusalem: Israel Exploration Society. 1992.

Bockmuehl, Markus N. A. *Revelation and Mystery in Ancient Judaism and Pauline Christianity*. Tübingen: J.C. B. Mohr, 1990. Reprint, Grand Rapids, MI: Eerdmans, 1997.

Burrows, Millar. *More Light on the Dead Sea Scrolls*. New York: Viking Press, 1958.

Callaway, P. R. *The History of the Qumran Community: An Investigation*. Journal for the Study of the Pseudepigrapha Series, no. 3. Sheffield: JSOT Press, 1988.

_____ . *Methodology, the Scrolls, and Origins*, in *Methods of Investigation of the Dead Sea Scrolls and the Khirbet Qumran Site*, ed. Michael O. Wise, and others, 409-427. New York: The New York Academy of Sciences, 1994.

Campbell, Jonathan G. *The Use of Scripture in the Damascus Document 1-8, 19-20*. Berlin: Walter de Gruyter, 1995.

Cansdale, Lena. *Qumran and the Essenes: a Re-Evaluation of the Evidence*. Tübingen: J. C. B. Mohr, 1997.

Carmichael, Calum M. "Deuteronomic Laws, Wisdom, and the Historical Traditions," *JSS* 12 (1987):198-206.

_____ . *The Laws of Deuteronomy*. London: Cornell University Press, 1974.

Charlesworth, James H. *Jesus and the Dead Sea Scrolls*. New York, NY: Doubleday, 1992.

_____ , ed. *Rule of the Community and Related Documents. The Dead Sea Scrolls*, vol. 1. Louisville, KY: Westminster Press, 1994.

_____ . "The Origin and Subsequent History of the Authors of the Dead Sea Scrolls: Four Transitional Phases Among the Qumran Essenes." *RQ* 38, no. 10 (1980): 213-33.

Christensen, Duane L. "Deuteronomy 1:1-21:9, Revised." In *Word Biblical Commentary, Volume 6A*, ed. Bruce M. Metzger, David A Hubbard, Glenns W. Barket. Nashville, TN: Thomas Nelson Publishers, 2001.

Collins, John J. "Powers in Heaven: God, Gods, and Angels in the Dead Sea Scrolls." In *Religion in the Dead Sea Scrolls*, ed. by John J. Collins and Robert A. Kugler, 9-28. Grand Rapids, MI: Eerdmans, 2000.

Craghan, John F. "A Redactional Study of LK 7:21 in the Light of DT 19:15," *CBQ* 29 (1967): 354-67.

Cross, F. M. *The Ancient Library of Qumran and Modern Biblical Studies*. Garden City, NY, 1959.

Daube, David. *Studies in Biblical Law*. Cambridge: Cambridge University Press, 1947.

_____. "The Law of Witnesses in Transferred Operation." *Journal of the Ancient Near Eastern Society of Columbia University* 5 (1973), 91-3.

Davies, Philip R. *Behind the Essenes: History and Ideology in the Dead Sea Scrolls*. Atlanta, GA: Scholars Press, 1987.

_____. "The Prehistory of Qumran." In *The Dead Sea Scrolls After Forty Years of Research*, ed. Devorah Dimant and Uriel Rappaport. Leiden: Brill, 1992.

_____. *Halakha at Qumran*. In *A Tribute to Geza Vermes: Essays on Jewish and Christian Literature and History*, ed. P.R. Davies and R. T. White. Sheffield: JOST Press, 1990.

Delcor, Mathias. *The Courts of the Church of Corinth and the Courts of Qumran*. In *Paul and Qumran: Studies in New Testament Exegesis*, ed. Jerome Murphy-O'Connor. Chicago, IL: Priority Press, 1968.

de Vaux, Roland. *Archaeology and the Dead Sea Scrolls*. London: Oxford University Press, 1973.

Dimant, Devorah. "Men As Angels: The Self-Image of the Qumran Community." In *Religion and Politics in the Ancient Near East*, ed. Adele Berlin, 93-103. Studies and Texts in Jewish History and Culture. Bethesda, MD: University Press of Maryland, 1996.

_____. "New Light from Qumran on the Jewish Pseudepigrapha—4Q390." In *The Madrid Qumran Congress: Proceedings of the International Congress on the Dead Sea Scrolls, Madrid, 18-21 March, 1991*, ed. Trebolle Barrera and Vegas Montaner, vol. 2, 405-48. Leiden: E. J. Brill, 1992.

_____. "Qumran Sectarian Literature," In *Jewish Writing of the Second Temple Period: Apocrypha, Pseudepigrapha, Qumran Sectarian Writings, Philo, Josephus*, ed. Michael E. Stone, 483-548. Philadelphia, PA: Fortress Press, 1984.

Dorff, Elliot N., and Arthur Rosett. *A Living Tree: The Roots and Growth of Jewish Law*. New York: Albany Press, 1988.

Douglas, Mary. *Purity and Danger*. Harmondsworth: Penguin Books, 1970.

Eshel, Esther. "4Q477: The Rebukes by the Overseer." *JJS* 45 (1994): 111-22.

Falk, Ze'ev. *Introduction of Jewish Law of the Second Commonwealth*. Lieden: E. J. Brill, 1972.

Ferguson, Everett. *Backgrounds of Early Christian*, 2d ed. Grand Rapids, MI: Eerdmans, 1993.

Finkel, Asher. "The Departure of the Essenes, Christians, and R. Yohanan ben Zakkai from Jerusalem." In *Wie Gut sind Diene Zelte Jaakow*, ed. R. Mayer. Bleicher Verlag, 1986.

_____. *The Pharisees and the Teacher of Nazareth: A Study of Their Background, Their Halakhic and Midrashic Teachings, the Similarities and Differences*, 1964. Reprint. Leiden: Brill, 1974.

_____. "The Theme of God's Presence and the Qumran Temple Scroll." In *God and His Temple: Reflections on Professor Samuel Terrien's The Elusive Presence: Towards a New Biblical Theology*, ed. Lawrence E. Frizzell. South Orange, NJ: Seton Hall University, 1984.

Fitzmyer, Joseph A. *The Dead Sea Scrolls and Christian Origins*. Grand Rapids, MI: Eerdmans, 2000.

Fletcher-Louis, Crispin H. T. *All the Glory of Adam: Liturgical Anthropology in the Dead Sea Scrolls*. Leiden: Brill, 2002.

Forkman, Göran. *The Limits of the Religious Community: Expulsion from the Religious Community within the Qumran Sect, Within Rabbinic Judaism, and Within Primitive Christianity*. Conietanea Biblica New Testament Series, no. 5. Lund: CWK Gleerup, 1972.

Gärtner, Bertil. *The Temple and the Community in Qumran and the New Testament: A Comparative Study in the Temple symbolism of the Qumran Texts and the New Testament*. Society for the New Testament Studies Monograph Series, ed. Matthew Black, no. 1. Cambridge: Cambridge University Press, 1965.

Ginzberg, Louis. *The Legends of the Jews*. JPS, 1956 reprint; Baltimore, MD: The John Hopkins University Press, 1998.

Golb, Norman. *Who Wrote the Dead Scrolls?: The Search for the Secret of Qumran*. New York: Schreiber, 1995.

Grossman, Maxine L. *Reading for History in the Damascus Document: A Methodological Method*. Leiden: Brill, 2002.

Harrington, Hannah K. *The Halakah and Religion of Qumran*, in *Religion in the Dead Sea Scrolls*, ed. John J. Collins, Robert A. Kugler, 74-89. Grand Rapids, MI: Eerdmans, 2000.

Hempel, Charlotte. *The Laws of the Damascus Document: Sources, Tradition and*

Redaction. Studies on the Texts of the Desert of Judah, ed. F. Garcia Martinez, A. S. Van Der Woude, vol 29. Leiden: Brill, 1998.

_____. "Community Structures in the Dead Sea Scrolls: Admission, Organization, Disciplinary Procedures." In *The Dead Sea Scrolls After Fifty Years,* vol II, ed. by Peter Flint, James C. VanderKam, 67-92. Leiden: Brill, 1998.

_____. "The Penal Code Reconsidered." In *Legal Texts and Legal Issues: Proceedings of the Second Meeting of the International Organization for Qumran Studies, Cambridge, 1995,* ed. Moshe Bernstein, Florentino Garcia Martinez, and John Kampen, 337-48. Leiden: Brill, 1997.

_____. "Community Origins in the Damascus Document in Light of Recent Scholarship." In *The Provo International Conference on the Dead Sea Scrolls,* ed. Donald W. Perry, Eugene Ulrich, 316-29. Leiden: Brill, 1999.

Hengel, Martin. *Qumran and Hellenism.* In *Religion in the Dead Sea Scrolls,* eds. John J. Collins and Robert A. Kugler, 46-56. Grand Rapids, MI: Eerdmans, 2000.

Horsely, Richard A. *Archaeology, History, and Society in Galilee: The Social Context of Jesus and the Rabbis.* Harrisburg, PA: Trinity Press International, 1996.

Hutt, Curtis. "Qumran and the Ancient Sources." In *The Provo International Conference on the Dead Sea Scrolls,* ed. Donald W. Perry and Eugene Elrich, 274-93. Leiden: Brill, 1999.

Jackson, Bernard S, ed. *Essays in Jewish and Comparative Legal History.* Studies in Judaism in Late Antiquity, ed. Jacob Neusner, no. 10. Leiden: Brill, 1975.

_____. "Damascus Document IX, 16-23 and Parallels." *RQ* 35, no. 9 (1978): 445-50.

_____, ed. *Jewish Law in Legal History and the Modern World.* Leiden: Brill, 1980.

_____. "Legalism." *JJS* 30 (1979): 1-22.

_____. *Theft in Early Jewish Law.* Oxford: Clarendon Press, 1972.

Jastram, Nathan. "Hierarchy at Qumran." In *Legal Texts and Legal Issues: Proceedings of the Second Meeting of the International Organization for Qumran Studies in Cambridge, 1995,* ed. Moshe Bernstein, Florentino Garcia Martinez, and John Kampen, 349-76. Leiden: E. J. Brill, 1997.

Josephus, Flavius. *The Works of Josephus: Complete and Unabridged,* trans. William Whiston. Peabody, MA: Hendrickson, 1987.

Kister, M. "Some Aspects of Qumran Halakha." In *The Madrid Qumran Congress: Proceedings of the International Congress on the Dead Sea Scrolls, Madrid 18-21 March 1991*, ed. Trebolle, Julio C. Vegas, Luis Montaner, 571-88. Leiden: Brill, 1992.

Knibb, Michael. "Exile in the Damascus Document." *JSOT* 25 (1983): 99-117.

Knierim, R. "מעל m'l to be unfaithful." In *Theological Lexicon of the Old Testament*, vol. 2, ed. Ernst Jenni and Claus Westermann. Peabody, MA: Hendrickson Publishers, 1994.

Knohl, Israel. "נגלות ונסתרות--The revealed and Hidden Torah." *JQR* 85, no. 1-2 (1994): 103-8.

Kugel, James L. "On Hidden Hatred and Open Reproach: Early Exegesis of Leviticus 19:17." *HTR* 80, no. 1 (1987): 43-61.

Kugler, Robert A. "Halakhic Interpretive Strategies at Qumran: A Case Study. In *Legal Texts and Legal Issues: Proceedings of the Second Meeting of the International Organization for Qumran Studies in Cambridge, 1995*, ed. Moshe Bernstein, Florentino Garcia Martinez, and John Kampen, 131-40. Leiden: Brill, 1997.

_____. "Priesthood at Qumran." In *The Dead Sea Scrolls After Fifty Years*, vol. II, ed. by Peter Flint, James C. VanderKam, 93-116. Leiden: Brill, 1998.

Leancy, A. R. C. *The Rule of Qumran and its Meaning: Introduction, Translation and Commentary*. The New Testament Library, ed. Alan Richardson, C. F. D. Mouie, and Floyd V. Filson. Philadelphia, PA: SCM Press, 1966.

Levine, B. A. "Damascus Document IX, 17-22: A New Translation and Comments." *RQ* 8, no. 2 (1973): 195-7.

Levinson, Bernard M. *Deuteronomy and the Hermeneutics of Legal Innovation*. New York: Oxford University Press, 1997.

Lewittes, Mendell. *Jewish Law: An Introduction*. Northvale, NJ: Jason Aronson, 1994.

Martinez, Florentine Garcia. "Qumran Origins and Early History: A Groningen Hypothesis." *Folia Orientlia* 25 (1988): 113-36.

_____, and A. S. Van Der Woude. "A Gronigen Hypothesis of Qumran Origins and Early History." *RQ* 56, no. 14 (1990): 521-41.

_____. *The Dead Sea Scrolls Translated: The Qumran Texts in English*, 2d ed. Translated by Wilfred G. E. Watson. Leiden: Brill, 1996.

_____. "Priestly Functions in a Community without Temple." In *Gemeinde Ohne Temple: Community without Temple*, ed. Beato Ego, Armin Lange and Peter Pilhofer, 303-19. Tübingen: Mohr Siebeck, 1999.

_____ and Julio Barrera. *The People of the Dead Sea Scrolls: Their Writings, Beliefs and Practices*. Translated by Wilfred G. E. Watson. Leiden: Brill, 1993.

McDaniel, Karl. "The Son of Man and Apocalyptic Restoration: Culmination in the Gospel of Matthew." M.A. diss., Seton Hall University, 2002.

Metso, Sabrinna. "Constitutional Rules at Qumran." In *The Dead Sea Scrolls After Fifty Years*, vol I, ed. Peter Flint and James C. VanderKam, 186-210. Leiden: Brill, 1998.

Milik, J. T. *Ten Years of Discovery in the Wilderness of Judaea*. Translated by J. Strugnell. Naperville, IL: Allenson, 1959.

Milgrom, Jacob. *Cult and Conscience: The Asham and the Priestly Doctrine of Repentance*. Studies in Judaism in Late Antiquity, ed. Jacob Neusner, no. 18. Leiden: Brill, 1976.

_____. *Leviticus 1-16: A New Translation with Introduction and Commentary*. The Anchor Bible, ed. David Freedman. New York: Doubleday, 1991.

_____. *Leviticus 17-22: A New Translation*. The Anchor Bible, ed. David Freedman. New York: Doubleday, 2001.

_____. "The Dynamics of Purity in the Priestly System." In *Purity and Holiness: The Heritage of Leviticus*, ed. M. J. H. M. Poorthuis and J. Schwartz, 29-32. Leiden: Brill, 2000.

Moore, Carey A. *Daniel, Esther and Jeremiah: The Additions*. The Anchor Bible, ed. David Freedman. Garden City, NY: Doubleday, 1977.

Murphy-O'Connor, Jerome. "The Damascus Document Revisited." *RQ* 35, no. 9 (1978): 223-46.

_____. "The Essences and Their History." *RB* 81 (1974): 215-44.

_____. "The Damascus Document Revisited." *RB* 2 (April 1985): 228-9.

Naude, Jacobus. "Holiness in the Dead Scrolls." In *The Dead Sea Scrolls After Fifty Year*, vol. II, ed. James VanderKam and Eugene Ulrich, 171-99. Lieden: Brill, 1998.

Neusner, Jacob. "Damascus Document IX, 17-22 and Irrelevant Parallels." *RQ* 35, no. 9 (1978): 441-4.

_____. "'By the Testimony of Two Witnesses' in the Damascus Document IX, 17-22 and in Pharisaic-rabbinic Law." *RQ* 8, no. 2 (1973): 197-217.

Newsom, Carol A. "'He Has Established For Himself Priests': Human and Angelic Priesthood in the Qumran Sabbath *Shirot*." In *Archaeology and History in the Dead Sea Scrolls: The New York University Conference in Memory of Yagael Yadin*, ed. Lawrence H. Schiffman,101-20. Journal for the Study of the Pseudepigrapha Supplement Series, ed. James H. Charlesworth, no. 8. Sheffield: JSOT Press, 1990Sheffield: JSOT Press, 1990

Nickelsburg, George W. E. "The Epistle of Enoch and Qumran Literature." *JJS* 33 (Spr-Aut 1982): 333-48.

_____. "1 Enoch and Qumran Origins: The State of the Question and Some Prospects for Answers," In *Society of Biblical Literature Seminar Papers*, ed. K. H. Richards, no 25. Atlanta: Scholars Press, 1986.

Nitzan, Bilhah. "The Laws of Reproof in 4Qberakhot (4Q286-290) in Light of Their Parallels in the Damascus Covenant and Other Texts from Qumran." In *Legal Texts and Legal Issues: Proceedings of the Second Meeting of International Organization for Qumran Studies, Cambridge 1995*, ed. Moshe Bernstein, Florentino Garcia Martinez, and John Kampen, 149-65. Leiden: Brill, 1997.

Phillips, Anthony. *Israel's Criminal Law: A New Approach to the Decalogue*. Oxford: Blackwell, 1970.

Polak, Joseph A. "Some Social and Societal Implications of the Laws of Witnesses." In, *Jewish Law Association Studies IV: The Boston Conference Volume*, ed. Bernard S. Jackson. Atlanta, GA: Scholars Press, 1990.

Rabinovitch, N. L. Damascus Document IX, 17-22 and Rabbinic Parallels." *RQ* 33, no. 9 (1977): 113-6.

Rice, Cheryl L. "The Maskilim: Exempla of Levitical Pedagogy in Second Temple Judaism." M.A. diss., Seton Hall University, 1999.

Rowland, Christopher. *The Open Heaven: A Study of Apocalyptic in Judaism and Early Christianity*. London: SPCK, 1982.

Russell, D. S. *The Method and Message of Jewish Apocalyptic*. Philadelphia: Westminster Press, 1964.

Schiffman, Lawerence. "Halakhah and Sectarianism in the Dead Scrolls." In *The Dead Sea Scrolls and Their Historical Context*, ed. Timothy H. Lim, 123-43. Edinburgh: T. and T. Clark, 2000.

_____. "Legislation Concerning Relations with Non-Jews in the Zadokite Fragments and Tannaitic Literature." *RQ* 11 (1982-84): 379-89.

_____. "Purity and Exclusion in SEREKH HA-'EDAH." In *Biblical Archaeology Today: Proceedings of the International Congress on Biblical Archaeology, Jerusalem, April 1984*, ed. Janet Amitai, 373-89. Jerusalem: Israel Exploration Society, 1985.

_____. "Qumran Law of Testimony." *RQ* 8, no. 8, no. 4 (1975): 603-612.

_____. *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background Of Christianity, the Lost Library of Qumran*. Jerusalem: JPS, 1994.

_____. "Reproof as a Requisite for Punishment in the Law of the Dead Sea Scrolls." *Jewish Law Association Studies*, vol. 2, ed. B. S. Jackson. Atlanta, GA: Scholars Press, 1986.

_____. *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony, and the Penal Code*. Brown Judaic Studies, ed. Jacob Neusner and others, no. 33. Chico, CA: Scholars Press, 1983.

_____. "The Community's Withdrawal from the Jerusalem Temple." In *Gemeinde Ohne Tempel: Community without Temple*, ed. Beato Ego, Armin Lange and Peter Pilhofer, 267-83. Tübingen: Mohr Siebeck, 1999.

_____. *The Halakhah at Qumran*. Leiden: Brill, 1975.

_____. "The New Halakhic Letter (4QMMT) and the Origins of the Dead Sea Sect." *BA* 53, no. 2 (June 1990): 64-73.

_____. "The Qumran Scrolls and Rabbinic Judaism." In *The Dead Sea Scrolls After Fifty Years*, vol. II, ed. Peter Flint and James C. VanderKam, 552-69. Leiden: Brill, 1998.

_____. "The Sadducean Origins of the Dead Sea Scroll Sect." In *Understanding the Dead Sea Scrolls*, ed. Hershel Shanks. New York: Random House, 1992.

_____. "The Zadokite Fragments and the Temple Scroll." In *The Damascus Document: A Centennial of Discovery. Proceedings of the Third International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, 4-8 February, 1998*, ed. Joseph M. Baumgarten, Esther G. Chazon, and Avital Pinnick, 133-45. Leiden: Brill, 2000.

Schürer, Emil. *The History of the Jewish People in the Age of Jesus Christ (175 B.C. – A D. 135).* Vol II, ed. by Geza Vermes. Edinburgh: T. and T. Clark, 1979.

Schwartz, Daniel R. "Law and Truth: On Qumran-Sadducean and Rabbinic Views of the Law." In *The Dead Sea Scrolls After Forty Years of Research,* ed. Devorah Dimant and Uriel Rappaport, 229-40. Leiden: Brill, 1992.

_____. "A Priestly View of Descent at Qumran." In *Archaeology and History in the Dead Sea Scrolls: The New York University Conference in Memory of Yagael Yadin,* ed. Lawrence H. Schiffman,157-79. Journal for the Study of the Pseudepigrapha Supplement Series, ed. James H. Charlesworth, no. 8. Sheffield: JSOT Press, 1990

Smallwood, E. Mary. *The Jews Under Roman Rule: From Pompey to Diocletian.* Leiden: Brill, 1976. Reprint, Leiden: Brill, 2001.

Stegemann, Harmut *The Library of Qumran: On The Essenes, Qumran, John the Baptist, and Jesus.* Grand Rapids, MI: Eerdmans, 1993.

_____. "The Qumran Essenes– Local Members of the Main Jewish Union In Late Second Temple Times." In *The Madrid Qumran Congress: Proceedings of the International Congress on the Dead Sea Scrolls, Madrid 18-21 March 1991,* vol. I, ed. Trebolle, Julio C. Vegas, Luis Montaner, 83-166. Leiden: Brill, 1992.

Stone, Michael E, ed. "Apocalyptic Literature." In *Jewish Writing of the Second Temple Period: Apocrypha, Pseudepigrapha, Qumran Sectarian Writings, Philo, Josephus,* 383-437. Philadelphia, PA: Fortress Press, 1984.

_____, trans. *The Testament of Abraham: The Greek Recensions.* Missoula, MN: Society of Biblical Literature, 1972.

Sussman, Y. "The History of the Halakha and the Dead Sea Scrolls: Preliminary Talmudic Observations on *Miqsat Ma'ase Ha-Torah* (4QMMT)." In *Qumran Cave 4,* ed. Qimron and Strugnell. Oxford: Claredon Press, 1990.

Talmon, Shemaryahu. *King, Cult and Calendar in Ancient Israel.* Jerusalem: Magness Press, 1986.

_____. "Qumran Studies: Past, Present, and Future." *JQR* 85, no. 1-2 (1994): 1-31

_____. "The Community of the Renewed Covenant: Between Judaism and Christianity," In *The Community of the Renewed Covenant: The Notre Dame Symposium on the Dead Sea Scrolls,* ed. Eugene Ulrich, James VanderKam. Notre Dame, IN: Notre Dame University Press, 1994.

VanderKam, James C. "2 Maccabees 6,7a and Calendrical Change in Jerusalem." *JSOJ* 12 (1981): 52-79.

_____. "Apocalyptic Tradition in the Dead Sea Scrolls and the Religion of Qumran." In *Religion in the Dead Sea Scrolls*, ed. John J. Collins and Robert A. Kugler. Grand Rapids, MI: Eerdmans, 2000.

_____. "Calendrical Texts and the Origins of the Dead Sea Scrolls Community." In *Methods of Investigation of the Dead Sea Scrolls and the Khirbet Qumran Site: Present Realities and Future Prospects*, Annals of the New York Academy of Sciences, ed. Michael O. Wise and others, no. 722. New York: New York Academy of Sciences, 1994.

_____. *Dead Sea Scrolls Today*. Grand Rapids, MI: Eerdmans, 1994.

_____. "Identity and History of the Community." In *The Dead Sea Scrolls After Fifty Years*, vol II, ed. by Peter Flint and James C. VanderKam, 487-531. Leiden: Brill, 1998.

_____. "The People of the Dead Sea Scrolls: Essene or Sadducean?" In *Understanding the Dead Sea Scrolls*, ed. Hershel Shanks. New York: Random House, 1992.

Van Der Woude, Adam S. *Fifty Years of Qumran Research*. In *The Dead Sea Scrolls After Fifty Years: A Comprehensive Assessment*, vol. I, ed. Peter W. Flint and James C. VanderKam, 1-45. Leiden: Brill, 1998.

Van Vliet, Hendrik. *No Single Testimony: A Study on the Adoption of the Law of Deut 19:15 Par. Into the New Testament*. Utrecht: Kemink, 1958.

Vermes, Geza, *An Introduction to the Complete Dead Sea Scrolls*. Minneapolis, MN: Fortress Press, 2000.

_____. *Discovery in the Judean Desert*. New York: Desclee, 1956

_____. *The Complete Dead Sea Scrolls in English*. New York: Penguin Press, 1997.

Von Rad, Gerhard. *Deuteronomy: A Commentary*. Philadelphia: Westminster Press, 1966.

Wacholder, Ben Zion. "Rules of Testimony in Qumranic Jurisprudence: CD 9 and 11Q Torah 64." *JJS* 40 (1989): 163-74.

Weinfeld, Moses. *The Organizational Pattern and the Penal Code of the Qumran Sect: A Comparison with Guilds and Religious Associations of the Hellenistic-Roman Period.* Novum Testament et Orbis Antiquus, no. 2. Fribourg: Editions Universitaires, 1986.

Wernberg-Møller, P. *Manual of Disciple.* Leiden: Brill, 1957.

Yadin, Yigael, ed. *The Temple Scroll.* Vol 1. Jerusalem: Israel Exploration Society, 1983.

Robert R. Wilson, "Israel's Preexilic Judicial System," *JQR* 74 no. 2 (1983), 299-30.