

THE LAWS OF THE *DAMASCUS DOCUMENT* IN CURRENT RESEARCH

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The modern study of the *Damascus Document* (CD) now has an ongoing history of more than three quarters of a century. First published in 1910 by Solomon Schechter, under the title *Fragments of a Zadokite Work*,¹ the text was the subject of inconclusive scholarly debates for about forty years.² At issue was not only the interpretation of this or that passage of this enigmatic text, but primary philological questions of the religious identity of its author/s or editor/s and the age in which he/they lived. The theories concerning the historical context ran the gamut from the period of the Second Temple through the beginnings of Christianity to the emergence of the Karaite movement in the early Middle Ages. It was only when the Qumran findings became known in the fifties and the subsequent identification of portions of the text among the fragments from the caves, that it was generally recognised that CD was part of an extensive literature belonging to the library of the Qumran community.

The determination of the provenance of the text, so one might suppose, would have settled the major outstanding philological issues, and placed contemporary students of CD in the enviable position of having the hindsight to critically appraise the less informed gropings of their predecessors. What has actually happened provides little warrant for such complacency. Not only, as one might expect in the history of research, have new questions replaced the old ones, but in some areas, contemporary students have neglected to develop the paths already marked out by the generation of earlier scholars.

¹ In many ways this title seems retrospectively more appropriate than *Damascus Document*, which is now common in the literature. The meaning of "Damascus," whether geographical or symbolic, is still debated, while the Zadokite character of the document's laws and ideology is beyond question. However, it would be impractical to now modify the sigla in wide use.

² For bibliography, see J.A. Fitzmyer's *Prolegomenon* in the reprint of S. Schechter, *Documents of Jewish Sectaries* (New York, 1970), 25-34, and the bibliography by F. Garcia Martinez in this volume.

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One such area is that of the laws in the *Damascus Document*. In his *editio princeps*, Schechter devoted a fair amount of attention to the laws, especially the Jubilees calendar and the marriage rules, which he related to the teachings of the Zadokites as described by Qirqisani. A detailed analysis of the halakic material in the text was offered by Louis Ginzberg.³ Although his conclusion concerning the Pharisaic identity of the sect is no longer tenable in the light of what we now know about the sectarian calendar and other polemical halakic issues, Ginzberg's study retains its value for its recognition of the centrality of religious law in sectarian history. By contrast, since the finding of the Scrolls, the laws in the *Damascus Document* have generally been treated with benign neglect. Yet as one can readily see, the function of the Admonition in CD is primarily that of an introduction to the laws.

In this introduction the Pharisaic opponents of the Teacher of Righteousness are denounced for "seeking smooth things" and "turning aside from the paths of righteousness" by following the false teachings of the Scoffer (1:15-18). Divine retribution, it warns, will be executed against those who "backslide from the way and abhor the statute" (2:6). The adherents of the sect, who "hold fast to the commandments" have "revealed to them hidden things in which all Israel has gone astray" (3:12-14). Those who join them must swear "to return to the Law of Moses" (15:12), that is to follow the exegesis embodied in the accompanying collection of laws.

Before the publication of the Scrolls there may have been some who entertained doubts as to whether the corpus of religious laws was an integral part of CD. No other halakic text from the pre-rabbinic period was then known. Now the situation is radically different.

In his description of the Cave 4 (4Q) fragments of the *Damascus Document*, J.T. Milik has indicated that they contain, among other supplements, major additions to the corpus of laws preserved in Genizah manuscript A:

Before page XV, we can detect the loss of several pages in the Cairo manuscript A. Numerous fragments from the Cave IV manuscripts belong to this missing section. These contain prescriptions concerning the cultic purity of priests and sacrifices; a more detailed treatment of the law of diseases (Lev 13:29ff.) and an expanded version of Lev 15 (fluxes of men and women), laws

³ L. Ginzberg, "Eine unbekannte jüdische Sekte" (New York, 1922), *MGWJ* 55 (1911) — *MGWJ* 58 (1914).

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of marriage, prescriptions relating to agricultural life, the payment of tithes, relations with pagans, relations between the sexes, a prohibition of magic, etc.⁴

This synoptic description is the fruit of Milik's expert transcription and hypothetical placement of eight different manuscripts (A, B, C, D, E, F, G, H) of the *Damascus Document* from Cave 4. More recently he invited this writer to undertake the completion of the publication of these manuscripts. The following is a more detailed list of supplements to CD derived from an examination of the 4Q fragments with a tentative indication of their placement relative to the Genizah text:

1. A teacher's first person call to the Sons of Light to separate from transgressors, *מסיגי גבול*, and to hearken to the voice of Moses, despite those who slander the laws of the covenant. This call precedes the one found at the beginning of the Genizah text.

2. Introductory to the laws, a catalogue of transgressions, with the recurring formula *או אשר* followed by an imperfect verb. One example reads: *או אשר יגלה את* [או] אשר יגלה את, "Or] one who reveals a secret of his people to the Gentiles," an offense also treated in the *Temple Scroll*.⁵ Another refers to the ban on slaughtering pregnant animals: *או ישחט בהמה וחיה עברה*, which is now also found in 4QMMT.⁶ In the same context, we find the conclusion of a law apparently prohibiting intercourse during pregnancy, which brings to mind what Josephus reports about the marrying Essenes.⁷ The text also refers to those afflicted with skin disease and fluxes, which were presumably viewed as symptomatic of sin.

Unfortunately the fragmentary state of the text makes it difficult to determine the specific purpose of the catalogue. The disparate nature of the sins listed would suggest that they were perhaps intended to illustrate the neglect of the Law in contemporary society. The author concludes with an appeal to the *ידעי צדק* to choose between the "ways of life" and the "paths of perdition."

3. The communal role of the priests; various rules about priestly disqualifications.

4. The ordeal of the *Sotah* (Num 5:11-31).

⁴ J.T. Milik, *Ten Years of Discovery in the Wilderness of Judea* (London, 1959), 151-152.

⁵ *Temple Scroll*, 64.

⁶ J. Strugnell and E. Qimron, "An Unpublished Halakhic Letter From Qumran," in J. Amitai (ed.), *Biblical Archaeology Today* (Jerusalem, 1985), 400-407.

⁷ Josephus Flavius, *Jewish War* 2, par. 161.

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5. A section on skin diseases, fluxes, and childbirth. In a recent paper⁸ I have published the parallel fragments on skin disease found in Mss. A, D, G, H from Cave 4. These contain some of the earliest references to the movement of the blood in the etiology of disease. They are of considerable significance for the history of ancient medicine.

6. Agricultural laws pertaining to °Orlah, Leqet, Ḥallah, and Ma°ser.

7. The impurity of metals used in pagan cults.

8. The law of fraud (Lev 25:14) applied to the arrangement of marriages, presumably by the father of the bride. He must make full disclosure of any blemishes so as not to "mislead the blind" (Deut 27:18). Nor should he give his daughter to an incompatible husband, which would be tantamount to plowing with animals of different species (Deut 22:10). The text adds other precautions to ascertain the good moral character of a prospective bride, a subject which, as we may gather from Josephus, was of great concern to the Essenes who practiced marriage.⁹

Then follow the communal rules found in CDC 15 and laws about oaths in CDC 16, followed by the corpus of laws in CDC 9-14.

9. A penal code for infractions of communal discipline. This code corresponds very closely to that of the *Community Rule* both in the list of offenses and the nature of the penalties. In four instances we have suspensions of the same length set for the same infractions. We do not, however, find any reference in the Cave 4 code to reductions in the food ration. Interestingly, it lists a transgression of the marriage laws for which the penalty is expulsion:

[ואשר יקרוב] לזנות לאשתו אשר לא כמשפט ויצא ולא ישוב עוד

"He who fornicates with his wife contrary to the law shall depart and return no more."

We can only speculate as to the nature of this marital transgression, but its absence in the *Community Rule* would be readily explainable if the latter were intended for a celibate order. Reductions in food rations would, on the other hand, be practical only in a monastic community.

Another offense not previously known, for which expulsion is specified, involves contempt of the so-called "Fathers" of the community. A similar offense against the "Mothers" is punished by only temporary suspension. We suspect that

⁸ J. Baumgarten, "The 4Q Zadokite Fragments on Skin Disease," *JJS* 41 (1990), 153-165.

⁹ *Jewish War* (above, n. 7), par. 161.

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these terms, which may be compared to the "Brothers" and "Sisters" mentioned in 4Q502,¹⁰ refer to elders of the sect. We may cite in this connection, Philo's report about the Essenes:

The elderly too even if they are childless are treated as parents of a not merely numerous but very filial family...so many are those who give them precedence and honour as their due." (Hypothetica 11:13)

10. At the end of the text, there is a description of a ritual for the expulsion of those who reject the laws of the community. This would apparently take place in conjunction with the annual renewal of the covenant in the third month.

It is evident from the foregoing description that the Cave 4 additions to the *Damascus Document* pertain predominantly to the laws and communal rules. These can now be estimated to have constituted about two thirds of the work. The Admonition, which repeatedly calls for adherence to the proper interpretation of the Law, is thus to be viewed as essentially an introduction to a corpus of Torah interpretation and sectarian rulings, a פרוש המשפטים.

These משפטים display affinities with the whole range of Qumran *serakhim* and halakic sources. Thus, the penal code is closely related to that of the *Serekh ha-Yahad*, although it is modified to suit the organization of those who lived in camps, "marrying and begetting children" (7:6-7).¹¹ The subject of marriage is salient among the topics treated in the 4Q fragments, including rules known to have been followed by the marrying Essenes.

To the already known list of congruities between the *Damascus Document* and the *Temple Scroll*,¹² we may now add the reference to the treasonable revelation of national secrets. In genre, however, CD is clearly not like the *Temple Scroll* or *Jubilees* which are supplements to the Torah. Its use of exegesis, though sporadic, sets it apart from directly revealed statutes. Moreover, although it contains some specific accusations against prevailing marital practices, such as polygamy, uncle-niece marriages, and violations of the mandatory separation during the menses

¹⁰ See J. Baumgarten, "4Q502, Marriage or Golden Age Ritual?," *JJS* 35 (1983), 133.

¹¹ This passage contains a significant allusion to bifurcation with regard to marriage and celibacy within the Qumran community. See my paper, "The Qumran-Essene Restraints on Marriage," in *Archaeology and History in the Dead Sea Scrolls: The New York University Conference in Memory of Yigael Yadin* (ed. L.H. Schiffman; Sheffield: JSOT, 1990), 13-24.

¹² Among the salient parallels we may list the prohibition of polygamy, the ban on uncle-niece marriages, the prohibition of marital relations in the city of the sanctuary, and the rule requiring the removal of oil and liquids from surfaces as carriers of ritual uncleanness.

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(4:14–5:11), the bulk of the CD laws, including the largest topical collection on the Sabbath, is not formulated in polemical fashion. This holds true even for the prohibition of extraneous offerings on the Sabbath, a practice which 4Q513 labels “an error of blindness.”¹³ Similarly, as far as the organizational and the penal rules are concerned, they are set forth in the same objective manner as in the *Community Rule*.

Of the models presently available, 4Q159 appears to best approximate the method and form of the religious laws in CD. 4Q159 is an anthology of elaborations of biblical laws on diverse topics.¹⁴ One fragment deals with portions of the harvest for the poor, the half-shekel tax, and the specification of measures. Another deals with slavery, a court of twelve (defiance of whose decisions carries a death penalty), the prohibition of wearing garments of the opposite sex, and the Deuteronomic law about a husband who charges his wife with pre-nuptial unchastity. The range of subjects does not follow any biblical sequence, nor is there any apparent unifying theme.

The *Damascus Document*, likewise, contains amplifications of biblical laws on a variety of subjects. The subjects are not presented in scriptural sequence as in the *peshtarim* and in rabbinic midrash. Occasionally there are topical headings beginning with **ל**: concerning purification with water (10:10), concerning the Sabbath (10:14), and concerning the law of donations (16:13).

In 4Q159 we have: “Concerning...money of valuations that every man gives a ransom for his soul (Ex 30:12) half a shekel.” Here the heading introduces a biblical quotation which is then elaborated. This is similar to what we have in CDC 9:9: “Concerning the oath, of which he said, Let not thy hand help thee,” and 16:10: “Concerning the oath of a woman, of which he said that her husband may annul her oath.”

Nevertheless, CD does not consistently offer explicit biblical citations in support of the laws, most of which are formulated apodictically like biblical rules applying to “a man,” **איש**. The **איש** formulation is likewise used in 4Q159 and is characteristic of many of the laws in the *Temple Scroll* and in *Jubilees*. Yet, the authority of the latter derived from the claim to represent direct divine revelation, while no such claim is found in CD. We would assume that the authority of

¹³ See J. Baumgarten, “Halakhic Polemics in New Fragments from Qumran Cave 4,” in J. Amitai. (ed.), *Biblical Archaeology Today* (Jerusalem, 1985), 390–399.

¹⁴ J. Allegro, *Discoveries in the Judaean Desert V* (Oxford, 1968), pp. 6–8; see also 4Q513 in M. Baillet, *DJD VII* (Oxford, 1982), 287–294.

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its laws, like those of the Sadducean *Book of Decrees*, derived simply from their being "written and deposited" in communal compendia.¹⁵

The view that CD is a composite work is widely shared, though there has been no consensus on the segmentation of the text among those applying various techniques of source analysis.¹⁶ No doubt these efforts will now be renewed. With regard to the laws, we shall at present limit ourselves to the initial observation that they appear to be compilations from a wide range of sources representing the whole spectrum of Qumran legislation and exegesis. Since this legal corpus is now known to have had multiple intersections with contemporary Sadducean and proto-rabbinic traditions, we may look forward to a significant enrichment of Jewish religious history.

The following is a description of the eight Cave 4 manuscripts of the *Damascus Document* which Milik has identified:

D^a

Ms.D^a (provisionally 4Q266), both the oldest and the largest of the fragments, takes up eighteen plates in the PAM collection of facsimiles. These include the beginning column of CD, of which a right margin of about 4 cm is preserved, followed by a column with parts of twenty out of twenty-five lines. The writing is in a semi-cursive Hasmonean hand which in Cross' paleographic sequence may be dated to the first half of the first century B.C.E. The opening of the text contains a first-person call by a teacher to separate from transgressors, *מסיגי גבול*, and to hearken to the voice of Moses, despite those who slander the laws of the covenant. The second call to hearken, found at the beginning of the Genizah text, follows in column 2 after the mention of the *נסתרות*, the hidden interpretations of the Law.

The middle portions of this manuscript have surprisingly suffered more damage than its extremities. Yet they contain important additions to the corpus

¹⁵ See E. Urbach, "The *Derasha* as a Basis of the Halakha" *Tarbiz* 27 (1957-1958): 181 (Hebrew) and my *Studies in Qumran Law* (Leiden, 1977) 21-22.

¹⁶ Cf. J. Murphy-O'Connor, "A Literary Analysis of *Damascus Document* VI, 2-VIII, 3," *RB* 78 (1971), 210-232; and "The *Damascus Document* Revisited," in *SBL Seminar Papers* (Atlanta, 1986), 369-383. Cf. P.R. Davies, *The Damascus Covenant. An Interpretation of the 'Damascus Document'* (Sheffield, 1982).

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of laws found in CDC. Column 17, by Milik's reckoning, preserves substantial parts of fifteen lines interpreting the laws of skin diseases in Lev 13; his transcription of this fragment appeared in 1966.¹⁷

Among the portions of Ms.D^a which parallel the text of CDC, we now have a substantial improvement of the text of folio 15, which includes a rule about the exclusion of the mentally and physically impaired from communal assemblies:

וכול פתי ושוגגה וכה עינים לבלתי ראות וחגר או פסח או חרש או נער זעטוט [אל יבו] איש מאלה אל
תוך העדה כי מלאכי הקדוש בתוכם

"Any demented fool, any simple-minded or errant man, and one with dimmed eyes who cannot see, one who limps or is lame, the deaf, any young boy, none of these shall come into the midst of the congregation, for the holy angels are in their midst."

The same rule is found in the סרך העדה, which like the *Damascus Document*, envisions a society with marriage and family life.

Ms.D^a also preserves most of the final column of the text which is followed by a blank space of about 10 cm in width. The contents are partly devoted to the ritual for the expulsion of those who reject the laws of the community. This would apparently take place in conjunction with the gathering of all the camps in the third month.

The summary statement at the end of the work begins with the words:

זה פרוש המשפטים אשר יעשו בכול קץ ...

"This is the explication of the laws which they are to follow during the whole period of ..."

D^e

Second in size is Ms.D^e to which belong five facsimiles in the PAM series. It is written in a late Herodian formal hand with both horizontal and vertical guidelines. The columns have an estimated twenty-one lines with an upper margin of *circa* 2 cm and a lower one of 2.5 cm.

Fragment 2 contains the above-mentioned extended catalogue of transgressions with the recurring formula או אשר followed by an imperfect verb.

¹⁷ J.T. Milik, "Fragment d'une source du Psautier," *RB* 73 (1966), 105.

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Manuscript D^a (4Q266)

Ms. D^e likewise preserves the end of the last column of the *Damascus Document*, which is followed by a *vacat* of six lines and a lower margin of 2.5 cm. The last line reads האחרון [] על מדרש, which most likely is to be restored as:

על מדרש התורה האחרון

“In accordance with the latter interpretation of the Torah.”

We note that CDC 20:6–9 refers to מדרש התורה engaged in by the Men of Holy Perfection, but rejected by המאס בראשונים ובאחרונים. The latter is an allusion to chronological phases in the revelation of the Torah to the sect’s interpreters.

D^f

This late Herodian manuscript preserves substantial parts of four columns of two lines with about forty-four characters per line. Upper margins, as well as

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intercolumnar stitchings, are partially visible, with faint traces of horizontal and vertical dry lines.

The first column applies the law of fraud in Lev 25:14 to the arrangement of marriages, as mentioned above.

In the second column we have fragments of miscellaneous laws on tithing, the impurity of metals obtained from pagan sources, and the status of minors.

Fragment 3 has twenty-one lines of a column which contains a substantial section of the Sabbath code found in CDC 11:4–12:6, while Fragment 4 corresponds to the section on oaths in CDC 15–16.

D^d

Of this Herodian manuscript only relatively small fragments are extant. Three concern the diagnosis of skin disease of which we have a larger excerpt in Ms.A. Two concern the impurity of metals used in pagan cults, which, as noted, is also found in D^f. Two others can be identified with the penal code for violations of communal discipline, of which only a few phrases remain in CDC 14:18–23. However, we now have substantial additions to this code in Mss. A and E.

Ms.D^h

This manuscript, written on papyrus in a Herodian formal script, is very poorly preserved. It is possible to identify remnants of nine lines as belonging to the section on skin disease. The reference to ספר התורה comes from a law apparently disqualifying priests with indistinct pronunciation from serving as public readers; its text can only be pieced together by combining Mss. A, B, and H.

D^b

This manuscript, written in a formal hand of the latter part of the first century B.C.E., takes up only two photos in the PAM series, but is important in confirming the general reliability of the Genizah texts. Fragment 2 has parts of fifteen lines corresponding to CDC 5:17–6:7, an interpretation of the Well passage in Nu 21:18. The passage is introduced here with the quotation formula, אשר אמר מושה, but its interpretation is the same as that which we find in CDC, including the allusion to a sojourn in Damascus, however scholars may understand this. Another piece has parts of twenty-five lines corresponding to CDC

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13:5-14:10, which deals with the functions of the *mebaqqer* and the organization of the "meeting of all the camps."

D^c

This is a late Herodian manuscript written in a formal book hand. What remains are parts of sixteen lines which contain the opening of the Genizah text, preceded by a portion of the introductory text also found in Ms.A. This refers to the periods ordained by providence and the "hidden things" revealed to those who seek the true meaning of his commandments.

D^g

Fragments of only two columns of this manuscript are extant, including upper and lower margins of 1.5 to 2 cm. Milik estimated twenty lines per column with thirty-six to thirty-nine letters per line. The writing is in a formal Hasmonean hand of the first century B.C.E. and concerns the laws of skin diseases and fluxes.

SUMMARY

In describing the eight manuscripts of which fragments were found in Cave 4, we noted the wide range in the quantity of text which they preserve. A practical way of gauging this roughly might be to indicate the number of lines of which readable portions are extant. Ms.A alone has 272 such lines, which is approximately equal to six of the other manuscripts (B, C, D, F, G, and H) combined. Ms.E is only about half the size of A, with 142 lines.

In all the manuscripts together we have fragments of 689 lines, of which 326 (47%) parallel the text of the *Damascus Document* known to us from the Genizah. Of this parallel material 144 lines (44%) come from the Admonition, while 182 lines (56%) come from the corpus of laws. However, as we shall see, when one adds the laws not found in the Genizah, the proportion of laws in the 4Q texts is about two thirds.

At various points in the description of the manuscripts we took note of instances where parts of the same pericope survive in two or more manuscripts. The question arises whether there are any indications of different rescensions of the text at Qumran. The initial answer at this point would appear to be negative. Aside from occasional minor variations in wording such as one finds between

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parallel sections of 1QS and 1QH, the excerpts from the different manuscripts can be joined to yield a homogeneous composite text. This is also true of the corresponding parts of the 4Q manuscripts and those from the Genizah. However, in the case of the latter we must reckon with major omissions from the beginning and the ending as well as middle portions of the Qumran versions of the *Damascus Document*.

It is understandable that the quality of the medieval texts, where we now have ancient parallels, can be conclusively assessed only after comprehensive textual study. However, we expect that, aside from sporadic modifications of Qumran spelling, the Genizah texts, as far as they extend, are likely to emerge as substantially reliable copies. In view of the gap of over a millennium which separates the tenth century Genizah Ms.A of the *Damascus Document* from the earliest Cave 4 texts, and the absence of any known manuscript history, this is likely to arouse renewed interest in the accounts of early medieval discoveries of Hebrew manuscripts.