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978-0-521-19604-8 – Scripture and Law in the Dead Sea Scrolls

Alex P. Jassen

Excerpt

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I

Introduction

This (alludes to) the study of the Torah which he commanded through Moses to do, according to everything which has been revealed (from) time to time, and according to which the prophets have revealed by his holy spirit.

Rule of the Community (1QS) 8:15–16

Ben Bag-Bag said: “Turn it and turn it again, for everything is in it.”

Mishnah 'Abot 5:22

I. SCRIPTURE AND LAW IN THE DEAD SEA SCROLLS

In the early phases of Dead Sea Scrolls scholarship, the study of Jewish law was episodic and rarely central to scholarly approaches to the Dead Sea Scrolls.¹ Scholarship on law in the Dead Sea Scrolls long continued to suffer from neglect.² The editorial team entrusted with the publication of the Cave 4

¹ My use of the term “Dead Sea Scrolls” here and throughout the book refers to the manuscripts found in the eleven caves near Qumran. Any reference to other scrolls found in the Judean desert will state their place of origin explicitly. The range of civil, criminal, and religious legal material subsumed under the classification “Jewish law” in many respects matches what later rabbinic Judaism refers to as *halakhah* (on which, see Louis Jacobs, “Halakhah,” *EncJud* 8:251). As scholars have noted, however, this term does not appear in the Dead Sea Scrolls, and thus its use in reference to the scrolls and the associated sectarian community is anachronistic (see John P. Meier, “Is There *Halaka* (Noun) at Qumran?” *JBL* 122 [2003]: 150–55). At the same time, many scholars have employed the terminology – sometimes with appropriate reservations and sometimes without – as a useful technical term to convey the broad sense of law unique to ancient Judaism. In the context of my discussion of these scholars’ work, I employ the term *halakhah*. Otherwise, I use the more general term “Jewish law.”

² The most significant early analysis of law in the Dead Sea Scrolls was produced before the discovery of the Dead Sea Scrolls in Louis Ginzberg’s commentary on the Cairo Genizah manuscripts of what would later be known as the *Damascus Document*. Ginzberg’s work was first published in a series of articles entitled “Eine unbekannte jüdische Sekte” in *MGWJ* 55–58 (1911–14),

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fragments neither was equipped to analyze the legal material in these texts nor displayed any serious interest in doing so. The lack of availability of the legal texts from Cave 4 prevented scholars with the requisite expertise in Jewish law from introducing this new material into their scholarly work.³

Beginning in the 1960s and 1970s, the pioneering work of Joseph Baumgarten, Lawrence Schiffman, and Yigael Yadin turned the sporadic treatment of law that had characterized Dead Sea Scrolls scholarship into a concentrated exploration of the contribution of the Dead Sea Scrolls to the history of Jewish law.⁴ In particular, Yadin's publication of the *Temple Scroll* in 1977 dramatically expanded the corpus of relevant material for scholars interested in Jewish law.⁵ The appearance of the *Temple Scroll* thus precipitated a renewed interest in Jewish law in the Dead Sea Scrolls.⁶ Since then, the combined growth in

and then self-published by Ginzberg as *Eine unbekannte jüdische Sekte* (New York, 1922; repr. Hildesheim: Olms, 1972). An expanded English translation later appeared as *An Unknown Jewish Sect* (Moreshet 1; New York: Jewish Theological Seminary, 1976). After the discovery of the Qumran caves, see especially Saul Lieberman, "Light on the Cave Scrolls from Rabbinic Sources," in *Texts and Studies* (New York: Ktav, 1974), 190–99 (1951); idem, "The Discipline of the So-Called Dead Sea Manual of Discipline," in *Texts and Studies*, 200–7 (1952); Chaim Rabin, *The Zadokite Documents* (Oxford: Clarendon Press, 1954); idem, *Qumran Studies* (SJ 2; Oxford: Oxford University Press, 1957); Jacob Licht, *The Rule Scroll: A Scroll from the Wilderness of Judaea* (Jerusalem: Bialik Institute, 1965) [Hebrew]. On broader trends in early scholarship, see Yaakov Sussman, "The History of Halakha and the Dead Sea Scrolls: Preliminary Talmudic Observations on *Miqṣat Ma'ase ha-Torah* (4QMMT)," *Tarbiz* 49 (1992): 11–76 (11–22) [Hebrew]; Lawrence H. Schiffman, "Halakhah and History: The Contribution of the Dead Sea Scrolls to Recent Scholarship," in *Qumran and Jerusalem: Studies in the Dead Sea Scrolls and the History of Judaism* (Grand Rapids: Eerdmans, 2010), 63–78 (1999); Steven D. Fraade "Qumran *Yahad* and Rabbinic *Hābūrā*: A Comparison Reconsidered," in *Legal Fictions: Studies of Law and Narrative in the Discursive Worlds of Ancient Jewish Sectarials and Sages* (JSJSup 147; Leiden: Brill, 2011), 125–44 (2009); Alex P. Jassen, "American Scholarship on Jewish Law in the Dead Sea Scrolls," in *The Dead Sea Scrolls in Scholarly Perspective: A History of Research* (ed. D. Dimant; STDJ 99; Leiden: Brill, 2012), 101–54.

³ For discussion of the possible reasons for the lack of interest in legal texts, see Lawrence H. Schiffman, "Confessionalism and the Study of the Dead Sea Scrolls," *Jewish Studies: Forum of the World Union of Jewish Studies* 31 (1991): 3–14; and Fraade, "Qumran *Yahad*," 125–28.

⁴ See especially Joseph M. Baumgarten, *Studies in Qumran Law* (SJLA 24; Leiden: Brill, 1977); Lawrence H. Schiffman, *The Halakhah at Qumran* (SJLA 16; Leiden: Brill, 1975); idem, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony and the Penal Code* (BJS 33; Chico: Scholars Press, 1983); idem, *Law, Custom, and Messianism in the Dead Sea Scrolls* (Jerusalem: Zalman Shazar Center, 1993) [Hebrew]; idem, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* (ABRL; New York: Doubleday, 1995), especially 243–312; idem, *The Courtyards of the House of the Lord: Studies on the Temple Scroll* (ed. F. García Martínez; STDJ 75; Leiden: Brill, 2008); idem, *Qumran and Jerusalem*. On Yadin, see following note. On the contributions of Baumgarten and Schiffman, see further Jassen, "American Scholarship," 132–37, 141–51.

⁵ The *Temple Scroll* was first published by Yadin in a Hebrew edition: *The Temple Scroll* (3 vols.; Jerusalem: Israel Exploration Society, the Hebrew University, and the Shrine of the Book, 1977). An English edition appeared in 1983.

⁶ On the importance of the publication of the *Temple Scroll* as a turning point, see Jassen, "American Scholarship," 138–45.

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interest and now complete availability of the entire corpus of legal texts has translated into the emergence of Jewish law as a vibrant field of Dead Sea Scrolls scholarship.⁷

Research on Jewish law has focused on two approaches: (1) clarifying the foundations and intricacies of the sectarian system of Jewish law and its relationship to both ancient Israelite law and wider segments of Second Temple-period Judaism,⁸ and (2) comparative analysis of Jewish law in the scrolls with rabbinic literature, whereby the scrolls shed important light on our understanding of the origins and development of rabbinic *halakhah* at the same time as rabbinic literature is employed to decipher the meaning and importance of law in the Dead Sea Scrolls.⁹

The study of law in the Dead Sea Scrolls within the broader context of ancient Judaism is clearly an ever-growing field. One area that has received considerably less treatment is discussion of the hermeneutical methods employed in the legal texts among the Dead Sea Scrolls and their relationship to related legal literature in the Second Temple period and rabbinic Judaism. What role does scriptural interpretation play in the formulation of law in the Dead Sea Scrolls, and, if that law was formulated in dialogue with scripture, what exegetical principles and techniques stand behind the legal interpretation of scripture? Moreover, how should the exegetical techniques detected in the Dead Sea Scrolls be

⁷ For representative recent work, see especially Lutz Doering, *Sabbat: Sabbathhalacha und praxis im antiken Judentum und Urchristentum* (TSAJ 78; Tübingen: Mohr Siebeck, 1999); Fraade, *Legal Fictions*; Vered Noam, *From Qumran to the Rabbinic Revolution: Conceptions of Impurity* (Jerusalem: Yad Ben Zvi, 2010) [Hebrew]; Schiffman, *Qumran and Jerusalem*; Aharon Shemesh, *Halakhah in the Making: The Development of Jewish Law from Qumran to the Rabbis* (Berkeley: University of California Press, 2009). For a broad overview, see Steven D. Fraade, “The Dead Sea Scrolls and Rabbinic Judaism after Sixty (Plus) Years: Retrospect and Prospect,” in *Legal Fictions*, 109–24.

⁸ See, for example, Lawrence H. Schiffman, “The Temple Scroll and the Systems of Jewish Law in the Second Temple Period,” in *Temple Scroll Studies: Papers Presented at the International Symposium on the Temple Scroll: Manchester, December 1987* (ed. G. J. Brooke; JSPSup 7; Sheffield: JSOT Press, 1989), 239–55; idem, “Pre-Maccabean Halakhah in the Dead Sea Scrolls and the Biblical Tradition,” in *Qumran and Jerusalem*, 184–96 (2006); Hannah K. Harrington, “Biblical Law at Qumran,” in *The Dead Sea Scrolls after Fifty Years: A Comprehensive Assessment* (ed. J. C. VanderKam and P. W. Flint; 2 vols.; Leiden: Brill, 1998–99), 1:160–85; Aharon Shemesh and Cana Werman, “Halakhah at Qumran: Genre and Authority,” *DSD* 10 (2003): 104–29.

⁹ Several significant recent trends are surveyed in Fraade “Qumran *Yahad*,” 128–29; Jassen, “American Scholarship,” 146–54. See below, section IV, for fuller discussion of comparative analysis with rabbinic literature. For general overviews of the results of this comparative analysis, see Joseph M. Baumgarten, “Tannaitic Halakhah and Qumran: A Re-evaluation,” in *Rabbinic Perspectives: Rabbinic Literature and the Dead Sea Scrolls: Proceedings of the Eighth International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, 7–9 January, 2003* (ed. S. D. Fraade, A. Shemesh, and R. A. Clements; STDJ 62; Leiden: Brill, 2006), 1–11; Lawrence H. Schiffman, “The Qumran Scrolls and Rabbinic Judaism,” in *Qumran and Jerusalem*, 1–11 (1999); Lutz Doering, “Parallels Without ‘Parallelomania’: Methodological Reflections on Comparative Analysis of Halakhah in the Dead Sea Scrolls,” in *Rabbinic Perspectives*, 13–42; Shemesh, *Halakhah in the Making*, especially 1–7.

situated within the broader historical context of ancient Jewish legal-exegetical activity?

The lack of sustained inquiry into legal exegesis in the Dead Sea Scrolls stands in contrast not just to the robust study of Jewish law more generally but also to the study of nonlegal scriptural interpretation in the scrolls. Scholarly analysis of scriptural interpretation appeared in the earliest phases of Dead Sea Scrolls scholarship and has continued unabated.¹⁰ In this area, scholars have located exegetical methods in the Dead Sea Scrolls in the broader context of scriptural interpretation in Second Temple Judaism and explored continuity and discontinuity with later rabbinic exegesis (*midrash*).¹¹ Yet, the bulk of analysis of scriptural interpretation in the Dead Sea Scrolls has focused on nonlegal material. The study of legal exegesis in the Dead Sea Scrolls both on its own and in a comparative context lags behind both the study of the history of Jewish law and comparative homiletical exegesis. To be sure, important work has been done. The majority of this research, however, has focused on employing the Dead Sea Scrolls in order to trace the historical origins of rabbinic *midrash halakbah* – explicit legal exegesis.¹² This research only secondarily touches upon comparative hermeneutics in ways that have proven so fruitful in the comparative study of nonlegal exegesis.¹³

¹⁰ See the review of the development of this field in Moshe J. Bernstein, “The Contribution of the Qumran Discoveries to the History of Early Biblical Interpretation,” in *The Idea of Biblical Interpretation: Essays in Honor of James L. Kugel* (ed. H. Najman and J. H. Newman; JSJSup 83; Leiden: Brill, 2004), 215–38.

¹¹ See Paul Mandel, “Midrashic Exegesis and Its Precedents in the Dead Sea Scrolls,” *DSD* 8 (2001): 149–68; Lawrence H. Schiffman, “Dead Sea Scrolls, Biblical Interpretation,” in *Encyclopedia of Midrash* (ed. J. Neusner and A. J. Avery Peck; 2 vols.; Leiden: Brill, 2005), 1:40–54; Steven D. Fraade, “‘Comparative Midrash’ Revisited: The Case of the Dead Sea Scrolls and Rabbinic Midrash,” in *Higayon L’Yonah: New Aspects in the Study of Midrash, Aggadah, and Piyut in Honor of Professor Yona Fraenkel* (ed. J. Levinson, J. Elbaum, and G. Hasan-Rokem; Jerusalem: Magnes, 2006), 261–84 [Hebrew].

¹² For recent attempts, see Steven D. Fraade, “Looking for Legal Midrash at Qumran,” in *Legal Fictions*, 145–68 (1998); Menachem Kister, “A Common Heritage: Biblical Interpretation at Qumran and Its Implications,” in *Biblical Perspectives: Early Use and Interpretation of the Bible in Light of the Dead Sea Scrolls: Proceedings of the First International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, 12–14 May, 1996* (ed. M. E. Stone and E. G. Chazon; STDJ 28; Leiden: Brill, 1998), 101–12; Aharon Shemesh, “Scriptural Interpretations in the Damascus Document and Their Parallels in Rabbinic Midrash,” 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. J. M. Baumgarten, E. G. Chazon, and A. Pinnick; STDJ 39; Leiden: Brill, 2000), 161–75; Azzan Yadin, “4QMMT, Rabbi Ishmael, and the Origins of Legal Midrash,” *DSD* 10 (2003): 130–49. On earlier approaches, see discussion in Fraade, *ibid.*, 145–47.

¹³ See especially Elieser Slomovic, “Toward an Understanding of the Exegesis in the Dead Sea Scrolls,” *RevQ* 7 (1969): 3–15 (9–12); Michael Fishbane, “Use, Authority, and Interpretation of Mikra at Qumran,” in *Mikra: Text, Translation, Reading and Interpretation of the Hebrew Bible in Ancient Judaism and Early Christianity* (ed. M. J. Mulder; CRINT 2/1; Assen:

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II. GOALS AND FOCUS OF THIS STUDY

The goal of this study is to engage the larger question of comparative history of law in ancient Judaism through analysis of the hermeneutic strategies and techniques in the Dead Sea Scrolls. My primary focus is the legal literature representing the interrelated set of sectarian communities of the Dead Sea Scrolls.¹⁴ This monograph seeks to address two interconnected questions related to the legal hermeneutics of the Dead Sea Scrolls. The overarching question I explore is the function of non-Pentateuchal scripture in the legal hermeneutics of the Dead Sea Scrolls. While a canon had not yet emerged in the Dead Sea Scrolls and Second Temple Judaism, I argue in Chapter 3 that the sectarian community (and much of Second Temple Judaism) recognized a significant difference between the Pentateuch and all other sacred writings. What distinctions, if any, exist in the way in which non-Pentateuchal material is employed in sectarian legal hermeneutics versus Pentateuchal texts? At the same time, this book represents the first monograph-length study of any aspect of legal-exegetical techniques in the Dead Sea Scrolls. In both inquiries, I situate the evidence of the Dead Sea Scrolls within the broader history of Jewish law and legal exegesis in antiquity.

Scripture, Prophecy, and Law in the Dead Sea Scrolls

My overarching question attempts to explore a fundamental issue of any system of legal hermeneutics – what constitutes an authoritative text? My use of the term “authoritative” here follows the definition provided by Eugene C. Ulrich in his discussion of the emergence of the canon of the Hebrew Bible:

Van Gorcum; Minneapolis: Fortress, 1988), 339–77 (368–71) (both very limited); and more systematic approaches in Schiffman, *Halakhah*; Jacob Milgrom, “The Qumran Cult: Its Exegetical Principles,” in *Temple Scroll Studies*, 165–80; idem, “Qumran’s Biblical Hermeneutics: The Case of the Wood Offering,” *RevQ* 16 (1993–94): 449–56; Moshe J. Bernstein and Shlomo A. Koyfman, “The Interpretation of Biblical Law in the Dead Sea Scrolls: Forms and Methods,” in *Biblical Interpretation at Qumran* (ed. M. Henze; Grand Rapids: Eerdmans, 2005), 61–87. This issue has received considerable attention in the recent work of Vered Noam: “Early Signs of Halakhic Midrash at Qumran,” *Diné Israel: Studies in Halakhah and Jewish Law* 26–27 (2009–10): 3–26 [Hebrew]; “Embryonic Legal Midrash in the Qumran Scrolls,” in *The Hebrew Bible in Light of the Dead Sea Scrolls* (ed. N. Dávid et al.; FRLANT 239; Göttingen: Vandenhoeck and Ruprecht, 2011), 237–62; “Creative Interpretation and Integrative Interpretation in Qumran,” in *The Dead Sea Scrolls and Contemporary Culture: Proceedings of the International Conference Held at the Israel Museum (July 6–8, 2008)* (ed. A. D. Roitman, L. H. Schiffman, and S. Tzoref; STDJ 93; Leiden: Brill, 2011), 363–76. See also below, section IV, for further discussion of previous scholarship.

¹⁴ Recent research has succeeded in generating a more nuanced portrait of the interrelated sectarian communities represented in the scrolls and their historical development. See especially John J. Collins, *Beyond the Qumran Community: The Sectarian Movement of the Dead Sea Scrolls* (Grand Rapids: Eerdmans, 2010). My focus on the legal literature attempts to take advantage of this renewed understanding at the same time that it seeks to contribute to the conversation.

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A writing, which a group, secular or religious, recognizes and accepts as determinative for its conduct and as of a higher order than can be overridden by the power or will of the group or any member.¹⁵

Ulrich further qualifies this meaning as unique when the ultimate source of the authority is regarded as God. In such a case, a text is not merely “authoritative” but “a book of scripture.” With this type of authoritative text, “The community, as a group and individually, recognizes [it] and accepts [it] as determinative for its belief and practice for all time and in all geographical areas.”¹⁶

In the context of the Dead Sea Scrolls, what relative authority did the community attach to Pentateuchal and non-Pentateuchal scripture, and what legal force did these passages possess? My interest in this specific hermeneutic element arose during research conducted for my first book, in which I examined prophecy and revelation in the Dead Sea Scrolls and related segments of Second Temple Judaism.¹⁷ A significant portion of that study focused on the way in which the texts from the Dead Sea Scrolls reconfigure received scriptural models of prophets and prophecy. I argued that the way in which ancient prophecy is reconceptualized in the Dead Sea Scrolls is ultimately reflective of prevailing attitudes toward prophets and prophecy. In my analysis, I found that the most significant way in which the ancient prophets are reconfigured in the Dead Sea Scrolls is their consistent presentation, in both sectarian and nonsectarian texts, as lawgivers. Such a model, while not absent from the Hebrew Bible, is clearly a tendentious portrait crafted by the authors of the Second Temple-period texts.

In assessing the contemporary significance of this feature, I suggested that it must be understood within the context of the community’s belief in the progressive revelation of law. Internal textual evidence indicates that the community of the Dead Sea Scrolls conceived of three primary chronological stages in this progressive revelation: (1) Moses, (2) the classical prophets, and (3) the contemporary sectarian community. In particular, I argued that the community fashioned itself as the direct heir to the ancient prophetic lawgivers and therefore constructed a portrait of the ancient law-giving prophets to reflect its own present-day claims to possess the true meaning and application of the Torah based on the receipt of divine revelation.¹⁸

¹⁵ Eugene C. Ulrich, “The Notion and Definition of Canon,” in *The Canon Debate* (ed. L. M. McDonald and J. A. Sanders; Peabody: Hendrickson, 2002), 22–35 (29).

¹⁶ Ulrich, “The Notion and Definition of Canon,” 29. See further Chapter 3, section I, for a fuller examination of the meaning of “authority” and “authoritative” texts in ancient Judaism.

¹⁷ Alex P. Jassen, *Mediating the Divine: Prophecy and Revelation in the Dead Sea Scrolls and Second Temple Judaism* (STDJ 68; Leiden: Brill, 2007). This work represents a revised version of my 2006 New York University dissertation.

¹⁸ See further Alex P. Jassen, “The Presentation of the Ancient Prophets as Lawgivers at Qumran,” *JBL* 127 (2008): 307–37. Further explorations of the significance of the sectarian belief in progressive revelation can be found in Schiffman, *Halakhab*, 22–32; Shemesh, *Halakhab in the Making*, 39–71.

The conclusions reached at this stage in my research suggested to me that the community of the Dead Sea Scrolls would likely have assigned a significantly elevated legal status to the writings presumed to be the literary record of the classical prophets. If the classical prophets followed Moses as the next authentic recipients of the revealed law, then surely the collection of prophetic scriptures would have been viewed by the community as a textual repository of such legal activity and therefore fertile ground for contemporary legal-exegetical activity.

The present study grows out of my desire to test this working hypothesis in greater detail. Did the community regard non-Pentateuchal scripture as an authoritative legal source, and were these texts considered valid textual bases for contemporary legal exegesis? As I discuss further below, much of the way in which this initial inquiry is framed is based on similar questions proposed in the study of rabbinic legal hermeneutics. In this study, I begin my inquiry into this broad set of questions with the legal texts in the Dead Sea Scrolls. At the same time, I situate my analysis in the larger framework of the history of Jewish law and the relationship among scripture, exegesis, prophecy, and law in ancient Judaism.

The Dead Sea Scrolls and Ancient Jewish Law

This study unfolds as a detailed analysis of fifteen examples in the sectarian Dead Sea Scrolls of legal exegesis on non-Pentateuchal passages. As such, this work represents a more general treatment of several aspects of legal exegesis in the Dead Sea Scrolls. As noted above, the study of sectarian legal exegesis has long lagged behind analysis of the community's nonlegal exegesis. Recent years have witnessed a rightful attempt to remedy this imbalance. This work presents itself as another contribution to this growing scholarly enterprise. Moreover, my analysis seeks to contextualize legal exegesis in the Dead Sea Scrolls within the larger comparative setting of legal exegesis in Second Temple and rabbinic Judaism.

In many ways this work is also representative of the new opportunities available in Dead Sea Scrolls scholarship since the full release of the scrolls in the 1990s and the immense amount of scholarly literature that followed in its wake. Cave 4 yielded a large number of previously unknown sectarian legal documents as well as several copies of the *Damascus Document* and the *Rule of the Community*. The absence of this major group of texts from the publication efforts of the early scholars working on the Cave 4 material had a drastic trickle-down effect. These texts were unavailable and in many cases even unknown to scholars examining Jewish law in the Dead Sea Scrolls and ancient Judaism. Thus, any presentation of Jewish law in the sectarian community or even broader segments of Second Temple Judaism ultimately resulted in an incomplete picture. In taking advantage of a much broader corpus of newly available legal texts, my goal in this study is to provide a fuller portrait of

Jewish law in the community of the Dead Sea Scrolls and its relationship to law in Second Temple and rabbinic Judaism.

Previous treatment of the recently published legal texts from Cave 4 has placed great emphasis on deciphering the meaning of these often fragmentary texts and their legal content. As the work of deciphering their meaning and content has become better established, scholars have begun to situate these legal texts within the broader context of the legal literature of the Dead Sea Scrolls, in particular their relationship to long-known legal texts such as the *Damascus Document* and the *Rule of the Community*, as well as nonsectarian works such as the book of *Jubilees*. This book explores the contribution of the Cave 4 legal texts to the study of the development of modes of legal exegesis within the community of the Dead Sea Scrolls. At the same time, I seek to extend the ongoing scholarly conversation with regard to the literary and redactional relationship of the Cave 4 legal texts to other Dead Sea Scrolls legal literature.

Aside from the newly published Cave 4 texts, my analysis concentrates on many texts that have been widely available since the early days of Dead Sea Scrolls scholarship. In spite of this accessibility, little attention has been paid to their important contribution to the study of legal exegesis. My analysis has the advantage of being able to draw upon the long history of scholarship on texts such as the *Damascus Document* and the *Rule of the Community*. The examination of these documents in conjunction with the recently published texts demonstrates the centrality of the interpretation of scripture to the legal system of the Dead Sea Scrolls and yields a fuller portrait of the community's legal hermeneutics.

III. EARLIER SCHOLARSHIP

Earlier scholarship on the use of non-Pentateuchal scriptural passages in Dead Sea Scrolls legal exegesis has yielded dramatically divergent results. The first attempts to treat this issue stem from research conducted exclusively on the two medieval manuscripts of the *Damascus Document* published by Solomon Schechter in 1910.¹⁹ In the course of his outline of the nature of the sectarian community, Schechter devotes a section to discussing the “biblical Canon” of the sect. As proof that the community accepted the traditional canon, he observes the presence of passages drawn from across the Hebrew Bible throughout the *Damascus Document*. In this context, he notes that the sect “occasionally derives norms for the practice from the prophetic writings” and specifically contrasts this with the rejection of this approach in rabbinic

¹⁹ Solomon Schechter, *Documents of Jewish Sectaries*, volume 1: *Fragments of a Zadokite Work* (Cambridge: Cambridge University Press, 1910; repr. with prolegomenon by Joseph Fitzmyer; Library of Biblical Studies; New York: Ktav, 1970). For a broad overview of pre-Quaran scholarship on law in the *Damascus Document*, see Jassen, “American Scholarship,” 101–21.

tradition.²⁰ Schechter, however, does not elaborate any further on this observation.

R. H. Charles offers the same basic assessment of the *Damascus Document*, though he frames his observation in the context of the suggested identity of the sectarian community. In order to take into account the purported points of correspondence with both the Sadducees and the Pharisees, Charles proposes the existence of a “reformed” group of former Sadducean priests who shared many beliefs and practices with the Pharisees. Charles refers to this group as a “Zadokite Party.”²¹ In order to make this identification work, Charles offers examples of some shared elements with the Pharisees, though he goes to great lengths to demonstrate that the sect is not identical to the Pharisees. As one example of the latter phenomenon, Charles contrasts the recurring legal use of non-Pentateuchal passages in the *Damascus Document* with the near universal reluctance to do so among the rabbis.²²

Charles draws on this observation to add further insight into the nature of the purported Pharisaic elements in the sect. He traces the common use of non-Pentateuchal passages for legal purposes to the “higher estimation in which they [i.e., the sect] held the Prophets.”²³ This particular comment must be situated in the context of Charles’s earlier assertion regarding the reverence for the Prophets among what he terms the “Apocalyptic School of Pharisaism.”²⁴ Charles suggests that the sectarian community should be associated with this presumed branch of Pharisaism. Thus, Charles’s observation regarding the relationship between scripture and law in the *Damascus Document* is intimately bound up with his quest to locate the elusive identity of the sect and carve out a distinct form of Pharisaism with which it can be identified. Neither goal, however, serves to locate Charles’s correct observation in the broader history of Jewish law and legal exegesis.²⁵

The third attempt to address this larger issue also dates to the pre-Qumran period of research on the *Damascus Document*. Louis Ginzberg devotes several

²⁰ Schechter, *Documents*, 47. As a specific example, he calls attention to the use of 1 Sam 25:26 in CD 9:8–10. On which, see below Chapter 11, section II.

²¹ See R. H. Charles, “Fragments of a Zadokite Work,” in idem, ed., *Apocrypha and Pseud-epigrapha of the Old Testament* (2 vols.; Oxford: Clarendon, 1913), 2:790–92.

²² Charles, “Fragments,” 2:791.

²³ Charles, “Fragments,” 2:791.

²⁴ Charles, “Fragments,” 2:789.

²⁵ A related approach is found in Adolph Büchler’s argument that the use of non-Pentateuchal scripture for derivation of law in the *Damascus Document* is influenced by the similar method employed among medieval Karaites (Adolph Büchler, “Schechter’s ‘Jewish Sectaries,’” *JQR* 3 [1913]: 429–85 [456–67]). This suggestion is one among many that Büchler marshals to argue in favor of a medieval dating of the text. As Schechter correctly notes, the use of non-Pentateuchal scripture for law is not unique to the Karaites, but is clearly found already in rabbinic literature, and thus there is no need to draw the conclusions that Büchler does regarding the dating of the text (Solomon Schechter, “Dr. Büchler’s Review of Schechter’s ‘Jewish Sectaries,’” *JQR* 4 [1914]: 449–74 [467]).

pages to discussion of the authority of non-Pentateuchal material in the legal portion of the text.²⁶ Ginzberg's approach is far more involved than are the general observations made by Schechter and Charles. Yet, as with Charles, Ginzberg's assessment of the evidence he collects is too heavily colored by his identification of the sect as closely related to the Pharisees.²⁷ Ginzberg's overarching methodology in his work is to call attention to evidence from rabbinic literature that seems to provide direct correspondence with elements in the *Damascus Document*, thereby reinforcing his suggestion regarding the Pharisaic origin of the *Damascus Document*.

Ginzberg's observations regarding non-Pentateuchal scripture fit this same general approach. He begins by assessing the rabbinic approach to the role of non-Pentateuchal scripture in legal exegesis. Contrary to the common assertion that the rabbis reject the use of all non-Pentateuchal scripture, he provides several examples from rabbinic literature where scriptural passages from the Prophets and Writings are regarded with the same level of legal authority as passages from the Pentateuch.²⁸ When he turns his attention to the *Damascus Document*, Ginzberg observes the presence of several non-Pentateuchal passages utilized in legal exegesis. In his assessment of these passages, Ginzberg suggests that the *Damascus Document* does not seem to place any greater emphasis on non-Pentateuchal scripture than is found in rabbinic tradition.

Moreover, the reliance upon non-Pentateuchal scripture is never more than "the character of props," equivalent to the rabbinic category of *asmakhta*.²⁹ In employing this technical term drawn from rabbinic hermeneutics, Ginzberg suggests that all reliance on non-Pentateuchal scripture should only loosely be associated with its purported scriptural proof-text.³⁰ He clarifies what he means by calling attention to the reference to David's ignorance of the law in CD 5:2–3. This passage, argues Ginzberg, suggests that neither David nor his prophet Nathan – and by extension all prophets – can be treated as legal authorities. Ginzberg thus proposes that prophetic passages that appear in legal contexts in the *Damascus Document* "merely illustrate the ethical content of the law."³¹

In framing the issue in this way, Ginzberg has it both ways. The *Damascus Document* relies on some non-Pentateuchal scripture as in rabbinic literature.

²⁶ This material first appeared in "Eine unbekannte jüdische Sekte," *MGWJ* 58 (1914): 16–48 (26–38). For the English edition, see Ginzberg, *Jewish Sect*, 182–93.

²⁷ On Ginzberg's proposal regarding the Pharisaic origins of the *Damascus Document*, see Jassen, "American Scholarship," 116–21.

²⁸ Ginzberg, *Jewish Sect*, 185–86.

²⁹ Ginzberg, *Jewish Sect*, 186.

³⁰ The *asmakhta* in rabbinic legal hermeneutics is understood as "a Biblical interpretation by the Sages to support a given law, though it is not the true purpose of the text." See "אֲסַמְכְתָּא" (*Asmakhta*), in *Encyclopedia Talmudica* (ed. M. Bar-Ilan and S. Y. Yeiven; trans. H. Freedman; 6 vols. to date; Jerusalem: Yad HaRav Herzog, Talmudic Encyclopedia Institute, 1974–), 2:515–22 (515).

³¹ Ginzberg, *Jewish Sect*, 187.

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At the same time, the weight accorded to non-Pentateuchal scripture never reaches a critical level so as to erase the distinction between Pentateuchal and non-Pentateuchal scripture. In the *Damascus Document*, as in rabbinic literature, the Pentateuch reigns supreme for legal exegesis. Non-Pentateuchal passages always play a minor and secondary role.

Following the discovery and publication of the Qumran scrolls, few scholars returned to the broad set of questions outlined by Schechter and Ginzberg. In several places, however, Lawrence H. Schiffman has opined that the sectarian community displays no reluctance in using non-Pentateuchal passages for purposes of deriving law.³² With the benefit of the much fuller Qumran corpus, Schiffman arrives at the same basic conclusions as Schechter. Moreover, Schiffman suggests that the rabbinic reluctance to draw upon non-Pentateuchal scripture is related to contemporaneous Christian use of the Prophets and Writings for messianic prooftexts. Because all the Dead Sea Scrolls texts predate this phenomenon, they show no similar reluctance.³³ In a more recent survey of sectarian legal hermeneutics, Moshe J. Bernstein and Shlomo Koyfman likewise affirm that the community seems to display little hesitation to employ non-Pentateuchal passages for legal purposes. Yet, they assert that the paucity of examples should be taken into consideration when attempting to extrapolate hermeneutic principles.³⁴

The two sides in this debate of course cannot both be correct. The widely divergent conclusions can be attributed to a number of factors. In Ginzberg's case, his preconceived notions of the identity of the sectarian community heavily colored his analysis of the material. Moreover, the analyses undertaken by Schechter, Charles, and Ginzberg were limited to passages from the *Damascus Document*, more specifically to only the Cairo Genizah manuscripts. Their knowledge of sectarian legal hermeneutics was therefore extremely limited. The *Damascus Document*, the only available text, in fact differs from most other sectarian legal texts on account of its relative abundance of scriptural citations as legal prooftexts. In Schiffman's case, his argument is found as a secondary assertion in several different places dedicated to treatment of other issues. As with Ginzberg, his initial comments are directed to a very limited set of passages in the *Damascus Document* (Sabbath law). His assertion therefore does not follow a comprehensive analysis of the relevant source materials or a statement of methodological rubrics. Indeed, we should not expect anything of this nature from Charles, Ginzberg, or Schiffman; this is not the stated goal of any of these treatments. Similarly, Bernstein's and Koyfman's caution regarding

³² For the most recent statement, see Schiffman, *Reclaiming*, 222. This same conclusion is asserted in several earlier works: "The Halakhah at Qumran" (2 vols.; Ph.D. diss., Brandeis University, 1974), 1:182; *Halakhah*, 114; "The Temple Scroll in Literary and Philological Perspective," in *Approaches to Ancient Judaism* (ed. W. S. Green; Chico: Scholars Press, 1980), 2:143–58 (151); *Sectarian Law*, 102–3 n. 33.

³³ Schiffman, *Reclaiming*, 222.

³⁴ Bernstein and Koyfman, "Interpretation of Biblical Law," 73–74.

the limited nature of the corpus is well intended. Yet, they follow this assertion by only discussing three possible examples.

IV. STATEMENT OF METHOD

The proper treatment of these questions must involve a comprehensive study of all the relevant texts, sensitivity to the larger character of sectarian legal exegesis, and careful consideration of pertinent comparative Second Temple and rabbinic legal texts. In what follows, I gather together fifteen examples of reliance upon non-Pentateuchal sources in Dead Sea Scrolls legal texts. In examining these passages, my attention is first directed to unpacking the legal issues at stake in each passage and then to determining the specific exegetical and legal role of the non-Pentateuchal passage. This is achieved both by close reading of the particular passages and, when applicable, the use of parallel Second Temple and rabbinic legal material.

On Legal Exegesis in the Dead Sea Scrolls

Analysis of the role of scriptural interpretation in Dead Sea Scrolls legal texts has proven to be a formidable task. Nearly all scholars recognize the central role of scriptural language in sectarian legal formulations.³⁵ With this consideration in mind, many scholars have argued that exegesis of the scriptural text is a defining factor in the expansion of scriptural laws and institutions.³⁶ At the same time, other scholars argue for a limited role for exegesis in the development of sectarian law.³⁷ The links to scripture are viewed not as exegesis

³⁵ See especially Steven D. Fraade, “Interpretive Authority in the Studying Community at Qumran,” in *Legal Fictions*, 37–68 (1993); Adiel Schremer, “[T]he[y] Did Not Read in the Sealed Book’: Qumran Halakhic Revolution and the Emergence of Torah Study in Second Temple Judaism,” in *Historical Perspectives: From the Hasmoneans to Bar Kokhba in Light of the Dead Sea Scrolls: Proceedings of the Fourth International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature*, 27–31 January, 1999 (ed. D. Goodblatt, A. Pinnick, and D. R. Schwartz; STDJ 37; Leiden: Brill, 2001), 105–26.

³⁶ See, e.g., Schiffman, *Halakhah*, 54–60; idem, *Reclaiming*, 219–22; Milgrom, “The Qumran Cult: Its Exegetical Principles”; idem, “Qumran’s Biblical Hermeneutics”; Hannah K. Harrington, *The Impurity Systems of Qumran and the Rabbis: Biblical Foundations* (Atlanta: Scholars Press, 1993). This discussion focuses on sectarian expansion of ancient Israelite law. Most scholars agree that the rules and regulations related to the admission process and everyday life of the sectarian community are on the whole not based on scriptural exegesis. See Schiffman, *Sectarian Law*, 212. See further discussion in Philip R. Davies, “Halakhah at Qumran,” in *A Tribute to Geza Vermes: Essays on Jewish and Christian History and Literature* (ed. P. R. Davies and R. T. White; JSOTSup 100; Sheffield: JSOT Press, 1990), 37–50 (40–42).

³⁷ This particular approach was initially articulated in Joseph M. Baumgarten, “The Unwritten Law in the Pre-Rabbinic Period,” in *Studies in Qumran Law*, 13–35 (33) (1972). Baumgarten’s later work, however, identifies a much more prominent role for exegesis. See, e.g., idem, “The Laws of the Damascus Document – Between Bible and Mishnah,” in *The Damascus Document*, 17–26; and “Common Legal Exegesis in the Scrolls and Tannaitic Sources,” in *The Qumran*

but rather as the mere reuse of scriptural language for new law. If sectarian law, however, is formulated as part of a broader engagement with scripture, then what hermeneutic strategies and techniques are operating in this process? Much of this discussion has focused on the quest to find antecedents to rabbinic *midrash halakhah* – explicit legal exegesis – which cites a scriptural text explicitly and often is forthcoming regarding its exegetical techniques and hermeneutic assumptions.³⁸

Scholars generally agree that the broader phenomenon of explicit legal exegesis as found in rabbinic legal-exegetical literature is essentially absent from the Dead Sea Scrolls. Indeed, sectarian legal texts regularly contain the formulation of law without explicit citation of any presumed scriptural base or, when a scriptural text is present, without any identification of the exegetical methods applied to the scriptural text.³⁹ Even when the exegetical foundations are manifest, they do not necessarily follow a logical sequence that can be reproduced.⁴⁰

Notwithstanding the absence of *midrash halakhah* or a coherent system of legal hermeneutics, we can be quite confident that careful exegesis of scripture was not ignored in the sectarian formulation of law but rather played a central role in this process.⁴¹ The community was formed around the ideal of scriptural study and the claim to possess the true meaning of scripture.⁴² The *Rule of the Community* refers to the existence of nightly study sessions in which scripture would be expounded under the direction of inspired sectarian leaders (1QS 6:6–8).⁴³ It was likely during these study sessions that much of the sectarian interpretation of Torah law and the sectarian rules and regulations were formulated. Unfortunately, sectarian literature preserves no accounts of the proceedings of these study sessions. No information is provided concerning the hermeneutical methods applied to scripture during communal study. All

Scrolls and Their World (ed. M. Kister; 2 vols.; Jerusalem: Ben-Zvi, 2009), 2:649–65 [Hebrew]. More recently, an argument for the limited role of exegesis can be found in Shemesh, *Halakhah in the Making*, 24–26.

³⁸ See herein, nn. 12–13.

³⁹ For discussion of some cases where the text spells out its logical principles (CD 4:20–5:11; 4QMMT B 27–33, 75–82), see Shemesh and Werman, “Halakhah at Qumran,” 119–23. They observe that all three of these passages are highly polemical. The inclusion of an explanation of the logical basis of the laws is therefore an attempt to justify the correctness of the sectarian position. A similar argument is found in Devorah Dimant, “The Hebrew Bible in the Dead Sea Scrolls: Torah Quotations in the *Damascus Covenant*,” in “*Sha’arei Talmon*”: *Studies in the Bible, Qumran, and the Ancient Near East Presented to Shemaryahu Talmon* (ed. M. Fishbane and E. Tov; Winona Lake: Eisenbrauns, 1992), 113*–22* (120*–21*) [Hebrew].

⁴⁰ See Shemesh and Werman, “Halakhah at Qumran,” 113.

⁴¹ The view expressed here is indebted to Fraade’s analysis of these issues (“Legal Midrash,” 150–55).

⁴² See, for example, 1QS 5:7–12 and 8:12–16 as well as 4QMMT C 7–11 (Fraade, “Legal Midrash,” 150–52, 154–55; see also above, n. 13).

⁴³ For this understanding of the description of the nightly study sessions, see Schiffman, *Halakhah*, 32–33; idem, *Reclaiming*, 247–48. See further Fraade, “Legal Midrash,” 152–54.

that is available to us is the final product of these sessions as found in the legal material in the community rule books and legal texts.⁴⁴

While the legal hermeneutics are not spelled out in the available material, these texts preserve some sense of the role of scripture in the initial formulation of the laws. Scriptural citations are not completely absent from several of these texts. Indeed, they are often introduced at critical points in the legal texts as prooftexts for already formulated law.⁴⁵ In these cases, the scriptural lemma is clearly distinguished from the extrascriptural legal content. Examples of this use of scripture are most prominent in the *Damascus Document*.⁴⁶ Moreover, sectarian legal material is replete with the paraphrasing, rewriting, and reformulation of scriptural language and style for legal purposes.⁴⁷

If these particular passages faithfully reflect some sense of what took place in the original law-making study sessions, then the reading and interpretation of scripture make up part of a larger system of legal hermeneutics that stands behind much of the content of sectarian law. Most scholars agree that the sectarian community did not derive law from the scriptural text in a direct way.⁴⁸ Rather, sectarian legal formulation and inspired scriptural exegesis represent

⁴⁴ Furthermore, it is very likely that some of the legal material preserved in sectarian documents was formulated outside of the community, which merely adopted existing law. In this case, the final product reveals little about the distinct hermeneutical methods of the Dead Sea Scrolls community (see Bernstein and Koyfman, “Interpretation of Biblical Law,” 63–64).

⁴⁵ See Fishbane, “Interpretation of Mikra at Qumran,” 348–56; Dimant, “The Hebrew Bible in the Dead Sea Scrolls”; Shemesh and Werman, “Halakhah at Qumran,” 112–19; Bernstein and Koyfman, “Interpretation of Biblical Law,” 71–73. In this category, I am including only passages that explicitly cite a scriptural passage, with or without an introductory citation formula. This form of interpretation is identified by Bernstein and Koyfman as “external interpretation.” Fishbane (pp. 351–54) further includes in this larger category instances where exegetical elements are introduced into the scriptural text through reordering of related scriptural passages (the “anthological” form). In these cases, the initial base text and its legal content are interpreted and expanded through the introduction of one or several different scriptural passages (as in the *Temple Scroll*). The deliberate attempt by the authors of these texts to obfuscate the distinction between the base scriptural text and its exegetical amplification from secondary passages recommends against inclusion of these types of passages in the category of explicit citation of scripture. These texts attempt to form a new and more inclusive authoritative scriptural text. See further Chapter 2.

⁴⁶ The *Damascus Document* contains far more explicit scriptural citations than related sectarian texts in both its homiletical and legal sections. Scholarship on this issue has focused almost exclusively on the nonlegal exegesis: Charles, “Fragments,” 2:789; Joseph A. Fitzmyer, “The Use of Explicit Old Testament Quotations in Qumran Literature and in the New Testament,” in *Essays on the Semitic Background of the New Testament* (London: G. Chapman, 1971), 3–58 (1960–61); Geza Vermes, “Biblical Proof-Texts in Qumran Literature,” in *Scrolls, Scriptures, and Christianity* (LSTS 56; London: T. and T. Clark, 2005), 56–67 (1989); Jonathan G. Campbell, *The Use of Scripture in the Damascus Document* 1–8, 19–20 (BZAW 228; Berlin: de Gruyter, 1995). A notable exception to this trend is Devorah Dimant, “The Hebrew Bible in the Dead Sea Scrolls.”

⁴⁷ Bernstein and Koyfman, “Interpretation of Biblical Law,” 66–71 (identified as “internal interpretation”). I would include Fishbane’s “anthological” form (see n. 45) in this category.

⁴⁸ See Fraade, “Legal Midrash,” 153, 163–64; Noam, “Creative Interpretation.”

complementary enterprises in the quest to update and expand scriptural law. Scholars must engage in a process of “reverse engineering” in order to identify the exegetical relationship between the legal material and its scriptural foundations and locate this process within a larger framework of legal-exegetical principles.⁴⁹

The Dead Sea Scrolls and Comparative History of Jewish Law

This work assumes that much profit can be gained by viewing legal exegesis in the Dead Sea Scrolls not merely within the broader framework of the chronologically connected legal texts of Second Temple Judaism, but also against the comparative lens of later rabbinic literature. The benefits of this type of comparative approach are manifold. Indeed, the very emergence of the study of Jewish law in the Dead Sea Scrolls was predicated on the assumption that comparative analysis of Second Temple texts *and* rabbinic literature is a *sine qua non* of any successful attempt to better understand Jewish law in the Dead Sea Scrolls. The scrolls are part of a larger history of Jewish law and thus the often unclear nature of the legal material cannot be approached in isolation. As affirmed by Lawrence H. Schiffman in 1975, “The comparative method is really the only way in which the complex legal texts from Qumran can be unraveled.”⁵⁰ Schiffman’s assertion at the time similarly underpinned much of the work of Baumgarten and Yadin. Indeed, our understanding of law in the Dead Sea Scrolls would hardly have advanced much since the 1970s without the broader prism of rabbinic literature.

This approach continues to resonate as a much fuller corpus of legal literature has emerged from Cave 4. These texts have been met by a guild of scholars seeking to understand them better through the aid of rabbinic legal texts.⁵¹ After a generation of comparative study of law in the scrolls and rabbinic texts, Schiffman’s methodological assertion stands at the very foundation of his ongoing work and the recent fruitful labors of Lutz Doering, Steven Fraade,

⁴⁹ The term “reverse engineering” is adapted from James Kugel’s approach to deciphering the exegetical exigencies underlying rabbinic *midrash* (*In Potiphar’s House: The Interpretative Afterlife of Biblical Texts* [San Francisco: HarperSanFrancisco, 1990], 251–53). For discussion of the application of this method to the Dead Sea Scrolls legal texts, see Fraade, “Legal Midrash,” 148–49; Bernstein and Koyfman, “Interpretation of Biblical Law,” 63–64; Noam, “Creative Interpretation,” 365.

⁵⁰ Schiffman, *Halakhah*, 13–14. By “comparative,” he means examining not only the scrolls in light of rabbinic texts, but also biblical and Second Temple-period literature. While few would doubt the importance of the latter two corpora, the use of comparative rabbinic evidence is less universally encountered. For further explication of this method, see also idem, *Sectarian Law*, 17–19; idem, *Law, Custom, and Messianism*, 34–44. A similar approach is articulated in Joseph Baumgarten, *Qumran Cave 4.XIII: The Damascus Document (4Q266–273)* (DJD 18; Oxford: Clarendon, 1996), 18–22.

⁵¹ On the importance of access to the Cave 4 manuscripts, see Fraade, “The Dead Sea Scrolls and Rabbinic Judaism after Sixty (Plus) Years,” 116.

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Vered Noam, and Aharon Shemesh.⁵² Though some continue to question the viability of this comparative method, the work of these scholars reinforces the more recent claim that “comparison of Qumran law and rabbinic halakah not only benefits our understanding of both, it is essential for reconstructing the history of halakah.”⁵³

The most common argument found in scholarship on the Dead Sea Scrolls for discounting the importance of rabbinic texts is their “late” nature in relation to the Second Temple–period material. Indeed, the earliest rabbinic texts are at least two centuries later than the latest texts from among the Dead Sea Scrolls. With this chronological gap in mind, Aharon Shemesh has outlined two primary approaches scholars have taken to assessing the contributions of the Dead Sea Scrolls to analysis of the points of contact between rabbinic *halakhah* and its Second Temple–period antecedents. The “reflective” approach assumes that debates that arise in rabbinic literature represent long-standing issues in Jewish legal discourse.⁵⁴ In contrast, the “developmental” model locates singular strands in rabbinic *halakhah* as attempts to promote older Second Temple–period legal positions.⁵⁵ The material treated in this study supports the general schema crafted by Shemesh and offers further insight into the fruitful and illuminating use of rabbinic literature alongside the Dead Sea Scrolls. Indeed, at times, later rabbinic texts provide an important key to unlocking interpretive cruxes in the Dead Sea Scrolls texts at the same time as the Dead Sea Scrolls shed important light on our understanding of the background of rabbinic Judaism. Thus, the Dead Sea Scrolls and rabbinic literature are exegetically and historically mutually illuminating.

V. OUTLINE OF THE PRESENT STUDY

Chapters 2 and 3 are intended to contextualize the detailed textual analysis that is found in the remainder of the book. In particular, I explore the broader implications of this study for both biblical studies and Jewish studies. Chapter 2 locates my work in the wider setting of previous research on the

⁵² For representative bibliography, see above, n. 7.

⁵³ Vered Noam and Elisha Qimron, “A Qumran Composition of Sabbath Laws and Its Contribution to the Study of Early Halakah,” *DSD* 16 (2009): 55–96 (57). It is ironic that the most cautious recent claims regarding the comparative method voiced by Lutz Doering are articulated in the midst of a larger collection of articles that illustrate so well its successful execution, thereby muting many of the very reservations made by Doering (“Parallels Without ‘Parallelomania’”). See further methodological discussion in Fraade, “The Dead Sea Scrolls and Rabbinic Judaism after Sixty (Plus) Years,” 117–23.

⁵⁴ Shemesh, *Halakhah in the Making*, 5. Shemesh identifies the work of Yadin and Schiffman as representative. Though not mentioned by Shemesh, Joseph Baumgarten likewise belongs in this category. A similar approach is highlighted in Fraade, “The Dead Sea Scrolls and Rabbinic Judaism after Sixty (Plus) Years,” 118–19.

⁵⁵ Shemesh, *Halakhah in the Making*, 3–4. He identifies the work of Yitzhak Gilat and Noam as examples of this approach.

history of Jewish law and legal exegesis. Chapter 3 examines the generally underutilized role of Jewish legal exegesis for understanding the origins and significance of the canon of the Hebrew Bible. I further explore the blurred boundaries between scripture and interpretation in an attempt to ascertain the role of exegesis in the formation of the canon. In both Chapters 2 and 3, I suggest that my work not only is informed by previous research but also contributes a new and important data set to ongoing conversations.

Beginning in Chapter 4, I turn my attention to the set of fifteen passages under consideration. Chapters 4 through 10 contain three self-contained studies that follow a similar pattern. In each, complementary chapters are devoted to the exposition of the legal-exegetical use of a specific non-Pentateuchal passage first in the Dead Sea Scrolls and then in related Second Temple and rabbinic texts.

Chapters 4 through 6 explore the role of Isa 58:13 as the scriptural basis for restrictions on speech concerning financial or business matters on the Sabbath in the *Damascus Document* (Chapter 4), *4QHalaka B* (Chapter 5), and the book of *Jubilees* and rabbinic legal texts (Chapter 6). Chapters 7 and 8 focus on a related, though distinct, use of Isa 58:13 to restrict not only speech, but also thoughts about prohibited labor on the Sabbath in the *Damascus Document* and *4QHalakha B* (Chapter 7) and the writings of Philo and rabbinic texts (Chapter 8). Chapters 9 and 10 examine the role of Jer 17:21–22 in the development of Sabbath carrying prohibitions in the *Damascus Document*, *4QHalakha A*, and *4QMiscellaneous Rules* (Chapter 9) and *Nehemiah*, *Jubilees*, and rabbinic texts (Chapter 10).

In Chapters 4 through 10 on the Dead Sea Scrolls and related Second Temple texts, the relevant scriptural passages are never cited explicitly but rather are paraphrased. As discussed in Chapter 2, this is the most common method of exegetical engagement with scriptural material in the Second Temple period. At the same time, the legal texts among the Dead Sea Scrolls bear witness to the emerging practice of citing scriptural texts explicitly as legal prooftexts – as commonly found in later rabbinic literature. Chapter 11 analyzes eight examples of non-Pentateuchal passages appearing as explicit citations. I divide these into two categories: (1) independent prooftexts, in which the passage is cited alone; and (2) secondary prooftexts, in which the non-Pentateuchal scriptural passage is cited alongside a Pentateuchal passage. In Chapter 12, I offer some general conclusions based on all the evidence examined and revisit my initial set of questions (and assumptions) regarding the relationship among law, scripture, and canon in the Dead Sea Scrolls and ancient Judaism.