A Jewish Lawgiver in a Greek World

Moses in Josephus' *Antiquities* in light of Plutarch's *Lives*

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Thesis submitted for the degree
Doctor of Philosophy in Ancient History

Trinity 2020
Word count: 98 044

Acknowledgements

No thesis is written without considerable help. My first and most important debt is to my supervisor, Professor Martin Goodman, whose magisterial knowledge, insistence on really reading the ancient texts, and keen sense of irony have have shaped my research since I first came to Oxford as a nervous MPhil student. I am particularly grateful to him for responding with grace to my many timeline adjustments, and, even more, for finding a way to get books to me in the locked-down final weeks. For all this, and more, I thank him.

Professor Rosalind Thomas, Professor Neil McLynn and Dr Luke Pitcher provided considerable helpful feedback during my transfer and confirmation vivas. Professor Hindy Najman generously met with me and provided stimulating suggestions, as did Professor Chris Pelling. They, and all others who have, sometimes unknowingly, contributed to my thinking in seminars and informal contexts, have my gratitude, as does Dr Kate McLachlan, who agreed on very short notice and with unwarranted enthusiasm to proofread the thesis for me.

I am indebted to the Clarendon Fund, and the Littman Trust at Wolfson College: nothing would have been possible without their generous financial support. I am also thankful to the Ertegun Programme, which funded my MPhil, but also allowed me to remain a Resident Alumna at Ertegun House for my doctorate. This thesis (if not its final stage!) was almost entirely written at the House, and prompts from my Ertegun colleagues regularly finessed my work: to my Ertegun friends, thank you.

Finally, I want to express my gratitude to my parents for their unstinting long-distance support. Not that they have much use for it, but this thesis is dedicated to my niblings, who entered the world over the three years of its gestation.

Table of Contents

Acknowledgements 2

Table of Contents 3

Abstract 6

Abbreviations 7

Chapter One: Introduction 8

1.1 Studies of Josephus' Moses 9

1.1.1 Previous studies 9

1.1.2 The current project 17

1.2 Josephus' audience for the *Antiquities* 18

1.2.1 Josephus' explicit claims about his audience 20

1.2.2 Josephus in Flavian Rome: implicit evidence for his audience 24

1.3 Josephus' purposes in the *Antiquities* 26

1.3.1 Josephus' stated purposes 27

1.3.2 Implicit purposes 29

1.4 Josephus and the Greeks 35

1.5 Greek literature in the Flavian Period 39

1.6 Plutarch 43

1.7 Methodology and outline 49

Chapter Two: Legends of Lawgivers 53

2.1 The tradition of the lawgiver in the Greek world 53

2.1.1 Lawgivers and laws 54

2.1.2 Divine law through human dialogue: Plato's *Laws* 61

2.1.3 Degeneration and exemplarity 66

2.1.4 Conclusions 72

2.2 The Jewish lawgiver in the preface to the *Antiquities* 73

2.2.1 History as law 74

2.2.2 The other lawgivers 78

2.2.3 Mythmaking lawgivers 80

2.2.4 Conclusions 83

Chapter Three: Egypt and Exile 84

3.1 Birth and childhood 84

3.1.1 Infancy narratives 85

3.1.2 Childhood and education 99

3.1.3 Revelation of identity 112

3.1.4 Conclusions 118

3.2 Exile and return 119

3.2.1 Persecution and exile 120

3.2.2 Calling and return 128

3.2.3 Conclusions 132

Chapter Four: Giving the Law 135

4.1 Divine law 136

4.1.1 Divine law(s) in Plutarch 139

4.1.2 Divine law in Josephus' *Antiquities* 149

4.1.3 Conclusions 164

4.2 Temple and priest 165

4.2.1 Temples and symbolism 166

4.2.2 Priests 175

4.2.3 Conclusions 187

4.3 Written law 188

4.3.1 Plutarch and written law 190

4.3.2 Josephus on written (and oral?) law 198

4.3.3 Conclusions 205

Chapter Five: Leaving the Law 207

5.1 Conflict and resistance 209

5.1.1 Resistance and conflict in Plutarch 212

5.1.2 Challenging the lawgiver in *Antiquities IV* 221

5.1.3 Moses and conflict: Josephus' problem 235

5.2 The constitutional laws 237

5.2.1 Introducing the constitutional laws 238

5.2.2 Lycurgus' constitution: power, property, people 244

5.2.3 Categorising Josephus' constitution 249

5.2.4 Comparison and conclusion 280

5.3 Death and departure 282

5.3.1 Departure and death in Plutarch 283

5.3.2 The "departure" and death of Josephus' Moses 291

5.3.3 Conclusions 303

Chapter Six: Conclusion 305

6.1 Appealing to his audience 305

6.2 Challenging his audience 308

Bibliography 311

A. Primary texts, translations, and reference works 311

B. Secondary literature 314

Abstract

In the preface to the *Antiquities,* Josephus introduces Moses, the lawgiver, as the central figure in Jewish history. Moses is presented in terms which are familiar from the traditions about lawgivers in the Greek world, but Josephus also adapts the category of lawgiver itself to fit Moses in particular. This pattern of appeal and adaptation persists in the account of Moses' life which appears in *Antiquities II* to *IV*. In order to formulate a historically grounded picture of what a Greek audience would expect, this thesis uses Plutarch's *Lives*, particularly of Lycurgus, Numa, and Solon. The core chapters of the thesis analyse the narrative of Moses' life in the *Antiquities* through this lens, finding that on the levels both of narrative motifs and theoretical assumptions about the process of legislation Josephus imagines an audience with expectations similar to those presupposed in Plutarch's *Lives*. Narrative motifs added to the stories of Moses' birth, exile, and death reveal Josephus' attempt to conform to Greek models of founding and legislating. When we consider Moses' actions as lawgiver, comparison with Plutarch uncovers unexpected ambivalence about the ultimate source of the Jewish law, while also laying bare some core differences in emphasis in relation to the medium through which law is transmitted, and the categories of life managed by a "constitution". Even where there are differences, however, the investigation finds a consistent concern on Josephus' part to ensure his text appeals to readers who expected an approach like that in Plutarch's *Lives*. The few exceptions expose core issues about which Josephus may have wished to provoke his audience: the place of communal worship in a nation's "constitution", the legislator's need to be a part of the community for which he legislates, and the limited power of persuasion to deal with existential threats. The thesis argues that in his portrait of Moses as Jewish lawgiver, Josephus uses and challenges Greek models.

Abbreviations

Abbreviations of ancient authors and works follow the *Oxford Classical Dictionary*. Abbreviations of journal titles follow *L'année philologique.* Exceptions and other abbreviations are below:

AJ	Josephus: *Jewish Antiquities*
BA	Pseudo-Philo: *Biblical Antiquities*
BJ	Josephus: *Jewish War*
CA	Josephus: *Against Apion*
Deus	Philo: *On the Unchangeableness of God*
Deut.	Deuteronomy
Ex.	Exodus
Ex.R	*Exodus Rabbah*
Gen.	Genesis
JJS	*Journal of Jewish Studies*
JQR	*Jewish Quarterly Review*
Lev.	Leviticus
LXX	Septuagint
Lyc.	Plutarch: *Lycurgus*
Mos.	Philo: *Life of Moses*
Num.	Numbers
Numa	Plutarch: *Numa*
QE	Philo: *Questions on Exodus*
Rom.	Plutarch: *Romulus*
Sol.	Plutarch: *Solon*
Spec.	Philo: *On the Special Laws*
SyLN	Plutarch: *Syncrisis of Lycurgus and Numa*
SyTR	Plutarch: *Syncrisis of Theseus and Romulus*
Th.	Plutarch: *Theseus*
Vita	Josephus: *The Life*

Chapter One: Introduction

Early in the preface to the *Antiquities*, Josephus tells his reader that nearly everything which is to come is dependent on the wisdom of the lawgiver, Moses (*AJ* 1.18). The Jewish historian, writing in Domitian's Rome, thus presents Moses as the central figure in his *magnum opus*, which tells the story of the Jewish people from creation until the revolt against Rome. Moses appears just over halfway through the second book, and dominates the narrative until his death at the end of the fourth book. Only 12.5% of the twenty-book history, yet Josephus claims that on Moses depends almost everything.

Josephus' narrative of the life and work of the Jewish lawgiver in *Antiquities II* to *IV* contains significant quantities of extra-biblical material, and has attracted a good deal of scholarly attention, as has the broader question of Josephus' relationship with Greek literature, but a historically grounded study considering the particular relevance of Plutarch, whose early *floruit* overlaps with that of Josephus, is lacking, as will be shown in in the first part of this introduction (1.1).

This study will use Plutarch's *Lives*, primarily those of lawgivers, to explore how an audience familiar with Greek models of legislation and aetiology might respond to Josephus' text, and whether Josephus' adaptations of his source material make more sense in light of such an audience. This does not mean suggesting a direct literary relationship between the two: rather, Plutarch's works are used to construct the potential expectations of Josephus' audience. Josephus' audience, as far as it can be reconstructed, and some of the problems with most scholarly approaches, will be discussed in the second part of the introduction (1.2), followed by an evaluation of Josephus' broader purposes, stated and implicit (1.3). The fourth

part considers Josephus' attitude toward Greek culture, showing that the shift between the *War* and *Antiquities* provides us with further information about his audience (1.4). A brief examination of the kinds of Greek literature being produced in the Flavian period (1.5) will then bring us to an explanation of Plutarch's particular relevance for understanding Josephus' *Antiquities* (1.6). An outline of the thesis as a whole will close the introduction (1.7).

1.1 Studies of Josephus' Moses

1.1.1 Previous studies

This overview will of necessity focus only on the most influential studies which place the biblical portion of the *Antiquities* in the context of Greek literature, and particularly on those that pay close attention to the figure of Moses: the monographs of Attridge (1976) and Spilsbury (1998) both do this, while among Feldman's numerous analyses of Josephus' "portraits" of biblical figures, Moses holds a special place, with three dedicated articles.[1] Mason's copious contributions to debates about Josephus' aims, audience, and context will be discussed in the later parts of this introduction, but his suggestion that the constitution is a unifying theme for the whole of the *Antiquities* merits attention here.[2] Yet Moses is not only a legislator: as part of a broader investigation into Jewish engagement with Greek mythology, Bloch uses Josephus' Moses as a test-case in Jewish hero-myth, "symptomatic" of Jewish-Hellenistic literature.[3] More specifically, Damgaard has provided an innovative interpretation of the figure of Moses with reference to Josephus' self-portrait in the *Life*.[4] This first part of the introduction will identify the contributions of each of these studies, before considering what

[1] Feldman 1992a; 1992b; 1993a; 1998. Not discussed here are the seminal works of Laqueur (1920) and Thackeray (1929), both of whom contributed hugely to the process of reading Josephus as a creative author.
[2] Mason 2004; 2012.
[3] Bloch 2011: esp. 106-120.
[4] Damgaard 2008; also 2013: 125–49.

might appear to be the most important precedent for the present thesis: a 2005 article by Feldman which compares Josephus' Moses with Plutarch's Lycurgus.

Attridge was the first to take Josephus' engagement with the Greek tradition really seriously. His chapter on the role of God in the *Antiquities* finds much of its evidence in speeches by Moses, which portray the deity as ally to the Israelite people, replacing the biblical language of covenant.[5] Moses also provides the ultimate example of the virtues in Attridge's chapter on Josephus as moraliser.[6] In his final chapter, stories from the Mosaic portion of the *Antiquities* (notably the affair of the Midianite women) demonstrate Josephus' embrace of Greek narratives of political decline.[7] The figure of Moses thus plays an important role in the development of Attridge's thesis that the *Antiquities*, in its embrace of "theologically significant categories from Greek literature", presents history as a demonstration of the premise that God helps those who are good and destroys the wicked. Yet Moses' status as lawgiver is not something with which Attridge engages closely.

Spilsbury's monograph on the biblical portions of the *Antiquities* devotes a chapter to "Moses and his Opponents".[8] The book as a whole draws out the characteristics of the Jewish people as portrayed by Josephus as the nation develops through its history. A particular strength of Spilsbury's approach is his focus on the text itself, separate from the biblical source material – thus identifying the "image" as it would appear to a non-Jewish audience without knowledge

[5] Attridge 1976: 62–5, 81.
[6] Attridge 1976: 144.
[7] Attridge 1976: 169.
[8] Spilsbury 1998: 94–146.

of the biblical models.[9] In his chapter on Moses, he suggests that Josephus uses this part of the text to argue for the primacy of obedience to Mosaic Law as a marker of Jewish identity.[10] For Spilsbury, Josephus' use of the term "lawgiver" (νομοθέτης) is "deliberately apologetic", as it aims to set up a comparison with Lycurgus, Solon, or Numa.[11] Given the long tradition of this term for Moses not only in Jewish Greek texts, but also in non-Jewish literature, it seems a stretch to regard this as especially apologetic. Nevertheless, Spilsbury's analysis identifies Moses' status as lawgiver as the central motif in this section.

Feldman's exhaustive studies of Josephus' "portraits" laid extensive groundwork for more nuanced analysis. He regards the *Antiquities* overall as Josephus' response to the Graeco-Roman charge that the Jews have produced no great men, so that it becomes a series of biographies exemplifying the features appreciated in Greek discourse: antiquity, genealogy, precociousness, physical attractiveness, wealth, leadership, and the cardinal virtues (wisdom, courage, temperance, justice, and piety).[12] These can be seen in the Moses-narrative, but Feldman tends to "overplay his hand".[13] In particular he suggests that because Moses was a figure known to a non-Jewish audience, Josephus would have felt it particularly necessary to bring out parallels with Thucydides' Pericles, Plato's philosopher-king, Virgil's Aeneas, and the Stoic sage.[14] While there is truth to the overall claim, this list demonstrates one of Feldman's shortcomings: he presents the Greek and Roman tradition as a single, static, synchronised

[9] Spilsbury 1998: 24. This approach is a sharp contrast from the study of the *Antiquities*, by Franxman (1979), which evaluated the differences between the *Antiquities* and the biblical material (specifically that of Genesis), which allowed him to identify five methods employed by Josephus: change of place, change of function, replacement, addition, and omission, and to categorise sections based on the methods used.
[10] Spilsbury 1998: 145.
[11] Spilsbury 1998: 101.
[12] Feldman 1998: 82. The lack of great (or remarkable – θαυμαστούς) men is a charge Josephus himself records in *Against Apion* (2.135). It is not found elsewhere.
[13] The criticism is from Spilsbury 1998: 33.
[14] Feldman 1998: 441.

culture from which Josephus can borrow: chronology and genre are disregarded. The consistent identification of the same virtues in the lives of the different heroes of the bible in Josephus' retelling is useful, but Feldman's work leaves space for a study more grounded in the literary and ethical culture of late-first-century Rome.

Placing Josephus in this context is a significant part of Mason's approach, not only in his introduction to Feldman's translation and commentary in the Brill series, but also more generally in his numerous articles on Josephus' audience, thematic concerns, and relationship to Latin and Greek historiography.[15] His take on the issue of audience will be discussed below (p. 19), but his particular contribution to the study of the *Antiquities* (and implicitly of Moses' place in it) lies in his recognition of the overall unity of the twenty-book history. He criticises much scholarship on the *Antiquities* for its willingness to "balkanise", studying either the biblical portion, or particular narrative strands in the latter half (the Hasmoneans, the Herodians, and so on).[16] The present thesis, in honing in on Moses, may do precisely that. Yet his development of this point is that if we look at the *Antiquities* holistically, one particular topic emerges as "the main point and unifying theme of the work from beginning to end" – the Judaean constitution, set up by the lawgiver Moses in books three and four, and the central topic of this study.[17]

In his exploration into Greek myth in Hellenistic Jewish texts, Bloch shows that in four key parts of Moses' story (the announcement of his birth, exposure, military exploits, and death)

[15] Mason 2004; 2005a; 2005b; 2012; 2015; 2016: 60–137 (on the *Jewish War*).
[16] Mason 2012: 129.
[17] Mason 2012: 138.

Josephus' version heightens parallels with Greek and Roman myths.[18] While these additions are often paralleled in rabbinic and other Jewish material, Bloch concludes that Josephus stands with "one leg in the Jewish-rabbinic tradition, the other in the pattern of pagan hero-myths."[19] It is no coincidence that in this thesis it is at precisely those moments that we will turn from Plutarch's lawgiver lives to his *Theseus-Romulus*: these are parts of Moses' story that are not defined by his status as legislator.

In his monograph on the reception of Moses in early Christian and Jewish texts, Damgaard has queried the primacy of Moses' status as lawgiver. In his chapter on Josephus' Moses (entitled "Generalship in the midst of seditions"), he argues that it is Moses' position as general of the Israelite army which is the defining feature of Josephus' portrayal.[20] He points out that whereas in the *Against Apion* Josephus claims that Moses united the Israelites completely (*CA* 2.158), the narrative of the *Antiquities* provides a series of rebellions against Moses' authority, and that Josephus calls Moses στρατηγός more often than he names him νομοθέτης.[21] In his portrayal of these rebellions, according to Damgaard, Josephus is attempting to draw out similarities with his own conduct as a general during the revolt (as described first in the *War* and then in the *Life*).[22] The parallels which Damgaard identifies are fairly thin: the most significant is that both are falsely "accused of tyranny as a rhetorical technique for enhancing their status."[23] While no doubt Josephus would be pleased to be

[18] Bloch 2011: 105.
[19] Bloch 2011: 118: "Josephus steht mit seiner Fassung der Moses-Geschichte mit einem Bein in der Jüdisch-rabbinischen Tradition, mit dem anderen im Schema des paganen Heldenmythos."
[20] Damgaard 2013. An earlier version of this argument (Damgaard 2008) was published in *JJS*.
[21] Damgaard 2013: 146: the claim in *Apion* is bold since Josephus himself had described the nearly endless stasis faced by Moses.
[22] Damgaard 2013: 126.
[23] Damgaard 2013: 140: other figures accused of tyranny are real tyrants, such as Herod or Caligula. Parallels with the *Life* (written after the Moses portrait in the *Antiquities*) are located in the focus on Josephus' time in Galilee

compared with Moses, the parallels are not strong enough to make this a central goal. Moreover, the contrast between the *Against Apion* and the *Antiquities* is not as striking as Damgaard suggests – although in distinguishing between the two he contributes something important to the discussion. The precise claim which Josephus makes in the later work is that Moses "convinced" (ἔπεισεν) the people to accept his laws (*CA* 2.156). This may not imply the level of rebellion against Moses which we find in *Antiquities IV*, but it also doesn't preclude it as a preliminary stage in the process of persuasion.

Damgaard accepts Josephus' designation of Moses as general and uses this as the guiding principle of his work.[24] Yet the thinness of the argument betrays an important feature of the figure of Moses as presented by Josephus: while he is *called* a general, and his military prowess is insisted upon, there is actually very little in the narrative that fits in with this characterisation – his military activities are quite limited. Studies which focus on Moses' status as lawgiver, and the role he plays as a founding figure, are more successful, because this is a more consistent thread in the story, even if the term στρατηγός is employed more often than νομοθέτης. Yet even studies which have focused on Moses as lawgiver (Feldman, Spilsbury) have not engaged closely with the Greek narrative and theoretical models inherent in this characterisation.[25]

(a period of stasis), that Josephus faces the envy of John of Gischala, as Moses faces that of Korah, and the employment by both of stratagems against their detractors (143).

[24] An article by Petitfils (2014) also emphasises Moses' status as general, focusing on the Ethiopian expedition, and identifying a pattern of action, audience, commemoration and a call to imitation which he associates with the Roman exemplary tradition.

[25] The same is true of a 1991 unpublished doctoral thesis (Hayashi 1991): its title ("Moses in the *Jewish Antiquities*: Josephus' Political Philosophy") suggests a close analysis of Moses as lawgiver in the *Antiquities*, but in fact it attempts to trace a unified political philosophy across Josephus' works; Moses is reduced to being the "spokesperson" for Josephus' unchanging aristocratic ideal.

A later article by Feldman might appear to do this: in the edited volume *Flavius Josephus in Flavian Rome* (2005), Feldman contributed a chapter entitled "Parallel Lives of Two Lawgivers: Josephus' Moses and Plutarch's Lycurgus". In using Plutarch specifically as a point of comparison, he seems to be engaging more particularly both with Josephus' chronological context and with the Greek lawgiver model. He observes similarities between the approaches of the authors: the shading together of history and biography, and moralising.[26] He exhaustively lists parallels within the narratives and legislative programmes: genealogy, virtues of wisdom, courage, justice, a special emphasis on moderation and piety; association with the divine; rejection of kingship; setting up a council of elders; military leadership; educational systems for youths, and so on.[27] Most are not argued for, and the list format obscures a multitude of questions: when exactly does Moses reject kingship? Can Josephus' sparse references to the teaching of the law to children (*AJ* 4.211, 260) be called an "educational system" comparable to Plutarch's extensive account of Spartan pedagogy? Feldman accurately observes that both Josephus and Plutarch highlight moderation and gentleness as virtues of their lawgivers, but his point that both are reluctant to take on supreme power ignores the extent of the biblical Moses' reluctance, which is greater than that of Josephus' Moses (see p. 132). The evidence sometimes has to be forced to fit Feldman's scheme.

[26] Feldman 2005: 212, 215.

[27] Feldman 2005: 216: "… dealing with the masses and with opponents; suppression of rebellions; attitude towards aliens; opposition to putting laws into writing; attitude toward wealth and poverty; setting up a tribal and sub-tribal system; allotment of lands; laws pertaining to first-fruits; law and practices pertaining to marriage and parenthood; laws pertaining to the modesty of women; the status of women, priests, and slaves; the training of soldiers; diet, burial; laws against sorcery; the manner of the lawgiver's death; laws forbidding modification of the laws."

Nevertheless, the comparison yields some results, and Feldman uses these to suggest an indirect connection between the two authors. He regards the absence of explicit reference to one another as inconclusive, citing the fact that both fail to mention contemporaries by name at all.[28] The supposed hostile attitude towards the Flavians which marks Plutarch's few references to the dynasty is taken as a reason for no relationship to have developed.[29] It is worth observing that Plutarch's hostility is primarily towards Domitian, and as such is fairly standard for the post-96 period – it tells us little about how he behaved during his visits to Rome.[30] Indeed, Stadter suggests that Plutarch had enough influence with Flavian emperors to encourage beneficial treatment of Delphi, though it is likely he would not have approved of their expulsions of philosophers.[31] Even if Plutarch disliked the Flavians, the idea that this would militate against any connection with Josephus rests on two flawed assumptions: that the attitude evinced in Plutarch's post-Flavian works would equally reflect his behaviour and choices in the city of Rome itself when he visited in earlier periods, and that Josephus' sycophantic references to the Flavians are an accurate reflection of his interactions with other writers in the capital. Neither of these assumptions can be accepted.[32] Feldman then postulates a common source for their use of comparison and virtue-listing, but given that Feldman himself has demonstrated the ubiquity of this set of virtues in Greek literature, it hardly seems necessary to add a specific shared source; moreover, the idea of comparing historical figures with one another does not require a common source of inspiration.

[28] Feldman 2005: 232, 4. Josephus does in fact mention his contemporary Justus of Tiberias (*Vita* 336)
[29] Feldman 2005: 235. For this hostility, see Jones 1971: 25 but cf. Vasunia 2003: 386.
[30] For criticism of Vespasian, see *Amat.* 771C; of Domitian, *Num.* 19.7, *Publ.* 15.5-6, *Solon* 27 (with Stadter 2002a: 174)
[31] Stadter 2014a: 15, 19; Vasunia 2003: 387.
[32] Stadter (2002a: 176) even sees in Plutarch's depiction of Solon's relationship with Peisistratus a defence of his own position towards the tyrant Domitian.

Feldman's study provides helpful background, but does not take the next step, which is to think about why similarities matter in the absence of a direct literary relationship.

1.1.2 The current project

We come therefore to the present study, which differs from those discussed in two ways. Firstly, the use of Plutarch as a source of comparative material is more fully embraced: focusing not only on the *Lycurgus* but also on its twinned *Numa*, as well as on the *Solon*, this study aims to take seriously not simply parallels between Moses and Lycurgus, but parallels with the Greek model of the lawgiver itself.[33] The *Lives* of other foundational figures will also be considered – such as the *Theseus-Romulus*. Maximising comparative material at the same time as focusing on a single author, nearly contemporary with Josephus, allows for a more complete understanding of which aspects of the lawgiver model Josephus is using – and which he is rejecting.

Secondly, the present study differs in its framework. Feldman attempts first to posit a connection between Josephus and Plutarch in Rome, and then to identify a common source for the similarities in their attitudes and concerns. This is a traditional approach, but one which does not take us particularly far, since it involves arguments from silence. Instead, I want to suggest that the value of Plutarch for the study of Josephus' *Antiquities* lies in his status as a representative of a particular Greek ethos, one with which Josephus shows himself engaged in the prologue to the *War* (p. 38 below). Because Plutarch wrote the *Lives* of lawgivers, and because Josephus seems in the *Antiquities* to be appealing to a Greek audience, the comparison allows us to ask whether Josephus is presenting Moses in a way calculated to

[33] The *Publicola*, which is paired with the *Solon*, contains little material that is helpful for this study, and has therefore been excluded.

appeal to an audience with expectations similar to those of the readers presupposed by Plutarch's *Lives*.

1.2 Josephus' audience for the *Antiquities*

But who is this audience, and can we talk about a particular "Greek ethos"? Naturally Josephus' first audience must at least have been able to understand Greek, and Josephus' Greek is different from that of the New Testament, or other Jewish literature in Greek, looking more like the language of "contemporary and later statesmen-teachers" such as Plutarch, Dio Chrysostom, Aristides and Lucian.[34] Since the educated elite of Rome were bilingual in any case, the choice of language tells us very little about who Josephus is aiming his work at.[35] Before we consider what the author himself says about his audience, we should establish why this matters.

It is a truism that audience shapes meaning, and, like any other author, Josephus will have had the opinions, prejudices, and perspectives of his primary audience in mind as he wrote. This is usually taken as the reason for the absence of any reference to leprosy when Moses' hand turns white as a divine sign (*AJ* 2.273; Ex. 4:6): aware of the story that the Israelites were expelled from Egypt as lepers (*CA* 1.230; *AJ* 3.265), Josephus avoids any reference to their lawgiver being momentarily leprous.[36] His expectations of his audience's knowledge shape his portrayal of this incident.[37]

[34] Mason 2005a: 75.
[35] Mason 2004: xviii.
[36] Spilsbury 1996: 353. Moses' hand does turn white, "like chalk" (τιτάνῳ), but there is no reference to the disease.
[37] Barclay 1996: 358; Feldman 2004: 2.273; Cowan 2018: 489.

The same is true more broadly – as is emphasised by Mason, whose work on the *Jewish War* has highlighted the extent to which it is possible (if positing a Roman audience with a highly developed sense of irony and ability to read between the lines) to see subtle divergences from the official line on the revolt, and even criticisms (or mockery) of members of the Flavian dynasty.[38] While much of this relates specifically to the content of the *War*, the use he makes of evidence for ancient "publication" and the social context of the writing process in antiquity applies equally to the later works. Josephus must have had an immediate, primary audience of people in Rome; these people would not have gained access to his text only after the twentieth book was finished, but would probably have read portions, or attended readings, while Josephus was writing them. Price regards Josephus' apology for his accent at the end of the *Antiquities* (20.263) as evidence that he would not have given public lectures.[39] Yet this assumes that such lectures would have been an option, even an expectation (hence the need for an apology). Mason takes the opposite view: together with the apology he places Josephus' famous reference to "helpers" (συνεργοί) in *Against Apion* (1.50). They helped Josephus with "the Greek language" (φωνή): the term φωνή most naturally refers to spoken language. Mason thus suggests that these collaborators helped him with oral expression in Greek, which would imply that public readings were a part of the writing process.[40] The "helpers" also suggest a social writing context.

[38] See in particular: Mason 2005b; Mason 2005a; also Mason 2015; for pushback against Mason's approach, see Huitink and van Henten 2009; with a response in Mason 2011.
[39] Price 2005: 105: "Josephus would not have embarrassed himself in a public reading…" His evidence for the embarrassment Josephus' Aramaic accent may have caused is from Quintilian (*Inst.* 1.1.13), who disapproves of Greek accents influencing Roman students' Latin. Yet this assumes a fairly one-dimensional Rome.
[40] Mason 2015: 94.

This local and social context for the writing process, strongly implied by comments in authors such as Lucian, not only is historically tenable, but also has the benefit of reinvigorating Josephus' text – perhaps the main test of the value of any historical theory.[41] The present tense verbs referring to rival historians in the opening to the *Jewish War* (ἀναγράφουσιν, καταψεύδονται) then point to Josephus' knowledge of the work-in-progress of his contemporaries, and when he criticises erudite Greeks who might mock his emotional style (*BJ* 1.13), this reveals lively and active debate between living, breathing writers and their acquaintances.[42]

Josephus' first audience, therefore, for all of his texts, was not some ethereal, purely imagined entity, but consisted of people he knew and came into real contact with. It was probably not precisely the same people for the *War* and the *Antiquities*: the little Josephus has to say about his audience suggests subtle distinctions. To form a picture of the audience for the *Antiquities* will take two stages: first, we will look at what Josephus himself explicitly says about who is reading his work. The second stage will look more broadly at what is implicit in the text, as well as the social context in which Josephus seems to have lived in Flavian Rome – since this is where his first readers ought to be found.

1.2.1 Josephus' explicit claims about his audience

The only explicit statement about his audience which we can find in the preface to the *Antiquities* is Josephus' claim (1.5) that he has undertaken this task in the belief that it will seem worthy of study (ἀξίαν σπουδῆς) to all Greeks (ἅπασι τοῖς Ἕλλησιν). The particle γάρ

[41] Lucian (*Hist. Consc.* 14-15) tells how he walked out of a reading while the historian "was still burying the Athenians", knowing full well what was coming next.
[42] Mason 2005a: 88–89: "Oblique though this passage may be, for understandable reasons in a dignified prologue, it seems to show Josephus again in vigorous debate with other writers in the capital.

introduces the reason for this: it covers "our" archaeology and constitution translated from Hebrew. Immediately, Josephus associates "Greeks" with an interest in antiquity, or antiquarianism, and political theory.

First, what does Josephus mean by "all Greeks"? The universalising reflects the necessity, common in historical prologues, of presenting one's work as having validity and relevance which extends beyond its immediate context.[43] Rajak observes that Josephus in his use of these words "expects everyone to know who and what he means," and has a wide readership in mind: "Rome in the wider sense, and especially the Greek-speaking cities – *orbs* as well as *urbs*."[44] Yet he says "all Greeks", and not "all people", or indeed "all under Roman power" – as he does in the preface to the *War* (1.3: τοῖς κατὰ τὴν Ῥωμαίων ἡγεμονίαν). The difference in content partly explains this (given that the *War* is to a great extent precisely about Roman power), yet the complete absence of reference to Romans in the prologue to the *Antiquities*, despite the apparent continuity in Josephus' life and writing context, should give us pause. It suggests that he expects his primary audience, to whom this statement appeals, to think of themselves as Greeks.

For Feldman, the term "Greeks" when it refers to Josephus' audience simply means "non-Jews".[45] This is problematic: firstly, in the prefaces at least, "Greeks" are defined by Josephus in particular ways, not merely by an absence of Judaism: in the *Antiquities* preface, they are interested in political philosophy, they have lawgiver traditions and stories about the gods, or in the *War* preface (more negatively), they rewrite classical history and squabble in law-courts

[43] Cf. Thucydides' "possession for all time" (1.22: κτῆμά… ἐς αἰεὶ).
[44] Rajak 2005: 80–1.
[45] Feldman 2004: 4.197.

(discussed on page 37). "Greeks" in the prefaces is not simply a negative identity. Secondly, it is worth thinking about how the term would sound to its first audience: it is unlikely that a non-Jewish Greek speaker in Flavian Rome would hear "this is of interest to all Greeks" and think, "this refers to me", unless he identified in some way as Greek. If Josephus is appealing to an immediate audience, "Greeks" must mean more than "non-Jews".[46]

Finally, one reader is mentioned by name: according to Josephus (*AJ* 1.8), Epaphroditus was one among many who encouraged him to write the *Antiquities*. Praising his love of learning and strength of character, Josephus draws a picture of his patron that scholars have tried to match to a specific historical figure. This was once thought to be the Epaphroditus who helped the emperor Nero commit suicide – the former master of the philosopher Epictetus.[47] Josephus' reference to his patron's "varied fortunes" (τύχαι πολύτροποι) could have resonance with this freedman's life story, but it is difficult to see him having a significant position in Flavian Rome after his place in Nero's court.[48] There are also chronological difficulties: Domitian exiled Nero's Epaphroditus in 90 CE and had him executed in 95 for his role in the last Julio-Claudian's death.[49] The *Antiquities* closes in the thirteenth year of Domitian's reign (c. 93), and Josephus refers again to Epaphroditus at the end of the *Against Apion*: if his patron

[46] At *AJ* 4.197 Josephus does refer to potential Jewish readers, as he explains his categorisation of Moses' laws in his constitutional summary, with a slight apology to any "countrymen" who might be reading. This passage is fully discussed in Chapter Five (p. 240), and, while it is evidence Josephus might have expected the odd Jewish reader, its primary function is rhetorical, a method for demonstrating Josephus' own accuracy and sensitivity not to insiders who know the Mosaic laws, but to outsiders who don't. As Mason (2004: xix) and Feldman (2004: 4.197) have noted, Josephus' consistent explanations of Jewish customs outside of programmatic contexts suggest that his claim not to be writing for Jews is sincere.

[47] Dio 63.29.3; Suet. *Nero* 49.

[48] Weaver 1994: 475; Cotton and Eck 2005: 50.

[49] Suet. *Dom*. 15; Dio 67.14.4.

was executed in 95, it would require very quick literary turnover (quite aside from the question of Epaphroditus' status in the early 90s).[50]

A more likely identification is a wealthy freedman and book-collector who appears in the Suda.[51] His former master, Modestus, whose son Epaphroditus tutored, is described as "prefect of Egypt" (ἔπαρχος Αἰγύπτου), but Cotton and Eck have pointed out that there is no such person in the *fasti*, suggesting some confusion on the part of the Byzantine compiler, and casting doubt on the status of Epaphroditus.[52] Mason suggests that even this Epaphroditus dies "inconsiderately early" (between 96 and 98 CE) to allow for the composition of the *Life and Against Apion.*[53] The positive references to Domitian and his wife at the end of the *Life*, however, mean that it must have been finished before Domitian's assassination, and a possible two years to work on the *Against Apion* is not unreasonable.[54] In any case, we can still say something about Epaphroditus as he is presented in Josephus' work: his primary characteristic is his expertise in *paideia*, which may imply that Josephus constructs him as a representative of the "Greeks".

The explicit statements Josephus makes about his audience therefore allow us to say only a few things about the primary recipients of his text. Not merely Greek-speakers, they probably saw themselves as Greek in a more specific sense. They were educated, interested in history, particularly ancient history, and curious about Judaism – something which Josephus says (*AJ*

[50] Jones 2005: 207; Cotton and Eck 2005: 50.
[51] Suda ε2004; this identification was made as early as Thackeray (1929: 53).
[52] Cotton and Eck 2005: 51.
[53] Mason 2004: xviii.
[54] It has been suggested that the *Life* and latter books of the *Antiquities* were revised after 100 CE – this is intended to explain Josephus' reference to the death of Agrippa II, when according to Photius (*Bibl.* 33), he only dies in 100 CE (see Laqueur 1920: 1–6). There are reasons to think that Photius' dating is mistaken (see Mason 2001: xviii), but this is of little importance for the present study.

1.8), but also a necessary precondition for anyone willing to engage with something as extended and detailed as the *Antiquities*.

1.2.2 Josephus in Flavian Rome: implicit evidence for his audience

The next stage of this discussion is then to see what other evidence can be brought in to address the question: in particular, can we reconstruct Josephus' social group – given that it is likely that his connections in the capital would have been some of his first readers?

Josephus claims that he was honoured by the successive Flavian emperors, suggesting status among the Roman elite, but scholars have been sceptical. Cotton and Eck, in particular, examined the people who are named in the *Jewish War* and the *Life*, and noted the absence of anyone of senatorial or equestrian rank.[55] Josephus' choice of patron has also been thought to provide evidence of his relatively lowly status. Thus Cotton and Eck ask, "Would anyone who had strong ties with people from the real elite of the city have dedicated three of his works to such a man?"[56] Similar sentiments are expressed by Price: "by lavishly thanking an obscure figure of (probably) servile birth as his patron, Josephus is inadvertently revealing his own obscurity in Roman society of the day."[57] Goodman is more sympathetic on the same point: Josephus wrote "not primarily to protect his social status by winning the patronage of rich Romans."[58]

That Epaphroditus was almost certainly wealthy does not undermine the core point, that Josephus' writings did little to gain him social status or elite position. Josephusis almost

[55] Cotton and Eck 2005: 41.
[56] Cotton and Eck 2005: 52.
[57] Price 2005: 106.
[58] Goodman 1994: 338: "… one may doubt how useful an ally Epaphroditus was in Roman society."

entirely absent from the literary record of the next century, appearing only as a noble captive and prophet in Suetonius (*Vesp.* 5) and Cassius Dio (66.1.4). His primary image is of chained captive (*cum coiceretur in vincula*), his literary productivity irrelevant – though it still matters that he is mentioned by name.[59]

Yet the subtly derogatory language sometimes employed by those emphasising Josephus' isolation from the elite of Rome (Price names Josephus' connections "not exactly a constellation of stars") seems to accept a simplistic notion of the literary culture of the Roman capital, in which there is a single elite circle, and all else is "outer darkness", to borrow Mason's characterisation. He argues against the view of "isolated Josephus" with some spirit, highlighting Josephus' arrival in Rome with Titus and probable involvement in the triumph as at least making him conspicuous in Flavian Rome ("even if he functioned only as a human mascot for the regime").[60] Likewise, Josephus tells us that he faced accusations from enemies including Catullus, proconsul of Crete and Cyrene: he was supported in his response to these accusations by the successive emperors, making it hard to see him as an entire nonentity, though this does not mean that his later works were actually read by anyone of elite status.[61]

More importantly, the claim that Josephus has an active social group which forms part of his writing process does not have to mean that he is spending time in the literary salons populated by Pliny and Tacitus.[62] So says Mason, but he also falls into the opposite trap of trying to give Josephus more social clout than is necessarily appropriate – attempting (at least

[59] Den Hollander 2014: 40–1.
[60] Mason 2015: 90.
[61] Mason 2015: 96; cf. Cotton and Eck 2005: 48: "Josephus was prominent to a member of the senatorial aristocracy who tried to destroy him by charging him with treason."
[62] Mason 2015: 94.

implicitly) to link him with senatorial opposition to the principate, and the upper echelons of Roman society.[63] Rather, it is precisely because he does not belong in those circles that Josephus is such an important author: he gives us a window into what we might term a literary "subculture". If he is our sole surviving representative of a group of historical enthusiasts outside of the mainstream senatorial elite, it seems strange and counterproductive that so much scholarly literature wishes either to link him up with groups about which we already know, or dismiss him as isolated and therefore unrepresentative and unhelpful as a source for the interplay between cultures in the Roman capital. It is precisely because he is not like other writers in this period that his work on integrating the history of the Jews into Greek political discourse matters – and if Plutarch's lawgiver *Lives* provide fertile material for comparison, this allows us to say something not only about Josephus, but also about some of the historically invisible people who were reading history in Flavian Rome.

1.3 Josephus' purposes in the *Antiquities*

But this conclusion may seem premature. To what extent is it reasonable to characterise Josephus' *Antiquities* as "integrating the history of the Jews into Greek political discourse"? Is it possible to state with any clarity what the author's purposes in writing this extended account of Jewish history were? It would be simplistic to pretend that Josephus has a single, unifying goal into service of which every part of the *Antiquities* is pressed. This is why Mason, in his introduction to the Brill commentaries, speaks of "themes", rather than "purposes".[64] Nevertheless, it remains worthwhile to explore some of the fundamental aims in the *Antiquities*, both those which Josephus explicitly cites as his motives, and the suggestions of

[63] Mason 2012: 153; Mason 2004: xxxv.
[64] Mason 2004: xxii.

recent scholarship. As Goodman observes, Josephus did not *have* to write anything; his decision to do so, and specifically to write something as labour-intensive as the *Antiquities*, needs to be explained.[65]

1.3.1 Josephus' stated purposes

Helpfully, Josephus states his motives within the first sentences of the prologue. Contrasting his purposes with those of other historians, he explains that his two histories have been motivated by necessity: the *War* because of his involvement in events and subsequent recognition of false histories, and the *Antiquities* because of general ignorance (ἀγνοία) about the topic (*AJ* 1.3). His work is therefore presented as a public service (ὠφέλεια). A function of these claims in context is to create contrast with the other reasons Josephus observes drive historians to write: the desire to display their linguistic skills and enhance their reputations (δόξα), or the need to flatter patrons (1.2). If we take Josephus at his word, then, he writes the *Antiquities* simply to inform. Recognising that the "Greeks" do not know very much about Jewish history, he is bowing to necessity and filling the gap, much like Dionysius of Halicarnassus on the Romans.[66]

Josephus provides us with other justifications of his project as well. After noting the enthusiasm of Epaphroditus for his work, he claims that the decision to go ahead was also dependent on his discovering two things: whether any Jews had previously thought it appropriate to communicate the contents of their scriptures to a Greek audience, and whether any Greeks had ever sought out knowledge of Jewish history before. Both sides of this equation are located in the story of the origins of the Septuagint: the high priest Eleazar was

[65] Goodman 1994: 338.
[66] Dion. Hal. *Ant. Rom.* 1.4.2

willing to have the scriptures translated, and the Hellenistic king Ptolemy Philadelphus wanted to access these texts (1.10-12). Josephus claims to need a double-sided precedent.[67]

The last explicit purpose Josephus mentions in his preface is didactic. What may be learnt by anyone reading this history is that things go well (κατορθοῦται) for those who follow God's plan (γνώμη), and obey well-established laws, and they receive happiness (εὐδαιμονία) from God (1.14). This is not a general statement about the lessons of history in the abstract: Josephus specifically refers to *this* history (ἐκ ταύτης... τῆς ἱστορίας). In his framing of this lesson, the reader is granted considerable agency. It is "anyone who *wishes* to read it" (τις... ἐθελήσας αὐτὴν διελθεῖν) that "may learn" (ἂν... μάθοι) the lesson. The wishes of the reader are the starting point for the didactic project, just as it was the wishes of others that, Josephus tells us, convinced him to write at all.

History as a means of moral education is a common idea – one thinks of Livy's preface.[68] Dionysius of Halicarnassus, too, approaches history in this way, and is regarded by some as having influenced Josephus: both write twenty-book *Antiquities* in part to correct false ideas about a nation's history.[69] The incorporation of theology reflects Josephus' innovation on the model: history provides evidence for the nature of God's interactions with the world, which is

[67] Although the primary result of this precedent is that Josephus can claim to be imitating the magnanimity of the priest (τὸ... τοῦ ἀρχιερέως μιμήσασθαι μεγαλόψυχον), while his readers become "lovers of knowledge" (φιλομαθεῖς) like the king. Indeed, the comparison may be even more specific: the Epaphroditus of the Suda is known for collecting books, which is precisely the characteristic of Ptolemy Philadelphus which Josephus highlights (*AJ* 1.10).

[68] Livy *Praefatio* 9.

[69] Attridge 1976: 56; Feldman 1998: 7–8. More sceptical are Bilde 1988: 202–3; Ladouceur 1983: 22–34 (focusing on vocabulary and style); Rajak 1982: 446; Spilsbury 1998: 31. Cowan (2018: 487) reviews the arguments on both sides and concludes that both historians build their "case for respectability" around the same four points (antiquity, great ancestors, an excellent constitution, and a long tradition of virtuous behaviour), which suggests some influence.

based on the moral actions of human beings.[70] History becomes moral theology, with Josephus as a teacher. The figure of the lawgiver is essential to this scheme: in the preface (1.14), obedience to the "laws well laid down" (τὰ καλῶς νομοθετηθέντα) is paired with following God's intentions as the way to ensure God-given happiness. The use of the verb from which νομοθέτης is derived makes the connection explicit. Thus while Josephus' purposes shift in different parts of the work, his programmatic statements in the preface are specifically connected with the figure of Moses, so that this stated purpose is particularly relevant for this thesis.

We can therefore summarise Josephus' goals in the *Antiquities* as a two-fold educational programme: on the one hand, he aims to correct the general ignorance of Jewish history which he finds among the Greek public; on the other hand, he proposes the illustration of a theological principle, that there is divine provision of happiness for those who live in accordance with the divine will expressed in Moses' laws.

1.3.2 Implicit purposes

There is evidence that hostility to Jews and Judaism was a feature of Domitian's Rome. According to Suetonius (*Dom.* 12), the tax on Jews implemented by Vespasian was "harshly" (*acerbissime*) exacted: the story of a ninety-year old being inspected for signs of circumcision suggests intentional humiliation.[71] The precise victims of this harsh exaction (who "lived a

[70] Cf. Attridge 1976: 67: "It is not God's nature in the abstract, but the nature of his relations with the world that is considered."

[71] As Williams (1990: 204) points out, Domitian was highly involved in administration, so that such humiliating investigations must have had his "tacit approval".

Jewish life unprofessed, or concealed their origins to avoid the tax"),[72] whether proselytes, apostate Jews (such as Tiberius Julius Alexander), Jewish Christians, or Gentile Christians, has naturally occasioned much discussion, but for our purposes this is not important: regardless of the precise targets, the *effect* is the creation of a hostile environment for Jewish people and practices.[73] The proclamation on Nerva's coins that the *fisci judaici calumnia* has been removed (*sublata*) demonstrates that this was a recognisable element of the previous regime – and that its removal would be a popular measure, though it is worth stressing that the tax itself probably remained in operation.[74] There is also the prosecution of Flavius Clemens and Domitilla, along with "many others" for "drifting into Jewish ways" (ἐς τὰ τῶν Ἰουδαίων ἤθη ἐξοκέλλοντες), as reported in Cassius Dio (67.14). She is exiled to Pandateria; he is executed. Although these two are claimed as martyrs by Christian sources, it is probably safer to take Dio at his word here, while at the same time recognising that the real reason for their fall from grace was political rather than religious.[75] We do not need them to be proselytes for it to be significant that this charge is used against them: as Barclay says, "it appears that Domitian was able to seize on any Jewish 'leanings' as a sign of disloyalty to the (Roman) Gods and insult to

[72] Suet. *Dom.* 12: *Iudaicus fiscus acerbissime actus est; ad quem deferebantur, qui vel improfessi Iudaicam viverent vitam, vel dissimulata origine imposita genti tributa non pependissent*.

[73] Heemstra (2010: 33) provides a helpful table of the main scholarly positions (citing Smallwood 1956; Smallwood 1976; Hemer 1973; Keresztes 1973; Thompson 1982; Goodman 1989; Goodman 2005; Williams 1990; Schäfer 1997), though his conclusion (p. 66) that the move primarily *targeted* both Jewish and Gentile Christians is unlikely. The main victims should be understood as apostate Jews, though others may have been caught up: Hemer (1973: 11) importantly draws attention to Suetonius' use of the word *deferebantur*, with its associations to *delatores*, which can explain why whatever was happening can be named a *calumnia* on Nerva's coinage.

[74] Mattingly 1972: 227 (no.58), 228 (no.82); Williams 1990: 202. Goodman (2004: 21) also points to the panegyric on the Jewish constitution at the end of the *Against Apion* (which makes no reference to Domitian) as possible evidence of optimism at the beginning of Nerva's reign – he even suggests that the reference to the *calumnia* may indicate a brief removal of the tax, reversed after the adoption of Trajan (Goodman 2005: 177). The palm tree image on the coin may support this, a reversal of the *Judaea Capta* coinage of the Flavians, but broadly it is easier to see the coinage as a repudiation of Domitianic excesses rather than of Vespasian's original policy (particularly as this would imply that the reinstatement under Trajan was *also* a *calumnia*).

[75] Euseb. *Hist. Eccl.* 3.8.14; Syncellus *Chronographia* I.650.1.19 with Smallwood 1956: 7-9.

his own divine status (*maiestas*)."[76] Hostile jokes in Martial (especially book VII) and Quintilian's reference to Moses as the founder of a *gens perniciosa* (*Inst.* 3.21) further suggest an anti-Jewish atmosphere: Williams notes that the attack on *Moses* specifically, is unprecedented in Latin literature.[77]

This has led to Josephus' *Antiquities*, written during the period, being designated apologetic literature: Josephus' attempt to defend his people in the light of hostility emanating from the regime.[78] It would be hard to deny that this was an aspect of how Josephus saw himself, and some parts of the *Antiquities* can be taken themselves as evidence for imperial hostility: the strangely extended account of the death of Caligula can be read as a warning to the emperor that mistreatment of the Jews has dire consequences.[79] At the same time, however, the *Antiquities* is not really tailored to such a task: its length alone would make it ineffective.[80] It assumes an audience sympathetic to and interested in Judaism.

This is not incompatible with imperial hostility. Indeed, some scholars have seen in the condemned Clemens and Domitilla potential members of Josephus' audience: Mason observes that the date of their fall from grace is close to the completion of the *Antiquities*.[81] There is no way to prove such a connection. Yet interest among the elite is implied by Tacitus' portrayal of converts (taught to "despise the gods, cast off their country, and vilify their

[76] Barclay 1996: 312. Dio (58.1.2) also reports the ending of such prosecutions as a significant part of the beginning of Nerva's reign.
[77] Williams 1990: 205–6: Quintilian's comments may reflect a desire to distance himself from Clemens, who had been his patron.
[78] Goodman 1994: 338. Josephus wrote "to defend Judaism at a time when it was under exceptional pressure. The sheer length and thoroughness of the *Antiquities* are testimony to the seriousness with which he undertook his chosen role."
[79] Smallwood 1956: 11; Case 1925: 18-19.
[80] Ribary 2014: 251.
[81] Cotton and Eck 2005: 45; Mason 2004: xxxv.

parents, children, and brothers")[82] as well as comments in Epictetus (*Diss.* 2.9.20) and Juvenal (5.14.96-106).[83] It is not clear what numbers this might reflect. Goodman has suggested, given the inherent implausibility of significant attraction to Judaism among the elite in light of Flavian anti-Judaism, that if such engagement was happening, it may have been a mechanism for "symbolic opposition to imperial rule", much like "ostentatious Stoic republicanism."[84] Such "display-Judaism" would not require the performer to read a twenty-book history of the Jews, which brings us again to the fact that there is no need to find Josephus' actual audience among the elite; yet the evidence of elite interest, performative or not, demonstrates that engagement and hostility are not mutually exclusive.[85]

Apologetic motives do sometimes surface – when, for example, Josephus cites the leprosy laws as evidence that Moses did not have leprosy (3.265), or when he cites the cosmic symbolism of the tabernacle as evidence against Jewish impiety (3.179), he is explicitly responding to particular anti-Jewish claims. Likewise, Rajak has suggested that Josephus' accounts of Jewish communities in Asia and Cyrene in *Antiquities XVI*, with their arguments for toleration, reflect "an underlying purpose of maintaining not only respect for Jews, but also their own self-respect and steadfastness in an atmosphere which could be difficult and uncertain, at both centre and periphery."[86] In parts of the *Antiquities*, particular allegations are addressed, but we should not therefore characterise the whole work as "apologetic."[87] As has

[82] Tac. *Hist.* 5.5: *contemnere deos, exuere patriam, parentes liberos fratres vilia habere*.
[83] Mason 2004: xix.
[84] Goodman 2004: 18.
[85] Cf. Mason 2004: xx.
[86] Rajak 2005: 97. Also Barclay 1996: 346: The *Antiquities* was "written for Greeks and displays the sensitivities of a Diaspora Jew who was concerned to defend the reputation and rights of Jews living among Gentiles."
[87] For Barclay (1996: 358) the length of the Moses narrative, and the importance given to the lawgiver, is apologetic in motivation, because Moses "was the object of persistent slanders in the Graeco-Roman world." Yet Moses' importance as the lawgiver justifies the extent of attention paid him without any need for reference to

been emphasised by Barclay, a definition of apologetic literature which loses sight of the metaphorical court-room context (with a particular set of charges which must be addressed) becomes "too vague to be useful".[88]

The problem is perhaps a failure to make a clear distinction between *defending* and *explaining* Judaism and Jewish history. The former would be apologetic (where it responds to particular charges); the latter does not have to be. Thus Feldman, who regards Josephus, with his "use of Classical Greek words" as "obviously" trying to reach "a cultured Greek audience and to render the biblical narrative respectable in their eyes", refers to this process as apologetic, so that Josephus' "apologetic aims" are observable in his stylistic and theoretical "hellenisations".[89] If all explanation is assumed to be defensive, then it would be impossible for any minority author to describe his people's history and way of life without the resulting text being apologetic. This simply doesn't work. Josephus is not permanently on the back foot.

This is a point well made by Rajak. In calling his work an "archaeology" (1.5), Josephus reveals his implicit aim, which is to take Jewish history as it is appears in what he calls the "sacred writings" (ἱερὰ γράμματα), and present it according to the requirements of a particular subset of Greek historiography. Yet Rajak points out that on a methodological level, Josephus fulfils none of the expectations raised by that title: Greek antiquarians collect stories and memories, and then sift and criticise them on the grounds of plausibility, often allowing uncertainty to

malicious stories. It is likely that Josephus' suppressions of biblical stories (Moses' murder of an Egyptian, or breaking of the tablets) are apologetically motivated, but we should not go from there to reading the whole narrative through one lens.

[88] Barclay 2013: xxxv; cf. Schröder 1996: 139. Barclay refers here to Sterling's "apologetic historiography", a historical genre best represented by Josephus: "apologetic" here, to take Sterling's own definition (1991: 17), refers to the attempt by a member of a subgroup to "establish the identity of the group within the setting of he larger world", rather than to a response to particular charges.

[89] Feldman 1998: 26, 171. For a better approach, see Ribary 2014: 259: "hellenisations" such as the portrayal of Abraham as a scientist make the story intelligible to a Greek audience without this being defensive.

remain after the discussion.[90] Josephus has a single main source, and when he does refer to other texts, this is never to consider other options, but serves only to back up whatever point it is that he is already making.[91] His similarities are instead with "Greek exponents of oriental traditions" – to many of whom (Manetho, Berosus) our access is through Josephus himself, suggesting that this set of texts was not of great interest to the mainstream of Greek historical thought.[92] While achieving a kind of Hellenism is central to his enterprise, Josephus nevertheless presents his people on his own terms.[93] This is a welcome corrective to the assumption that Josephus is slavishly trying to ingratiate his people and himself with the Greeks and Romans by whole-heartedly, and apologetically, embracing their notion of what historical writing ought to be.

At the same time, Rajak's conclusion that the *Antiquities* has only a "superficial" Greek "coating" does not allow for the extent to which Josephus has engaged with Greek categories of thought, particularly in his portrayal of Moses: this engagement was necessary as part of his primary purpose in the *Antiquities*, which we can now conclude was simply, as he states, to describe and explain the history of Jews and Judaism to a new, Greek audience. Such a project necessarily entailed the application of language and ideas from Greek political thought to Jewish figures.[94]

[90] E.g. Dion. Hal. *Ant. Rom.* 1.48.1, 79.3.
[91] Rajak 1982: 471.
[92] Rajak 1982: 473; cf. Sterling 1991.
[93] Cowan (2018: 494) disagrees, seeing Josephus' main terms and criteria as adopted from Dionysius (cf. Thackeray 1929: 57), and suggesting (p. 482) that in his approach to his sources Josephus differs from Greek antiquarians only in seeing his primary source as entirely reliable.
[94] Cf. Schwartz 2015: 53: "All this usage of political terminology assures readers that the Jews are respectable members of the civilised world, whose institutions are comparable to those of the measure of all respectability, Rome."

1.4 Josephus and the Greeks

Compared with other Jewish writers in Greek, Josephus is often seen by modern scholars as particularly hostile to Greeks.[95] Gruen observes that Josephus "distinguishes unequivocally between the steadfastness of Jews and the inferiority of Hellenic practices and institutions."[96] Greek customs are consistently found wanting in comparison to Jewish beliefs and ways of life (*CA* 2.239ff). Gruen presents his conclusions as about Josephus (and his portrayal of Moses) in general, but all of his material is from the *Against Apion*.

Rajak discusses who the "Greeks" are to Josephus and is particularly interested in whether the "Greeks of culture" are in any way related to the "living, breathing Greeks of Palestine", who tend to appear in the *War* as the assumed enemies of the Jewish communities in the urban centres.[97] Looking at these episodes, as well as at the "unexpected" attack that appears in the prologue to the *War*, she concludes that while Josephus respects classical Greek literature, he "detaches himself by his contemptuous critique from the Greek cultural scene of the day."[98] Like Gruen, she sees Josephus as standing out from other Jewish writers in Greek because of his hostility to Greeks, but equally, the evidence is not from the *Antiquities*, and certainly not from the first books.

Barclay, too, early in his study on the Mediterranean diaspora, identifies Josephus as an author with a particular emphasis on the distinction of Jews from their surrounding communities in terms of their virtue, so that the distinction is not merely social, but also

[95] Cf. Gruen 2016: 23, 43: "Jews were not obliged to choose between succumbing to and resisting Hellenism." Instead, Jews living in Hellenistic communities were working out ways of articulating their "special characteristics" within what was also their own milieu.
[96] Gruen 2016: 43.
[97] Rajak 2000a: 137, 9.
[98] Rajak 2000a: 143.

ethical.[99] While he acknowledges that Josephus uses Hellenistic terminology, he regards Josephus' engagement with the underlying philosophy as weak – particularly in comparison with other diaspora writers such as the Alexandrians Ezekiel the Tragedian and Aristobulus.[100] On the other hand, when he discusses the *Against Apion*, which, as we have observed, seems to be the most aggressively anti-Greek of Josephus' works (even known as "Against the Greeks")[101], he observes that the most strident criticisms Josephus makes (concerning mythology, *CA* 2.238-9) are themselves cribbed from Plato, and his comments about the use of images are tame compared with other Jewish writings such as *Wisdom of Solomon*.[102] More recently, Barclay's commentary on the *Against Apion* points out consistently that the features of Judaism to which Josephus draws his reader's attention are selected to reflect, and demonstrate compatibility with not Greek but Roman ideals.[103] Performative hostility to Greeks therefore serves this purpose.

So far, scholarly discussion referred to has focused on the *War* and the *Against Apion* as evidence of this hostility. We have already seen that in the *Antiquities*, "Greeks" are presented as the primary, interested audience – what is particularly striking is the contrast with how "Greeks" (as potential readers in Rome) are portrayed in the *War*.[104] A comparison between the prefaces suggests that it is the same Greeks to whom Josephus is referring.

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[99] Barclay 1996: 3. Though he also points out that the key terms with which Josephus expresses this superiority are ἀρετή and πρόνοια, which are "derived not from his Scriptural but from his Hellenistic education."

[100] Barclay 1996: 258. On the absence of persuasive cases against the *Exagoge*'s Alexandrian provenance, see Jacobson 1983: 17.

[101] Porph. *Abst.* 4.11.

[102] Barclay 1996: 364.

[103] Barclay 2013: esp. 362-9; cf. Goodman 1994: 334.

[104] Friis (2018: 140) also observes that Greek historians are usually cited positively, as reliable witnesses, in the first eleven books of the *Antiquities* – admittedly because Josephus is using their testimony to back up his narrative.

To start with, we noted above (p. 20) the sudden appearance of Greek *literati* (οἱ Ἑλλήνων λογίοι) in the preface to the *War* (1.13), who seem, in Mason's interpretation, to be "Greek pedants in Rome" who had already criticised Josephus' propensity for an emotional style.[105] Having been so criticised (or expecting such criticism), Josephus asks his reader to credit the lamentations to the historian without thereby rejecting the facts of his history, and launches a counter-attack on his critics. He might, for his part, condemn *them*, on the grounds that they simply rewrite histories of wars (τοὺς πάλαι πολέμους) that have been perfectly well written up before, despite living in such momentous times (τηλικούτων... πραγμάτων). There is an abundance of legal language in this section: the sceptic who must separate facts from lament is named δίκαστης; Josephus might condemn (ἐπιτιμήσαιμ' ἄν) his critics, who themselves *sit in judgement* (κάθηνται κριταί) of historians of contemporary events. This rhetorical creation of a legal setting prepares the ground for Josephus' most vitriolic (but also most clichéd) denigration of these Greeks: they gape after (κέχηνεν εὐθέως τὸ στόμα) profit in the law-courts (τὰ λήμματα καὶ τὰς δίκας), while their mouths are shut when it comes to the pursuit of truth, leaving the task of writing history about Romans (τὰς πράξεις τῶν ἡγεμόνων) to those with less eloquence. This is a Roman stereotype.[106] Josephus closes the paragraph with a pointed first person plural: let historical truth be honoured *by us* (παρ' ἡμῖν), though it is neglected by the Greeks (1.16). Often in Josephus this plural pronoun can be used for the singular, referring simply to the historian himself. Here, however, it might be better to take it as Josephus together with the non-Greek part of his audience: Josephus, despite claiming just a few lines

[105] Mason 2016: 83–4.
[106] Rajak 2000a: 142; Wardman 1976: 8. Cf. Cic. *Flac.* 9-10.

earlier (*BJ* 1.6) to be writing for both Greeks and Romans, associates himself with the latter group.[107]

Yet at the same time, Josephus' censure of these Greeks is not absolute. Throughout the attack, he acknowledges their eloquence and linguistic skill; he grants that his critics are superior to him in language (τῷ λόγῳ πλεονεκτοῦσι), and blames them for leaving the history of the Romans to "weaker" (ἀσθενέστεροι) writers.[108] Even at his most pugnacious, therefore, Josephus is still not entirely negative about the "Greeks", which may suggest that he is still appealing to the pride of a part of his audience.[109]

If we ignore the clichés about law-courts and profit, the characteristics of these Greek writers, as they appear in the preface to the *War*, are that they spend all their time rewriting narratives of events from the classical period (the reference to Medes and Assyrians is suggestive),[110] they are proud of their eloquence and rhetorical skill, and they criticise outsiders, such as Josephus. The first characteristic is particularly striking, both because it can, loosely, describe what Plutarch is doing in his *Lives* (writing about well-known figures from the classical past), and because Josephus will go on (in the *War* prologue) to reject the need to ἀρχαιολογεῖν about the Jews, setting himself firmly in opposition to these ancient historians, precisely because there are adequate accounts already (1.17).

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[107] Cf. Mason 2015: 10: "It is hard to avoid the conclusion that Josephus bonds his laconic Judean compatriots with the citizens of his adopted home city, over against the prevailing Greek culture…"

[108] This is probably not intended to include Josephus himself, since humility is not a noticeable feature of his character.

[109] Though Thackeray (1929: 121) saw this as "grudging" praise.

[110] *BJ* 1.13: τὰ Ἀσσυρίων καὶ Μήδων; cf. Dion. Hal. *Ant. Rom.* 1.2.2: the empires of the Assyrians, Medes and Persians follow each other, but none compares in extent with Rome. Josephus' targets fail to write about the greatest empire, instead fiddling about with these lesser, ancient powers, about whom everything important is already known. Cf. Friis 2018: 50.

Yet of course, as we know, he will later decide that this is not true: apparently the Septuagint is not actually sufficient.[111] When he commences the *Antiquities*, therefore, Josephus is joining this group of erudite Greeks, making ancient history his subject: it is therefore notable that his portrayal of the Greeks changes too. They become a positive audience, interested in history and concerned with truth. Josephus says nothing negative about the Greeks at all in the preface to the *Antiquities* – in his discussion of legislators, he does criticise "other lawgivers" for their failings in comparison to Moses (discussed in Chapter Two, p. 80), but even this is not attached specifically to the term "Greek".

The return to full-blown hostility in the *Against Apion* (though as Barclay argued, p. 36 above, this should be qualified), may tell us something about the reception of the *Antiquities*, but does not change the fact that when he wrote the largest of his works, and particularly when he was writing the first part of it, Josephus presented it as primarily of interest to precisely the kinds of Greeks whom he denigrated so harshly in the *War*.

1.5 Greek literature in the Flavian Period

But who are they? Josephus is the sole representative of historians writing in Greek in Rome in the Flavian period.[112] Yet this should not lead to our dismissing his comments as a rhetorical strawman: the criticism Josephus makes performs no structural function in the prologue to the *War*. It is best to explain it as a stylised response to his real environment.[113] Jones has

[111] Cf. Feldman 1998: xiv: he claims that Josephus "found its style deficient and its method uncritical", but fails to note the apparent change of view from the *War*.
[112] Cf. Bowie 1970: 15: "The first century A.D. has left no contemporary history by a Greek until Plutarch's imperial biographies, although the existence of works on the civil wars of 69 is attested by Josephus (whom I exclude as a Jewish writer outside the main Greek tradition)." He is referring to the writing of contemporary history, but it is true more broadly.
[113] Cf. Mason 2015: 96: "Whatever this passage refers to concretely, the mutual knowledge and criticism indicate that he was a full participant in his literary environment." Also Kemezis 2016: 465: "Josephus is positioning

suggested that Josephus may have been referring to romance writers, such as Celer, who use settings borrowed from the classical historians.[114] This would make Josephus' criticisms rather disingenuous – his references to wars and the gathering of evidence are hard to square with Greek novelists. It is easier to posit Greek historians in Flavian Rome whose works have not survived –not a surprise if they were, as Josephus implies, reworking Herodotus.

Yet it is striking that the criticism Josephus makes, of a focus on the classical past, links in neatly with the concerns of the developing period of Greek cultural expression, usually referred to as the "Second Sophistic": this term is taken from Philostratus' *Lives of the Sophists*, and "denote[s] a species of epideictic oratory rather than a historical period".[115] Nevertheless, there does seem to be a set of characteristics that are prevalent in the Greek literature of the late-first and second centuries, among which is nostalgia for (and restatement of) the classical past.[116] It is not hard to see Josephus' criticism, which involves the rewriting of classical historical narratives and an overemphasis on style, as a response to this trend, even if he is situated early in its development.[117] Moreover, we can take his criticisms as evidence of Greek writers in Rome in the latter part of the Flavian era, writing about the Persian and Peloponnesian wars.

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himself within discourses in which Greek-speaking pagans were surely holding up their end of the confrontation."

[114] Jones 2005: 203. Celer's *Araspas in love with Pantheia* is referred to by Philostratus (*VS* 1.524)

[115] Richter and Johnson 2017: 3.

[116] Bowie 1970. A "laundry list" of these characteristics is provided by Richter and Johnson (2017:4) in their introduction to the Oxford Handbook: "nostalgia for an idealised (Athenian) classical past; archaism and purity of language; sophistic performance and contest and display; *paideia* and erudition; anxieties over (Hellenic) self-definition and identity." Such themes are also present in civic contexts, particularly in Sparta – see Cartledge and Spawforth 1989: 107, 190.

[117] Both Mason (2005a: 75) and Feldman (1998: 26) also identify Josephus' use of Attic (and Atticising) Greek as representative of the Second Sophistic. Whitmarsh (2017: 20) discusses the traditional periodisation (50-250 CE) and suggests greater continuities with the Hellenistic period, while the chronological model remains potentially useful.

Such works have not survived, and it is not clear that any Greek literature can in a meaningful sense be called Flavian, with the exception of Josephus. The death of Domitian does not seem to act as a watershed for Greek literature in the way that it does for Latin: Mason observes that while certain forms of literature seem to have become dangerous in the Flavian period, such as oratory, biography, and philosophy, as well as history, there seems to be little concern about what Greek intellectuals are writing despite the fact that such men would "perform" predominantly for the Roman upper classes.[118]

Nevertheless, Kemezis has argued that Plutarch and Dio Chrysostom can be regarded as Flavian: while acknowledging that dynastic periodisation makes less sense for Greek than Latin authors, and that both write the majority of their oeuvre after the death of Domitian, he emphasises the fact that both were relatively old, in ancient terms, by that time, and therefore that they might reasonably be thought to have developed their world-views ("especially in political matters") almost entirely during the Flavian period.[119] He goes on to identify similar features of these two authors, notably an emphasis on local beneficent activities combined with the expectation of an empire-wide audience: a combination of local and global that is seen to characterise the Second Sophistic generally.[120] Josephus' condemnation of Greek euergetism in the *Against Apion* (2.74) has been recognised by Rajak as an allusion to "the

[118] Mason 2004: xviii; cf. Fantham 1996: 213–4.

[119] Kemezis 2016: 452. Dio Chrysostom would have been about 56 in 96 CE; Plutarch was 50.

[120] Kemezis 2016: 460–2: "What matters is not that Plutarch and Dio privilege the local over the global, but that they and their implied audience see politics in terms of a particular dialectic between the two, that success at the imperial centre and honour in one's home city are the two poles between which the elite Greek male navigates his political career."

modes of recognition of the powerful and the munificent in the Greek civic milieu of Josephus' own day and age."[121]

Perhaps the most important feature of the Flavian period from the perspective of Greek literature is the role played by philosophy in resistance to the regime. Cassius Dio (67.13.3), referring to the execution of Priscus, states that "many others" (ἄλλοι… συχνοί) were also killed or exiled for the same reason – because of philosophy (ἐκ τῆς αὐτῆς ταύτης τῆς κατὰ τὴν φιλοσοφίαν αἰτίας).[122] This should perhaps be read with his mention of those "drifting into Jewish ways" during the reign of Domitian: again, this may refer to little concrete, but suggests an attribution to the Flavians of hostility to philosophy: "The characterisation of 'philosophers' as an oppositional group had clear cultural implications for people who thought of philosophy as a specifically Greek activity."[123]

In light of this, Josephus' use of Greek philosophical language to frame the Jewish origin story in the *Antiquities* might be a more distinctive choice than it is usually taken to be – perhaps even more so if his real engagement with the ideas to which he refers is limited.[124] It is usually assumed to reflect simply his desire to look good in front of a Greek audience. If it also implies differentiating himself from the regime, it may be more serious.

The only two articles which attempt to place Josephus within the context of Flavian Greek literature appear within edited volumes on Josephus himself. Both authors nevertheless suggest that Josephus "deserves more space in the study of Greek literature and

[121] Rajak 2000a: 373. This increase in public euergetism is observable in epigraphy. For this reflecting an effort to "relegitimise elite control of city governments," see Zuiderhoek 2009.
[122] Cf. Suet. *Vesp*. 15.
[123] Kemezis 2016: 458.
[124] Barclay 1996: 258.

historiography than he is customarily given", and identify similarities in outlook between Josephus and the two representatives of "Flavian Greek literature", Dio Chrysostom and Plutarch.[125]

1.6 Plutarch

The biographer and essayist from Chaeronea was born around 46 CE, about a decade after Josephus. His name is closely linked with his home city, to which he displayed a consistent (and unusual, for this period) commitment, never choosing to leave for greener, or more cosmopolitan, pastures, despite his fame, and his connections with the Roman elite.[126] He certainly visited Rome on several occasions, at least one early in the Flavian period, which may have given him the inspiration to write his *Lives of the Caesars*, of which only the *Galba* and *Otho* survive.[127] But his social and literary world was completely different from that of Josephus.

We need look no further than the dedicatee of his *Theseus* (1.1) to demonstrate this. Sosius Senecio, who is addressed in the first sentence, enjoyed a swift rise up the *cursus honorum*, according to Jones' reconstruction, appointed quaestor around 85 CE (at the age of about 25), and *consul ordinarius* in 99 and 107. His quaestorship took place in Achaea, which is probably when he met Plutarch, and his career enjoyed the favour of both Domitian and Trajan.[128] This is quite different from Josephus' dedication to a freedman.

[125] Jones 2005; Almagor 2015. The words are those of Jones (201).
[126] Jones 1971: 3.
[127] Stadter 2014a: 18.
[128] Jones 1970: 102–4. See also Swain 1996: 144, 426 (on his probably Italian origins).

Indeed, Stadter argues that most of Plutarch's work was aimed at influencing powerful people, following the example of Plato's cave analogy, of the "philosopher who wishes to teach his contemporaries."[129] Bowie agrees that Plutarch's *capacity* for influencing the Roman elite was fairly great, but emphasises his choices, particularly in contrast to other Greek intellectuals: he chose to remain in Chaeronea rather than placing himself close to the centre of Roman power.[130] Finally, Pelling observes that while Plutarch has a good deal to say about political philosophy and leadership, he never presents Rome as a location for political action in the present.[131] Despite this, Plutarch had strong ties to the Roman elite.

The contrast with Josephus is sharp. Yet Plutarch remains a powerful parallel for a number of reasons. Aside from striking similarities in their afterlives (both have been widely read in translation on a semi-popular level)[132], both have in the last fifty years seen a resurgence in scholarly interest in them as authors, rather than as repositories of earlier sources – this happened slightly earlier for Plutarch than Josephus.[133] But Plutarch provides valuable comparative material for Josephus not primarily because of their receptions, but because of similarities in some of the overarching themes in their works.

[129] Stadter 2002: 6-7. He associates the project of the *Parallel Lives* in particular with the early years of Trajan, with the senatorial aristocracy recovering from the "humiliation" of the latter years of Domitian, and trying to reformulate their own role and that of the emperor.
[130] Bowie 2002: 52. He suggests that Plutarch's age by the time of Trajan might also be a factor.
[131] Pelling 2014: 159. Dillon (2002: 236) suggests that Plutarch, like Fukuyama in 1992, sees his own times as an "end of history", with Roman hegemony as "a natural growth, analogous to the cosmos itself, which has come together by accident or design", with the result that there is no more space for large-scale political change: politics is now about local and small scale discussion – and this is all to the good. Strikingly, he contrasts this with the view of history found in Philo, which is a series of empires rising and falling, a view shared by Josephus.
[132] See Hurst 2019: 563-4; Goodman 2019: 60, 81,86-87
[133] Thus Lavery (1974: 369) celebrates the dawning of a "new day" in the study of Plutarch.

The first is the shading of biography into history.[134] Stadter, writing about the *Lives of the Caesars*, notes that Plutarch is the first to present Roman history as a series of biographies, and Pelling observes that, while continuity is not obvious in the sequence of *Parallel Lives* overall, their coherence comes from the sense of telling the stories of two "nations", which have strengths and weaknesses that produce the narratives Plutarch then tells.[135] In (parts of) the *Antiquities*, Josephus presents Jewish history as a series of biographies of Jewish heroes and leaders.[136] An emphasis on the individual as a representative of his people (with implications for their contemporary world) is thus a feature of both – and suggests, as Mason observes, that they assumed similar expectations and tastes in their audience.[137]

The second linking concern is something we have already noted: antiquarianism and a fascination with the classical past. As we have seen (p. 40 above), this is a feature of the literature traditionally categorised as belonging to the "Second Sophistic", but Plutarch distances himself from the display oratory associated with the period. In this distancing, he is both following in the path of Plato, and rejecting a real phenomenon in his own time.[138] A similar distancing may be in Josephus' mind when he criticises those who collect hearsay to

[134] Or vice versa, in the case of Josephus.
[135] Stadter 2014a: 18; Pelling 2002: "…for if the series of *Lives* shows coherence, that is because of an element of continuity; as Theseus and Romulus inaugurate their nations' history, they also inaugurate the strengths of each people that will produce greatness and then crisis and disaster. That is a continuous story for each people; it is one which belies any neat distinction between different sorts of types of material, any categorization of a *spatium historicum* which is different from a *spatium mythicum*."
[136] Mason 2004: xxiv; Feldman 1998: 5.
[137] Mason 2004: xxiv: "He thus comes close to the kind of thing that Josephus is doing, except that Josephus embeds his biographical vignettes in a continuous historical framework."
[138] e.g. *Prae. ger. reip.* 814B; cf. Bowie 1970: 7; Schmitz 2014: 36.

write accounts of the recent rebellion (*BJ* 1.1): they do so σοφιστικῶς, an adjective which may be quite pointed.[139]

Finally, Plutarch is an author with a particular interest in matters of the divine, and how human beings are supposed to relate to the gods. Brenk may have gone a bit far when he named Plutarch "the greatest historian of religion", but the theme is there throughout Plutarch's works.[140] Payen sees the intersection of religion and myth, in particular, as "one of the primary overarching threads of his entire oeuvre."[141] The stories told about the relationship of humanity to the gods are central to how that relationship operates. Hirsch-Luipold has emphasised that what Plutarch thinks about divine activity tends to be drawn not so much from philosophical speculation, as from "the traditions of lived religion".[142] Finally, Van Nuffelen, discussing the period more broadly, identifies the notion of authority based in antiquity, of secrets hidden in ancient texts, as something that gains purchase in this period – exemplified in Plutarch's account of the Roman king Numa.[143]

Jones similarly identifies a concern with the role of fortune in human affairs and particularly a belief in (divine) fortune associated with Rome as parallels in the world-views of Josephus and Plutarch. Helpfully, he suggests that these connections "only show that both authors had reflected on issues which must have been especially alive in the 70s."[144] This is a far better frame for such comparisons than the attempt to trace a direct genealogy of ideas.[145]

[139] Almagor 2015: 110.
[140] Brenk 1998: 102; cf. Opsomer 2014: 91.
[141] Payen 2014: 239.
[142] Hirsch-Luipold 2014: 165.
[143] Van Nuffelen 2011: 67; cf. Fox 2015: 190.
[144] Jones 2005: 206.
[145] As Feldman (2005: 242) attempts to do.

The same approach is employed by Almagor, whose article placing Josephus in the context of "Greek imperial literature" uses Plutarch's *Precepts of Statecraft* to analyse the speech of Agrippa in the *Jewish War* (2.346ff). This speech cites examples from classical Greece in the exhortation to the rebels not to revolt against Rome: the argument is that even these great nations have submitted to Roman power – it is therefore necessary for Judaeans to do so as well. Almagor links this with the advice given by Plutarch to budding politicians, that they should leave references to Plataea and the like to the schools of the sophists (ἐν ταῖς σχολαῖς τῶν σοφιστῶν), because they might make the masses insolent: the implication is that the memory of past glories will make them dissatisfied with their present lot, and lead to unrest.[146] That such examples (Plataea appears at *BJ* 2.359) are employed by Josephus' Agrippa to dissuade the hearers from revolt (even if unsuccessfully) suggests that Josephus is challenging the expectations of his audience, which implies "his awareness of cultural trend and his attempt to produce a sophisticated variant of it."[147] Almagor also sees Josephus' emphasis on his foreignness (ἀλλοφύλος) as something that paradoxically makes him fit rather well into the "Second Sophistic", upon which "non-Greeks" such as Favorinus and Lucian make their mark.[148]

This is enough to demonstrate that Plutarch is a useful point of comparison for what Josephus is doing, not because there is formal influence in either direction, but because they inhabit a shared world, and the cultural milieu into which Plutarch comfortably fits is approximately

[146] Plut. *Mor. Prae. ger. reip.* 814C.

[147] Almagor 2015: 112. Plutarch's masses would perhaps have more of a stake in this set of examples than Agrippa's audience. Nevertheless, the audience for *Josephus*' version of Agrippa's speech is in Rome.

[148] Almagor 2015: 118: Josephus' "presentation of himself as a foreigner, an outsider, or one not completely Hellenised, an image which was perhaps the very reason for his prolonged exclusion from modern scholarly treatments of Greek imperial literature, paradoxically proves that he was indeed very much part of it."

what Josephus is attempting to reach with his *Antiquities*. Plutarch can act as a *representative* of the audience and world for which Josephus sees himself as working.[149]

It only remains to ask which of Plutarch's many *Lives* are most valuable for this study.[150] Josephus himself gives us some direction: in the *Against Apion,* he explicitly compares Moses with the archetypes of Greek lawgivers to make the point that Moses is earlier than any of them (*CA* 2.154). These archetypes are "Lycurguses and Solons" (Λυκοῦργοι γὰρ καὶ Σόλωνες): by making these proper names plural, Josephus makes it explicit that they are standing in for a class.[151] Both Lycurgus, the lawgiver believed to have developed the strict Spartan way of life, and Solon, whose reforms in Athens in the archaic period are associated with the beginnings of democracy, have biographies written about them by Plutarch. In the tradition of Plutarch's pairing of Greek and Roman figures, Lycurgus is twinned with the Roman king Numa, while Solon is paired with the statesman Publicola, one of the first consuls of the Roman Republic.[152]

According to Roman legend, Numa was the second king of Rome, called upon from his Sabine home after the death of Romulus. Credited with the institution of much of Roman religion, Numa does not automatically fit into the category of lawgiver, although he is certainly a foundational figure. Plutarch uses his pairing of Numa and Lycurgus, both figures shrouded in mystery, as an opportunity to theorise, using two opposing examples, about the creation of

[149] Strikingly, Hirsch-Luipold (2014: 166) observes that despite Plutarch's sometimes acurate knowledge about Judaism (see *Quaest. conv.* 669B-672C, *De Is. et Os.* 363C-D, *Amat.* 771C; *De supertst.* 166A, 169C, *De Stoic. rep.* 1051E), he seems to have no awareness of the figure of Moses.

[150] The *Moralia* would provide material for quite a different kind of project; the *Lives* and the *Antiquities* at least share the element of narrative, alongside their mix of history and biography.

[151] He does also refer in the singular to Zaleucus of the Locrians.

[152] These *Lives*, as well as the *Theseus-Romulus* which will also be used, are placed by Jones (1966: 69) in the first "batch" of post-96 *Lives*.

communities, and the foundation of successful societies.[153] Because of this broader purpose, these *Lives* are the most important for our study. The *Solon* is important too, but its paired *Publicola* is less so: his role as constitutional reformer is not primary in Plutarch's account.[154] The other pair that will be particularly relevant is the *Theseus-Romulus.* The mythical hero of Athens, who defeated the Minotaur, and the first Roman king are not lawgivers as such, but as founders with legendary stories attached to their births and deaths, they provide useful points of contact for the narrative of Moses' life (particularly in Chapters Three and Five). Importantly, Plutarch himself links these *Lives* with the *Lycurgus-Numa*, when at the beginning of the *Theseus* he compares his task to that of a geographer, writing notes acknowledging ignorance on the edge of a map: after writing the lawgiver *Lives*, he decided it would not be unreasonable to go further back – the assumption is of fundamental continuity. The map is the same, even if he has to work at its edges.[155] This picture of the deep past is another reason why these *Lives* are appropriate points of comparison with Josephus' Moses, though the Jewish historian would point out that there is nothing uncertain (or "mythical") about the edges of *his* historical map.

1.7 Methodology and outline

The method of this thesis is therefore to use this group of Plutarch's *Lives* to construct the expectations of Josephus' audience, and then analyse the portrayal of Moses in the *Antiquities*, to work out whether and how Josephus is responding to such expectations. This necessarily also involves comparing Josephus' text with his primary source, the Hebrew Bible, since his choices become clearer where there are significant divergences.

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[153] Boulet 2004: 246.

[154] Plutarch names him νομοθέτης (12.1) perhaps only to underline the appropriateness of his pairing.

[155] Plut. *Th.* 1.1; cf. Pelling 2002: 189n.

It would not be possible (nor indeed desirable) to write a thesis about Josephus' Moses without making reference to other bodies of material as well: numerous Jewish texts also adapt and interpret the story of Moses as found in the Pentateuch. Obvious among these are the works of Philo, the Alexandrian philosopher of the early imperial period, who wrote a *Life of Moses* which Josephus could perhaps have read.[156] The *Biblical Antiquities*, once incorrectly attributed to Philo, is a selective rewriting of the Hebrew Bible which survives in Latin.[157] It contains several extra-biblical traditions about Moses which are useful points of comparison illuminating Josephus' choices – the same is true of rabbinic texts, in particular the Midrash Rabbah of Exodus, despite their later date. The point of these comparisons is not to trace the development of Mosaic legends. Instead, the value of these Jewish sources, among which can be included Josephus' final work, the *Against Apion*, is that they provide clear evidence of the options available to Josephus as he rewrote and interpreted the biblical material. Pointing to different choices made by different exegetes can make Josephus' process of selection more obvious, and bring out the specificity of the *Antiquities*' narrative.

It is perhaps worth commenting on the most important of these Jewish sources: the Hebrew Bible itself. It is a notoriously difficult task to work out *which* bible this might be: a proto-Masoretic text, the Septuagint, Aramaic Targums, or something else entirely? While Josephus presents the "sacred writings" as something static and straightforward which he can "translate" for his audience (*AJ* 1.5), we know that the biblical texts existed in varied forms in this period. Feldman suggested that Josephus would have been able to access Hebrew, Greek

[156] There is little clear evidence that he did, though on connections in *Against* Apion, see Barclay 2013: 359.

[157] It is usually regarded as a Latin translation via Greek of a Hebrew original (so Murphy 1993: 6-7; Jacobson 1996: 216), although Ilan (2009: 377) has suggested that the "vulgar Latin" (containing biblical references and transliterations of Greek words) in which it is written may be representative of the Jewish community of Rome in late antiquity.

and Aramaic textual traditions, and he probably made use of different texts for different parts of the *Antiquities*.[158] Josephus certainly varies his style, and in the Mosaic portions of the *Antiquities*, it would be inappropriate even to call his writing a biblical "paraphrase": his adaptations go further than that. It is significant that he presents himself, particularly in connection with Moses, as working with the Hebrew scriptures.[159] For the purposes of this thesis, textual traditions are of limited importance, but there are a few points where variants in the Septuagint will be noted as useful interpretative possibilities. Awareness of the full range of approaches to the Moses story reveals Josephus' own assumptions and choices.

What remains for this introduction is to outline our trajectory. The second chapter of this thesis (Chapter Two: Legends of Lawgivers) will survey the tradition of the lawgiver in the Greek world in order to establish what models existed by Josephus' time, before analysing Josephus' adaptation of those models in his presentation of Moses in the prologue to the *Antiquities*. This will also allow for a properly grounded discussion of Plutarch's presentation of Lycurgus, Numa, and Solon where they are used to form models for comparison with Josephus in the main three chapters. Chapters Three to Five examine the Moses narrative in *Antiquities II, III,* and *IV* respectively, and are divided into thematic or chronological subsections.

Thus, the third chapter (Chapter Three: Egypt and Exile) deals with Moses' birth and childhood in Egypt and then his exile in Midian. In *Antiquities III*, Moses receives the law from God on Mt Sinai, and the fourth chapter of this thesis (Chapter Four: Giving the Law) studies

[158] Feldman 1998: 23.
[159] Feldman 1998: 30; Nodet (1997: 183) suggests that Josephus' Hebrew text was close to the *vorlage* for the Septuagint translation of the Pentateuch.

that narrative from three angles, looking at Josephus' portrayal of the law as divine, his description of cultic law relating to the tabernacle and priesthood, and the written format in which law is delivered. The final substantive chapter (Chapter Five: Leaving the Law) evaluates the reception of the law by the people, Josephus' summary of Moses' constitution, and his portrayal of Moses' death. In each case, material from Plutarch reveals both convergence and divergence from Greek ideas in Josephus' presentation of his material, the significance of which is evaluated in the conclusion (Chapter Six).

Chapter Two: Legends of Lawgivers

When Josephus uses the term νομοθέτης, like Philo before him, he is evoking a specific "type" in the Greek world, a type represented by a series of traditional figures associated with putting together the laws and ways of life for particular communities. The aim of this preliminary chapter is to establish what "lawgiver" might have meant to Josephus' audience: what expectations were raised when the historian announced that he was going to inform them "under what sort of lawgiver" the Jews were trained in piety (*AJ* 1.18)? The second part of the chapter will then demonstrate that Josephus uses and adapts this model in his presentation of Moses in the prologue to the *Antiquities*.

2.1 The tradition of the lawgiver in the Greek world

A full investigation into the figure of the lawgiver in the Greek world is a topic far bigger than a single chapter in a thesis.[160] We will limit our discussion to three aspects, starting with an overview of the stories preserved about the early lawgivers in Greece (2.1.1 Lawgivers and laws). We will then look at Plato's *Laws*, which provides a discussion of how a lawgiver (or lawgivers) ought to go about the task of formulating and transmitting laws for a new community (2.1.2: Divine law through human dialogue). The final part of this section will return to the stories of lawgivers and focus on the later sources (Dionysius, Strabo, Valerius Maximus, and Seneca), drawing out the particular meanings that the lawgivers of the Greek world developed in a world under Roman hegemony (2.1.3 Degeneration and exemplarity).

[160] A full thesis on the topic has been written by Ália Rodrigues (2014a), who kindly allowed me to read her draft while in the process of developing it into a monograph.

2.1.1 Lawgivers and laws

Herodotus tells us (1.65) that the Spartans changed from being the "worst-governed" (κακονομώτατοι) of all the Greeks to being in a state of "good law" (εὐνομίη) through the agency of Lycurgus.[161] Thucydides (1.18.1) refers to the same model of a shift from stasis (στασιάσασα) to long-term order (ἐκ παλαιτάτου… ηὐνομήθη), but he leaves the lawgiver out.[162] The model of momentary and decisive change, even with Lycurgus removed, seems to be an early development.

This is the key feature of the stories told about Greek lawgivers in general, not just Lycurgus: they appear and do their work at a moment of crisis, after which the community is unified and prosperous, and the lawgiver departs. The term εὐνομία, which both Herodotus and Thucydides employ (the latter in its verbal form), is central to this scheme. The creation of εὐνομία is the primary goal of the legendary lawgiver.[163]

Thus, by the fourth century BCE, there was a tradition that associated the laws of different Greek cities with individual lawgivers, who were believed to have developed not only constitutions, and the systems for the allotment of power within the *polis*, but also to have established whole ways of life that defined the character of the communities for whom they legislated.[164]

[161] How and Wells (1989: 87) observe that Herodotus contradicts the standard fourth century story by denying that Lycurgus actually received his laws from Delphi.
[162] "Pointedly", according to How and Wells (1989: 87).
[163] Raaflaub 2000: 46: Eunomia "stands not only for good social order, but for the political resolution of crisis and stasis and for the integration of the polis; it… encapsulates the main concern of early Greek lawgiving."
[164] This picture extends even to modern scholarship: Finley (1981: 103) says of the lawgivers that "they invented freely in a sort of compulsory originality which characterised every aspect of archaic Greek life and culture."

This is the basic model, which we can see operating even in Herodotus and Thucydides, but Szegedy-Maszak has surveyed the stories as they appear throughout ancient literature to formulate a three-stage narrative, which, he argues, attached itself to the general figure of the lawgiver. First, there is a "crisis in the state", leading to the rise of a virtuous individual. In the "medial stage", this man becomes lawgiver, establishing his code and overcoming a challenge to it. Finally, some provision is made for the code's permanence, and the lawgiver departs.[165]

There is, however, no single text which describes a specific lawgiver following this pattern and Szegedy-Maszak fails to consider the diachronic perspective, instead pulling details from a wide range of sources without acknowledging the historical contexts in which the stories are (re)told, or the rhetorical purposes to which they are being put by the authors who preserve them.

Indeed, Plutarch's *Lycurgus* provides a narrative that conforms most closely to this model, and Plutarch is the most commonly cited ancient author in Szegedy-Maszak's article.[166] This introduces the possibility that this reconstruction reflects Plutarch's interpretation of the stories which he reports, rather than an independently existing "model". The survey and its conclusions are nevertheless useful as a synthesis of variegated traditions, providing a set of motifs which seem to have attached themselves to the lawgivers.

There two aspects of the scheme: the overall shift from crisis to good laws, with an individual as the pivot between the two stages, and then the particular motifs about the lawgiver's life and task, which seem to have crept into the stories. These motifs include (but are not limited

[165] Szegedy-Maszak 1978: 208.
[166] He is cited fourteen times in eleven pages.

to) travel and conversations with other sages, divine assistance, and a mechanism set up to ensure the code's continuation, often linked with the lawgiver's death or departure.[167]

The first two of these elements can be seen even in Herodotus' account (1.65.4), which describes Lycurgus' visit to Delphi, where he is greeted as "god rather than man". According to Herodotus, some people claim that the oracle provided Lycurgus with the constitution which Sparta still uses (τὸν νῦν κατεστεῶντα κόσμον) but the Spartans say it came from Crete (ἐκ Κρήτης ἀγαγέσθαι ταῦτα). Both travel and divine assistance are already associated with the lawgiver's project, if not at the same time.[168] Both of these motifs reveal an underlying assumption: good laws come from somewhere external; they are not simply an invention of the lawgiver's intellect.

These two early *topoi* are also the most persistent. Lawgivers are always described as having travelled, with two distinct purposes. First, they examine the constitutions and lifestyles of other cities. Thus, according to Ephorus (*apud* Strabo 6.1.8), Zaleucus was both the first to put together a written code, *and* he based it on Cretan, Spartan and Areopagite customs.[169] Even being the first to write his laws did not exempt him from the need to have received them from somewhere. Diodorus reflects the development of this theme, when he reports (12.11.4) that Charondas examined the constitutions of "all peoples" (τὰς ἁπάντων νομοθεσίας) and then selected the best: the absence of any named nations reveals that the survey of existing constitutions is simply a standard stage of the process.

[167] Minos enters Zeus' cave every ninth year (Pl. *Leg.* 1.624B), Solon legislates for the squabbling Athenians and then departs for ten years (Hdt. 1.29), Zaleucus studies under Pythagoras (Diog. Laert. 8.15-16, Sen. *Ep.* 90.6), and his fellow student Charondas is forced to kill himself to uphold his own law forbidding weapons in the assembly (Diod. Sic. 12.19). See Szegedy-Maszak 1978: 202, 204, 206–7; Hölkeskamp 1999: 45, 47–8, 51.
[168] Hölkeskamp 1999: 45; Szegedy-Maszak 1978: 204.
[169] Cf. Szegedy-Maszak 1978: 204.

The other reason for which lawgivers travel is to meet, and sometimes study with, great sages, who pass on their wisdom, creating what Hölkeskamp terms an "intellectual genealogy".[170] Thus there are claims that Lycurgus met with Thales of Crete, and even that he was acquainted with Homer.[171] Zaleucus and Charondas were students of Pythagoras, and Solon met with the Scythian sage Anacharsis, and Epimenides of Crete.[172] The precise genealogy shifts, but there is an insistence on the lawgivers belonging to a class of wise men who influence each other.[173] Again, this appears relatively early: in his *Politics* (2.1274a30), Aristotle inveighs against those who create a genealogy in which the first lawgiver is Onomacritus, who was trained in Crete, and befriended Thales, who then taught Lycurgus and Zaleucus, the latter of whom then educated Charondas. Those who peddle such stories are paying no attention to chronology (ἀσκεπτότερον τῶν χρόνων). Yet Aristotle's irritation reveals that this was a common belief.[174] Hölkeskamp notes the Greek tendency to try to identify the "first discoverers" (πρῶτοι εὑρεταί) of elements of culture, and associates the lawgiver legends with that trend: the lawgivers are the "first discoverers" of Eunomia.[175] The evidence Aristotle provides through his criticism suggests that there is never a first discoverer of law within the tradition: it is always possible to go one step back.

This constant journey backwards might end with a god: if all roads lead to Crete, the central story of the legendary Cretan lawgiver, Minos, is that he visited a cave to meet with Zeus every

[170] Hölkeskamp 1999: 45.
[171] Ephorus *apud* Strabo 10.4.19.
[172] Hdt. 1.29; Diog. Laert. 1.101-2, 112-13; cf. Szegedy-Maszak 1978: 202; Hölkeskamp 1999: 45.
[173] Seneca (*Ep.*14. 90.6) reflects this urge when he observes that had Lycurgus lived at the same time as Solon, there would have been eight Sages instead of seven.
[174] Cf. Morrow 1960: 19: while Aristotle criticises the fake chronology, he "agrees with the tribute to Crete which it implies."
[175] Hölkeskamp 1999: 56.

nine years.[176] As we saw (p. 56 above), the idea that Lycurgus' constitution had its origins in the Delphic oracle was already present in Herodotus.[177] Ephorus (*apud* Strabo 10.4.19) insists on the divine origins of Lycurgus' code, explicitly citing the parallel of Minos. A *scholion* to Pindar makes Zaleucus a shepherd who received laws from Athena in a dream.[178] As we will see (p. 61), Plato's *Laws* makes clear that this is an early feature of such legends, and the philosopher himself uses the dialogue to argue for a different understanding of divine law.

The last element of the story is the mechanism which ensures the code remains unchanged. The very need for laws to remain constant reflects the overarching narrative: if a lawgiver has developed perfect, all-encompassing legislation by which his people can live prosperously and virtuously, it makes sense that any change to the code would make it worse.[179] Szegedy-Maszak thus argues that there is a set of mechanisms to ensure continuation, such as oaths of obedience to the laws, and laws limiting change.[180] Yet in fact these are not as widespread as has been suggested.

The law to limit the potential for change is a single example, credited to Zaleucus. This law requires those proposing changes to do so with a noose around their necks – with death as the penalty if they fail to persuade. Demosthenes (24.139.8) refers to Locri as "well-governed" (εὐνομουμένη), and to this particular law as evidence of their belief in devotion to ancient laws (δεῖν τοῖς πάλαι κειμένοις χρῆσθαι νόμοις). Yet this early attestation contains no reference to Zaleucus as lawgiver: instead, Demosthenes introduces his anecdote as "how *they* legislate"

[176] Pl. *Leg.* 1.1.
[177] Interestingly, it is the *Spartans* who claim non-divine origins for their laws.
[178] *Scholera Vetera in Pindarum Ol.* 10.17i. Clement of Alexandria (*Stromata* 1.26.170.3) lists Greek lawgivers with their divine sources.
[179] Cf. Stalley 1983: 32.
[180] Szegedy-Maszak 1978: 207.

(νομοθετοῦσι), using the third person plural present indicative – no individual lawgiver is credited, and the law is not associated with the deep past. Given that he is talking about how new laws are proposed, the verb may refer to the act of developing legislation in the contemporary world, rather than to the laying down of the original law itself. However, the absence of reference to Zaleucus may suggest that lawgiver legends were not as fully developed or as rhetorically powerful in this earlier period. Two later sources highlight this regulation as a particularly effective mechanism by the lawgiver to prevent change, but to cite it as part of a system for lawgivers in general seems premature.[181]

As for oaths of obedience, outside Plutarch, they are only associated with Solon. Herodotus (1.29) tells us that the Athenians swore great oaths before Solon left for ten years. According to the Aristotelian *Athenian Politeia* (7.2), the Athenians swore oaths, but there is nothing about Solon requiring it, or any association with Solon's travels. Solon's decision to leave in the *Athenian Politeia* is presented primarily as a means of transferring control to the citizens through forcing them to work the laws out for themselves.[182] For Herodotus it is subtly different: Solon fears that if he stays, he will be forced to repeal (ἀναγκασθῇ λῦσαι) some of his laws. In this case, by leaving he *retains* control of his laws, which he might otherwise have relinquished. The subtle difference reveals that even when two authors reflect the same tradition about a lawgiver, the meaning of the tradition can be quite different.

According to Szegedy-Maszak, Hölkeskamp, and McGlew, the "death of the lawgiver" is a necessary part of the legends, associated with the the need to remove the threat that he

[181] Hierocles (*apud* Stob. 3.39.36) and Diodorus (12.17), crediting it to Charondas; Polybius (12.16.10) mentions the "law of Zaleucus", but does not frame it as part of a lawgiver narrative.
[182] Aristotle [*Ath. Pol.*] 11.1: After completing his legislation, Solon is constantly approached by those wishing to change it. He therefore decides to depart.

himself poses to the continuation of his laws.[183] Yet the death stories that we find (outside Plutarch) are not often linked with legislation: the *Suda* preserves the stories that Zaleucus died in battle, and that Draco was crushed by clothing hurled at him as he was being honoured in the Aeginitan theatre.[184] The latter is certainly an ironic death, but is not connected with legislation. An example of death *by* legislation is found in the story preserved by Diodorus (12.19.1) of Charondas, who accidentally entered the assembly with a knife (something forbidden by his laws), and, upon realising what he had done, killed himself with the same knife. This acts as a statement of the power of the law *over* the lawgiver. Yet we do not find it, or any story linking the death of the lawgiver to the success of his legislation, in earlier sources. Herodotus mentions Lycurgus' death (1.66.1) only in relation to the temple that was built for him afterwards; it is not at all related to his legislation. The "death of the lawgiver" topos may therefore be something that develops later.

This survey of three features of the legends (travel, connections with sages, and departure) allows us to say that some elements were early developments. The evidence of Thucydides and Herodotus suggests that the notion of a single pivotal change from chaos to order, particularly in connection with Sparta, had kicked in early (perhaps reflecting something real). More broadly, the idea that lawgivers had to get their laws from somewhere, either human or divine, developed early, associated with the genealogies of sages.

[183] Szegedy-Maszak 1978: 207; McGlew 1996: 109; Hölkeskamp 1999: 51: "Damit wird der Gesetzgeber durch seine blosse Existenz zu einer potentiallen Gefahr für das eigentliche Fundament der von ihm geschaffenen Eunomie…"
[184] Suda Δ1495, Z12.

None of this discussion has considered whether these lawgivers actually existed.[185] There is little epigraphic evidence for large-scale legal systems developed by individuals.[186] Hölkeskamp has argued that the beginnings of written law lie in *ad hoc* responses to conflict, not in any overarching scheme.[187] He sees Plato as the creator of a pattern into which the "real" *ad hoc* lawgivers of the archaic period were then moulded.[188] Certainly Plato's importance to the development of the idea of the lawgiver cannot be overstated, which is why a study of some features of his *Laws* will form our next section.

2.1.2 Divine law through human dialogue: Plato's *Laws*

At the beginning of Plato's *Laws*, the Athenian stranger, who leads the discussion, asks his interlocutors (the Cretan Cleinias and the Spartan Megillus) whether their laws are credited to a man or a god (θεὸς ἢ τις ἀνθρώπων).[189] Cleinias answers that the "most just" (τὸ δικαιότατον) account is that their laws are from a god: Zeus for the Cretans, Apollo for the Spartans. Megillus agrees. Plato thus provides evidence that the divine origin of law was an accepted tradition; at the same time it noteworthy that the Athenian's question refers specifically to the *starting point* (αἰτία) of the composition of the laws: this term immediately opens up a role for human mediation.[190]

[185] Van Effenterre and Ruzé (1994: VI) name the period 670-570 BCE "l'âge des législateurs", but even they acknowledge the absence of evidence for single lawgivers formulating whole constitutions. For Liou-Gille (2000: 173), historicity was not an issue for the ancients and therefore should not be for us.
[186] See Meiggs and Lewis 1975: 3; Thomas 1996: 59; Thomas 2005: 121; Gagarin 2008: 77.
[187] Hölkeskamp 1992: 66; Hölkeskamp 1999: 90. For criticisms see Thomas 1996: 26; Gagarin 2002: 1619; Osborne 2003: 40; Gagarin 2008: 74.
[188] Hölkeskamp 1999: 36–7; cf. Osborne 2000: 497.
[189] This marks the dialogue as "an inquiry into divine law" – so Lutz 2012: 3. See also Stalley 1983: 166; Laks 2000: 260; Mayhew 2010: 197.
[190] Welton 1995: 55.

There are three elements in the *Laws* which have particular significance for us. First is the redefinition of what it means for law to be divine, from having a supernatural origin, to having reason as its defining feature. The second issue relates to the role played by fixed, written law, as well as Plato's presentation of the *Laws* itself as a sacred text.[191] Finally, having discussed what law ought to be, and how it should be transmitted, we come to the question of how the lawgiver convinces the citizens to follow the laws: the role of persuasion rather than punishment.

2.1.2.1 Divine law

Scholars have pointed out that the Athenian comes close to calling his ideal state a "theocracy" (a term coined by Josephus)[192], when in Book Four (712e-7131a) he suggests that instead of being named in the usual way (democracy, oligarchy, or monarchy), the new state should be named after "the god who rules over those who have sense" (τοῦ ἀληθῶς τῶν τὸν νοῦν ἐχόντων δεσπόζοντος θεοῦ).[193] He relates this to myth (4.713d): in the age of Kronos, humans were ruled by gods (δαίμονες), just as sheep are cared for not by sheep, but by a superior species. While people no longer have access to this kind of ruler, they should submit to the immortal part of themselves (ὅσον ἐν ἡμῖν ἀθανασίας), by which Plato means reason, or law.[194] By conflating reason, the divine, and law, the Athenian creates a new intermediary between human communities and the gods, to replace the lost δαίμονες of the age of Kronos.[195]

[191] Nightingale 1993.
[192] *CA* 2.165; see Barclay 2013: 2.165.
[193] Laks 2000: 260; Welton 1995: 70; Schofield 2003: 8; Van Harten 2003: 129.
[194] Cf. Mayhew 2010: 200: "the rule of law being one way to imitate the rule of Kronos or pure reason."
[195] Welton 1995: 71. Mayhew (2010: 216) observes that while Plato's "theology" in the *Laws* is not fully explained, "reason" certainly seems to play part of the role of the deity ("…any hypothesis that dismisses Reason as a candidate for Plato's chief God or demotes the place of Reason in his theology is likely to be mistaken").

This reflects a shift which takes place early in the dialogue in the definition of divine law. The original question ascribed divinity to laws based on their origins; what develops instead is the idea that divinity is a function of the laws themselves. This shift is the result of the Athenian's interrogation of his interlocutors about the primary purposes of their legal codes. The answer he receives (626a) is that the purpose of the laws is to instil courage in the citizens so that they will be able to defend the polis from attack. The Athenian in response to this insists that the real purpose of a good law code must be the cultivation of *all* the virtues, not just courage. Cleinias therefore declares his own lawgiver a failure, only to be contradicted by the Athenian, who explains (630d) that it is only their *interpretation* of the purpose of the laws that is wrong.[196] The divine origins of the codes become proof that in fact the laws *must* live up to the highest ideals, even as the Athenian assumes it is possible to use external "rational standards" to evaluate them.[197]

The discussion of existing systems, which develops this particular notion of divine inspiration, serves as a prelude to the creation of a utopian system, which itself will *not* come from communing with a deity, since it is developed within the dialogue through the medium of conversation.[198] Through the conversation about laws regarded as divine, the Athenian convinces his interlocutors to improve their own ideas about what really makes law divine.[199]

[196] Welton 1995: 62: the Athenian becomes a "seer" who can read the hidden truths within the law-codes.
[197] Welton 1995: 57–8.
[198] By surveying other constitutions, and meeting with philosophically-minded individuals, the lawgivers for the colony of Magnesia enact the narrative tropes attached to legendary lawgivers.
[199] Lutz 2012: 50.

2.1.2.2 The *Laws* as sacred text

The interlocutors sometimes suggest that their philosophical conversation is itself divinely inspired.[200] Near the end of the dialogue (968b), as they discuss the "Nocturnal Council" (which studies theology), Cleinias says that they must stay on the path on which the god is leading them, pointing back to the dramatic setting of the dialogue, on the road from Knossos to Zeus' cave.[201] As a result, the dialogue presents itself as divinely inspired – it even becomes the "sacred text" which the citizens of Magnesia will study during their rigorous education (811). The logic is not simply that they should know the laws of their own polis. Instead, the text of the *Laws* plays the role of an "anthology" to be read by citizens to define their moral frameworks, as well as being the standard by which other literature is to be tested.[202]

2.1.2.3 Persuasion and Preambles

A central feature of the legislative programme in the *Laws* is the attachment of preambles to each law. These aim to persuade the citizens to follow the laws without the need for punishment. The Athenian uses the analogy of slave and free doctors (857): the latter do not merely tell their patients what to do, but also explain why the treatment works. Yet the ideal, of reasoned explanation convincing a reasonable patient, is not reflected in the operation of the preambles, many of which consist of threats and appeals to ancestral myths of retribution.[203] Moreover, the doctor analogy assumes conversation between doctor and patient: while the preambles are written in a style that suggests dialogue, they are a fixed

[200] E.g. *Leg.* 682e, 692b, 722c, 811c.
[201] Nightingale 1993: 282–3; also Morrow 1960: 28; Welton 1995: 54; Laks 2000: 275; Schofield 2003: 259.
[202] Pl. *Leg.* 7.811. Laks (2000: 266) observes that the digressions in the *Laws* are self-contained, like an anthology. Cf. Nightingale 1993: 289: "Truly startling… is the suggestion that a written text form the basis for the control of discourse in the city."
[203] Laks 2000: 290.

script, one-sided and unanswerable.[204] The Athenian (playing the role of the lawgiver) develops his legislation through a careful process of reason, but he does not use the same method to implement it. For example, the citizen chorus of children is required to sing the central doctrine of the state, that the gods say the most virtuous life also brings the most pleasure. This is a claim which the Athenian (and Plato) would see as provable by reason. Yet the way in which it is inculcated into the citizens is as a divine edict, something that must be believed because it is spoken by the gods. This is a "fictional" approach, depending on "the authority of god rather than logical argumentation."[205]

The single example of a law whose preamble provides a fully reasoned explanation of its purpose is in the case of atheism (Book Ten). The book opens with a shift from the theory of punishment for crimes, towards the issue of impiety.[206] There is a particular concern with desecration of sacred objects and spaces, especially those that are public (885a). The prohibition which is developed begins with the claim that nobody who believes in gods has ever willingly committed impiety (885b), laying the groundwork for the extended argument against atheism, deism, and traditional theism (following Mayhew's categorisation) which forms the majority of the book.[207]

This argument is thus seen as a necessary part of the legislator's project, the correction of false beliefs about the gods.[208] While the book started with specific cases of impious action related to property, the argument is ultimately broader – atheism and wrong beliefs about the gods

[204] Nightingale 1993: 287–8.
[205] Nightingale 1993: 296.
[206] Morrow (1960: 476) regards this law as Plato's attempt to fill what he saw as a gap in Attic law.
[207] Mayhew 2011: 885b; see also Morrow 1960: 477.
[208] Cf. Stalley 1983: 167.

are associated with vice in a very general way.[209] Indeed, denial of the gods undermines any possibility of enacting law.[210] In presenting atheism as a fundamental threat to the existence or persistence of any kind of law, Plato turns lawgiving into a project which has at its heart the regulation of the relationship between gods and men.

2.1.3 Degeneration and exemplarity

In the first part of this chapter we saw that some elements of the lawgiver tradition are attested in relatively early sources. The final part of this section will look at the texts which are from periods closer to Josephus' time, in particular those written by Romans (Valerius Maximus and Seneca) or under Roman hegemony (Strabo and Diodorus). These authors obtain their material from earlier sources, but the choices they make in terms of emphasis suggest significant shifts in focus.

We will look first in general at these sources, and identify the main innovation as a new insistence both on the virtue of the lawgiver, and on the degeneration which sets in after his departure. The second part will focus on the adjustments to the model of divine law that develop in Strabo and Diodorus. We will see both an increase in scepticism about law's origins, and a new paradigm, in which ensuring that citizens think correctly about the gods becomes central to the lawgiver's project.

[209] Stalley 1983: 167: The "chief purpose [of the opening pages of Book Ten] is to establish that these matters really are of concern to the legislator. They do this by arguing that atheism or incorrect religious belief is a serious cause of vice."
[210] Morrow 1960: 481; Brague 2007: 28.

2.1.3.1 The lawgiver's virtue, the law's degeneration

It is easiest to see the shift in the case of Lycurgus, because Diodorus (7.12) relates precisely the same story as Herodotus about the visit to Delphi, but with changes in focus. Diodorus says nothing about the strife in Sparta as the context for Lycurgus' visit to the oracle, which instead serves simply as evidence of Lycurgus' great virtue. The story's function is to demonstrate Lycurgus' supreme moral excellence, but his legislation is not mentioned. Even when Diodorus goes on to describe Lycurgus asking the Pythian priestess which customs are best for the Spartans, nothing is said about a crisis in the state. The central premise of the early tradition of the lawgiver seems to have disappeared – or is not interesting to the compiler.

Instead, Diodorus is interested in the other side of the model: what happens when the Spartans cease to employ Lycurgus' laws? In part this is the result of a longer historical perspective: the notion of Spartan degeneration had become ingrained, reflecting their loss of hegemony.[211] Diodorus links this to their failure to continue to observe Lycurgus' laws, and in particular the introduction of luxury (τρυφή), most clearly represented by coined money.[212] The narrative of degeneration as a result of wealth is familiar, and has particular resonance in the late republican and early Augustan period.[213]

This model extends beyond Lycurgus. In the sixteenth book of his *Geography*, writing about Judaea, Strabo includes an account of Moses leading his people out of Egypt. In this version of the Exodus story, Moses is an Egyptian priest who develops a better way of understanding and

[211] Cf. Kennell 1995: 95.
[212] There is a play on words in the shift from *laws* (νομίμων) to *coins* (νομίσματι).
[213] E.g. Sall. *BC* 13; Livy *Praefatio* 12

relating to the gods, and leads those right-thinking (εὐγνώμονες) men who agree with him to Jerusalem to found a new state along these principles. Strabo does not actually use the term νομοθέτης, but Moses is presented as the founder of a new way of life, placed in the same category as Minos and Lycurgus (16.38).[214]

Yet Strabo declares that after Moses, degeneration set in, with customs such as circumcision representing a corruption of Moses' purposes; such corruption (2.16.38) is common (κοινόν) to most nations, Greek and barbarian (καὶ τοῖς Ἕλλησι καὶ τοῖς βαρβάροις). Citing Minos and Lycurgus, as well as more esoteric figures (Orpheus and Musaeus) who had special insight from the gods, he concludes that Moses was just such a man, whose work started out well but turned out for the worse – a "familiar pattern of ideal beginnings and later degeneration".[215] Strabo thus both extends the model of degeneration to all lawgiver figures and links it with their connection to divinities.

Another example of the model of degeneration is found in Seneca (*Ep.* 14.90.5-6). Citing Posidonius, he places lawgivers into a broader model of degeneration based on the myth of ages: a golden age of rule by wise men, followed by the implementation of laws by the next generation of wise men (*sapientes*) after vice has crept into the system and resulted in tyranny. Laws become necessary (*opus esse legibus coepit*). Seneca lists the group we would expect: Solon, Lycurgus, Zaleucus, and Charondas. We are still in the Greek literary world: apparently it did not occur to him to add any Roman figures to this selection of wise men.[216]

[214] Rodrigues 2014a: 171; Gruen 2016: 200. On Strabo's definition of monotheism as "counter-religion", defined by what it rejects, see Assmann 1997: 39.
[215] Gager 1972: 163; cf. Gruen 2016: 202.
[216] Gager (1972: 25) notes that Latin authors do not refer to *legislatores* as a group as Greek authors refer to νομοθέται.

He does not explicitly say that there is further degeneration after the laws have been developed, but it is implied by the model – and by the fact that in seeking after wisdom, he has had to go so far back in history. Lawgivers step in after the golden age; necessarily, this assumes that things will get worse after they have gone.

Thus while these authors of the Roman period might agree with the basic premise of a shift from lawlessness to good governance orchestrated by individual lawgivers, they appear to be more concerned with the eventual failure of those systems: the assumption of degeneration has become closely attached to the model, which now centres on the virtue of the original lawgiver.

2.1.3.2 The gods: adjustment and scepticism

That lawgivers may obtain their legislation from gods is, as we saw, an early development in the tradition (p. 57 above). It persists, but with added scepticism. Diodorus, in his early section on Egypt (1.94), links the first Egyptian lawgiver, Mneves (Μνεύης), with Minos and Lycurgus as well as non-Greeks such as Moses because of the claim of divine origins for their laws. This device Diodorus names beneficial to those who believed in it: this is about results, not truth. Finally, he explains the motives of the lawgivers themselves for telling this story: either they felt that something so beneficial must by nature be divine, or they simply knew the story would be a good mechanism for the masses. The logic in the first case corresponds closely to the way in which Plato in his *Laws* redefined divine law according to nature rather than origin.

Strabo, after his account of Moses, explains that states have common ways of life, which they may obtain either from a man or from a god; for the ancients, he goes on, those which were from gods were regarded as more honourable and worthwhile (16.2.38). He combines this with enthusiasm for oracles, and seems to equate Minos' trips to Zeus' cave with the oracles sought by Oedipus' parents.[217] This broadening of the discussion means that his verdict is about divine interactions with humans in general, rather than lawgivers specifically.

These things, he says (16.2.39), whatever truth they actually contain (ὅπως ποτὲ ἀληθείας ἔχει), have been believed among mankind (παρά γε τοῖς ἀνθρώποις ἐπεπίστευτο καὶ ἐνενόμιστο), and that belief has led to particular behaviours towards those designated prophets, when they were alive and after death. Strabo's scepticism is evident, but he is able to differentiate scepticism about the stories from scepticism about their effects, and does not seem to have a negative opinion about any of those he goes on to list.

Yet in fact this discussion, which follows the account of Moses' lawgiving work, does not really apply to what Strabo says about it. Moses is not presented as having met with a deity in a particular location, although he is described as an Egyptian priest. Strabo says nothing about how he developed the ideas about the gods which drove him to lead his group out of Egypt; he only describes some of the things which Moses is said to have taught: that the use of animal images by the Egyptians revealed their incorrect ideas about the gods; the same was true of the use of human idols by the Greeks.[218] In fact, God was singular, containing all of nature; as such, nobody should produce images: instead, they should worship in an idol-free sanctuary. Oddly, Strabo adds the suggestion that those who "dream well" (εὐόνειροι) should sleep in the

[217] He quotes Eur. *Phoen.* 34-36.
[218] Cf. Gruen 2016: 200: "What Greek art Moses might be expected to have seen remains a mystery."

sanctuary for the benefit of themselves and others, before finishing with the claim that those who live sensible and good lives can expect gifts from God (16.2.35). This is the Mosaic way of life according to Strabo, which is implemented at Jerusalem.

There are numerous points of interest in this account of Moses (not least Gruen's theory that it has part of its origins in Diaspora Jews' own stories about themselves),[219] but what is significant for now is that even while presenting the Jewish lawgiver as similar to someone like Minos or Lycurgus, Strabo is actually constructing a new kind of divine connection for the lawgiver: this is about having accurate ideas *about* the gods, rather than receiving good ideas *from* the gods. Accurate ideas about the divine lead to sensible legislation.

Here we should be reminded of Plato's explanation of the ban on atheism in the *Laws*. The assumption that being accurate about the gods is the baseline for good legislation has now been incorporated into a lawgiver legend. That this lawgiver is Moses is another point of interest, but he is not presented as alien to the other lawgivers whom Strabo mentions. Szegedy-Maszak contrasted Greek ideas about lawgivers with those of the Near East to argue that the Greeks highlighted human agency in a way that was distinctive.[220] Yet what we find here in Strabo is that the laws of the Greeks, Minos and Lycurgus, are credited to divinities, while Moses, the Jewish lawgiver, seems to have developed his independently.

Diodorus Siculus writes detailed accounts of Charondas and Zaleucus. Zaleucus, Diodorus explains (12.20.1), was chosen as νομοθέτης and devoted himself to writing a "new" system of law, beginning "with the gods of the heavens" (περὶ τῶν ἐπουρανίων θεῶν). The introduction to

[219] Gruen 2016: 210: "It would be a gross error to assume that Jewish intellectuals adhered rigidly to the Exodus tale as it appears in the Bible and that departures from it represent manipulation by Gentiles."
[220] Szegedy-Maszak 1978: 208: "It is striking how forcefully the legends assert that law is a human endeavour."

Zaleucus' legislation insists that his citizens should acknowledge that the gods exist, basing this on an examination of the order of the universe, and that the gods are the source of all that is good, so that citizens should then keep themselves clear of evil. This is a striking opening to legislation – and one which owes a good deal to Plato's *Laws*, not only in the inclusion of a preamble to the laws, but also in the assumption that atheism makes law impossible.[221] Yet once again we should note the absence of any suggestion that this knowledge of where to start was developed with divine aid. It is precisely in their ideas about the gods that lawgivers are presented as most independent and human.

2.1.4 Conclusions

This survey has revealed that the first traditions to develop about the figure of the lawgiver presented him as an individual called upon in a moment of crisis in a community, who enters and fixes things, bringing Eunomia. He is an individual within his community, but he develops his ideas and his abilities through connections either to other sages, or to the gods.

Plato transformed this myth into full-scale constitutional system-formation, so that the lawgiver is supposed to think about every element of his society and make it unchangeable. The *Laws* reveals some of the issues which he makes pertinent: especially, the role of divine inspiration (or new ways of interpreting that claim), the need for persuasion, and the centrality of belief in the gods to the smooth running of a state.

[221] The question of the historicity of such a preamble is discussed by Green (2006: 207n86), who notes that it is also mentioned by Cicero (*Leg.* 2.7.8-10). Yet the parallels with Plato's suggestions in the *Laws* might imply this is a Platonised Zaleucus. The argument that the orderly nature of the universe is evidence of the existence of god is found in the *Laws* (886A), when Cleinias presents it as the first "easy" argument against atheists. It is not, however, accepted as sufficient by the Athenian.

Then, in the 200 years before Josephus writes, we can see a subtle shift, not in content, but in focus: all about the supreme virtue of these men, and then about the degeneration that is built into the model, so that there is ultimately a sense of pessimism. The role of divinities is persistent, but scepticism increases. Most importantly, Plato's centring on atheism as a threat to law turns into a requirement for lawgivers to place correct thinking about the gods at the foundation of their work. This development has particular significance for our reading of the place of Moses in Josephus' preface.

2.2 The Jewish lawgiver in the preface to the *Antiquities*

In the first part of the preface to the *Antiquities* (1.1-13), Josephus explains his choice to write this particular history. The rest of the preface (1.14-26) is more unusual, and clarifies to the audience something about the source from which Josephus is working, which leads to it being all about Moses. Josephus uses his account of the Septuagint (his precedent – see p. 27 above) to pivot to the topic of the lawgiver, as he highlights the sheer quantity of history related in the Hebrew Scriptures as a prelude to discussing its first writer. From this vast breadth of material, a simple lesson can be drawn: following God's will and the laws leads to prosperity.

The mention of "laws laid down" (see p. 29 above) allows for the lawgiver to be brought in: Moses started his legislative project by examining the nature of God (1.19), and made this the primary lesson for his people, after which it was easy to persuade them to virtue. Finally, Josephus contrasts this manner of legislation with "the other lawgivers" (οἱ ἄλλοι νομοθέται), who followed myths and gave excuses to the wicked (1.22). Insisting again on Moses' accurate conception of divinity, and promising a future work on the philosophical meanings of Mosaic laws (1.25), Josephus announces his starting point: the creation of the world (1.26).

The description of Moses takes up nearly half of the preface: Josephus clearly sees it as key to introducing the *Antiquities*. This section will explain why this is, using the traditions about lawgivers discussed above. We will see that the lawgiver is even more deeply embedded in the structure of how Josephus conceives of the *Antiquities* than has been previously suggested (2.2.1 History as law). Josephus embraces the Greek category and identifies Moses as supreme within it (2.2.2 The other lawgivers). Finally, we will consider the content of the criticisms which he makes of other lawgivers, and demonstrate that even as he uses this Greek category, Josephus is reshaping it to fit Moses in particular (2.2.3 Mythmaking lawgivers).

2.2.1 History as law

When Josephus says that everything "depends" (ἀνήρτηται) on Moses (1.18), this is usually taken to refer to the fact that the first fifth of the *Antiquities* is based on the Hebrew texts which the lawgiver is believed to have written. Thus, the primary reason which Josephus gives for talking about Moses in the preface is that his readers might otherwise be confused when he begins to write about the creation of the world.[222]

Yet there is something more to it. Josephus acknowledges (1.18) that his readers might be surprised to find "natural philosophy" (φυσιολογία) in a work which is meant to be about "laws and deeds" (περὶ νόμων καὶ πράξεων). But the designation of history itself as about *laws* is a clue to the fact that when it comes to writing the ancient history of a particular people, laws and customs are as important as actions. Thus when Josephus said his history would be of interest to all the Greeks (1.5), he explained that it would encompass the "archaeology" and political organisation of the Jews: actions *and* laws.

[222] Feldman (2004: 1.18) observes that in fact this material is quite limited.

This is even more blatant if we look at how Josephus relates his current project to his broader writing career. When he was writing the *War* he had considered including the early history of the Judaeans, but decided that it was too much for one volume (*AJ* 1.6). He includes a series of indirect questions which encapsulate the contents of such an "archaeology". What is hugely useful is that he had done the same thing in the preface to the *War*: that is, he explained precisely what he had decided *not* to include (*BJ* 1.17). The reason given there is subtly different – it would be "superfluous" (περιττόν) because there are perfectly good accounts written already.[223] But there he also included a series of indirect questions which describe the contents of such an (unnecessary) ancient history. We thus have two parallel sentences describing what should be contained in an "archaeology". Both refer to Jewish origins, but after that, they diverge entirely. In the *War*, the questions all relate to migration and land: how the Jews left Egypt, the lands through which they wandered, the country they captured, and how they were exiled from it.[224]

When Josephus describes his thought processes in the *Antiquities*, the land receives no mention at all, and nor does Egypt. Instead we find reference to fortunes experienced, and wars fought before the final unwilling revolt against Rome. Most importantly, the longest indirect question which Josephus incorporates is about the lawgiver: "under what sort of lawgiver they were educated in the things of piety and the other exercise of virtue".[225] The story is no longer about land and migration; the origins of the nation are directly related to

[223] Cf. Ribary 2014: 253; Friis 2018: 54.

[224] *BJ* 1.17: Ἀρχαιολογεῖν μὲν δὴ τὰ Ἰουδαίων, 1) τίνες τε ὄντες 2) καὶ ὅπως ἀπανέστησαν Αἰγυπτίων, 3) χώραν τε ὅσην ἐπῆλθον ἀλώμενοι καὶ 4) πόσα ἐξῆς κατέλαβον καὶ 5) ὅπως μετανέστησαν…

[225] *AJ* 1.6: πρότερον διενοήθην, ὅτε τὸν πόλεμον συνέγραφον, δηλῶσαι 1) τίνες ὄντες ἐξ ἀρχῆς Ἰουδαῖοι 2) καὶ τίσι χρησάμενοι τύχαις, 3) ὑφ' οἵῳ τε παιδευθέντες νομοθέτῃ τὰ πρὸς εὐσέβειαν καὶ τὴν ἄλλην ἄσκησιν ἀρετῆς, 4) πόσους τε πολέμους ἐν μακροῖς πολεμήσαντες χρόνοις εἰς τὸν τελευταῖον ἄκοντες πρὸς Ῥωμαίους κατέστησαν.

their laws. The use of the verb παιδεύω as well as ἄσκησις, "training", embraces the Greek discourse about law as training in virtue.[226] The addition of piety might be taken as Josephus' own addition to this language (cf. *CA* 2.171) but, as we have seen (p. 66 above), Plato's *Laws* had already made piety toward the gods a primary part of legislation. Perhaps even more important than this Platonic language is the fact that Josephus has included in his list of the questions not simply the nature of the laws, or whether there was a lawgiver, but "what kind of lawgiver". This phrasing assumes that a community must have a lawgiver (as compared to a founder or progenitor). Equally, this question makes the character of the lawgiver into a key part of the history of a people. When he wrote the summary of an archaeology in the preface to the *War*, Josephus did not include anything about Moses.

Halpern-Amaru argued that Josephus suppresses land theology in the *Antiquities*, changing promises into predictions, and emphasising the prosperity of diaspora communities rather than the negative notion of exile.[227] She did not refer to this passage, but her argument might explain the absence of the land in the *Antiquities*. Tuval's more recent thesis, that Josephus' own Judaism changed, from a Jerusalem-based "priestly religion" centred on the temple-cult, to a "diaspora Judaism" centred on the law (and therefore on Moses), is another possible explanation, although this schematic distinction is perhaps simplistic: he, too, does not discuss this passage.[228] Rather than locating the reason for the change in Josephus' personal

[226] Meeks 1967: 133.

[227] Halpern-Amaru 1981: 229. Critiqued by Avioz (2014: 40–1), who highlights the complexity of "land theology" within the Hebrew Bible itself, and suggests that we should speak of shifts in focus rather than suppressions, that Josephus' choices are legitimate responses to the biblical text rather than rooted in a fear of messianism or enthusiasm for the diaspora. This is a helpful corrective in some ways, but does not attempt to explain those "shifts in focus".

[228] Tuval 2013: 283. The same broad shift, if more thoughtfully delineated, is found by Schwartz (2014: 58; 2013: 161) as he compares Josephus' parallel accounts of image-based conflicts with Rome (Pilate's standards at *BJ* 2.169-74 and *AJ* 18.55-59; Caligula's statue at *BJ* 2.195 and *AJ* 18.264; Herod's eagle at *BJ* 1.648-50 and *AJ* 17.149-51), finding a

religious journey, we might do better to consider the literary differences of genre and function between these two works – in particular, the literary world into which Josephus is translating Moses for his audience.

Accounts of lawgivers appeared in Greek texts by Strabo and Diodorus (p. 67 above): they appear at moments when those authors (geographer and antiquarian) are describing specific peoples. Thus Strabo's account of Moses is there because he is writing about Judaea; Diodorus provides his account of Charondas because he is writing about a group who chose his laws – others appear for the sake of comparison, but the primary reason for mentioning a lawgiver is because the author is writing about the people who followed his laws. This is slightly different from the references in Plato or Aristotle, where the authors are thinking about political theory in general.

What this suggests is that Josephus' placing of Moses at the centre of Jewish aetiology is not about his discovery of a Torah-based Judaism in the diaspora, but rather about his realisation that this is a necessary part of the story he is telling to a Greek audience. This is suggested even more by the Greek language of *paideia* combined with the term νομοθέτης. It is not that Josephus' use of this language in connection with Moses is original: clearly, he is using the same language as someone like Philo, not to mention the Greek authors who include Moses in their lists.[229] Yet Philo, when he introduces the term νομοθέτης in his *Life of Moses* (1.1) does so

transformation of the sacrificial cult "from something of independent value into simply one complex of observances that are part of Jewish law." For critique of Tuval, specifically pointing out the role of the temple as a structural device in the organisation of the *Antiquities*, and the centrality of the cult in Josephus' summary of the constitution in *Against Apion* (*CA* 2.193-8), see Mason 2014: 395–6. His point that looking primarily at parallel passages results in a skewed picture is also particularly important (pp. 397-399). Van Henten (2015: 6) has also noted that while the description of the temple in *BJ* 5 is written in the past tense, Josephus returns to the present tense in *AJ* 15.380-425 and *CA* 2.1-5-7, suggesting that the temple "becomes a reality again".

[229] Diod. Sic. 1.94.1-2; Strabo 16.2.38-39; cf. Rodrigues 2014a: 171.

with deliberate duality: some people, he says, name Moses the lawgiver of the Jews, while others call him the *interpreter* of the sacred laws (ἑρμηνεὺς νόμων ἱερῶν).[230] There is no similar debate in Josephus' preface: Moses simply is the lawgiver.

This is the preface to a historical work – not a biography. But Josephus has recognised the role that the figure of the lawgiver plays in the genre of "archaeology". The shift between the *War* and the *Antiquities* demonstrates Josephus' engagement with some of the expectations of Greek literature, probably reflected by those around him in Rome (see p. 39 above).

2.2.2 The other lawgivers

Josephus centres his explanation of why Moses is the best lawgiver on his conception of God. Thus, readers are asked to judge for themselves whether "our lawgiver" has understood God's nature appropriately; Moses is said to have recognised that anyone wishing to live correctly, as well as intending to legislate for others, ought first to study the nature of the divinity (θεοῦ φύσις) by means of examining his works (ἔργα); nothing in Josephus' text will appear to the judicious reader inappropriate to the majesty of God (1.15).

Josephus' account of Moses studying the nature of God as the starting point of his legislation looks very much like what Diodorus Siculus said about Zaleucus.[231] The Locrian lawgiver was also said to base his claims about the gods on the orderly nature of the universe (p. 71), which forms the basis for moral behaviour (12.20.1). The argument is subtly different in Josephus, though his Moses *also* teaches his people to look first at the created world (1.21): Zaleucus is

[230] Philo also names Moses king and priest, as well as legislator, whereas for Josephus he is neither king *nor* priest.
[231] Rodrigues (2014a: 174) quotes this passage to note the similarity in the approach of Josephus with Philo in terms of the "communication of the law through religion." Yet what is perhaps more significant here is that Josephus is not talking about the role of God in the *communication* of law, but rather how it should be developed in the first place.

concerned with the existence of the gods, which is taken as a given by Josephus' Moses, for whom it is God's *nature* that provides the foundation for legislation. Secondly, Josephus' model is about imitation: God provides the example upon which Moses and his followers are to pattern their behaviour. There is nothing about imitation in connection with Diodorus' Zaleucus, although he does insist that the gods are the source of all good things and so provide the impetus towards virtue.

More significantly, when Josephus writes about Moses drawing his followers' minds upward (ἀναγαγών) to examine the nature of God, he is not referring to particular laws: it is clear that he is talking about Moses' description of the creation of the world. This is something quite different from anything that is implied by Diodorus (or indeed by Plato). It might be philosophical, but it is also narrative.

This leads us into the next aspect of Moses' legislation which Josephus explicitly compares with other lawgivers (and foundational figures), in two separate places. After his first introduction of the idea that Moses had an accurate conception of the nature of God, Josephus observes that Moses' accuracy is particularly noteworthy, since he did his work more than two thousand years ago, at a time when even the poets do not dare to place the births of the gods, let alone human actions or laws (1.16). The phrase, "births of the gods" (γενέσεις τῶν θεῶν), suggests a reference to Hesiod's *Theogony*. Josephus is comparing Moses to those who produce other narratives about the origins of the world to bring out the fact that unlike others, Moses' account includes no "unseemly mythology" (ἀσχήμων μυθολογία).

Towards the end of the preface, Josephus is more explicit about what is "unseemly" about mythology.[232] Myths attribute wicked actions to the gods and so give wicked people excuses (1.22). This is hardly an original claim. Plato (*Resp.* 391e) argued that myths which represented gods doing bad things would result in human imitation. He banned such stories both on the grounds that they are false (because God is good) and because they have a bad impact on those who hear them. Moses does precisely what the legislators of Plato's ideal state would do.

2.2.3 Mythmaking lawgivers

Yet there is something unexpected about what Josephus says. The first reference he made to myths was about poets, even alluding to Hesiod. Here, however, he is not talking about poets. Instead, it is "the other lawgivers" (οἱ… ἄλλοι νομοθέται) who have been influenced by myths (τοῖς μύθοις ἐξακολουθήσαντες) and so have imputed shameful human actions to divinities (τῶν ἀνθρωπίνων ἁμαρτημάτων εἰς τοὺς θεοὺς … τὴν αἰσχύνην μετέθεσαν). A criticism traditionally directed towards poets in Greek discourse is now aimed at lawgivers.

There are lies about the gods which might be associated with lawgivers – the noble lie which convinces the population to follow their edicts, for example, when the lawgiver claims a divine source for his laws (see p. 69 above). Yet this is never seen as a bad thing, only a necessary one – and is not what Josephus is talking about. Another divine lie which might be found is the insistence on divine knowledge of wrongdoing and eventual punishment as a means of enforcing moral behaviour.[233] Again, though, this is not what Josephus is saying. He

[232] Bloch (2011: 27) notes the moral, religious, and even sexual overtones in this term, associated with treachery, internecine murder, and even sexual violence.
[233] E.g. Critias *Frag*. 19.12-26; cf. Assmann 1997: 214; Gerber 1997: 299.

is accusing other lawgivers of using mythical narratives in the process of their legislation, taking a charge traditionally levelled at poets, and using it to criticise lawgivers.[234]

Possibly, Josephus simply doesn't understand the category into which he is fitting Moses. Producing narratives about the gods is not something with which lawgivers are generally associated, except in the limited capacity of claiming divine authorship for their laws. Furthermore, that Josephus earlier cited poets as fair comparison with Moses suggests that he feels comfortable placing the lawgiver in parallel with poets – and that the second, more specific charge is in some way a continuation of his first reference to such material.

Josephus' approach to Moses and myth should therefore be explained in a more interesting way. We return to the fact that Josephus is concerned with accounting for the opening of the *Antiquities*: the creation of the world. The lawgiver Moses writes narrative aetiology. His "legislation" consists not only of laws and regulations, but also of narrative history about origins. When Josephus compares his narratives with those of Greek poets, or criticises Greek lawgivers for poor narratives about the gods, therefore, it is because he has reshaped the category of lawgiver with Moses as the archetype. Because this kind of narrative is a central part of what Moses does, and Moses is the ideal lawgiver, writing aetiological narrative becomes part of the lawgiver's project in general, so that those who write such narrative (such as Hesiod) are drawn into the category. Josephus does not simply *use* Greek political discourse and categories of thought; he also transforms them to suit his purposes.

There is one other Greek author who, like Josephus, associates lawgivers with the production (or perpetuation) of mythical narrative. This is Strabo who, in the preface to his *Geography*,

[234] The definite article suggests *all* lawgivers.

argues against claims that Homer's poetry is merely entertainment, with no educational value. Strabo finds this offensive, and the first argument which he employs against the claim is related to lawgivers (1.2.8). It is not poets alone, he explains, who "sanctioned" (ἀπεδέξαντο) myths; instead, long before them the "cities" (πόλεις) and "lawgivers" (νομοθέται) recognised their usefulness for education, because of the natural love which humans have for stories.[235]

We do therefore have an example of a Greek author associating lawgivers with the employment of mythical narratives; yet it is completely different from Josephus. Firstly, Strabo places the lawgivers chronologically well before the poets (πολὺ πρότερον), whereas Josephus, when he referred to Moses' early date, saw poets as the natural point of comparison. Secondly, Strabo's lawgivers use myths precisely because they are useful for education, whereas Josephus criticises lawgivers because such myths are educationally suspect. Finally, for Strabo, lawgivers and poets remain two distinct sets of people. The difference comes down to a particular word in Strabo, who explains that lawgivers employed myths because of their usefulness (τοῦ χρησίμου χάριν). The ends justify the means. Strabo is thus using the same justification here as he will use about the claim of divine laws (p. 69) – expediency.

An examination of the lawgiver as he appears in Josephus' prologue thus reveals that Josephus has taken on and adapted the ideas about lawgivers which he found in Greek literature, reshaping the category of lawgiver so that poets become a subgroup within it. He takes on just enough of the language to make criticisms, at the same time as ignoring the issue of expediency which is central to Greek thinking about lawgivers by his time.

[235] Radt (2002: 1.2.8) observes that for Strabo *mythos* effectively means *false*: the emphasis is on the truth value of the stories ("*mythos* ist für ihn identisch mit *pseudos*…").

2.2.4 Conclusions

This chapter has shown that the figure of the lawgiver has a complex history in the Greek world. The supremely virtuous individual who appears within a crisis-ridden state, and transforms it through his charisma and wisdom into a well-governed polity with Eunomia, emerges in the fourth century, with little connection to the historical development of written law-codes in Greek cities (p. 54). Yet his traits remain fairly consistent over the years; later authors merely add more carefully articulated scepticism to claims of a divine source for the laws, responding to Plato's redefinition of divine law in the *Laws*.

Josephus' positioning of Moses at the centre of what the *Antiquities* is about in his preface shows that he is aware of the role played by these figures in Greek histories – this is why he regards his history as of particular interest "to all the Greeks" (p. 77). His claims about Moses, that he started with an examination of the nature of God, fit well into this discourse, as is made clear by the similarity to what Diodorus says about Zaleucus, even as Josephus then goes on to insist that other lawgivers have based their legislation on myths, something that is found in none of the stories told by Greek authors. Josephus is able to make this criticism because he has reshaped the category of lawgiver with Moses as the archetype: because Moses is a writer of aetiological narrative, Josephus is able to take producers of aetiological narrative into the now-broadened category of the lawgiver. Whether an audience familiar with the lawgiver traditions would have spotted this sleight of hand is unknowable, but Josephus is working with such an audience's expectations even as he challenges them.

Chapter Three: Egypt and Exile

In the second book of Josephus' *Antiquities*, Moses is never called lawgiver. The book starts with Joseph, sold and taken to Egypt, and ends with Moses leading the escape: it is a story of "there and back again", a tale of national oppression and liberation, and not yet of law.[236] Yet the first part of Moses' life contains numerous tropes that can, through comparison with Plutarch, be shown to be associated with his status as founding figure and legendary leader, with Josephus making adaptations which both appeal to, and contradict, those expectations.

Moses' story in *Antiquities II* consists of three stages. In the first, Moses is born in miraculous circumstances. Brought up in Pharaoh's court, he acts both as loyal subject to the Egyptian ruler and as Hebrew, committed to the well-being of his people (201-253). In the second stage, he is exiled in Midian, meets God at the burning bush, and returns as God's chosen agent to rescue the Israelites (254-280). In the final stage, he enacts this salvation and leads his people successfully out of Egypt and through the Red Sea (281-349). In overview, the story is fairly close to the story told in Exodus, but in particulars it becomes quite different, especially in the first two stages. These stages ("Birth and childhood", followed by "Exile and Return") will form the bulk of this chapter – not because the act of challenging Pharaoh and leading the people from Egypt is insignificant in Josephus' account, but because the first two stages contain the most extensive adaptations to the biblical material which require explanation.

3.1 Birth and childhood

As we saw in Chapter Two (p. 53), there is a collection of traditions that attach themselves to legendary lawgiver figures, but none of these has any connection to birth or childhood.

[236] Franxman 1979: 284. The biblical book divisions separate Moses from the patriarchs, and at the beginning of *Antiquities II* (2.8), well before the move to Egypt, the future exodus is mentioned.

Comparative material for this section is therefore found in *Lives* of non-lawgivers: the *Theseus-Romulus* concerns founder figures who come into the world in an unusual way.

The first part of this section (3.1.1 Infancy narratives) will deal with the birth narrative of Moses, and the effects of Josephus' considerable expansions of his biblical source, with reference to the stories told by Plutarch. The second part (3.1.2 Childhood and education) will consider the childhood of Josephus' Moses and whether education plays a role in the story as he tells it, bringing in both Plutarch and Philo as parallels and showing that Josephus' approach seems to tie more closely to the former than the latter. Finally, the other side of the birth narratives will be considered: the moment when the identity of the abandoned infant is discovered (3.1.3 Revelation of identity).

3.1.1 Infancy narratives

The story of Moses' birth as it appears in Exodus shares its most significant feature with numerous legends about leaders in the ancient world – not only Romulus, but also Sargon of Akkad and Cyrus the Great: the exposure of the hero as an infant.[237] Redford lists 32 examples of the motif of the exposed child, attached both to humans and gods, and divides them into three types: in the first, the child is exposed owing to shame related to the circumstances of its conception; in the second, the child is regarded as a threat by a king, and therefore exposed either by the king to end his life, or by his mother to protect him; lastly, there are examples of a large-scale massacre that threatens the child.[238] The story of Moses as it appears in Exodus fits into the third of these groups; Josephus incorporates a prophecy which places it equally in the second group. It is precisely because of these intrinsic similarities that comparison with

[237] See Herodotus 1.108ff; Livy 1.4. For the legend of Sargon's birth, see Westenholz 1997: 41.
[238] Redford 1967: 211, 225.

Plutarch's versions is productive because it highlights the choices Josephus makes about which aspects of the story to emphasise.

3.1.1.1 Prophesied birth

According to the biblical book of Exodus, the new king of Egypt enslaved the descendants of Joseph out of fear of their numbers (Ex. 1:10). When hard labour failed to prevent the expansion of the Hebrew population, he gave orders to the Hebrew midwives to kill male newborns (1:16). It is only after this scheme also failed (because of the midwives' obedience to God) that he extended the order to all his people, commanding that male babies be thrown into the Nile (1:22). Throughout the narrative, the purpose of the Egyptian king is the diminishing of a population regarded as numerically threatening.[239]

Josephus retains elements of this framework, but shifts the causality, in part through changing the motivation for the hard labour, as well as by including a prophecy. Instead of the growth of the Hebrew population, it is their prosperity (εὐδαιμονία) and wealth (itself a result of hard work) which leads to envy (2.201-2).[240] The king who "knew not Joseph" (Ex. 1:8) turns into a whole nation that has forgotten the benefits they received from him. Josephus shifts the culpability from the king to the Egyptians in general. This relates only to the forced labour, and not to the infanticide, which has a separate chain of causation.[241]

[239] As Cohen (1993: 12) observes, infanticide and the use of the population as slave labour are not actually compatible.

[240] Envy, particularly as a response to others' good fortune, is a perennial theme in Josephus: see Feldman 1998: 200; Mason 1991: 226.

[241] Friedman (2014: 542) notes that Josephus uses the term ἐνύβριζω, rather than δουλεύω. He explains this avoidance of reference to slavery within the Exodus narrative as a response to denigration of slaves and freedmen within the culture of Rome; at the same time, what Josephus describes is clearly forced labour, even if he does not name it.

Instead of infanticide being the next step in a campaign of extermination, it is the result of a prophecy.[242] A sacred scribe informs the king that an Israelite child is to be born who will raise up (αὐξήσει) the Israelites and bring low (ταπεινώσει) Egyptian power (2.205).[243] Unlike the versions of the exposure motif which involve a prophecy threatening the king in particular, this prophecy is about whole nations.[244] While both sets of action, the forced labour and the infanticide, are associated with the same Egyptian hostility, they are responses to different stimuli, so that the threat to the baby Moses is not generalised, but highly specific. The prophecy is pivotal to Josephus' retelling of the story, because it creates the impetus for Moses' remarkable childhood.

The role played by experts, who interpret sacred books, is significant. Josephus is at pains to emphasise that the content of the prophecy is precisely accurate, and that the scribes are extremely skilled (δεινοὶ περὶ τῶν μελλόντων τὴν ἀλήθειαν εἰπεῖν).[245] In fact, the term "sacred scribes" is only found in this part of the *Antiquities*: such scribes make the prophecy, re-appear to threaten the infant Moses, and then plot against him as an adult (2.243), but outside the Moses narrative they are nowhere to be found.

The most obvious parallel for these scribes is found in the New Testament. In the book of Matthew (2:3-4), Herod consults priests and scribes (ἀρχιερεῖς καὶ γραμματεῖς) to locate the newborn king mentioned by the magi, intending to use the information to remove the threat.

[242] "Prophecy" here is used to refer to prediction about the future, reflecting Josephus' usage – see Barton 1986: 36.
[243] Josephus uses the terms "Hebrew" and "Israelite" interchangeably in this part of the *Antiquities*. On ethnic terminology in the *Antiquities*, see Spilsbury 1998: 38.
[244] Cohen 1993: 47.
[245] For Feldman (2004:2.204), it is important that the term employed is not Josephus' usual for soothsayers and non-Hebrew prophets (μάντις, cf. Feldman 1990: 416-17), even though even μάντεις are not necessarily inaccurate, since the word is used for Balaam, whose oracles Josephus says Moses could have passed off as his own.

The parallels in Matthew's infancy narrative of Jesus and that of Moses in Exodus have long been noted.[246] Significantly, though, the consultation of experts who decode texts to make sense of the future is a motif shared only with Josephus' version of the Moses story. There are differences, of course: the sacred scribes in Josephus act independently, bringing information unasked to the king. Matthew's Herod hears first about the coming messiah from the magi, and then consults the experts, whose job is simply to locate the infant.

There is a second piece of prophetic material in Josephus' retelling, which adds to this parallel.[247] Moses' father, Amram, who plays a central role in the story, receives a dream from God after praying for deliverance from the king's threat.[248] The dream consists simply of God appearing to him and promising a successful future, using evidence from the stories of the patriarchs to confirm the reliability of divine promises. Amram's prayer focused on deliverance for the people as a whole.[249] The promise given in the dream, on the other hand, culminates not so much in this deliverance, as in the remarkable status of Moses, who will be famous among Hebrews as well as foreigners (ἀλλόφυλοι). Josephus thus incorporates two forms of prophecy, both honing in on Moses as the key to this moment in history.[250] The choice to include this prophetic material in the lawgiver's story is significant. Spilsbury

[246] E.g. Allison 2013: 140-165.

[247] Prophecies are also found in other retellings of the Exodus story. In the *Targum Pseudo-Jonathan* (1:15), Pharaoh has a dream which is interpreted by the court magicians, while *Exodus Rabbah* (1:18) refers to astrologers who tell the king about the coming redeemer of Israel (perhaps influenced by the New Testament). The *Biblical Antiquities* (9:10) describes Moses' sister, Miriam, as having a dream which her parents disbelieve (see Gnuse 1996: 207–8). The *Targum Pseudo-Jonathan* is sometimes dated to the Islamic period, but its core exegetical traditions probably come from the first centuries of the common era: see Hayward 2009: 109, 251, 257.

[248] Gnuse (1996: 163–4) notes that although this dream is extra-biblical, its format ("God appeared to him in a dream") conforms to the usual biblical formula, suggesting that this influenced Josephus.

[249] Cf. Gnuse 1996: 209: the speech "recapitulates the patriarchal narratives like a miniature salvation history."

[250] Bloch (2011: 109) notes that prophecy is "lacking" in the Hebrew Bible's Moses story, but plays an important role in tales of "pagan" heroes.

comments that this is "a device intended to place Moses among the most illustrious figures of history" – figures such as Theseus and Romulus, perhaps.[251]

In the *Theseus,* the hero's conception is orchestrated by his maternal grandfather. His father, Aegeus, had visited the oracle at Delphi because of his childlessness. The oracle in response, warns him not to "loose the wineskin" (Ἀσκοῦ τὸν προὔχοντα πόδα… μὴ λύσῃς) before he returns to Athens (3.5). On his journey home, he stops at Troezen, and mentions the oracle, which he has not understood, to Pittheus, the king there. Pittheus, who is cannier than Aegeus, understands the code, and entraps Aegeus, ensuring his daughter Aethra is left pregnant by him when he departs.

In some ways, the oracle in this story is really a command, rather than a prediction, and one which will be disobeyed. The oracle says nothing about what will happen if the "wineskin" *is* loosed, and does not mention Theseus, either as liberator of Athens from Cretan oppression, or as the cause of his father's death. Plutarch himself notes at the end of the *Syncrisis* (*SyTR* 6.5) that the oracle implies that the gods did not want Theseus to exist. At the same time, it is the communication of the oracle itself that leads to Theseus' birth.

In the *Romulus*, prophecy plays a different role, in the single version of the story in which it is included. Plutarch presents a series of different accounts of the origins of Rome's namesake, and only one includes a prophecy. Plutarch flags it as "mythic" (μυθώδη) at the outset (2.4). A phantom phallus appears on the hearth of the Alban king, Tarchetius. He asks the oracle of Tethys for an explanation, and the response comes that a virgin sent to the phantom would

[251] Spilsbury 1998: 95. Lewis (2009: 33) observes that stories of prophecies associated with the births of sole rulers in the Greek world appear to develop during periods when monarchy was no longer seen as a good system of government, as a "coping mechanism" to explain how such rulers could have been accepted.

conceive a child who would be famous and exceedingly strong. He therefore sends in his daughter, but she sends her handmaid in her place, which is why the twins are then exposed when they are born (2.5).

Once again, this is a different kind of prophecy from what we have seen so far, although the oracle as the source of information is similar to the *Theseus*. In this case, the process starts with a supernatural portent (φάσμα δαιμόνιον), rather than an individual's investigations. Yet again, the function in the story is the same as for Josephus: the recipient of the oracle in trying to respond to the information sets in motion precisely what he doesn't want to happen. Thus, while the nature of the prophecy is different in each case, for both Plutarch's founders and Josephus' Moses, prophecy undermines the plans of those who hear it, orchestrating the circumstances in which the heroes are to be born and grow up.

3.1.1.2 Birth under surveillance

In both versions of the Romulus story which Plutarch tells, the mother of the twins is protected from immediate execution when her pregnancy is discovered, but remains confined and under surveillance until the birth. In what Plutarch designates the probable version (τοῦ… πίστιν ἔχοντος λόγου), the woman is the daughter of Numitor, whose brother Aemulius had seized the kingdom of Alba, making his niece a priestess of Hestia, required to remain unmarried, to ensure that there will be no competition for the throne in the future (3.3). When she becomes pregnant despite this, her life is spared because of the intercessions of Aemulius' daughter, but she is locked up and kept isolated so that she cannot keep the birth secret.

A similar birth story appears in the *Lycurgus*. When Lycurgus' brother, the king of Sparta, dies, the future lawgiver is crowned, before it is discovered that the late king's wife is pregnant (3.1). Her child will be heir to the throne – ahead of Lycurgus. At this point, in the usual chain of events, Lycurgus would confine the mother-to-be, and keep watch so that the moment the child is born it could be safely put out of the way. However, in this case the story is flipped on its head: it is the pregnant woman who approaches her brother-in-law and offers to abort her baby if he will agree to marry her (3.2). The threat to the child comes not from the king he will supplant, but from his mother. Lycurgus pretends to agree to the plan, but insists that abortion will threaten the mother's health, so she should therefore carry the baby to term, and he will then deal with it. When she goes into labour, he does send guards to watch her and to take the baby, if it is male, but this is so that he can immediately proclaim his nephew king. This story, which closes with the magistrates admiring Lycurgus' righteousness (δικαιοσύνη), demonstrates the virtue of the future lawgiver, precisely by reversing the expected narrative.

The motif of the mother under surveillance is shared by Josephus' Moses. Josephus heightens the theme in three ways. Firstly, the mechanism of surveillance is made more effective through the replacement of the Hebrew midwives with Egyptian; secondly, the threat is extended to the parents as well; and finally, the absence of labour pains for Moses' mother enables the birth to take place without attracting the notice of this surveillance structure.

According to the book of Exodus (1:15-22), there are two stages to the attack on Hebrew male children. First, the midwives (Shiphra and Puah)[252] are given orders that when they attend the Hebrew women, they should kill male newborns, allowing girls to live. They disobey, and

[252] Exum (1983: 70) and Jackson (2012: 68) note the significance of these women being named.

explain to the king that Hebrew women give birth quickly, before the midwives can arrive. It is only then that the king gives the order that male babies are to be thrown into the Nile. When the arena shifts from the general threat, to the specifics of Moses' birth (Ex. 2), there is no sense that the period of pregnancy was itself dangerous: the danger is acknowledged only once the child is born, and the mother has to keep him hidden for three months (2:2).

Josephus' account differs from the Exodus narrative in significant ways. First, there is only one stage in the attack on the infants: on hearing the prophecy, the king immediately orders that male Israelite babies should be cast into the river, and then employs *Egyptian* midwives to keep watch on Hebrew women when they are in labour (παραφυλάσσειν… τὰς ὠδῖνας).[253] This could also be interpreted as keeping watch *for* when they are in labour. The midwives thus are enforcers of the river-based infanticide, not a previous stage in the king's plans. Whereas the midwives of Exodus act as protectors to the Hebrew babies, defying the king, the midwives of Josephus' version are an added threat, and one associated specifically with keeping watch over women in labour – making the Hebrew women, and specifically Jochebed, similar in their plight to the mother of Romulus and Remus, as well as Lycurgus' sister-in-law. According to Josephus (2.207), the king gives orders that the Hebrew women are to be attended by those who as compatriots (διὰ συγγένειαν) to the king are likely to obey his orders: the text implies that the very fact of these midwives attending to Hebrew women is a threatening innovation.

[253] The question of the ethnicity of the midwives in Exodus has been described by Exum (1983: 72) as "one of the most nettling ambiguities of the text", because the phrase "the Hebrew midwives" (לַמְיַלְּדֹת הָעִבְרִיֹּת), which in the Masoretic text is vocalised clearly as noun and adjective could in consonantal form equally be taken as in construct state ("midwives of the Hebrew women"), which is how it is taken by the Septuagint and Vulgate translators (LXX: ταῖς μαίαις τῶν Εβραίων; Vulgate: *obstetricibus Hebraeorum*) – thus Kottek (1994: 20) suggests that Josephus has "voiced the implicit opinion" of the LXX translators. The names are Semitic, but narrative arguments can be made either way: the pharaoh in asking Hebrew midwives is revealing his own foolishness; but if they are Egyptian the story contains greater narrative tension, and the "god-fearing" midwives join the ranks of "righteous gentiles." For the argument that they must have been Egyptian for narrative reasons see Childs 1974: 16; cf. Bellis 1994: 84; Janssen 2018: 15-16.

Rappaport made the suggestion that the midwives are made Egyptian for apologetic motives – to avoid the charge that Jews disobey the laws of the land.[254] Feldman highlighted the fact that Josephus also shifts their number from two to a general group, and thus suggested that Josephus was uncomfortable with the idea that two midwives served the whole Hebrew community.[255] But the transformation of the midwives has not been fully explained.

This is where comparison with Plutarch is particularly helpful. Midwives play absolutely no role in the threatened infancy narratives Plutarch tells. Nevertheless, Josephus has used the midwives to create a picture of pregnant women under constant, threatening surveillance, which turns the birth of Moses into something similar to the birth of a figure such as Romulus. The threat is not only to the newborn baby, but to the mother in the late stages of pregnancy.

Thus when Moses is actually born, Josephus observes that his mother experienced no pain in the process of labour (2.218): the labour which the midwives are watching for is therefore able to occur in secret.[256] This then serves as evidence of the truth of the promise God has just made to Amram: divine protection keeps Moses safe in the face of threats to his mother's pregnancy and labour.

The midwives are not explicitly mentioned, but Josephus states that the gentleness of childbirth meant that Jochebed escaped the notice of the guards (λαθούσης τοὺς φύλακας διὰ

[254] Rappaport 1930: 25. He also suggests (p. 26) that it might be intended to preserve the Hebrew people from Pharaoh's order, not even allowing the possibility that Hebrew women would have considered this task.
[255] Feldman 2004: 2.206; cf. Johnstone 1990: "two midwives suffice for the fecund wives of the 600 000 Israelite menfolk." Jackson (2012: 74) has suggested that this ratio can be understood as intentionally humorous.
[256] Cohen (1993: 56) suggests that the mention of easy labour reminds the reader of the threatening midwives, but does not recognise that they are still present in the narrative as guards. The motif of painless birth appears in rabbinic sources (*Ex.R.* 1:20, b. Sotah 12a), but is taken as evidence of Jochebed's righteousness, which indemnifies her against the curse placed on Eve (Gen. 3:16; cf. Feldman 2004: 2:218). Plutarch (*Cic.* 2.1) notes that Cicero was said to have been born without his mother suffering pain (ἀνωδύνως), but he draws no conclusions from this fact.

τὴν τῶν ὠδίνων ἐπιείκειαν). The "guards" could be understood as the midwives who were set to watch for (παραφυλάσσειν) the labour of the Hebrew women. We can also recall the guards (φύλακας) whom Lycurgus, while pretending to be a threatening tyrant, send to watch for the labour (ταῖς αὐτῆς ὠδῖσιν) of his sister-in-law (*Lyc.* 3.3), and the mother of Romulus kept locked up lest she escape his notice when she gave birth (*Rom.* 3.4). By turning the god-fearing midwives into threatening guards watching pregnant women, Josephus heightens similarity with those stories.

3.1.1.3 "Abandonment" and miraculous adoption

It is in the motive for the apparent "abandonment" of the baby that the story of Moses differs sharply from that of Romulus and Remus. The latter are placed in a river specifically so that they will not survive; according to Josephus, Amram makes his hard decision in order to ensure that God's promise about Moses' adult achievements can be brought to fruition (2.219). In Josephus' version the threat of death is extended also to parents who conceal male infants (2.207). Thus Amram fears (δείσας) that he will be put to death alongside his son if detected (αὐτός… ἀπόληται μετὰ τοῦ παιδίου). He chooses to place the child in God's hands rather than trust in concealment.

In giving Amram the lead role, Josephus is shifting subtly away from the Exodus narrative, which presents all of the action as that of the mother, from the three months' concealment to the preparation of the basket and the deposit of the child among the reeds of the river (Ex. 2:2-3). Exum suggests that the mother's action is precisely a "determination to act rather than

leave things to fate."[257] Josephus, in contrast, has the father placing his child in divine care.[258] After the decision is made, Josephus uses plural verbs, so that the parents together place the child in the river, and it is Jochebed who tells Miriam to watch the basket.[259]

That Josephus is actively working against any notion of infanticide in the story is made likely by comparison with Philo. Like Josephus, Philo emphasises the threat to the parents of the three-month-old baby – with apparent contemporary resonance. As tends to happen in monarchies (οἷα ἐν μοναρχίαις φιλεῖ), Philo explains (*Mos.* 1.10), there were those who were constantly seeking out secrets (τὰ ἐν μυχοῖς ἔνιοι διηρεύνων σπεύδοντες ἀεί τι καινὸν ἄκουσμα) which they could take to the king. This may reflect the circumstances of Tiberius' reign, when *delatores* and *maiestas* accusations became commonplace.[260] Because of these spies, Moses' parents fear that in trying to protect one baby they are risking three lives. They therefore expose (ἐκτιθέασι) the child on the banks of the river, lamenting that they have been forced to become infanticides (τεκνοκτόνοι). There is no doubt that the baby has been left to die – like the Roman founder. Josephus avoids this parallel, unwilling to have Moses' parents guilty of intended infanticide.

In other ways, Josephus encourages the parallel. In Exodus (2:3), the basket is placed among the rushes by the side of the river. The Egyptian princess sees it still "among the reeds" (Ex. 2:5 NRSV). The picture is of a basket trapped among the rushes, not one in motion. Philo (*Mos.* 1.10) states that the parents placed the child beside the bank of the river, and the princess saw

[257] Exum 1983: 76.
[258] Jonquière (2007: 82) suggests that Josephus is avoiding giving a significant role to a woman.
[259] Feldman (2004: 2.221) posits that this is to prevent the charge that Jochebed abandoned her child.
[260] Suet. *Tib.* 61.2; Tac. *Ann.* 4.32 (but see Rutledge 2001: 43).

him "in the thickest part of the marsh" (1.14). This is slightly different from Exodus, but also avoids any suggestion of movement.

In contrast, Josephus insists not only that the basket was placed into the river itself, but also that it moved (2.221).[261] The parents "launch" (βαλόντες) the basket into the river, and the river "receives" and "carries" it (ὁ ποταμὸς παραλαβὼν ἔφερε). Miriam then follows to see not simply "what would happen to him" (as at Ex. 2:4), but "where it would go" (ὅποι χωρήσει), and the princess sees the basket being "carried by the current" (φερόμενον ὑπὸ τοῦ ῥεύματος) and sends "swimmers" (κολυμβηταί) to retrieve it (2.224). Not only is there motion, but the river is an active participant.[262]

The moving river, as well as the basket, thus becomes a parallel with Romulus and Remus. In that story, as told by Plutarch (*Rom.* 3.4-5), the servant is sent to throw the babies in the river. He places them in a trough (σκάφη), and goes down to the river to do his unsavoury task, but becomes afraid because the river is flooding. He therefore does not go close enough to throw them in, and instead leaves the trough near the edge. The overflowing river (τοῦ… ποταμοῦ κατακλύζοντος) then picks up the trough and carries it gently downstream to a soft place. The river plays an active role. Indeed, the contrast between the violence of the river when the servant sets the trough down, and the gentle manner (πράως κατήνεγκεν εἰς χωρίον ἐπιεικῶς μαλθακόν) in which it carries the twins may suggest supernatural protection over the children – just as in launching Moses' basket into the river (2.221) Moses' parents place his protection

[261] Feldman (2004: 2.221) notes that the synagogue at Dura-Europos portrays the scene with the ark in the river itself, and that *Midrash Exod. Rabbah*. (1.21) explains that Jochebed threw Moses into the river to ensure the astrologers would think the prophesied child had already been cast into the water, and call off the search.

[262] Cohen (1993: 51) suggests, within his broader argument about the development of the biblical story, that Josephus' adjustment "runs contrary to the direction of the biblical story, which does away with motion to counteract the motif of abandonment."

in God's hands (ἴασαν ἐπὶ τῷ θεῷ τὴν σωτηρίαν αὐτοῦ). Thus, while Josephus avoids parallels with the motif of abandonment, he and Plutarch share both the picture of flowing rivers actively protecting infant founders.

Finally, Moses is found, saved, and adopted by the daughter of Pharaoh, whose name according to Josephus is Thermouthis (2.224).[263] She is struck by the size (μέγεθος) and beauty (κάλλος) of the child and immediately loves it (ὑπερηγάπησε). Josephus makes explicit the role reversal which is implicit in the biblical narrative: that Moses is saved by the daughter of the one who threatened him (2.225). He then adds an extended account of the process by which Moses will end up having his mother as his wet-nurse.

In Exodus, Pharaoh's daughter recognises that the abandoned child must be Hebrew, and Miriam swiftly approaches and asks if she should bring a Hebrew woman to nurse it (Ex. 2:4). Josephus' version is more complicated. Thermouthis demands that a woman (γυναίον) be brought to breastfeed the baby, but Moses rejects each of the many women who try to feed him. It is only then that Miriam intercedes, and explains that a Hebrew baby cannot be nursed by an Egyptian woman, offering to bring a Hebrew woman.[264] Philo, who does not tell a story like this, simply notes (*Mos.* 1.17) that divine foresight ensured a "natural" (γνησίας) source of milk for the baby. Given that there is little evidence of ethnic specificity in the choice of wet-nurses in antiquity, such a prohibition might have seemed a little strange to Josephus' audience, who would perhaps have recognised in this process simply a clever (divine?) orchestration of events which ensures that the child is ultimately cared for by his

[263] For the origins of this name, see Flusser and Amorai-Stark 1993: 218.

[264] Cf. *Sotah* 12b: R. Yosei explains that she recognised him as Hebrew because he was circumcised. A survey of evidence for ancient midwifery by Yee (2009: 184) concludes that there is no evidence that midwives were expected to be of the same ethnicity as their charges.

own mother.[265] That Moses is "remarkably reared" (τραφεὶς δὲ παραδόξως) is one of the key features of the story as Josephus tells it.[266] Moses' selection of his own mother as wet-nurse is what this paradoxical nurture is all about. That Josephus hones in so closely on the process of breastfeeding as the "miraculous nurture" which this hero receives might link him with the founders of Rome. Of course, their "miraculous" nurture is of quite a different kind: the story is, as Plutarch tells us (4.3), that they were suckled by a wolf (τήν τε λύκαιναν ἱστοροῦσι θηλαζομένην).[267]

3.1.1.4 Conclusions

The story of Moses' exposure and adoption necessarily looks similar to the story of Rome's legendary founders, but Josephus' version of events does interesting things with these parallels. The inclusion of a prophecy makes the Egyptian king's infanticide target Moses, rather than being a brutal method of population control. The transformation of the midwives from subversive protectors to a threatening arm of the surveillance state creates similarities with the carefully guarded princesses and priestesses of Graeco-Roman legends, and by making the river transport the infant's basket, Josephus again encourages his audience to compare and identify the Jewish lawgiver with the Roman founder.

At the same time, there is a profound difference in that Josephus, unlike Philo, is absolutely clear that the baby was placed in the river for his own protection. There is no "abandonment"

[265] It is even possible that such ethnic exclusivity would play into tropes of Jewish misanthropy – Bloch (2011: 233) sees Josephus' inclusion of this story as a sign that we should not read the *Antiquities* as permanently apologetic.
[266] Words cognate with τρέφω ("to nurture, nurse") populate the narrative: *AJ* 2.205 (τραφείς), 2,209 (τρέφεται λαθών), 2.216, 2.218, 2.220 (τῷ παιδὶ... κρυφαίως τρεφομένῳ), 2.225 (τροφῆς), 2.227 (τὴν τροφήν), 2.236, 2.238.
[267] He also provides the rationalisation that "wolf" was a nickname for their (human) wet-nurse.

in this story: thus even though Josephus wishes to ensure his readers observe the parallels, he retains control over the messages he wishes to send about Moses' people,

3.1.2 Childhood and education

In the prologue (see p. 76 above), Josephus describes Moses as the lawgiver by whom the Jewish people are "educated" (παιδευθέντες). Given this emphasis on the role of education as part of the lawgiver's task, it is reasonable to think that the education of the lawgiver himself would be a concern for our writer – especially as he grows up in an Egyptian court, and not a Hebrew home. Josephus is proud of his own Jewish education (*Vita* 7-12). The challenge of the Egyptian-educated Jewish lawgiver might be one which he would wish to take on.

Education is also a significant theme for Plutarch, who also presents his lawgivers Lycurgus and Numa as educators of their respective peoples.[268] Lycurgus is ultimately classed as a better lawgiver than Numa precisely because of the attention he pays to education (*SyLN* 4.5). This section will therefore begin by working out how Plutarch deals with the childhood and education of the lawgiver, before examining how Josephus does the same.

3.1.2.1 Education and Plutarch's (self-taught?) lawgivers

In the introduction to the *Coriolanus* (1.4), Plutarch explains his protagonist's tragic fate with reference to educational failures. Coriolanus, he says, proves that even a good and noble nature (γενναία καὶ ἀγαθή), if it lacks education (παιδείας ἐνδεής), will go bad (φαῦλα).[269] This reflects two aspects of Plutarch's approach to education, articulated in the *Moralia* and

[268] Both Xenophontos (2016: 150) and Roskam (2002: 177) have observed that for Plutarch the politician is also classed as an educator, so that to an extent we might see Lycurgus and Numa as educators not because of their status as lawgivers, but because they are statesmen.

[269] In Duff's (2008: 13) paraphrase: "… his education was deficient or unbalanced and so, notwithstanding his good nature, produced an unbalanced character."

illustrated in the *Lives*: first, education is not about cognitive development, but about character.[270] Second, context (and access to education) is far more important than heredity in the creation of virtuous leadership.[271]

Despite these stated views, Plutarch does not actually say much about education in the *Lives.* Xenophontos, who analyses Plutarch's approach to education throughout his works, notes that Plutarch's tales of childhood education tend to foreshadow adult behaviour rather than explain how such character develops.[272] Similarly, Duff finds two (possibly contradictory) "models" of education in the *Lives*: developmental, as we find in the *Coriolanus*, where defective education explains failures in the adult's character, and illustrative, where the figure's attitude towards education reveals his true nature.[273] Swain observes that Plutarch is more likely to refer explicitly to education in the Roman *Lives*, as he appears to evaluate these heroes in terms of their approaches to *Greek* education, to which Greek heroes are simply assumed to have access.[274] In all of this, the *content* of education is barely discussed; as Pelling observes, Plutarch often treats education as an inoculation — something you either have or not, which can protect from particular threats.[275] Plutarch thus only talks about education when it has gone wrong: its explanatory power appears only in connection with bad character.[276]

[270] Xenophontos 2016: 24: "By education, Plutarch mostly means ethical and not strictly cognitive training…"
[271] *De Virt. Mor.* 451C; cf. Xenophontos 2016: 27.
[272] Xenophontos 2016: 43.
[273] Duff 2008: 12, 13, 17.
[274] Swain 1990: 129: "…an effective method for evaluating character in the *Lives* of Roman heroes is to ask with what benefit they had absorbed Greek culture."
[275] Pelling 1990: 214.
[276] Duff (2008: 14) notes the important exception of Pericles.

This makes it unsurprising that education does not get much attention in the *Lives* of Plutarch's lawgivers. It does not even occur to Plutarch to mention Lycurgus' education (he appears in the narrative as a fully-formed and perfectly virtuous adult), and while tutelage is mentioned for both Theseus and Romulus, these references are fleeting. Most worthy of discussion is Numa, who breaks this trend, with Plutarch paying close attention to the Roman king's education.

In the *Romulus*, Plutarch notes (6.1) that the twins, adopted by the swineherd Faustulus, are said to have been taken to the Gabii to learn their letters and "the other things necessary for those of good birth" (ὅσα χρὴ τοὺς εὖ γεγονότας). The boys receive the education appropriate to their station despite their lowly context. The purpose of education here is to underline their continuing connection with their royal ancestor. Without the necessary education, they will not be able to live up to their good birth.[277]

It is only in the case of Numa that education is a significant part of Plutarch's narrative. In the *Syncrisis* (*SyLN* 1.5), Plutarch explicitly calls Numa the "more Greek" (ἑλληνικώτερον) of the two lawgivers.[278] This designation suggests that the *Numa* can give us significant insight into Plutarch's notion of "Greekness", in which *paideia* plays an important role.[279] Plutarch co-opts the Roman religious founder into the category of Greek lawgiver, which might explain why

[277] Cf. Mattern 1999: 16. She discusses Roman approaches, which saw good birth as primary.
[278] This is in the context of contrasting the cruelty of the Spartan treatment of the Helots with the taste of freedom offered to slaves at the Roman Saturnalia.
[279] Cf. Whitmarsh 2001: 16: "*Paideia* [in the "Second Sophistic"]… was also a means of constructing… idealised identities for Greek and Roman… a foundation on which both peoples constructed their own sense of their place in the world…"

education and intellectual and moral development are so important in his picture of the philosopher-king.[280]

The question of how Numa became this remarkable philosopher is answered when Plutarch introduces the reclusive future king. Having recorded his home city, his genealogy, and his birthday, Plutarch continues with an evaluation not only of his character, but of its development. The account (3.5) starts with the familiar union of nature and training: by nature (φύσει), Numa's habits (τὸ ἦθος) tended towards virtue (πρὸς πᾶσαν ἀρετήν), but had been further tamed (ἐξημέρωσε) by three things: education, asceticism, and philosophy (διὰ παιδείας καὶ κακοπαθείας καὶ φιλοσοφίας).[281] Most striking is the absence of anyone else in the process. Whereas the brief notes in *Theseus* and *Romulus* are about an external source for education, Numa's appears to be internal.

This is for a good reason: there is nobody else who can teach him. Having gained control of his passions (the "distinctive contribution of Greek *paideia*"),[282] he also rejects the values of his "barbarian" compatriots — violence and greed (τὴν εὐδοκιμοῦσαν ἐν τοῖς βαρβάροις βίαν καὶ πλεονεξίαν). Instead, he recognises that true "manliness" lies in the control of one's desires by reason (ἀνδρείαν δὲ ἀληθῆ τὴν ὑπὸ λόγου τῶν ἐπιθυμιῶν ἐν αὑτῷ κάθειρξιν ἡγούμενος), and not (the comparison is implicit) merely in battlefield bravery. In fact, this comment on early Roman notions of virtue echoes a claim in the *Coriolanus*: Plutarch explains that among the

[280] *Numa* 20.7; cf. Boulet 2004: 255.
[281] There is an echo of the opening of the *Coriolanus* (1.5): …ἐξημεροῦσθαι τὴν φύσιν ὑπὸ λόγου καὶ παιδείας…
[282] Pelling 1990: 340.

early Romans ἀρετή was entirely associated with war.[283] Numa's recognition of the nature of true ἀνδρεία causes him to stand alone among the ancient Romans.[284]

Another feature of Numa's intellectual development lies in his employment of his leisure hours. Highlighting his rejection of pleasure and business, Plutarch explains (3.5) that the philosopher spends his time serving the gods and thinking about their nature and power (θεραπείαν θεῶν καὶ θεωρίαν… φύσεώς τε αὐτῶν καὶ δυνάμεως). Just as Numa gains control of his passions by reason, so his inquiry into the nature and power of the gods is pursued using logic (διὰ λόγου). Importantly, Plutarch seems to see this aspect of Numa's development as separate from the first section on *paideia* and controlling the passions: Numa's investigations into the nature of the gods occur once he is a fully "educated" man. They are the *result* rather than the content of his education — and again, they seem to be unique to him.

While Plutarch pays lip service to the importance of education and the education of the young, he does not write about it within the *Lives* as much as we might expect. Pelling has observed that in the biographical tradition more broadly, childhood stories connected with education are associated with intellectual rather than political figures.[285] The absence of this theme in the lawgiver and founder narratives might suggest that these men are primarily politicians rather than philosophers. A more significant factor is probably Plutarch's notion of the ancient history of Rome, which is lacking in the refinements of Greek education: because Numa is unusual, Plutarch needs to explain his development in full. In doing so, he gives us a model of a lawgiver with whom we can compare Josephus' Jewish lawgiver.

[283] *Coriolanus* 1.6; cf. Swain 1990: 137: "[Plutarch] does at least imply strongly that Coriolanus' failings should be connected with his lack of Hellenic culture."
[284] Cf. *AJ* 4.143; Moses exhorts the Israelites to recognise that ἀνδρεία means controlling the passions (see p. 232).
[285] Pelling 1990: 213.

3.1.2.2 Absence of education for Josephus' Moses

What is noteworthy about Josephus' account of Moses when it comes to the question of education is the absence of such material. Josephus does pad out the biblical account, but only barely — and he does so without addressing how Moses, the Hebrew child adopted by an Egyptian princess, is educated. This section will look first at how Josephus adapts his biblical source, before contrasting this account with the way Philo addresses the topic, which is quite the opposite. Finally, we will look more broadly at education and intellectual development in the rest of the *Antiquities*, which allows us to draw some conclusions about the choices which Josephus is making.

Once he has reported the infant Moses' miraculous rescue, and nursing arrangement, Josephus provides a few details about the boy's intellectual growth (2.230). Moses' intelligence (σύνεσις) develops at a much faster rate than is usual for his age (οὐ κατὰ τὴν ἡλικίαν), and his maturity is revealed in his games (ἐν ταῖς παιδιαῖς), giving a preview of great things to come.

The comments on Moses' precocity are there only to prefigure his adult self, and not to explore how that adult self comes into being.[286] The child Moses showing his mature brain in games may remind us of Herodotus' Cyrus (1.114), who is chosen as king in an imaginary game with his playmates and, when one of them refuses to obey his orders, has the others seize him, while the pretend-king gives him a real whipping. The parallel, pointed out by Feldman, has some value, but the nature of the revelation is quite different.[287] The story in Herodotus functions not only as evidence of Cyrus' kingly bent, but also (and primarily), as the means by

[286] Cf. Pelling 1990: 303: Childhood anecdotes often have this function in ancient biography.
[287] Feldman 1992a: 305.

which his true identity is revealed. In the case of Moses, it is his intellect that is revealed; his identity is not hidden (see p. 117).

However, these "games" may be important for another reason. There is a textual tradition which reads παιδείαις in place of παιδίαις — in fact, the latter, which is adopted by Niese, Naber, and Thackeray, is only attested in a single manuscript (R).[288] In favour of the latter reading is the sixth-century Latin translation, which uses *infantia*, but, more importantly, the narrative context which assumes that Moses is a very small child, not necessarily old enough to be having formal lessons.

Nevertheless, the reading παιδειαῖς might be preferable. Josephus is talking here about Moses' intelligence, which might be more easily demonstrated within the context of education. Secondly, while Feldman is right to point out that this passage is about Moses as a toddler, Josephus is saying precisely that he does not "act his age"; it is perfectly reasonable to imagine him receiving lessons. The sparsity of detail itself suggests this reading, since Josephus does not think he needs to elaborate. The reading of παιδεία is as plausible as παιδιαῖς.

Thus I would suggest that Josephus does say something explicit about Moses' education — but couched in generic language, seeing it not as a process, but as a way in which Moses' intelligence can be displayed. There is no anxiety about who educates Moses, or what he learns, or even where this education takes place — concerns which can be identified even in the Septuagint's rendering of the Hebrew Bible.[289] This problem does not seem to occur to

[288] Feldman 2004: 2.230.

[289] Barclay (1992: 30) points out that where the Hebrew (Ex. 2:11) has Moses moving to the palace once he "has grown big'" (וַיִּגְדַּל), the Septuagint translates it as when Moses "has matured" (ἀδρυνθέντος): this subtle

Josephus, who does not even find it necessary to mention the transfer of the child to the palace explicitly. His mother is entrusted with his "nurture" (2.227: τροφή), but, this refers to breastfeeding and it is unlikely Josephus means more to be read into it.

Comparison with Philo in this regard is instructive: the Alexandrian philosopher is deeply concerned with how character and intellect are formed. His account of Moses' education acts as a case in point: after rejecting childish games, Moses has teachers from all over the world, and is taught the full range of human knowledge. The subjects which Moses learns are the set regarded as propaedeutic to philosophy. It is therefore no surprise that we find Moses moving on from these studies to the taming of the passions (1.26). What we have in Philo's account of Moses' education is "the ultimate exemplar of the learning soul"— and this exemplarity explains what Philo is doing.[290] He could have achieved the same emphasis on Moses' excellence by claiming that he studied these subjects alone, using his impressive intellect to reach the conclusions developed over centuries by the societies whose teachers flock to teach him. But Moses' education in itself is not Philo's main concern here. As Zurawski and Koskenniemi point out, this education is clearly modelled on Philo's own experience.[291] His purpose in giving Moses this education is precisely that it should be a model for his audience as well.[292] There is something else: this account reveals that for Philo *paideia* is fundamentally social: teachers are always necessary.

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clarification ensures that Moses is imagined as having already "imbibed the educational training and religious atmosphere of a Jewish family before he ventured into the palace." See also Damgaard 2013: 31.

[290] Zurawski 2017: 489.

[291] Zurawski 2017: 488; Koskenniemi 2008: 288, 293.

[292] Mendelson 1982: 64: "…the question, however, is not what the *encyclia* meant to Moses, but rather what they could mean to someone modelling his life after the Lawgiver. Especially if we assume that *De Vita Mosis* is an apologetic work, there is every reason for Philo to elaborate any points of contact between the experience of his audience and that of his protagonist."

The dearth of anything even approaching this in Josephus is noteworthy. Koskenniemi compares these accounts of the education of Moses, alongside the *Biblical Antiquities* and Ezekiel's *Exagoge*, concluding that each author gives Moses precisely the education that he himself had. Josephus' neglect of Moses' education (particularly in comparison with his expansion on other subjects) Koskenniemi explains by Josephus' own lack of a Greek education: "But Josephus forgets to lead Moses to a Greek gymnasium, as he himself had forgotten to go."[293] The assumption that the options available to him were only "Jewish" or "Greek" fails to credit Josephus with any historical imagination, and, more importantly, ignores the ways in which Josephus does speak about education elsewhere in the *Antiquities*.

Our comparisons thus far have been external, showing the options which Josephus clearly could have employed in his account, but did not. We might explain this simply by saying that Josephus was not overly worried about how his heroes were educated. Indeed, Niehoff points out that, whereas in Graeco-Roman antiquity education was an important attribute for national heroes as a marker of elite status (recall the insertion of education into Romulus' story by Plutarch), Josephus does not seem to apply it very often to his Hebrew heroes.[294] It is only Joseph, Joshua, and Daniel to whom the word itself is applied (though we might add Moses himself with the παιδεία reading at 2.230). Yet there is some danger in limiting the discussion to the explicit use of the term παιδεία or παιδεύω, valuable as such word studies can

[293] Koskenniemi 2008: 293.
[294] Niehoff 1992: 102.

be.[295] Josephus does in fact show some concern with the intellectual development of at least one Hebrew patriarch, other than Joseph.

The role of Josephus' Abraham in the development of the Hebrew nation goes beyond his status as progenitor: it is Abraham's intellect that makes him the father of the Jewish people. He stands out from the rest of humanity (much like Plutarch's Numa), and his intelligence is what allows him to challenge (καινίσαι καὶ μεταβαλεῖν) contemporary beliefs about the gods (1.155). His conclusion, that there is one creator god (θεὸν… δημιουργὸν… ἕνα), and all other divine forces are subordinate to him, is based entirely on his own observations of land, sea, sun, moon, and other heavenly bodies (1.156).[296] This is not education as such (Abraham could not have been taught these things); yet his desire to revolutionise ideas about the gods assumes an implicit intellectual context. Abraham even tries to teach his discoveries, not only in Ur, where they are rejected, but also in Egypt. He is a corrector of false beliefs, who also passes on Chaldean knowledge of arithmetic and astronomy.[297] Abraham's story in the *Antiquities* may not be told using the vocabulary of *paideia*, but it contains the topics which are usually discussed under this rubric.

To return to Moses: Feldman suggests that the absence of educational material in the Moses story might reflect Josephus' discomfort at the idea of the Hebrew lawgiver's having learnt

[295] Josephus uses the noun eighteen times and the verb nine times. The former occurs with slightly more frequency in the second half of the *Antiquities*, while seven of the latter's occurrences precede the eleventh book. Contrary to Niehoff's claim (103) that most of these refer to Hellenistic or contemporary figures, and so not to *Jewish* learning, at least seven cases of παιδεία, and five of παιδεύω explicitly refer to Hebrew or Jewish learning of some variety.

[296] Cf. Feldman 2004: 1.156: "… Josephus is the only known figure in the history of ancient philosophy who changed the Platonic (*Leg.* 12.966E) and Stoic argument for the existence of God, which was based upon the regularity of celestial phenomena, into an argument based upon certain irregularities in these phenomena." Spilsbury (1998: 57) suggests that similar logic is found in Paul.

[297] And perhaps the πρώτος εὑρετής of monotheism: see Avioz 2019: 107.

hieroglyphics and Egyptian animal worship.[298] But the example of Abraham suggests that Moses could have been presented as learning such things and, in his superior wisdom, rejecting or refining them.

The role of Egypt is itself also interesting. The only Hebrew patriarch who formally receives *paideia* according to Josephus is Joseph, and he does so not at home with his eleven brothers, but only as a slave in Egypt. Wishing, it seems, to emphasise his status as not *really* a slave, Josephus explains (2.39) that once sold to Pentephres (Pharaoh's official), Joseph was held in great honour and given the education of a free man (εἶχεν ἐν ἁπάσῃ τιμῇ καὶ παιδείαν τε τὴν ἐλευθέριον ἐπαίδευε).

Niehoff notes that this "liberal education" (in Thackeray's misleading translation) may also reflect contemporary circumstances, specifically the fact that "it was not uncommon for a talented slave to be educated by his master".[299] She also points to this as something in which Josephus himself may have felt deficient, and, within her broader argument that Joseph is the biblical hero with whom Josephus most identifies, suggests that he wants to "provide his hero with qualities which he himself painfully lacked".[300] Yet in another way, the specification that this was a free man's education, while raising Joseph's status, also highlights his predicament, and parallels with Roman slaves would hardly change this.

The inclusion of education in the Joseph narrative is simply as a status-marker. Its role is to establish Joseph's place in the household, as a slave of superior position, rather than to say

[298] Feldman 1992a: 307. Cf. Acts 7:22 ("So Moses was instructed in all the wisdom of the Egyptians…") with Assmann 1997: 10.
[299] Niehoff 1992: 103.
[300] Niehoff 1992: 104.

anything about the hero's intellectual development. Yet the location of this education may still be important. That concern with education is associated with being in foreign spaces, and particularly with Egypt, is at the very least interesting.[301] Education might be assumed within the family context, but it needs more explicit mention outside. Joseph receives a broader education than his brothers, just as he develops a hybrid identity, able to make his way in the Egyptian world as well as the Hebrew – much like Moses (or so we might think).

Just as the comparison with Philo demonstrated that Josephus could easily have made much of Moses' education, this internal comparison shows that even in small ways, Josephus could have spoken more explicitly about the ways in which Moses developed. In fact his Moses looks more like Plutarch's lawgivers in this regard than like any of Josephus' other Hebrew heroes: Josephus clearly didn't think the question of how Moses was educated would matter to his audience.

3.1.2.3 Conclusions

Neither Josephus nor Plutarch really spends much time or attention on the question of how these ancient figures are educated, despite the importance of education in their broader conception of the task of the lawgiver. Given the importance placed on the question by Philo, it is interesting that Josephus seems to have more affinity with the Greek biographer's approach than that of the respected Jewish philosopher (cf. *AJ* 18.259).

Yet closer analysis of Josephus' choices reveals that there are more differences than similarities — particularly because of his accounts of Abraham and Joseph. The latter example should remind us of what Plutarch has to say about the education of Romulus and

[301] The other Jewish hero who explicitly receives *paideia* is Daniel, who is *also* in a foreign context (*AJ* 10.194)

Remus. There, the function of education was that it marked status: the boys despite their humble circumstances received the education appropriate to their station. The same is true of Joseph, who receives the education of a free man despite being enslaved: the education matches his true identity.

We might think that the opposite would be true for Moses: certainly, the basic story involves the child of Hebrew slaves being brought up instead in a palace and (we assume) receiving the education appropriate to his *context* rather than his origins. Yet this is not what Josephus in his rendering chooses to imply. Instead, as well as downplaying the slavery of the Hebrew people more broadly (discussed by Friedman)[302] he underlines Moses' noble status *from birth* (2.210), through highlighting that of his father (τῶν εὖ γεγονότων παρὰ τοῖς Ἑβραίοις). There is thus no sense of inversion in this account. Education is not required as a status marker, either to mark Moses true identity or his adopted one.

Towards the end of *Antiquities IV*, as Josephus reports Moses' death, he includes an "obituary", noting the aspects of Moses' life and character which he wishes to highlight as the lawgiver disappears as an active character in the history (see p. 303). A significant part of this obituary (4.328) is devoted to Moses' control of the passions (τῶν παθῶν αὐτοκράτωρ), which is so complete that it was as though he merely knew their names (γινώσκειν μόνον αὐτῶν τὴν προσηγορίαν). As Plutarch's account of Numa makes clear, control of the passions is the main function of education. By marking this feature of Moses' character so explicitly, Josephus clearly intends his readers to understand his lawgiver as fitting into that educational paradigm (and exceeding it). This is the lesson that sets Numa apart from the Roman

[302] Friedman 2014: 543. He even suggests that what references there are could have been "understood metaphorically by a Roman audience, perhaps as allusions to political subjugation."

"barbarians" around him – recognising control of the passions as true ἀνδρεία (3.5). Josephus thus places Moses consistently into the category of a well-educated man.

Yet the fact that such parallels are only to be found outside the narrative of Moses' childhood, growth, and maturity suggests that while they matter to Josephus, they also do not occur to him as part of the narrative. Moses must be well educated, but how this happens is of no importance. Significantly, Josephus is not even worried that this education is happening in the Egyptian court – he does not feel the need to separate his lawgiver from his surroundings in terms of education as Plutarch does with Numa. This contrasts sharply with Josephus' approach to the final question for this section: how the child's identity comes to be public knowledge.

3.1.3 Revelation of identity

The result of the adoption of Moses, like that of Romulus and Remus, is that the future leader grows up outside of his own family, and (we might expect) unaware of his true identity. A significant part of such stories is therefore how the hero comes to know his own identity, and to be recognised by others. The trope of the hero whose true parentage and identity must be recognised in order for him to achieve his full destiny is one which has persisted in literature and can still be found regularly on screens in the modern world. Yet this aspect of the story is ignored by the biblical narrative about Moses, which does not specify the extent to which he and others are aware of his true identity. Josephus incorporates the moment of recognition into his narrative, but not in the same way as his readers may have been expecting.

3.1.3.1 Hidden identities: Theseus and Romulus

Theseus is not a foundling, but like Romulus, he grows up with his parentage in doubt, because his paternity is unknown – his mother specifically keeps it hidden (6.1), following the orders of his father, who was afraid of rivals for the Athenian throne. His grandfather intentionally spreads the rumour that Theseus' father is the god Poseidon. But Aegeus had left his sword and sandals as proof of paternity for when Theseus had grown up, concealed beneath a rock (3.5): the hero is required to prove his strength in order to claim his identity. When he has grown up (4.2) he demonstrates bodily strength (τῇ τοῦ σώματος ῥώμῃ) as well as intelligence (φρόνημα μετὰ νοῦ καὶ συνέσεως βέβαιον), and his mother takes him to the rock, which he is able to lift. He reclaims the tokens and starts on a secret journey to Athens. At a banquet once there, he is nearly poisoned by his father at the instigation of Medea, but he is recognised just in time because he uses his father's sword to slice meat. The tokens of his identity thus perform their task twice.

Theseus receives his name either from the "placing" of the tokens under the rock (διὰ τὴν τῶν γνωρισμάτων θέσιν), or from his father's "acknowledging" him (παῖδα θεμένου Αἰγέως αὐτόν) when he is recognised. The first of these is meant to be attached to him from the moment of his birth: Plutarch does not state that Aethra chose the name, but she is the only one aware of the "placed" tokens. In this case, the baby's name holds the clue to his adult identity. Either way, he receives his name from the complications of his birth, rather than from his family context or genealogy. The second feature is that the hero has a dual identity: he grows up in what is effectively a foreign court, an outsider even in his mother's family. As soon as he discovers his paternity, he has to travel "home" to Athens. Yet at Athens (13.1) he is called an

outsider (ἔπηλυς καὶ ξένος). His birth results in a dual identity which makes him into an exile in both courts.[303]

Romulus and Remus also grow up as "exiles". In the story to which Plutarch devotes most of his attention (*Rom.* 6-8), the boys grow up as herdsmen of their great-uncle Aemulius, who had tried to have them killed. Plutarch does suggest that their grandfather, Numitor, was aware of their true identity (6.1), but this possibility plays no role in the story of the discovery of their identity. In the story, Remus is taken prisoner after a quarrel with some of Numitor's herdsmen, and, when he is brought before his grandfather, Numitor is amazed at his appearance, and begins to ask questions about the circumstances of his birth. This leads to the revelation of the twins' identities, because they have retained the trough in which they were exposed, which becomes their proof of identity (7.6).

Once their identity has been established, they do not remain in their former home, but depart with a band of ex-slaves and fugitives to found Rome. As with Theseus, identification leads to departure, a shift in status to a change in community. Similarly, Plutarch here (6.2) includes an etymology for their names which is based on their infancy story – names rooted in the ancient term for "teat", *ruma*. This is not the only etymology Plutarch provides (an extensive list begins the *Life*), but by placing this one within the narrative, he turns Romulus, like Theseus, into a figure named for the circumstances of his birth. Around both of these foundational figures, Plutarch has developed a tapestry of themes relating to mixed identity, exile, and outsider leadership.

[303] Mathews (2012: 51) observes that exile is a theme "typically adapted or applied to a royal figure."

3.1.3.2 The paradox of the un-hidden Moses

Moses, too, has a name which is rooted in the circumstances of his adoption. Josephus explains that the Egyptian word for "water" is μῶυ, and this is combined with the term for "people saved" (ἐσῆς δὲ τοὺς σωθέντας).[304] That Moses' name is dependent on these circumstances of his infancy is highlighted by Josephus (κἀπ' αὐτῶν τὴν ἐπίκλησιν ταύτην τῶν συμβεβηκότων ἔθετο).[305]

His name identifies him as a foundling. Philo uses the same etymology, but adds that the princess faked a pregnancy so that the child would seem to be her own (ἵνα γνήσιος ἀλλὰ μὴ ὑποβολιμαῖος νομισθῇ).[306] In Philo's version, the adoption is a secret, Moses' identity fully hidden from the Egyptian court. Although it is not stated in the Exodus narrative, it seems self-evident that his Hebrew identity would need to be hidden – an assumption made in retellings of Moses' story from Philo to Hollywood as well as in some scholarship.[307]

Similarly, in the hidden identity stories of Theseus and Romulus at which we looked, the heroes have their true parentage revealed only when they are adults. Yet it is quite different for Josephus' Moses. Josephus does include a dramatic scene, in which the future lawgiver's identity is revealed, and his life is placed at risk, but it takes place when he is a very small

[304] Cf. *Mos.* 1.17. Feldman (2004: 2.228) observes that Coptic for water is indeed *mōu* and *ouaiṣi* means "save", but the name more likely comes from "to be born" (*msy*), hence Tuthmosis ("Tuth is born"), Rameses ("Re is born"), and so on.

[305] In the biblical account, the Egyptian princess explains (Ex. 2.10) that she has named him Moses because she "drew him out of the water" (כִּי מִן־הַמַּיִם מְשִׁיתִהוּ). In fact, the Hebrew word מֹשֶׁה is an active participle of the verb "to draw out", so that Moses' name means "one who draws out" – perhaps an allusion to the Red Sea. See Exum 1983: 77.

[306] *Mos.* 1.19. He also claims that Moses was weaned unusually early.

[307] E.g. Jackson 2012: 76: "During the wet-nurse arrangement and as Moses was raised in Pharaoh's house, continually hiding his true ethnicity would have been paramount to his survival." Neufeld (1993: 50) observes that even Moses' own knowledge of his identity is not made explicit in the Hebrew Bible. He interprets the story as one of Moses' coming to knowledge of his own true identity – finally realising it only in conversation with God at the burning bush.

child, and ultimately has no impact on his position within the court. Unlike Theseus and Romulus, there is no immediate change in his circumstances, or a requirement that he move.

In the story as Josephus tells it (2.232), the princess takes the child she has adopted to see her father the king, and explains to him that as she has no children, she would like this child to be recognised formally as her own and as the heir to the throne. This is therefore the moment when Moses is supposed to be formally incorporated into the Egyptian royal family. The princess places the child in her father's arms, and he, apparently agreeing to what she has just suggested, begins to place his own crown upon the baby's head – a gesture intended to please his daughter (χάριν τῆς θυγατρός), and one of affection for the baby (κατὰ φιλοφρόνησιν). But Moses instead grabs the crown and hurls it to the ground, stamping on it.[308]

That it is an omen is immediately recognised. Indeed, the very same sacred scribe (ἱερογραμματεύς) who had foretold the birth of Moses happens to be in the room: he leaps up and attempts to kill the child (ὥρμησεν ἀποκτεῖναι). The action is a sudden contrast with the affectionate, domestic scene which it interrupts. As he moves, the scribe calls out (2.235) that God has revealed that it is by killing this child that they would be without fear (ὁ παῖς ἐκεῖνος, ὃν κτείνασιν ἡμῖν ἐδήλωσεν ὁ θεὸς ἀφόβοις εἶναι). He then provides a clear statement of the meaning of Moses' childish action: in stamping on the crown, Moses bears witness (μαρτυρεῖ) to the future he will bring to Egypt. He must therefore be killed to protect Egypt. The scribe's attempt to enact this is prevented by the quick action of Thermouthis, who grabs Moses.[309] Josephus' portrayal of this moment is difficult to square with narrative logic. It is easy to

[308] It is not clear how old Moses is meant to be here: he is called βρέφος as the princess places him in her father's arms, which usually refers to a newborn, or even the foetus in the womb (cf. Plut. *Lyc.* 3.2), but then Moses is able to grab and stamp, indicating a later stage of development.
[309] A similar story can be found in *Exodus Rabbah* (1.26) and parallel texts.

understand Thermouthis' immediate protective instincts, but harder to explain the refusal of the king to act on his scribe's information. This is the same king who responded to the prophecy with an immediate policy of indiscriminate child-murder. Yet now he does nothing.

Josephus explains (2.236) that the king was hesitant (ὀκνηρός) because God had made him so (τοῦ θεοῦ παρασκευάσαντος). It is thus God's foresight (πρόνοια) which protects the future lawgiver (τῆς Μωυσέος σωτηρίας). Given the warm family scene Josephus presented earlier, we might have expected some suggestion that the hesitance was down to affection for Moses himself, but Josephus simply ascribes the protection of Moses to divine foresight.

Moses thus grows up with his identity fully known – not only to the Egyptian court, but throughout the country, so that the hope (ἐλπὶς περὶ τῶν ὅλων) of the Hebrew people, which the scribe had wished to stamp out, is reinvigorated by his upbringing, even as the Egyptians watch with suspicion (δι' ὑποψίας). Josephus also highlights that the king still regards Moses as his assumed successor, trusting him with the welfare of Egypt (ὑπὲρ ὠφελείας τῆς Ἀιγυπτίων) because of Moses' knowledge of the future, the first time Josephus has mentioned this aspect of Moses' skill-set. There is irony here: it is knowledge about the future which led first to the king attempting to kill Moses; Moses' future includes bringing Egypt low; yet it is also knowledge of the future which leads to the king retaining trust in him as his successor as he grows up. The logic is twisted, and Josephus never acknowledges the problem.

Whereas Theseus and Romulus have their identities revealed as adults (and via behaviours that are regarded as "manly", whether lifting a heavy rock, or getting into fights), Moses' identity is revealed because of an action which is specifically designated that of a child (*AJ*

2.233: κατὰ νηπιότητα). What we have, therefore, in the portrayal of Moses' upbringing in the Egyptian court is the paradox that his identity, not only as Hebrew, but also as the future leader of the Hebrew people, is fully known, and yet at the same time he is treated, and behaves, as the effective successor to the Egyptian king.

The contrast is worth comparing with the story as told in Philo. We saw above (p. 115) that Philo has the Egyptian princess fake a pregnancy, so that Moses is passed off as her biological child. Despite this careful addition, Philo does not include any moment at which Moses' true identity is revealed – not even to himself. What Philo does explain (1.32), after his extended account of the lawgiver's princely education, is that Moses spurned his position out of interest in his own people – and particularly in their *paideia* (τὴν συγγενικὴν καὶ προγονικὴν ἐζήλωσε παιδείαν). This assumes that Moses is aware of his own heritage. Philo also structures the whole narrative differently, with the infliction of hard labour on the Israelite population only appearing at this point, presented as a change in policy which leads to Moses' rejection of the king, and then to his murder of an Egyptian overseer. The king at this stage still regards Moses as his grandchild (θυγατριδοῦς). Instead of a clear revelation of identity, there is simply Moses' own internal process of recognition, which is not so much about knowledge of his origins, as about increased identification with the community of his birth, leading to a break with the Egyptian court.

3.1.4 Conclusions

Josephus' Moses, instead, is recognised dramatically as a small child, and yet grows up as a loyal member of the Egyptian royal family. There is no suggestion that knowledge about his birth or identification with the Hebrew community must lead to a break with his adoptive

family – something which is different not only from Philo, but also from Plutarch's founder-heroes, both of whom have to leave the families in which they grew up to take their rightful places once their identities are revealed. The level of incoherence in Josephus' narrative as it stands, with the king knowingly nurturing the child who will threaten his kingdom, may reveal that Josephus is aware of the potential for Moses to have a conflicted, dual identity, and carefully ensures that this is not the case; he is fully and unquestionably Hebrew, and his loyalty to Egypt is in no way incompatible with that fact. The development of this theme in the life of the adult Moses, as an innocent man exiled, will be the focus of the second part of this chapter.

3.2 Exile and return

Our divisions imitate Josephus, who introduces the next phase of Moses' life (2.238) with a clear introductory sentence, marking the end of Moses' childhood and prefacing the coming story with the statement that it provided immediate proof of his virtue (φανερὰν... τὴν ἀρετὴν ἐποίησε). The story is that of the expedition to Ethiopia, an extra-biblical narrative whose provenance has occasioned debate.[310] Discussion of this episode will form the first part of this section (3.2.1 Persecution and exile), noting parallels with Lycurgus. The second part of this section (3.2.2 Calling and return) will examine Moses' time in Midian, and the encounter at the burning bush, using material from Plutarch's *Numa* to interrogate themes of sacred space, divine callings, and kingly reluctance.

[310] Silver 1973; Rajak 1978; Runnalls 1983; Damgaard 2008.

3.2.1 Persecution and exile

3.2.1.1 The Ethiopian expedition

The story of the Ethiopian expedition is introduced with the comment (*AJ* 2.138) that these events provided evidence first of Moses' adult virtue, and of his ultimate purpose, to bring down the Egyptians and uplift the Hebrews (ἐπὶ ταπεινώσει μὲν τῇ ἐκείνων, ἐπ' αὐξήσει δὲ τῶν Ἑβραίων).[311] There is an invasion by the Ethiopians, who capture Egyptian territory as far as Memphis. Unable to fight them off, the Egyptians take to divination, and are informed that they need Moses' help. Moses agrees to become their general and leads the army through the interior rather than by the river, a route which is infested with winged snakes: Moses cleverly makes the army carry ibises, the main predators of the snakes. This stratagem allows the army to surprise the Ethiopians, driving them back into their own territory. Moses pursues them and besieges their capital, Saba. The city is eventually betrayed by the daughter of the Ethiopian king, who falls in love with Moses and agrees to open the gates if he will marry her. The city is captured, the marriage takes place, and Moses returns to Egypt, where the envious Egyptians convince the king to have him murdered, claiming that Moses is plotting to take his throne. Moses learns of the plan and flees to Midian.

This is the most extensive addition which Josephus makes to the biblical narrative.[312] The reason for the existence of this story (beyond Josephus) is usually seen as the reference in Numbers (12.1) to Moses' "Cushite wife" (הָאִשָּׁה הַכֻּשִׁית אֲשֶׁר לָקָח): a complex tradition develops to explain this marriage.[313] Yet Artapanus, the Alexandrian-Jewish author of the third to second century BCE whose account of Moses makes him the founder of all Egyptian culture,

[311] Cf. *AJ* 1.137
[312] Rajak 1978: 111.
[313] Rajak 1978: 118.

includes a story of Moses' campaign in Ethiopia, without reference to his marriage.[314] On the other hand, the legend may have sprung from exegesis of the Cushite wife, but then gained independence – Runnalls observes the importance of military exploits for a founding hero, and that many Jews in Egypt were mercenaries.[315] The Alexandrian Philo makes no reference to any aspect of the story.

Rajak suggests that Josephus all but copied out an earlier Hellenistic text for this section: even the authorial comment, during the explanation of the ibis-trick, that "the Greeks are not ignorant about the ibis" (2.247) could have been in the original text of a Hellenistic writer, obeying the convention of including material of ethnographic interest.[316] She notes that the labour involved in Josephus developing this narrative himself is "disproportionate" for "a few peripheral pages in a long work", and certainly she is right to say that Josephus has not invented the story.[317] She does not specifically note the narrative disjunction of Moses' two wives (he marries the Ethiopian princess two Loeb pages before his marriage to the daughter of Raguel, without any comment from our author), but it supports her view. Yet at the same time, it is hard to see a story which is given this much space as "peripheral", and it may be better integrated into Josephus' narrative than has been recognised.

[314] It is possible that such a reference was simply not preserved by Eusebius, but this is unlikely. See Runnalls 1983: 146.
[315] Runnalls 1983: 150. Thackeray (1930: 269b) in his notes calls Artapanus' version "a collateral form of the legend."
[316] I would prefer to take this clear reference to Herodotus 2.75 as a knowing nod to Josephus' own audience. Artapanus mentions the ibis, but only that Moses made them sacred at the city of Meroe: the justification, that they "help mankind" might be seen as predicated upon a story like that of Josephus (so Freudenthal 1874: 160n; cf. Rajak 1978: 111). Runnalls (1983: 153) has suggested that Josephus' ibis, which is emphatically natural, is actually a (very) subtle polemic against Artapanus' story – Moses makes use of animals; he does not worship them.
[317] Rajak 1978: 116.

Both Rajak and Runnalls explain the story with reference to Josephus' relationship with the biblical text: he is explaining the Cushite wife of Numbers, or he is providing a reason for Moses' exile that does not involve his committing murder.[318] This is true. But it assumes a reading of Josephus that privileges the biblical text: what about the story from the perspective of those *without* biblical knowledge? Looking only at Josephus' text, we can identify themes in the Ethiopian expedition which reveal larger patterns in the Moses-narrative as a whole.

The showcase of Moses' military skill suits Josephus' constant emphasis throughout *Antiquities III* and *IV* on Moses' role as general.[319] Most striking is the parallel between the princesses, Egyptian and Ethiopian, who defy their royal fathers out of love for Moses: Thermouthis, the Egyptian princess, saves a Hebrew baby from her father's edict; Tharbis, the Ethiopian princess, betrays her father's city. Love for Moses the baby motivates one; the other is driven by love for Moses the man. Both princesses are named, while their fathers remain nameless (called simply the kings of Egypt and Ethiopia). Both recognise Moses as a threat to their own people, but still act impulsively out of love – Thermouthis by snatching him from the avenging sacred scribe, Tharbis by sending a secret offer of marriage in the midst of the siege. Josephus even highlights the role of Thermouthis in allowing Moses to go on the expedition at all: the king first approaches his daughter, as Moses' mother, to ask her permission, which she gives only when he swears that Moses will not be hurt (2.242). It is thus the Egyptian princess who begins his campaign, and the Ethiopian princess who brings it to a close. This set of parallels has not, to my knowledge, been acknowledged in the scholarship on this part of the *Antiquities*, perhaps because of the tendency to see the Ethiopian campaign as

[318] Runnalls 1983: 146; Rajak 1978: 115.
[319] Cf. Damgaard 2008: 138.

a stand-alone narrative, or even a "digression" from the biblical material that surrounds it.[320] It remains possible that Josephus is following a source closely – but in that case his account of the birth of Moses, which is packed with authorial comments, must also be based on the same previous text. The Tharbis/Thermouthis parallels could fit easily into a postulated earlier Hellenistic Jewish Moses-text, but regardless of its provenance, what matters is what Josephus does with the material.

We have already observed that Josephus introduces the story as evidence that Moses was indeed born to raise up the Hebrew people, and bring low the Egyptians (2.238). But it is worth interrogating how this story is supposed to illustrate this lesson – after all, it is actually a story of Moses aiding, and so uplifting, the Egyptians; proof of his merit, certainly, but hardly evidence that he will one day bring them down. But examining the narrative more closely reveals a set of role reversals and parallels that might explain Josephus' confidence in the moral of his story.

To start with, the whole story begins with the Ethiopian invasion of Egypt. The Ethiopians are "neighbours" (πρόσοικοι) of the Egyptians, who invade (ἐμβαλόντες) and capture their territory. The Egyptians respond in "anger" (ὀργή), but are unable to drive them out, and, after their defeat, are pursued ever deeper into Egypt, no city holding them back. The Ethiopians, having "tasted" (γευσάμενοι) good things decide not to retreat, and invade as far as Memphis. At this point the Egyptians consult oracles and Moses is brought in. This account of the Egyptian invasion can be productively compared with the ensuing description of Moses' campaign.

[320] Balfour (1995: 6) observes parallels between Tharbis and Saracen princesses in crusade literature with a link between the erotic "capture" of the princess and the fall of the city. On daughters betraying fathers for love in Greek myth, see Bloch 2011: 112.

Having taken his clever, ibis-defended, route over the interior, Moses defeats the Ethiopians, and then pursues *them* into their territory, overthrowing their cities. At this point (2.248) the Egyptian army, "having tasted" (γευσάμενον) success, shows such energy (πονεῖν οὐκ ἔκαμνεν) that the Ethiopians very nearly face enslavement (ἀνδραποδισμός).[321] The repetition of "tasting" brings out the role reversal: the Ethiopians are transformed from hunters to hunted, from enslaving to enslaved, and from oppressors to oppressed.

Moses' ability to enact this transformation through his leadership of the Egyptian army prepares us for his achievements as leader of the Hebrew people. This reading is supported by three other features of the story: first, when the oracles tell the Egyptians to make Moses the leader of their armies (2.241), he is referred to not by name, but as "the Hebrew". Aside from underlining again that Moses' ethnic identity is not a secret (p. 117), this makes him into a representative of his people.[322] Secondly, the Egyptian princess, when she agrees that Moses can be asked to become general, observes that the same sacred scribes (now called priests: ἱερεῖς) who named Moses their enemy and sought to kill him, are now begging for his help (2.243): role reversal is embedded in the narrative. Finally, the Ethiopian princess who falls in love with Moses as she watches him from besieged Saba recognises him (2.252) as the one to whom the Egyptians owe their "freedom" (ἐλευθερία), and the Ethiopians owe their peril (κίνδυνος – cf. 2.248).[323] The term "freedom" reveals that Moses is not only a great general, but a liberator as well.

[321] One of the characteristics of the Egyptians, according to Josephus (2.201), was their lethargy (ῥᾳθύμοις πρὸς πόνους): this is quite an achievement for Moses as a general.
[322] Indeed, the oracle specifically tells the king to take Moses as an "ally" (συμμάχῳ), implying that he is not of the same nation, despite his apparent status as heir to the throne.
[323] On observations of and reactions to Moses in Josephus' narrative, see Petitfils 2014: 204.

This, then, is what Josephus means when he refers to the story as providing "proof" of Moses future role, which is to be a general and liberator for his own people, after he has done this so impressively for the Egyptians. Josephus noted at the outset of the expedition that while Egyptian scribes hoped to do away with Moses by guile, those of the Hebrews watched him go hoping that their future escape from the Egyptians would be under his command (2.243). Again, the story is better integrated into Josephus' overall narrative than is usually recognised.

3.2.1.2 Moses driven into exile

The function of the story within Josephus' broader narrative is to provide a reason for Moses' exile from Egypt.[324] In the biblical account (Ex. 2:12-15), Moses kills an Egyptian overseer, and is forced to flee when this becomes known. This story, in which Moses both commits a secret murder, and faces hostile questions when he approaches arguing Hebrews, causes difficulty for commentators: Philo provides a detailed explanation of the corruption and violence of the overseer before his murder, as do rabbinic sources.[325] Josephus' excision of the story could be credited to apologetic motives – Runnalls links this with Moses' status as lawgiver.[326]

Because he has removed the murder, Josephus has to get Moses to Midian for other reasons, and these are to be found in the plots formed by the Egyptians against him. Moses' role in the Ethiopian expedition is part of this: there are hopes that after saving them, he will be killed by some trick (2.243).[327] This ensures that throughout the campaign, a sense of threat hangs over Moses, which breaks out into the open after his return. Rather than being grateful to him for

[324] Without making him a murderer: Runnalls 1983: 146.
[325] *Mos.* 1.44; *Ex.R.* 1.28.
[326] Runnalls 1983: 147: "… it is of utmost importance that Moses, Israel's lawgiver, should not have violated the most basic prohibition against murder." See also Feldman 2004: 2.255.
[327] As Rajak (1978: 114) has pointed out, this leads to a level of incoherence in the Egyptian thinking: Moses is both relied upon to save them from the Ethiopians, and expected to fall victim to those same Ethiopians.

saving their civilization, the Egyptians take their plots to the next level, suspecting Moses will use his military success to overthrow (νεωτερίσειε) the government.[328]

The king, already envious of Moses and fearing humiliation, is easily convinced. Thus, he colludes with the sacred scribes to organise the murder of his daughter's adopted son. The reappearance of the sacred scribes (who started the vendetta against Moses with the prediction of his birth) again suggests the unity of Josephus' narrative – the same group is now involved in the plot which leads to his exile. Moses is somehow informed of the plot (2.256), and makes a secret escape, choosing a route through the desert to avoid his enemies, and going without provisions: we might expect this to highlight how quickly Moses had to escape, but instead it acts as evidence of his self-reliance (τῇ καρτερίᾳ καταφρονῶν): Moses, as with the ibis-trick, is master of the desert.

Before evaluating the effects of this version of Moses' exit from Egypt, we will look briefly at a parallel in the life of Plutarch's Lycurgus, who also finds himself needing to leave his home because of unfair plots against him from within the royal family.

3.2.1.3 The exile of Lycurgus

The story of Lycurgus' brief kingship, and the protection he extended to his nephew, was considered above (p. 91). When his nephew was safely born, Lycurgus gave up his position as king, and did all he could to support the child in this role. But Lycurgus' virtue and kindness receive no reward: the process by which Lycurgus finds it necessary to leave Sparta can be productively compared with Josephus' version of events for Moses in Egypt.

[328] This claim may have seemed quite plausible to an audience familiar with Roman history.

Lycurgus' sister-in-law, far from being pleased that her son's life has been preserved by the future lawgiver, regards herself as insulted (ὑβρίσθαι) by the trick and becomes the central figure of a faction which seeks to undermine Lycurgus' position in the state. Her brother begins to accuse Lycurgus of plotting to take over the kingdom again, an accusation which takes root, so that if anything were to happen to the infant king, it would quickly be laid at Lycurgus' door (3.5). The slander spreads, and Lycurgus becomes worried. He decides to go into exile to escape suspicion (φυγεῖν ἀποδημίᾳ τὴν ὑπόνοιαν) until his nephew has an heir.

At first glance, this story has little in common with the murder-plot which Josephus tells about Moses. Lycurgus does not flee to escape being killed. But there are resemblances. Firstly, in both, there is unfounded suspicion that the future lawgiver seeks to overthrow the legitimate ruler. This is the story circulated by the queen-mother and her brother about Lycurgus; it is what the scribes tell the Egyptian king to obtain his blessing for the plan to murder Moses. Secondly, the lawgiver faces a hostile faction from within the elite of the society in which he has grown up. This hostility emerges in response to a virtuous and protective action by the lawgiver. Lycurgus protects the former queen's child, and she plots against him; Moses defends Egypt from the Ethiopians, and they plot to murder him. Proof of loyalty embeds hostility.

Thus the story with which Josephus replaces the biblical account of murder and flight fits well into the paradigm of the future lawgiver, whose virtuous actions only result in increased enmity from a corrupt elite. Of course, for Josephus the elite enemies in question are not from the group for whom Moses will legislate. Nevertheless, his story of envy, suspicion, and a murder plot would have made sense to an audience familiar with this kind of tale.

In closing, we must acknowledge that parallels with Lycurgus are stronger in Philo's version, in which the king becomes angry after Moses' murder of an overseer.[329] His anger is taken advantage of by the elite (οἱ ἐν τέλει), who inform him that Moses has ambitions for the throne, and is using a combination of flattery and extra-judicial killing to prepare his way. Moses leaves, not in response to any specific threat to his life, but simply because such rumours are spreading. The lack of a specific plot against Moses, combined with the language of slander (διαβολαί) and an emphasis on the family relationship (the king is called Moses' grandfather, πάππος), makes this story even closer to what we find in the *Lycurgus*, as does Philo's failure to name Moses' departure a "flight" or "exile".

3.2.2 Calling and return

Once Moses has reached Midian, Josephus returns to his biblical source text: Moses helps a group of sisters draw water after they are threatened by hostile shepherds, and is then invited back to the home of their father, a priest. Minor additions to this story of Moses' integration into a Midianite family are Josephus' observation that Raguel was well-regarded in the region, and his specification that as well as marrying Raguel's daughter Zipporah, Moses was adopted as Raguel's son: ποιεῖται δ' αὐτὸν υἱόν (2.263). Josephus highlights the nobility of the family into which Moses is entering, as well as making his status in that family not entirely dependent on his marriage.[330] Indeed, Raguel presents his own beneficence as a reciprocal act after Moses' protection of his daughters (2.262).

Another change which Josephus makes is perhaps more significant, given Josephus' erasure of ambiguity about Moses' identity. In the biblical account (Ex. 2:19), the women return home

[329] *Mos.* 1.46.

[330] We may note again that Josephus makes no reference to Moses' previous Ethiopian bride (see p. 121).

and announce to their father than they were helped at the well by "an Egyptian", suggesting that in his dress and manner of speech, Moses resembled an Egyptian.[331] Josephus' version allows for no such confusion: Moses is referred to by the women simply as a "foreigner" or "stranger" (ξένος).[332] He becomes shepherd of Raguel's flocks – a position of some responsibility, as Josephus insists, because these livestock represented all wealth for "the barbarians of old".[333] This sets the scene for the next turning point in Moses' life: the encounter at the burning bush.

3.2.2.1 The burning bush

According to the book of Exodus (3:1-2), while Moses was keeping Raguel's flocks, he took them into (or "beyond") the wilderness (אַחַר הַמִּדְבָּר) and so came to the mountain of God, where an angel of the Lord appeared to him in a burning bush. Josephus explains the choice of location (2.265): this is the highest mountain in the region, and the best for pasturage, growing excellent grass but generally not grazed because of the belief that God walked about upon it (ἐνδιατρίβειν αὐτῷ τὸν θεόν). Shepherds usually do not dare to bring their flocks there (οὐ τολμώντων ἐμβατεύειν). The idea that God walks upon this mountain can easily be developed from the biblical title "mountain of god" (הַר הָאֱלֹהִים), and the notion that nobody goes there can be drawn from the term "wilderness." Nevertheless, in highlighting the isolated nature of this place, Josephus goes further than the biblical text, cutting Moses off from humanity to prepare for his meeting with the divine.[334] This is made even clearer a few lines

[331] Römer (2007: 109, 125) argues that the Exodus narrative itself contains two conflicting Moses traditions, one emphasising separation from Egypt, the other highlighting integration.
[332] We might observe that Philo (*Mos.* 1.58) also excises any reference to Moses appearing Egyptian.
[333] Philo (*Mos.* 1.60) adds a digression on shepherding as preparation for kingship.
[334] Bloch (2011: 204) suggests that this mountain is meant to be reminiscent of Olympus. Later, as part of the Sinai narrative (3.76), Josephus states that the mountain is so high that it exhausts the eyes.

later (2.267), when a voice speaks from the burning bush and first greets Moses with praise for his "daring" (θάρσος) in having come to a place where no human has come before because of its sacredness (διὰ τὸ εἶναι θεῖον). Moses is unique.

We might compare Plutarch's account of Numa (4.1), who spends his time in isolated sacred spaces and so meets with his woodland goddess (see p. 144 below). Plutarch says that Numa "abandoned" (ἐκλείπων) city pastimes, and preferred to walk (πλανᾶσθαι) alone in sacred groves and lonely places (ἐν ἄλσεσι θεῶν καὶ λειμῶσιν ἱεροῖς καὶ τόποις ἐρήμοις). There is a similar emphasis on solitary time in isolated natural environments, separation from human community which is necessary for meeting with the divine.[335]

3.2.2.2 Reluctance?

As this is a key moment in the biblical narrative, much could be said about Josephus' choices compared with those of other rewriters of scripture.[336] But what is most important for our purposes is that Moses is not called by the divine voice to be a lawgiver: instead, his role is presented primarily as that of general (2.268: στρατηγός, ἡγεμών). Indeed, there is no reference made to the laws to be followed after the escape: we only find the statement that the Hebrew people will inhabit the land and enjoy its blessings (cf. Ex. 3.8). Given the absence of the lawgiver motif, only one element can be usefully explored: the theme of reluctance.

Rulers in Roman literature and history often present themselves as reluctant to take on power: the classic historical example is the *recusatio imperii* employed by Augustus (*Res Gestae* 5-6), and then, less successfully, by Tiberius, when through a performative rejection of

[335] Betz (2008: 49) compares Numa's time in the countryside with Jesus' forty days in the wilderness.
[336] For example, Philo's careful allegorising of the burning bush (*Mos.* 1.66), in which medium becomes message, or his description of a divine "image" within the flames.

powers and honours, the emperor forces those around him to insist on his superiority and the justice of his taking command.[337] Josephus himself reports an extreme version with respect to Vespasian, who is forced to declare himself emperor by his soldiers, who even threaten him with their swords (*BJ* 4.599).

Numa is perhaps the true *locus classicus*: in Plutarch's version (5.3-4), when the embassy comes to ask him to become king, he explains to them that it doesn't make any sense for someone who has a good life to make any changes. Moreover, he is a man of peace, whereas the Romans love war. There are rumours that their previous king was murdered, despite the belief that he was the son of gods (παῖς θεῶν). Finally, the very things which they admire about Numa himself make him unsuitable for kingship: his love of solitude and study, and his devotion to the gods.

The Roman ambassadors insist that if he refuses he will plunge them into civil war (εἰς στάσιν ἐμβαλεῖν καὶ πόλεμον ἐμφύλιον), and then Numa's father and a relative make a different case. They present the kingship as a religious duty, the offer as a gift from the gods: he ought to take it up precisely because the Romans are so devoted to war; it will be his task to devote them to peace. This argument convinces him.

We might expect to be able to see similarities between Numa and Moses: In Exodus, Moses is famously reluctant to take on the role which God demands of him, insisting that he is not the man for the job (Ex. 3-4): he makes five separate excuses or negations during the conversation, eventually kindling divine anger (4:14). Yet in Josephus we find the parallel nearly removed: Josephus' Moses is barely reluctant, instead insisting that it would be

[337] See Tac. *Ann.* 1.12ff; cf. Freudenburg 2014: 107; Huttner 2004.

madness to disbelieve such a divine oracle (2.270). The closest Josephus' Moses comes to questioning God's will is when he says that as a private citizen (ἰδιώτης), he is unlikely to be able to persuade the people to follow him – this despite the fact that Moses' father was among the most nobly born (2.210). By placing what might be an adaptation of Moses' first question (Ex. 3.11: "Who am I that I should go to Pharaoh?") only after an insistence on belief, Josephus undermines any sense in which the lawgiver is not accepting what he is told.[338]

It is significant, however, that Numa is only convinced to accept the kingship when it is reframed as a religious duty and an offer from the gods – the reluctance which he shows is therefore solely towards human honours. Josephus does not need to present Moses as having the same concerns, because the offer of leadership he receives is not from men, but directly from God. The comparison of Plutarch's Numa with Josephus' Moses thus highlights two elements of this stage of Josephus' narrative: firstly, where Numa's reluctance is mainly down to the role of war in Roman identity, and his own love of peace, Moses is called primarily as a general, a task for which he has been equipped because of the Ethiopian expedition. There would thus be no reason for Josephus' Moses to worry on that score. Secondly, Numa's reluctance is overcome through human intervention which points out the role of the gods in placing Numa in Rome; Moses, speaking directly to God, does not need this kind of mediation.

3.2.3 Conclusions

Josephus then reaches the final stage of the Exodus story: Moses returns to Egypt, and successfully faces down the king in order to liberate his people, finally achieving what has been carefully foreshadowed throughout. But Josephus' version of events contains nothing

[338] Philo also seems hesitant about describing Moses as reluctant: although he retains most of the biblical Moses' equivocations, he notes at the end (*Mos.* 1.84) that God approved of Moses' "modesty" (αἰδώς).

about Moses' position as lawgiver, and nothing that can be fruitfully held up to the light of Plutarch's *Lives*. Instead, what remains is simply to form some conclusions about the first part of the Moses story in Josephus' version, and how the material from Plutarch illuminates the choices Josephus has made.

To start with, we saw that in the infancy narrative (p. 85), which has in-built parallels with figures in Graeco-Roman mythology, Josephus increased similarities by including prophetic material, and turning the good midwives of the biblical version into operatives of a surveillance state. At the same time, he was careful, unlike Philo, to ensure his audience recognised that Moses' parents placed him in the river to protect him, and this was not a story of infant abandonment. In the case of education (p. 99), it was shown that Josephus is much like Plutarch, in that he claims to be very concerned with the question of education for the leader of the community, but in fact he only includes a few words about it. The contrast with Philo's approach makes the similarity more visible. Finally, whereas the revelation of identity (p. 112) for Greek and Roman heroes, as told in Plutarch, happens once they are fully grown, as the starting point for their leadership positions, Josephus' Moses is identified as a baby, and grows up in the open, creating some narrative confusion: this choice by Josephus reveals that he cares more about keeping Moses' identity uncomplicated than about narrative coherence.

A similar choice of structure over immediate coherence can be found in Josephus' account of the Ethiopian campaign (p. 120), which is carefully integrated into the surrounding narrative, with parallels between the Egyptian and Ethiopian princesses, and Moses' role in liberating the Egyptians prefiguring his (already prophesied) future as the liberator of his own people.

Yet with Moses returning from Ethiopia with a wife, there is some confusion, given that he will soon depart again and marry Zipporah – a problem Josephus does not address.

Despite his good deed, Moses has to flee from Egypt – in which regard he is similar to Lycurgus, also persecuted by the royal family of which he is a part after a noble and selfless action (p. 127). Finally, Moses meets God at the burning bush and receives his calling to return to Egypt to free his people. This is presented primarily as his calling to become their military leader, and Josephus downplays the reluctance and equivocation which is such a core feature of the biblical dialogue (p. 132). In doing this he gives a different account from Plutarch's version of the decision of the Roman king and lawgiver Numa, who famously refuses the kingship when it is first offered. However, a closer examination shows that the concerns which underwrite Numa's original refusal are not there for Moses: his unmediated connection to the divine makes hesitation inappropriate.

The first stage of Moses' story is all about the departure from Egypt: Moses is not named lawgiver during this book, and, even at the burning bush, God names him leader and general; law plays no role. Yet Josephus plays up certain parallels with founder figures in the Graeco-Roman tradition. Noting where he fails to highlight, or even excises, such parallels where they exist in the biblical version reveals his particular requirements for Moses: the lawgiver must be confident both in his undivided identity, and in his position as divinely appointed leader. Moses faces no doubts.

Chapter Four: Giving the Law

The beginning of *Antiquities III* sees the Israelites in the desert. At first, Josephus suggests that Moses is still primarily a general (3.5), as the nation struggling with the lack of provisions is described as an "impure" army (οὐ... καθαρὸς στρατός), "corrupted" by the presence of women and children (διέφθειρε... παίδων τε καὶ γυναικῶν ὄχλος).[339] Yet Josephus opens the book with the statement that they are on their way to Sinai (ἐπὶ τὸ Σιναῖον ὄρος) pointing to his conception of this phase of the history as about the giving of the law.

The book consists of three parts. In the first (1-61), the Israelites face a series of challenges on their journey towards Sinai. Thirst, hunger, and military hostility from the locals are all overcome through divine aid and Moses' skills. Once at Sinai, the narrative shifts to describe the reorganisation of the community, and the delivery of the law, including a summary of cultic regulations (62-287). The final part (295-316) deals with the departure from Sinai, and the sending of spies to explore the land of Canaan: the frightened reports of the majority of these spies lead to the conclusion of the book, when Moses delivers God's ruling that this lack of faith is to be punished with forty years in the wilderness. The book ends with a brief epilogue on Moses' powers of persuasion, which extend to Josephus' own day through the laws which he wrote (317-8).

This summary reveals that the middle section and the epilogue deal directly with Moses' role as lawgiver. Indeed, the surrounding narratives, which closely follow their biblical counterparts (with expansion of Moses' speeches), will not be dealt with in any detail in this

[339] Philo, too, refers (*Mos.* 1.147) to the women and children as a "crowd" (ὄχλος), but his overarching point is that Moses won his position not by military means (1.148).

thesis. Instead, we will focus on three aspects of Josephus' portrayal of Moses as lawgiver in this book.

First (4.1 Divine law), we will look closely at the narrative and Josephus' surrounding commentary to explore the notion of the law as divine: to what extent can Moses be regarded as the author of a law-code which is received from God on a holy mountain? Looking into Plutarch's ideas about lawgivers' connections to the divine realm (in the *Lycurgus-Numa*), we will ask whether Josephus is engaging at all with Greek models of divine law.[340] The second part of this chapter (4.2 Temple and priest) will consider Moses' role as cultic lawgiver, examining the extended account of the tabernacle and priestly garments, as well as the appointment of Aaron as high priest. We will use Plutarch's descriptions of the cultic spaces and priesthoods set up by Numa to work out whether Josephus is engaging at all with non-Jewish expectations of how such things would operate. Finally, we will approach Josephus' text with a different kind of question: finding in Plutarch significant concern with the efficacy of written laws, and aware of the role of oral tradition in some varieties of Judaism which Josephus himself describes, we will look for any concern, or interest, expressed by Josephus in the role of writing itself in the production of Moses' laws (4.3 Written law).

4.1 Divine law

It could easily be assumed that divine involvement in the production of legislation would be the central issue that divides Greek and Hebrew notions of law: the Mosaic code has divine authorship, whereas the Greek legislators are recognised as having developed their own laws. Indeed, this divide can be found at the very beginning of Philo's *Life of Moses* (1.1), when he

[340] Cf. Hayes 2015.

observes that Moses is "called by some the lawgiver of the Jews", while others name him the "interpreter of the sacred laws" (see p. 77 above). The former might refer to non-Jews, who, if they know of Moses, would regard him as the author of the Jewish laws; the latter could be taken to refer to an inner-Jewish model, in which the laws themselves are from God, and Moses merely communicates and interprets them.[341]

Josephus does not have any reservations about naming Moses "lawgiver". Despite this, scholarship has assumed that Josephus holds to what we might call the "orthodox" position, that Moses is simply the mediator, and so is unlike the Greek lawgivers. Thus Feldman, even as he points to Josephus' placing of Moses in the same category as Numa, Lycurgus, and Solon, observes that "strictly speaking, it is G-d alone Who is the lawgiver."[342] On this model, Josephus might make Moses look like these ancient Greek statesmen, but the dichotomy between Greek notions of law and Hebrew remains intact. For the Greeks, law is a human endeavour; for Jews, *the* law comes from a divine will.

Yet as we saw in Chapter Two (p. 61), the idea of divine law as law from a deity certainly existed within the Greek tradition. Plato's *Laws* begins with precisely this question: are the laws of your country from god or man? As we saw, this dialogue then goes on to redefine law as divine according to the *quality* of the legislation, rather than because of its origins. Increasingly in Greek thought there develops an opposition between human law, which is particular and arbitrary, and divine law, which is seen as eternal, universal and unchanging.[343]

[341] Cf. Hayes 2015: 15–6.
[342] Feldman 1998: 27.
[343] Hayes 2015: 59.

Divine law is also *natural* law: law which is in tune with the governing principles of the universe.[344]

Hayes observes that the apparent contradiction between this notion of divine law and the Mosaic code troubled Jews in the Hellenistic world: the Torah's writtenness, particularity, apparent arbitrariness, and even its flexibility were features associated with human law, even as it laid claim to attributes of divine law such as universality, immutability, and wisdom.[345] Texts such as the *Letter of Aristeas* and *4 Maccabees* try to bridge the gap, accepting the need for laws to be rooted in rational harmony with nature, and explaining that the Mosaic laws do precisely this: they solve the "incongruity" by associating the natural order with the same divine will that is the source of Law.[346] Philo insists on the universality of the Mosaic code (*Mos.* 2.52), based on its opening with creation.

Josephus does something similar in his preface (1.19), as he explains that Moses realised that the first task of the legislator is to examine the nature of God through his works. As we established (p. 78), the similarity with the activities of Zaleucus as described by Diodorus Siculus (12.20.1) is superficial. The Mosaic code is based on the nature not of the universe, but of God. It is a model not of conformity to natural law, but of imitation of the divine nature. Significantly, however, the authority to which Josephus appeals is that of the human lawgiver, and not the apparently originating deity.

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[344] Bragues 2007: 18: "Greek divine law is divine because it expresses the profound structures of a permanent natural order; Jewish Law is divine because it emanates from a god who is master of history. In both cases, it is external to the human and transcends the quotidian."

[345] Hayes 2015: 93.

[346] Hayes 2015: 107–111. She dates *4 Maccabees* unusually early (1st-2nd c. BCE), but even as an early 2nd c. CE text it has value for this discussion.

We should also ask whether the "model" of divine law in Greek thought, which Hayes has expounded, and with which Jewish thinkers are said to grapple, is to be found in the narratives of Plutarch. We will find that far from describing ideal lawgivers as developing codes in accordance with a single, universal divine law, he makes no mention of such a thing, and is far more concerned with the stories told to win consent, than with the divine status of good legislation. Yet at the same time, he emphasises very real connections with gods which his legislators enjoy: a model of real divine involvement, combined with exaggerated stories to win over the populace, can be developed with reference to the *Lycurgus-Numa*.

We will thus come to Josephus with two models in mind: the "Greek" model according to Hayes, in which law is divine because it "expresses the profound structures of a permanent natural order," and our newly developed, Plutarchan "narrative" model. We will look first at how Josephus refers to the law as divine in his authorial statements outside of the Sinai narrative to work out whether there is a "model" which he follows. From there we will move to a close analysis of the Sinai narrative, the historical moment when the law comes into being, and ask whether the narrative fulfils the expectations raised by the statements about divine and human involvement, or whether Josephus is simply "incoherent" in his approach.[347]

4.1.1 Divine law(s) in Plutarch

At the beginning of the *Syncrisis* attached to the *Lycurgus-Numa* (1.1), Plutarch suggests a few of the most obvious similarities: both innovated in the realms of piety, politics, and education, and, most significantly, they shared the same divine source (μίαν ἀρχὴν παρὰ τῶν θεῶν) for

[347] Lierman 2004: 138.

their legislation (νομοθεσία).[348] This last point explicitly embraces the idea that both Lycurgus and Numa received their laws from gods. This suggests that for Plutarch, good laws have a divine source, and are mediated to the community through a special, divinely-blessed, and educated man. Yet in fact, that he specifies that a divine source is one of the similarities between these two suggests that this is not simply a feature of the generic lawgiver. If νομοθεσία by default came from a god, this would be a pointless claim. Thus we have quite a striking statement, that one of the major similarities between Lycurgus and Numa is that their laws have a divine starting point.

Yet this is not what we find. While each has a specific divine "helper" (the god of Delphi for Lycurgus; the woodland goddess Egeria for Numa), the narrative in Plutarch's biographies seems often to place all initiative with the lawgiver.

4.1.1.1 Lycurgus

After Lycurgus' return to Sparta after his travels, he is horrified by the state of affairs, immediately determining that an entirely new system will be necessary to fix things – mere reform won't do the job. It is this decision that sends him off to Delphi (5.3), where he receives the "famous" (διαβόητον) oracle, which he "carries" (κομίζων) back to Sparta. Greeted as "beloved of the gods, god rather than man" (θεοφιλῆ… θεὸν μᾶλλον ἢ ἄνθρωπον) he is told by the god that he will produce good laws (εὐνομίας δὲ χρῄζοντι διδόναι) and the best of all states (ἢ πολὺ κρατίστη τῶν ἄλλων ἔσται πολιτειῶν). If Plutarch's later statement that both lawgivers receive their legislation from a source among the gods is to be taken seriously, this is the moment when it happens. Yet the agency is entirely with Lycurgus. He has already decided

[348] For Plutarch, "the gods" inhabit a single divine realm – what Hirsch-Luipold (2005: 154) designates his "inclusive" monotheism.

what needs to be done; it is only divine approval that he needs. The oracle is like a "letter of recommendation", which will support his plans. It is certainly not a ready-made constitution. Finally, the promise points not to divine aid as such, but simply divine foreknowledge.

When Plutarch is actually describing features of the society which Lycurgus sets up, the divine voice seems to have had a say. One of Lycurgus' first reforms involves the appointment of the body of elders (γερουσία), who stand between the kings and the people. Plutarch emphasises (6.1) the importance of this body by saying that Lycurgus was so eager (οὕτω... ἐσπούδασε) to get this done, that he obtained an oracle about it from Delphi (ὥστε μαντείαν ἐκ Δελφῶν κομίσαι).

We see the verb κομίζω in the same context as before: this is apparently something transportable. The Great Rhetra, which sets out the requirements for the *gerousia* and the power of the people, is here presented as something which Lycurgus brought back from Delphi and implemented in obedience to the divinity.[349] Yet even so, the agency remains with Lycurgus himself. His enthusiasm for this form of government comes before his obtaining of the oracle.

This particular oracle will be adapted in later years. When the popular assemblies begin to "distort" (διαστρεφόντων) motions that are placed before them (6.4), the kings Theopompus and Polydorus add a clause to the rhetra which allows them to dissolve such meetings. They convince the city (6.5) that this was ordered by the god (ἔπεισαν δὲ καὶ αὐτοὶ τὴν πόλιν ὡς τοῦ

[349] For discussion of the relationship between the Great Rhetra, the legend of Lycurgus, and the poetry of Tyrtaeus, see Kõiv 2003: 248.

θεοῦ ταῦτα προστάσσοντος).[350] This is clearly a lie, but it reveals the need for such adjustments to be seen as divinely inspired. This addition is framed as a restoration, rather than a perversion.[351] Yet this restoration is achieved with the god as a pretext. Founder discourse roots its authority in appeals to the original intention of the founder; here the founder to whom they are appealing is the god, and not the lawgiver.[352] Even Plutarch, who reports the changes approvingly, does not suggest that they were getting things back in line with Lycurgus' intentions rather than those of the deity.

Yet Plutarch elsewhere seems to imply that the rhetras themselves owe their contents to Lycurgus. After a list of some of the requirements and prohibitions contained in these oracles, there is a note clarifying the terminology. Plutarch explains (13.6) that Lycurgus named (ὠνόμασεν) his pieces of legislation (τὰ μὲν οὖν τοιαῦτα νομοθετήματα) rhetras, because they had been brought from the god and were oracles (ὡς παρὰ τοῦ θεοῦ κομιζόμενα καὶ χρησμοὺς ὄντα). Rather than calling them νόμοι, Plutarch uses the term νομοθετήματα, which links them closely with the Lycurgus' own function as νομοθέτης. The statement that Lycurgus himself gave them the name *rhetras* suggests that they are under his control.[353] Finally, by using the particle ὡς to introduce the participial phrase, Plutarch places the claim in Lycurgus' voice as his own assertion, allowing for the possibility that it is not true.[354]

[350] Ogden (1994: 101) argues that the "addition" is actually older than the main text of the rhetra.
[351] Cf. Van Nuffelen 2011: 118: in Plutarch's period, both religion and law are imagined as slowly decaying and moving away from their "pure" roots.
[352] Cf. Najman 2003: 11.
[353] Wade-Gery (1944: 6) notes that the term *rhetra* can simply mean a "bill" or "edict" – it does not have to mean oracle.
[354] See Smyth 1956: 464 (2086).

Often the logic behind the commands in the rhetras is ascribed directly to Lycurgus. Thus, there is rhetra forbidding written law (13.1), which Lycurgus seems to obey, but the reason for this is due to his own conviction that the best law operates from within (see p. 191). The idea is Lycurgus' own, which the god's (written!) provision simply supports.[355] This implies a mixed notion of law: written texts purporting to be directly from the god, combined with Lycurgus' own legislation.

The final passage which has relevance to this question describes Lycurgus' final visit to Delphi. Like the creator of a self-perpetuating universe, Lycurgus stands back and realises he is no longer required. He therefore extracts a promise from the people, that they will not change anything until he returns, and departs to Delphi, where he asks whether his laws are good enough to bring prosperity and virtue to the city (29.4). Lycurgus' phrasing assumes that the work has principally been his own: he would not need to ask if his laws were good, if they had come directly from the god whom he is asking. Furthermore, the god replies by referring to Lycurgus' constitution (τῇ Λυκούργου… πολιτείᾳ), promising that as long as the Spartans keep to it, the city will be glorious (ἐνδοξοτάτην). This divine response clearly takes Lycurgus as the author of the Spartan laws.

There are also indications in the earlier portion of the story that there is subterfuge involved. Lycurgus tells the people that his journey to Delphi is for the purpose of getting the final piece of legislation (ὃ δὲ κυριώτατόν… καὶ μέγιστον) that will perfect the constitution, presenting himself as dependent on divine instruction, even as we know that he is not. This suggests that

[355] Thomas (1996: 18) notes that the Spartan *rhetras* were written down, and concludes that the idea that Sparta rejected written law is classical, although Kõiv (2003: 258) identifies possible mnemonic devices in the text of the Great Rhetra which may suggest that it was orally transmitted. Lane (2013: 57) argues that the rejection of written law by Lycurgus is only developed by Plutarch himself: See p. 191 below.

overall, Plutarch sees Lycurgus as exaggerating the involvement of the god in his legislative process as he communicates with the people, even as his biographer clearly thinks Lycurgus *does* have a special relationship with this god.

Rather than seeing the two options as "laws from a god" or "laws by a lawgiver", we should add a third, "Plutarchan" way. In this third way, the lawgiver comes up with the laws himself, and then uses his real relationship with the gods to get those laws accepted by the populace. The lawgiver exaggerates the role of the god in the creative process as he transmits his own law to his people.

4.1.1.2 Numa

It is in the *Numa* that Plutarch makes his clearest comments about this relationship between gods and lawgivers. As discussed above (p. 103), Numa is famous for his knowledge of the divine realm. He is well-known and respected in his home city of Cures, but upon the death of his wife, he takes to solitary walks (ἀγραυλεῖν τὰ πολλὰ καὶ πλανᾶσθαι μόνος) in sacred parts of the countryside (see p. 130 above). This leads to the story (4.1) about him, that he has replaced his mortal marriage with a divine union to the woodland goddess, Egeria.

Plutarch sets us up to be sceptical about the story, by introducing it as the consequence of his new habits. Numa has already become the leading expert in divine affairs through his own agency (3.6) and it is his choice to depart the city and spend his time in unpeopled sacred spaces. Like Lycurgus, Numa goes to the divinity; the divinity does not come to him. More importantly, the story of Numa's "divine marriage" becomes the basis for a digression on the topic of the possibility for divine-human relationships, during which he rejects the possibility

of sexual interactions between gods and men (4.3). Yet this condemnation of those who believe in such things ultimately works to emphasise the reality of the kind of relationships which he regards as entirely reasonable: that gods would have particular concern for virtuous individuals. He lists the poets who have been believed to have divine patrons, and then suggests, in the form of a rhetorical question (4.6), that it is eminently more reasonable (εἰκός) that gods would be keen (σπουδάζοντας) to interact with (ὁμιλεῖν) lawgivers such as Zaleucus, Minos, Zoroaster, Numa, and Lycurgus. The end result of the story of Egeria, that Numa becomes a "blessed" man with special experience of divine things, is a characterisation upon which Plutarch will base much of his account of Numa's reforms.

However, Plutarch closes the section (4.8) with reference to the "other way" (ἄτερος λόγος), another reading of events which says that Lycurgus and Numa pretended to have divine sanction (προσεποιήσαντο τὴν ἀπὸ τοῦ θεοῦ δόξαν) simply to gain authority over an unruly population (δυσκάθεκτα καὶ δυσάρεστα πλήθη). This is the way such claims are assessed by many ancient authors.[356] The phrasing suggests that Plutarch does not follow this reading himself; he is simply providing the expected counterargument.[357]

In the opening of the *Numa*, therefore, Plutarch provides us with some commentary upon precisely the issue we are discussing: the involvement of divine agents in the process of lawgiving. What he says, with some hedging, is that lawgivers *do* tend to have a relationship with some form of divinity, which is instigated by the divinity in response to the profound

[356] Isoc. *Bus.* 24-5; Polyb. 16.12.9-11; Strabo 16.2.39-40; Diod. Sic. 1.94.1-2; Arist. *Pol.* 7.1329B; cf. Rodrigues 2014a: 71.
[357] Cf. Rodrigues 2014b: 77: rejection of the particular story about Egeria "does not exclude" a relationship of special divine favour.

virtue of those men, and the magnitude of their tasks. This relationship is not merely a theoretical affection or favour, but it is manifested in interaction and instruction.

We might ask, then, how this might be followed through in the *Life of Numa*: do we see this kind of divine connection played out in the Roman king's activities? In fact, as we will see, there is little reference to divine action or agency throughout the *Life*. Instead, it is Numa's own attitude, behaviour, and ways of speaking about the divine, that form the main part of this relationship.

Numa makes the Roman temperament gentler and more amenable to peace by creating festivals (8.2), asking for divine aid in this process (ἐπηγάγετο τὴν ἀπὸ τῶν θεῶν βοήθειαν). The combination of sacrifices, parades, and festivals produces a gentler atmosphere as the Romans learn to enjoy leisure. At the same time (8.3), he tells stories of fearful divine apparitions and voices (φάσματα δαιμόνων ἀλλόκοτα καὶ φωνὰς οὐκ εὐμενεῖς), and so enslaves and humbles their minds (ἐδούλου καὶ ταπεινὴν ἐποίει τὴν διάνοιαν αὐτῶν) with superstition (ὑπὸ δεισιδαιμονίας). While Numa is successful in his endeavour, there is no indication that the gods provided help as such. The use of the term "superstition" (δεισιδαιμονία), a topic on which Plutarch may have written a whole treatise in the late first century, makes explicit that these stories are not true.[358] They may be effective, but they are not rooted in anything real about the gods.

Moreover, Plutarch specifically goes on to compare this feature of Numa's work with Pythagoras, in that trickery plays an important role in his philosophy. He quotes Timon, who

[358] The authenticity of the authorship of the *On Superstition* has been questioned, but it should be recognised as an early work, which is also suggested by the rhetorical style. See Klauck 1997: 119; Bowden 2008: 61.

calls Pythagoras γόης, "magician" or "cheat", a word with negative connotations.[359] Plutarch then explicitly says (8.6) that Numa's trick was his story about Egeria (τῷ δὲ Νομᾷ δρᾶμα θεᾶς τινος… ἔρως ἦν). This is now called a δρᾶμα, a performance. It is a strategy for dealing with the difficult Romans made up by Numa himself, which is not how it was presented originally.[360]

This section is part of his broader argument that Numa and Pythagoras knew each other.[361] As such, he is less interested in the question of divine-human relationships, and more in constructing as many parallels between the two as possible. This does not mean that he dismisses Numa's goddess, more that he sees Numa as using the story in a Pythagorean style.[362] The lawgiver *dramatizes* his connection to the gods in a way that his people will be able to understand.[363]

Once Plutarch has reported most of the king's religious legislation, he sums up his success: Numa's sacred training (παιδαγωγίας πρὸς τὸ θεῖον) makes the city so dependent on him (χειροήθης καὶ κατατεθαμβημένη τὴν τοῦ Νομᾶ δύναμιν) that they believe everything he tells them (ὥστε μύθοις ἐοικότας τὴν ἀτοπίαν λόγους παραδέχεσθαι), even when it is decidedly strange (15.1). In part, this allows Plutarch to dive into stories which he finds entertaining (of strange visitations during meals, and negotiations with Zeus about expiation for lightning). The

[359] Fox (2015: 188) discusses Dionysius' similar willingness to associate Numa with Pythagorean γοήτας, as well as the connotations which this word holds – "religious charlatan" or "mercenary guru".

[360] Colman (2015: 4–5) suggests that Numa's "fictions" in Plutarch act primarily to "cultivate among the Romans a reverence and awe, not so much for the gods, but for Numa."

[361] The notion of such a connection was a long-standing Roman tradition, which probably developed in the fourth century alongside the development of the picture of Numa as the founder of particular religious institutions (Humm 2014: 48; Volk 2015: 34), also long debunked (see Cic. *Tusc.* 4..3) on chronological grounds, as Plutarch himself acknowledges (*Numa* 1.2). See Fox 2015: 189. Gruen (2016: 151) notes the tradition, recorded by Josephus (*CA* 1.165) that Pythagoras was influenced by Moses.

[362] It is this "appeal to the drama of religion" which Stadter (2014b: 250) sees as the heart of Plutarch's insistence on a Pythagorean connection. He also suggests (p. 256) that this is an aspect of how Plutarch sees the imperial cult: "a necessary performance needed to awe the populace into accepting the rule of the virtuous *princeps*."

[363] Cf. Philo's explanation of anthropomorphisms in the scriptures (*Deus* 2.1.281), which help lesser minds to learn.

introductory words imply Plutarch's own scepticism about the whole thing: the only reason the early Romans ever accepted any of this has to do with how well they had been primed to submit to Numa's intellectual authority. Yet Numa himself *also* has complete trust in the gods (οὕτω… εἰς τὸ θεῖον ἀνηρτῆσθαι ταῖς ἐλπίσιν): Plutarch tells the story (15.6) of how Numa responded to messengers announcing enemies approaching with a bemused smile (μειδιᾶσαι), saying simply "I am sacrificing" (ἐγὼ δὲ θύω), and apparently assuming that his sacrifices are enough to combat the threat. Does this suggest that Plutarch sees Numa as just as gullible as the people who believe his stories?[364]

There is certainly a difference, and the μὲν-δέ construction which frames the story suggests that the difference is the location of trust: the people have complete confidence in Numa, so that they believe whatever he tells them about the gods. Numa, however, has confidence rather in the gods themselves. This does not preclude his telling stories about the gods that may not match up precisely with his own experience and knowledge. When Plutarch seems sceptical of the stories, this does not mean that he doubts Numa's connection with the divine, just that the connection is more complex than the myth-style stories allow for.[365]

4.1.1.3 Lawgivers and the gods in Plutarch

The main conclusion we can draw from Plutarch's approach to the role of the gods in the process of producing law is that there is an important difference between how lawgivers themselves relate to the gods, and how they communicate with the people. This means it is important to think about voice when we are analysing Josephus – we must always take into

[364] Cf. Betz 2008: 56.

[365] As in the case of the connection with Pythagoras, the truth of the Egeria story is not Plutarch's concern – rather, he uses the stories to interpret Numa's "underlying premises". See Stadter 2014b: 257.

account who is speaking, and to whom. While Plutarch embraces elements of the "noble lie" theory which he knows his audience will expect, he retains the basic idea that lawgivers do depend in some way upon divine instruction.[366] Finally, the lawgiver is in a unique position with respect to the divine, which is why he is able to misrepresent the nature of that relationship to authorise his laws.

4.1.2 Divine law in Josephus' *Antiquities*

What happens if we use these conclusions to read Josephus' account of Moses' receiving of the law? The question will be approached first through analysing Josephus' extra-narrative statements about the law's origins, making the question of voice key to understanding his approach. A careful reading of the Sinai narrative itself reveals a more complicated picture than we might expect, and we find Josephus insisting in different ways on Moses' control of and agency over the divine laws. Reading this account of God's law with Plutarch's "model" in mind reveals unexpected ambiguity in Josephus' perspective, finally expressed in his version of Plutarch's ἄτερος λόγος.

4.1.2.1 Authorial (?) statements

First, in terms of voice, quite often Josephus' apparently specific statements about God's status as the sole source of law are actually located in speech. This does not mean he does not agree with what the actors in his narrative are saying, just that there is a step of separation.

An example from outside of *Antiquities III* illustrates the point. Just before his death, Moses gives a final speech to the Israelites. Towards the end of this speech, he compares the normal, human lawgiver (ἄνθρωπος νομοθέτης), who would be a terrible enemy (ὡς δεινὸς μὲν ἐχθρός) if

[366] A point not recognised by Rodrigues 2014b: 70.

his laws were broken and made void (ὑβριζομένων αὐτῷ τῶν νόμων καὶ μάτην κειμένων), with the far more lethal anger of a divine lawgiver (θεοῦ δὲ χαλεπαίνοντος) in response to neglected laws (ὑπὲρ ἀμελουμένων νόμων), commanding them not to put the latter to the test (μὴ πειραθείητε). God both "begot" (γεννήσας) and "gave" (ἔδωκε) the laws to them (*AJ* 4.319). There is nothing specific about *why* this divine lawgiver is so much more dangerous, but the obvious reason is that unlike any human being, God is immortal and all-powerful. This is an apparently straightforward endorsement of God as the source of all the laws: Moses even effaces his own role as mediator.

Yet the position of this apparently explicit claim is significant: it is spoken *by* Moses himself at the end of his swan song. It can thus be compared with Lycurgus' final speech to the Spartan assembly, when he makes them swear not to make changes until his return from Delphi (p. 143 above). The (human) lawgiver in order to ensure the continuity of his system, points to a divine source. This does not imply that there is dishonesty in Moses' statement, only that the notion of a divine lawgiver is being deployed for a rhetorical effect which is similar to Lycurgus.

The same is true of the speech which Moses gives when first he descends from Sinai (*AJ* 3.86): he insists that the giver of the laws is "not the son of Amram and Jochebed" but rather "the one who turned the Nile into blood" (ὁ τὸν Νεῖλον ἀναγκάσας ἡματωμένον ὑπὲρ ὑμῶν), listing the signs performed in Egypt and throughout the Exodus. Moses thus not only insists on the divine origins of the laws, but also links them to signs and wonders with which which *he himself* is performatively associated. Again, Josephus might not intend us to see this as trickery, but Moses' rhetorical techniques are not so very different from those of Numa.

There are other explicit statements which are found in *Antiquities III*. Thus, at the end of the book, after he has discussed two examples of extreme adherence to the laws in more recent times, Josephus concludes (3.233) that such examples are not a surprise (οὐ δεῖ θαυμάζειν), given that even the enemies of the Jews (καὶ τοὺς μισοῦντας ἡμᾶς) admit (ὁμολογεῖν) that it was a god who established their constitution (ὁ καταστησάμενός ἐστι θεὸς) through Moses and his virtue (διὰ Μωυσέος καὶ τῆς ἀρετῆς τῆς ἐκείνου).

We have little evidence that this is true: where non-Jewish authors mention Moses, it tends to be straightforwardly as the lawgiver of the Jews, with no reference to his ultimately divine source.[367] Not too long after Josephus wrote the *Antiquities*, the Roman historian Tacitus (*Hist.* 5.3-4) would describe Moses as rejecting the possibility of divine aid (*monuisse ne quam deorum hominumve opem expectarent*), and coming up with laws contrary to the rest of humanity (*novos ritus contrariosque ceteris mortalibus*) entirely to solidify his own authority (*quo sibi in posterum gentem firmaret*). This is a good example of the discourse of "one who hates us", but it certainly does not do as Josephus claims and acknowledge a divinity behind the laws. We might ask why Josephus feels the need to press this point, if even those most hostile would agree with it.

Nevertheless, this second example also appears in indirect speech within a potentially unreal result clause. It is a statement by enemies, and not Josephus' own voice – something that is made clear by the absence of the definite article before θεός. When Josephus is referring to his singular God, just like other Jewish authors do, he uses ὁ θεός with the definite article. Here, we have "a god" who is the author of the Jewish law, a small concession to the perspective of

[367] Most clearly expressed by Diodorus Siculus (1.94.2), though this is in the context of a list of lawgivers who claimed divine sources; cf. Lierman 2004: 130.

the constructed enemy. As with Moses above, this small step away from Josephus' own voice does not mean that he disagrees with the conclusion he is placing in his character's mouth; it does however mean that he is being careful, which is confirmed by the "let each believe as he will" formula which closes the section (3.322). With this we can see that Josephus, like Plutarch, is aware of a level of scepticism in his audience that needs to be assuaged.

4.1.2.2 The Sinai narrative

Similar "let each think as he will" formulae can be found in the story of the ascent to Sinai: when Moses first goes up the mountain (3.81), and clouds descend with thunder and lightning, Josephus produces the formula (περὶ μὲν τούτων ὡς βούλεται φρονείτω ἕκαστος), but adds that he "must narrate according to what is written in the sacred books" (ἐμοὶ δὲ ἀνάγκη ταῦτα ἱστορεῖν καθάπερ ἐν ταῖς ἱεραῖς βίβλοις ἀναγέγραπται).

In fact, the details recorded thus far are not as problematic as this apologetic note might lead us to expect. It is only a thunderstorm, though Josephus notes that elsewhere it remained clear. Eerie weather as a portent is not unusual in Roman historiography.[368] Yet this remark serves not only to defend the potentially supernatural storm; it also prepares the ground for what is coming – the divine action of lawgiving, which may have met with scepticism. Together with the verb ἱστορεῖν, which underlines Josephus' own status as historian, the reference to the sacred books is a claim of authority, a reminder that he has a written (and so reliable) source for what he is writing.

[368] e.g. Tac. *Hist.* 1.18.1, when Galba ignores the storm on the day he announces the adoption of Piso.

Josephus' Sinai narrative is heavily reworked from his biblical source material.[369] Aside from his notorious omission of the golden calf, Josephus simplifies the sequence of events, and suppresses the divine voice, giving Moses greater agency in the process. The account in Exodus starts with Moses going up and down the mountain communicating a series of messages from God to the people, before God himself descends, and speaks the Ten Commandments (Ex. 19). In Josephus' version (3.75), this mediatory role is suppressed, with Moses announcing to the people that he is going up the mountain to obtain something of use (τι... χρήσιμον)[370] and ordering them to camp nearby and purify themselves, without naming these divine instructions. The absence of the divine voice is the key difference between the two versions. While Josephus does narrate dialogue between God and humans, at key moments, such as at the burning bush (2.268), he avoids doing so at Sinai. Yet he is explicit about the Decalogue being delivered without Moses' mediation.

When Moses descends from the mountain, he announces to the people that God himself is coming (ὁ μὲν θεός... πάρεστι καὶ αὐτὸς εἰς τὸ στρατόπεδον). This is the God who already has received Moses himself with kindness, and "dictated" (ὑπαγορεύσας) the way for a happy life (βίον... εὐδαίμονα), and the arrangement of the constitution (πολιτείας κόσμον). Moses then tells the people not to dismiss what is said (μὴ καταφρονήσητε τῶν λεγομένων) by looking at him as the one speaking (εἰς ἐμὲ τὸν λέγοντα ἀφορῶντες): he draws a contrast between the medium used (γλῶττα ἀνθρωπίνη) and the contents delivered, whose excellence is evidence of the greatness of their inventor (τὸ μέγεθος τοῦ νενοηκότος) – God (3.85). This suggests that

[369] For a detailed analysis of Josephus' compression of the effective five theophanies of the complicated Exodus account into two, see Sterling 2018: 88.

[370] A tempting variant, accepted by Castelli (2002: 151) in her translation ("un oracolo"), reads τινα... χρησμὸν.

Moses is the one delivering the message, yet in fact what is about to happen is that the unreliable human tongue is bypassed.

When Moses has finished speaking (3.89), he leads the people forward to hear (ὡς ἀκούσαιεν) God speak (τοῦ θεοῦ διαλεγομένου): this is so that the excellence of what is said (τῶν λεγομένων ἡ ἀρετὴ) should not be injured (μὴ βλαβείη) by being passed weakly into their knowledge (ἀσθενῶς εἰς γνῶσιν αὐτοῖς παραδιδομένη) by a human tongue (ὑπὸ ἀνθρωπίνης γλώττης). Feldman points out that this brings the people closer to God, whereas in Exodus they remain at a distance from the cloud that contains God's presence.[371] The repetition of the phrase "a human tongue" links this passage with the speech Moses has just given, even though the point is precisely the opposite: there is no human tongue involved here, and the idea that the words would be "injured" in some way if there were implicitly suggests that there is a problem with laws mediated through Moses.[372]

This is probably not Josephus' intention. Instead, to understand the apparent contradiction, we need to look at the whole narrative. The divine voice speaks the Ten Words to the people, and the next day (3.93), the people approach Moses again, asking him to obtain laws for them from God (καὶ νόμους αὐτοῖς παρὰ τοῦ θεοῦ κομίζειν). This has no clear biblical parallel: Thackeray takes it as Josephus' rendering of the people's plea to Moses to stand between them and God.[373]

[371] Feldman 2004: 3.89.
[372] The impact of this scene on Josephus' portrayal of written law is discussed below (p. 198).
[373] Thackeray 1930a: 361; Ex. 20.19: "You speak to us, and we will listen; but do not let God speak to us, or we will die." (NRSV)

Whereas the biblical request reflects fear on the part of the people, Josephus portrays them celebrating their recent experience (χαῖρον ἐπὶ τοῖς προειρημένοις). He also gives them increased agency, particularly because it is not made clear that there was necessarily more divine revelation coming: their request seems to drive Moses' second trip up the mountain. They are asking for more (καὶ νόμους) rather than stepping back.

This is different from Plutarch: Plutarch's lawgivers were unique both in their connection to the divine, and in their agency. Josephus' Moses is no doubt unique in his particular ability to hear God, but the people also hear the divine voice once, and take their own action towards obtaining law. God's relationship is not only with the specially-blessed lawgiver, but with the whole people.

There is also something significant about Josephus' choice of vocabulary. With respect to the Ten Commandments, he does not use the term νόμος. They are the "things said" (τῶν λεγομένων) and "the sayings" (τοὺς λόγους), but not the laws or commandments. He does not call them "instruction", but he does use the verb διδάσκει to express their contents. When he starts listing other Mosaic requirements, he prefers the language of law and command.[374] This lexical variation is fairly systematic, and reveals a fundamental difference between the two types of divine communication in Josephus' mind – or at least in how he chooses to talk about them. The Ten Commandments not only cannot be spoken (while no such taboo is mentioned for the rest), but the way in which they do their work seems different.[375] They

[374] E.g. *AJ* 3.236: κωλύει ὁ νόμος ("the law forbids").

[375] *AJ* 3.90: οὓς οὐ θεμιτόν ἐστιν ἡμῖν λέγειν φανερῶς πρὸς λέξιν, τὰς δὲ δυνάμεις αὐτῶν δηλώσομεν. This apparent prohibition (which looks a bit like the approach to the divine name, as Vokes (1968: 149–50) has noted), is not paralleled: Philo at least seems perfectly happy to explain the commandments in detail (cf. Feldman 2004: 3.90). Indeed, given the brevity of some of them, Josephus' "summary" seems in some places to correspond exactly – his

teach, or instruct, rather than commanding and forbidding. It might, given Josephus' repeated use of the term εὐδαιμονία, be possible to suggest that the λόγοι are more "philosophical" – about the individual pursuit of the good life, whereas the νόμοι are about the community as a whole.[376] Of course, the content of the commandments does not bear this out (not committing murder would seem to be about the community). But Josephus presents the λόγοι as a kind of philosophical wisdom to guide individual life whereas the rest of the laws are about the community.

Indeed, it might even be possible to suggest that Moses' role as lawgiver is limited to this second category, which he will (after receiving the information from God) spend time writing up. Josephus insists that this process depends on the deity; yet this certainly operates differently from the transmission of the Decalogue. This distinction, between direct divine law and mediated divine law, might therefore account for the apparent confusion during Moses' introductory speech: although he is actually introducing the directly transmitted Ten Words, the announcement serves to explain the production of the *whole* law. Having just listed a series of God's great works for the patriarchs (including Noah), he underlines (3.87) that the one who did these things is the same one who is granting them these words, through Moses as interpreter (δι' ἑρμηνέως ἐμοῦ). In the immediate context this doesn't entirely follow, since no interpreter is required here: the words pass directly into the people's knowledge. We might therefore conclude that this is about the whole compendium of law. Speaking of Moses as interpreter there might make sense – though again, note that these are *Moses'* own words.

μὴ μοιχεύειν only really differs in mood from the Septuagint's future indicative (οὐ μοιχεύσεις). The caveat might naturally relate to the language, which of course is translated, but it is unlikely that Josephus would need to explain his choice not to provide a list of unintelligible words to his audience.

[376] εὐδαιμονια as the goal of Greek philosophy is discussed by Weiß 1979: 427; cf. Mason 1991: 185.

Yet it is only after his second trip up the mountain that he is actually able to write down the laws (3.99). He comes down with knowledge of how best the people should be politically organised, instructions for the tabernacle, and the two tablets with the Ten Words (δύο πλάκας... ἐγγεγραμμένους ἐχούσας τοὺς δέκα λόγους). One feature of this account that is worth observing is the idea that the basic function of these laws which Moses is bringing down is to ensure the people live prosperously in community (εὐδαιμονήσουσι πολιτευόμενοι). Josephus' language here seems designed to appeal to an audience familiar both with the models of Greek lawgivers, and broader philosophical ideas behind law.

To return briefly to Hayes' explanation of the difference between Hebrew and Greek conceptions of divine law (Greek reflecting the natural order, Hebrew coming from a divine will), here Josephus seems to be mingling them, in the same way as she suggests Philo does.[377] That is, the law certainly comes from a divine source, but it also represents the best way of being in the world, conformity with the natural order (and thus imitation of the divine) that will result in real happiness. It is the second aspect which Josephus chooses to emphasise: obedience is desirable not simply because of the potential for divine wrath, but mostly because this is the best way of successfully being human in community.

4.1.2.3 Moses' agency over the laws

Elsewhere, Josephus finds it hard not to give a significant creative role to the human lawgiver. When reporting the laws, Josephus does not tend to refer to God as their originator, and on two occasions he very clearly explains Moses' own thinking processes behind the laws.

[377] Hayes 2015: 113.

The first of these concerns the tabernacle. After Moses' descent with the tablets, there is a lengthy description of the tent which is built and dedicated (discussed p. 166). The divine command is limited to the production of a tent: Josephus does not make it entirely clear that precise instructions were also provided. Moses is the principal actor, though he does act "according to God's counsel" (3.107: κατὰ τὴν ὑποθήκην τοῦ θεοῦ). When he has come to the end of the description, Josephus regards it as a good basis for polemic against claims of Jewish impiety:

> "If anyone examines the tabernacle and looks at the high priest's garments and the artefacts… he will find that the lawgiver is a divine man, and that the slander against us is empty."[378]

This passage is much-discussed, because Josephus appears to designate Moses a θείος ἄνηρ, a category regarded in New Testament scholarship as an important innovation within Hellenistic Judaism.[379] Holladay's careful analysis of the usage of θείος by Greek-writing Jews concludes that there is not enough here to establish a real trend and he translates it in this passage as "pious" rather than "divine" or even "divinely inspired".[380] We are not here dealing with the potential divinity of the lawgiver himself. Yet, once again, Josephus has placed a claim about Moses' status in the voice of a potentially hostile observer, rather than saying it himself: it is therefore possible that he uses θείος ἄνηρ as a term which such an opponent might use, rather than as a category within his own thought.[381]

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[378] *AJ* 3.179-80: εἰ γάρ τις τῆς σκηνῆς κατανοήσειε τὴν πῆξιν καὶ τοῦ ἱερέως ἴδοι τὴν στολὴν τά τε σκεύη… τόν τε νομοθέτην εὑρήσει θεῖον ἄνδρα καὶ ματαίως ἡμᾶς ὑπὸ τῶν ἄλλων τὰς βλασφημίας ἀκούοντας.

[379] Meeks 1967: 25; Tiede 1972: 14; Lierman 2004: 138.

[380] Holladay 1977: 79.

[381] In *Against Apion*, responding to Manetho's calumnies, Josephus observes that the Egyptians regard Moses as remarkable, *even divine* (τοῦτον… τὸν ἄνδρα θαυμαστὸν… Αἰγύπτιοι καὶ θεῖον νομίζουσι) – here "divine" as a means of describing Moses is used as an *Egyptian* descriptor. Van Kooten (2008: 178) notes the parallel, but not the issue of voice, as he links it with the infamous description of Jesus (*AJ* 18.63-4).

Responding to the charge of impiety, Josephus argues that the organisation of the tabernacle, which represents the universe, is evidence of Moses' special connection with, or knowledge of, the divine realm. This engages, again, with the Greek idea of natural law as the order of the cosmos: Moses' ability to build a tabernacle which reflects this as part of divine worship demonstrates not only his own supreme status, but also the resulting piety of those who follow his laws. Most importantly, when he explains the symbolism, Josephus ascribes the reasoning behind it directly to Moses. Thus, Moses "signals" (ἀποσημαίνει) the twelve months of the year with the twelve loaves upon the table (3.182). Whether the reader interprets the twelve stones on the high priest's garment as months or signs of the zodiac (3.186), he will not mistake Moses' *intention* (τῆς κατ' ἐκεῖνον γνώμης οὐκ ἂν ἁμάρτοι). Josephus locates the thinking behind the tabernacle in the lawgiver, rather than in God.

Before assuming that this contradicts his claims about the ultimate divine source, we need to think about whether Josephus could have made the same apologetic argument while keeping God explicitly as the source of these ideas. He could, for example, have explained that the very precise symbolism is itself evidence of divine planning – access to which is obvious evidence of Jewish piety. He could also have underlined the singularity of this tabernacle, with its cosmic significance, and contrasted it with the many and multiform temples and shrines employed by his detractors: they cannot all represent the universe appropriately in the same way as this does, which could suggest greater piety on the part of the Jews.[382] Josephus does not do this: instead, he chooses to locate the logic in Moses' mind, suggesting that primary agency for this organisation lies there, rather than in divine instructions.

[382] Plutarch's account of the temple of Vesta representing the universe is discussed on p. 168 below.

Next, when he reports some of the purity laws, Josephus uses it as an opportunity to attack the popular story that the Jews had been banished from Egypt as lepers.[383] Having just explained that people with leprosy are sent out of the city entirely, he pours ridicule (καταγελάσειεν ἄν τις) on the idea that Moses would have come up with these laws if he had been leprous himself, since the laws about leprosy are humiliating (ἀτιμίᾳ), and nothing prevented (οὐδὲν ἐκώλυε) Moses from developing laws favourable to himself had he been one of them (3.265). Again we find the attribution to Moses of creative power over the law: a law banishing people with leprosy from cities is not inevitable. Moses had choices, which can be used as evidence. This seems to be at odds with the idea that Moses received the laws directly from God.

This is an apologetic context, but there were other ways for Josephus to make the same point. He could very easily have rooted his argument in God's approach to the problem of leprosy: divine laws "against" lepers would not have been communicated through a leprous lawgiver. Instead Josephus chooses to base his argument in the person of the lawgiver himself, a tactic which implicitly rejects claims about the divine source of all the laws.

The same kind of ambivalence is found towards the end of *Antiquities III*, when Josephus provides a short digression on Moses' enduring authority. Prompted by the lawgiver's successful calming of a riot, he explains that this level of influence continues to the present day (ἀλλὰ καὶ νῦν), when people will not disobey any of his laws even in secret (κἂν λαθεῖν δύνηται), due to their reverence for Moses (3.317): they always behave as if he were present (καθάπερ παρόντος αὐτοῦ).

[383] Reported by Manetho (*ap. CA* 1.279); for the historical conflation at the heart of this story as Josephus reports it, finally "dignified" by Tacitus (*Hist.* 5.3.1), see Assmann 1997: 43.

First we should note here that Josephus is talking about Moses' own authority (rather than the ultimate authority of God).[384] Secondly, he describes the laws as laid down by Moses, without any mention of the divine; and finally, he claims that even if they were to escape detection, no Hebrew person would disobey even one of these laws.[385] Josephus would regard it as impossible to escape the detection of God — his whole construction here, therefore, depends on *Moses* being seen as the primary authority of the laws, rather than God. We might also link this claim with the authority Plutarch ascribes to Numa: the Romans believe every story which their king tells them, no matter how strange. This involves the same concern with the personal authority of the lawgiver — in this case reaching beyond the grave in a way that Numa's does not.

It is only a few lines later, however, during his second example of extreme obedience that Josephus switches it, and relates this obedience to fear of divine wrath, rather than to respect for the lawgiver. Here Josephus even addresses the question of detection: the divinity punishes even those crimes which escape detection (3.322). Within the space of a few lines we can find examples of laws being ascribed predominantly to Moses, and the opposite.

When looking at Plutarch's approach to the question, a "third way" was proposed, in which the lawgivers do rely on their special connection with a god in the process of producing law, but in their self-presentations to their people they exaggerate or dramatize that relationship in order to ensure maximum authority. The fact that references to God as the source of law are found regularly in Moses' speeches, or other forms of indirect statement, may mean it is

[384] Cf. Najman 2003: 104: She explores the ways in which Philo appears more interested in the figure of Moses as a source of authority rather than the moment of divine revelation itself.
[385] The first example he quotes actually involves a group of non-Jewish pilgrims who are not permitted to enter the temple, and accept this ruling (3.319).

possible to read this as happening in Josephus, at least with respect to the "laws" (νόμοι), as compared to the Decalogue. But it is unlikely that Josephus means us to think that Moses is exaggerating anything. His connection to the divine is far more explicit and clearly explained than was the case with Lycurgus and Numa, and Josephus never encourages us to think that he is misleading the people.

Where he does insist on Moses' creative force behind laws, these explicit claims are found in apologetic portions of the work, where Josephus is responding to specific allegations. As such, it probably made sense for him to focus the arguments on Moses himself, as the writer of the text to which he is vicariously giving his audience access, rather than on the God whose relation to the Jewish people is a contested point. Furthermore, just as for Plutarch, divine aid and human creativity are not mutually exclusive; Josephus' description of the production of νόμοι involves precisely the kind of mediation that requires the lawgiver's own intelligence.

Plutarch has no qualms about presenting his lawgivers as deceiving the people with respect to the magnitude of divine involvement, but Josephus is anxious about this. It is clear from Tacitus' hostile portrayal (*Hist.* 5.4) that the idea of Moses as a trickster and deceiver (γόης καὶ ἀπατέων) was current, as Josephus admits in the *Against Apion* (2.161); he is unwilling to allow any suggestion that this is accurate.[386] That said, when he refutes the charge by saying that Moses was instead "like" those extolled by the Greeks, such as Minos, he might not be on entirely solid ground.[387]

[386] See also *CA* 2.145; Philo *Hypothetica* (*apud* Euseb. *Praep. Evang.* 8.6.2-3); Origen *C. Cels.* 5.41. For Philo's *Life of Moses* as an attempt to disprove the charge, see Remus 1996.
[387] For analysis of Josephus' comparison of Moses to Minos in *Against Apion*, see Gerber 1997: 145.

4.1.2.4 The ἄτερος λόγος in *Antiquities IV*

Yet there are moments in the fourth book of the *Antiquities* that bring the scenario of Moses as trickster explicitly into the reader's mind. This is the book which contains the series of rebellions against Moses, which will be discussed in Chapter Five (p. 221). There is, however, one repeated element within them which requires comment now. Josephus invents set-piece speeches for the antagonists, and these speeches all, in some way, accuse Moses of deception in connection with God and the laws. Thus when the Israelites decide to attack the Canaanites despite Moses' forbidding them, they call him a tyrant who has deceived them (ἐξαπατωμένους) into obeying him on the premise that he is the only one (μόνῳ... αὐτῷ) with whom the divinity (τὸ θεῖον) communicates (4.4). Doubt is here being cast not on the fact that Moses obtained the laws from God, but on his uniqueness as mediator.[388] During Korah's rebellion (4.14-58), Korah is portrayed by Josephus as accusing Moses of nepotism, suggesting that he has used God as a smokescreen (ἐπὶ προφάσει τοῦ θεοῦ) while acting contrary to the laws (παρὰ τοὺς νόμους) in appointing his brother to the priesthood (4.15).

During Zambrias' rebellion (4.131-155) we find the most serious and all-encompassing rejection of Moses' connection to the divine. Defending his choice to marry a Midianite woman (and worship her gods), Zambrias stands up in the assembly to argue that Moses has done nothing except use God and the laws as a screen (προσχήματι νόμων καὶ τοῦ θεοῦ) for introducing slavery, robbing the people of their autonomy (4.146).

The absence of a formal counter-argument is striking, especially given the extent to which Josephus expands and develops Moses' speeches elsewhere. Clearly the reader is meant to

[388] Spilsbury (1998: 135) argues that Josephus is engaging with debates in his own period between "ethnic" and "religious" definitions of Judaism.

regard Zambrias as wrong in his conclusions: aside from anything else, Josephus' narrative repeatedly makes clear the reality of Moses' connection with and support from God, the rejection of which is the foundation of the objections against him. Nevertheless, it does seem likely that there was a danger of the reader feeling some sympathy for Zambrias' position.

But Moses remains silent, concerned about provoking further hostility (or imitation of Zambrias), and the assembly breaks up without the charges being answered. This may reflect discomfort with allowing them even the dignity of debate, but again, it is only through violence that the conflict is settled – this time by Phineas' sword. Josephus thus gives voice to Plutarch's ἄτερος λόγος (see p. 145), but does not seem to know how to respond to it, except by means of a narrative of events that underline the veracity of Moses' divine claims.

4.1.3 Conclusions

Key to understanding this difference is Plutarch's stance outside the communities he describes: he is describing law codes in ancient societies, evaluating them, not dispassionately, but with reference to his own scale of values. For Josephus, the process of lawgiving he is describing is intimately connected with his own life: he is one of the "people" who populate the story as Moses' (generally) silent followers.

Reading Josephus' narrative of divine law through the lens of Plutarch helps us to think about what his audience might expect. Plutarch himself reveals some anxiety about the scepticism of his audience towards divine claims, but Josephus experiences far more. Josephus' means of dealing with it, lifting up the lawgiver's agency, while underlining his consistent divine support, is coherent, even if he does not always articulate the response we expect.

4.2 Temple and priest

When Moses comes down the mountain (3.100), he announces first that God has explained the required form of government (see p. 157 above), and then that the deity wishes for a tabernacle (σκηνή) to be built for him, so that no further trips up Sinai will be required, but God will be able to be present at their prayers (παρατυγχάνῃ ταῖς ἡμετέραις εὐχαῖς). The tabernacle, and the resulting mediation of the divine presence, is thus presented as the second element of what Moses brings down from the mountain, and it is the first part to be enacted: Josephus leaves the fuller account of the constitution to *Antiquities IV*, just before Moses' death (see p. 237).[389]

The building of the tabernacle allows for the beginning of the sacrificial system to regulate the relationship between the people and their God. We have already seen that despite Moses' statement that this will be by divine design, Josephus locates much of the authority for the symbolism of this movable cultic building with Moses himself, so that it can be used as evidence for Moses' piety (see p. 158 above). In this part of the chapter, we will consider the symbolism of the tabernacle, before turning to the appointment of Aaron as high priest.

Moses here sets up cultic institutions: in this, he is much like Plutarch's Numa, who is credited with the institution of the most important priesthood in Rome, as well as the building of several temples, and various precepts for sacred activities. Comparison immediately reveals a

[389] He does include significant legislative material in *Antiquities III* (224-86), but this is nearly all associated with the sacrificial system, festivals, and ritual purity: all elements of negotiating the relationship with God as a community (and mostly from Leviticus). It is only in Book Four that he describes the *constitution* – there is a clear division between these two types of material, even if sometimes we might question Josephus' system. Altshuler (1979: 228) notes that the grammar of the two collections of law is different as well: in *Antiquities III* we find descriptive indicatives ("like customs the Jews happen to observe"), while the collection in Book Four uses commands (third person imperatives and impersonal verbs).

significant difference in terms of the extent of this material, however: the description of the tabernacle takes up more than 70 of Niese's divisions, over 30% of *Antiquities III* as a whole. In the *Numa*, despite the fact that this is the *Life* most concerned with cultic legislation, ritual, and sacred buildings, there are only a few references to temples, most of which are not described.[390] On the other hand, Josephus does not pay much attention to the particular requirements of the priesthood, while Plutarch takes five chapters to describe the aetiology and responsibilities of the various priestly bodies instituted by Numa. There is an important difference in focus.

Yet, as the first part of this section will show, Josephus' additions to his biblical source material about the tabernacle reveal a concern with symbolism, which itself reveals the idea that Moses' legislation has universal relevance. Similar interpretations of Numa's temples and ritual requirements can be found in Plutarch's account. In the second part of the section, we will look at the appointment of Aaron, and at Numa's institution of various priesthoods, showing that while there is a significant disjunction in terms of what the authors choose to describe, there is a core similarity in the expectations the authors have of their lawgivers.

4.2.1 Temples and symbolism

The description of the tabernacle is integrated into the surrounding narrative: the people respond to Moses on his return from Sinai by bringing their offerings: silver, gold, bronze, timber, dyed goat's hair, sheepskin and wool. These are then used to build the tabernacle. In

[390] Stadter (2014b: 255) finds ritual purity a "continuing theme" in the *Numa*, though this is associated entirely with matters of expiation and cult (the Vestal flame, and the conversation with Jupiter), rather than with the purity status of individuals. There is absolutely nothing about temples, priests, festivals, sacrifices, or ritual purity in the *Lycurgus*, despite the fact that the Spartans have a reputation for piety. See Goodman and Holladay 1986: 154.

the book of Exodus, this list appears twice: first in God's voice, as he gives Moses instructions (Ex. 25.1-7), and then in Moses' voice, as he passes those instructions on to the people (Ex. 35.5-9). The list in Josephus is very similar (3.102), though he seems to avoid direct copying.[391] What is different is that Josephus has made the choice of offerings appear entirely spontaneous.[392] Moreover, he continues that the tabernacle was constructed out of "such materials" (ἐκ γὰρ τοιαύτης ὕλης), almost as if the choice of material was dependent on what the people brought. Moses also appoints architects, but it is noticeable that where the Hebrew Bible (Ex. 31.2) describes Bezalel as inspired by the divine spirit (רוּחַ אֱלֹהִים) with wisdom and knowledge, Josephus makes no reference either to the divine inspiration or even to his particular skillset. The focus is on Moses as the single person with the knowledge and connection to the divinity which allows him to design this portable temple appropriately: indeed, singular verbs throughout the description of the building imply that Moses is solely responsible for each stage.[393]

4.2.1.1 Temples in the *Numa*

In Plutarch's *Numa* he mentions four temples which are built by the Roman king: first, the temple of Vesta (11), then those of Fides and Terminus (16), and finally, the temple of Janus (19.6). Yet none of these receive much attention, and Plutarch seems most interested in

[391] Such as when he refers to "wood that does not suffer decay" (ξύλα... μηδὲν ὕπὸ τῆς σήψεως παθεῖν δυνάμενα) rather than "imperishable wood" (ξύλα ἄσηπτα), which is how the Septuagint consistently renders the Hebrew עֲצֵי שִׁטִּים, acacia wood. Castelli (2002: 247) takes this as an explanatory paraphrase. Philo (*Mos.* 2.77) calls cedar wood "most imperishable" (τῆς ἀσηπτοτάτης), suggesting that this is his rendition of ξύλα ἄσηπτα.

[392] Robertson (1991: 37) highlights the absence of technical terms for the type of offering, which appear in the LXX, and suggests that this is intended to "heighten the piety and public-mindedness" of the Israelites, who do not require a divine command in order to be generous.

[393] Thus "first he measured (διαμετρησάμενος) the court to fifty cubits", then "he set up" (ἔστησε) bronze shafts. The Exodus account of the process of building also uses singular verbs, but it emphasises the role of Bezalel as lead craftsman, and opens with a plural verb of making and then "every wise man" (וַיַּעֲשׂוּ כָל-חֲכַם-לֵב) – a more collective effort.

particular traditions associated with them: thus in the case of Terminus he notes (16.1) that the sacrifices offered were originally bloodless, because Numa thought that the god of boundaries (τὸν ὅριον θεόν) was of necessity a guardian of peace (εἰρήνης φύλακα) and should be undefiled by killing (φόνου καθαρὸν). The logic is Numa's own – there is no divine source for this insight. The temple of Fides is linked with Roman oaths (τὴν... Πίστιν ὅρκον... μέγιστον) which are still current in Plutarch's day (μέχρι νῦν). The temple of Janus appears after an account of the Roman calendar which ends with an explanation of the name "January", rooted in the double-faced god (19.6). Plutarch is interested only in its famous doors, mention of which allows him to note that they were closed only during Numa's time, and then by Augustus after Actium – he does not mention the more recent closure by Vespasian.[394] The mention in Plutarch serves principally to introduce a panegyric on the peace of Rome during the days of Numa, and perhaps to link Numa to Augustus.[395]

Only the temple of Vesta is discussed with reference to its layout. About this temple, Plutarch notes that Numa "is said" (λέγεται) to have built it in a circular form. This form represents the shape of the entire universe (τοῦ σύμπαντος κόσμου), at the centre of which is a flame, which corresponds to the Vestal flame at the centre of the temple (11.1). This picture of the universe is Pythagorean, thus allowing Plutarch once again to discuss the supposed links between Numa and Pythagoras, which he has already expounded at length (discussed p. 147 above). Plutarch introduces the symbolism by observing that the circular nature of the temple

[394] See Oros. 7.3.7, citing Tacitus: *sene Augusto Ianus patefactus... usque ad Vespasiani durauit imperium*. A closure by Nero is indicated by his coinage for 64-66 CE (picturing the closed temple with the inscription PACE PR TERRA MARIQ PARTA IANUM CLUSIT SC), and mentioned ironically by Suetonius (*Nero* 13: *Ianum geminum clausit, tamquam nullo residuo bello*): Townend (1980: 240) suggests that the contradiction between this, and the evidence of Tacitus, is down to Vespasian's careful "blotting out" of Nero's claim, refusing to admit any period of peace before his and Titus' repression of the revolt in Judaea.

[395] Betz 2008: 46.

represented *not* the earth (οὐ τὸ σχῆμα τῆς γῆς), but the universe, implying that he expects his audience to assume the first option.[396]

4.2.1.2 Temple symbolism for Josephus

Josephus also writes that the tabernacle in its layout symbolises the universe (3.180). It is for this reason that he expects his readers to recognise Moses as θείος ἀνήρ, as discussed above (p. 158). The extended description (or ecphrasis)[397] of the tabernacle and priestly garments (3.108-179) prepares the way for his digression on the symbolism which is encoded in them by their divinely-inspired designer (3.180-7): the three-part division of the tabernacle represents the division of earth, sea, and heaven; the twelve loaves are the twelve months of the year (3.181-2). The description prepares the way not only by providing the reader with detailed information about the building and objects which are then to be interpreted, but also because within it Josephus includes a few crumbs of interpretative information, so that some of the symbolic meanings are explained twice.

Thus the tripartite division of the tabernacle, with two thirds accessible and one not, is explained during the description (3.123) as an imitation of the nature of the universe (μίμησιν τῆς τῶν ὅλων φύσεως); Josephus then repeats this in the closing symbolic summary (3.181). Similarly, the gold candelabrum (λυχνία), which is "formed" of balls, lilies, pomegranates, and bowls (3.145), has seventy of these designs, representing the "portions" assigned to the planets and sun (εἰς μοίρας εἰς ὅσας τοὺς πλανήτας καὶ τὸν ἥλιον κατανέμουσιν).[398] Josephus' description

[396] With this explanation for the temple's layout, Plutarch makes Pythagorean astronomy central to a proper understanding of piety: see Colman 2015: 5.

[397] For a discussion of this passage as ecphrasis, particularly its terminology of wonder, see Weissenrieder 2017: 161.

[398] Feldman (2004: 3.145) points out that the MT and LXX do not include pomegranates (Ex. 25 31-40).

of this candelabrum was probably influenced by the menorah which had been in the temple of his own day – now transferred to the Flavian Temple of Peace (see *BJ* 7.148, 161).[399] The significance of the number seventy, as the "portions" of the planets and sun (3.146), is only fully explained later on (3.12), when he specifies that each planet covers ten degrees of the sky (τὰς τῶν πλανητῶν δεκαμοιρίας), though here he seems to have forgotten his earlier inclusion of the sun. He repeats the point that the seven lamps represent the number of the planets.[400]

Some features of symbolism only appear in the closing summary, however. Thus while Josephus does describe the twelve loaves during the ecphrasis (3.143), he does not explain their significance until later (3.182), and with the loaves are two cups, which never receive any symbolic meaning. More significantly, the hangings of the tabernacle, formed of four differently coloured materials, are described in some detail (3.124-33), with emphasis on how impressive they look: they closely resemble the colours of the heavens. This seems only to be a visual metaphor since we are later informed during the summary (3.183) that the four materials represent the four elements: linen is the earth (as it comes from flax), purple is the sea (stained with the blood of fish), blue is the air, and red is fire.[401] Finally, the priestly garments are first described in detail (3.151-78), and then given their deeper meanings (3.184-87), with a division between earth and heaven indicated by the different colours of the top and bottom of the tunic, while the upper garment, like the hangings, represents the four elements, with the golden thread adding sunlight to the mix. Precise meanings for the different jewels on the high priest's breastplate (sardonyx as the sun and moon), and the blue of the head-dress, which indicates heaven, bring the explanation of the symbolism to an end.

[399] Feldman (2004: 3.145) cites Nodet (1992: 3.145) for this point.
[400] At *BJ* 7.149 during the triumph, he refers instead to seven as a number particularly honoured among Jews.
[401] Cf. *BJ* 5.213.

The appearance of symbolism in Josephus immediately makes readers think of Philo, who in his *Life of Moses* also includes considerable allegorising as he describes the tabernacle. But Philo's interest is mostly in numerical symbolism – the number of pillars, which he links to the sum of the squares of the sides of a perfect right angled triangle, or the curtains being ten because ten is a perfect number (2.84). Some of his interpretations are precisely the same as those of Josephus – the elemental meanings of the four-coloured hangings (2.88), or the seven lamps for seven planets (2.103). But in a few places the explanations are subtly different. For both Josephus and Philo, the priestly garments altogether come to represent the universe as a whole, but the divisions they make, and the elements they draw out are different. Josephus never talks about the flowers and pomegranates on the garments within his allegorising explanation (although he does mention them in his general description). Philo, on the other hand, centres in on the flowers as representing earth (while the robe as a whole, being blue, represents the air), and the pomegranates as water (2.119). The differences are minor, but they suggest that Josephus has not copied his symbolic meanings from Philo.[402] More significantly, for Philo the symbolic meanings themselves are *taught* to Moses as part of his prophetic experience on Sinai (2.76): the shape is stamped upon Moses' mind (ὁ μὲν οὖν τύπος τοῦ παραδείγματος ἐνεσφραγίζετο τῇ διανοίᾳ τοῦ προφήτου).

In contrast, Josephus tends to explain the meanings as developed by Moses himself – it is this insight that underpins his acknowledged status as θεῖος ἀνήρ. It is Moses' intention (τῆς κατ'

[402] For the same conclusion, though focusing on the material in the *War*, see Hayward 1996: 146. Klawans (2005: 115) links this more broadly with interpretative traditions in the Near East, and suggests that Josephus here is conservative rather than creative.

ἐκεῖνον γνώμης) which the careful viewer should be able to work out.[403] There are even a few places where Josephus seems to present the interpretations as his own: we find constructions such as οἶμαι or μοι δοκεῖ ("I think") to introduce interpretations such as the golden thread representing sunlight, and the head-dress representing heaven.[404] Josephus thus presents himself as a thoughtful viewer like any other, carefully studying the works of the lawgiver and so inferring his meanings, which prove his accurate conception of the divinity. Moses' cultic architecture is available to be "read" by anyone who examines it in the proper spirit. It may be significant that these authorial interjections appear in connection only with the priestly garments, which, unlike the tabernacle itself, Josephus has had opportunities to study in real life.[405] His audience has instead to survey these works in their textual format, which is perhaps why Josephus' descriptions are so detailed.[406]

We have seen that Plutarch does something similar with the temple of Vesta, whose design represents the universe.[407] There are, however, other ways in which we can identify the same principle, of a pious lawgiver encoding messages about divinity and reality in elements of cult, which can be identified and interpreted by sophisticated and thoughtful "readers".

[403] Josephus uses the term in connection with the twelve stones on the priest's breastplate (3.186), which might be the months of the year, or the Zodiac constellations.
[404] Castelli (2002: 273) suggests that these first person interjections are Josephus' attempt to separate himself from Philo despite his dependence on him.
[405] Near the end of the *Antiquities* (20.216) he reports in horror the granting by Agrippa of the request of the Levites to wear linen robes "equal to the priests" (ἐπίσης τοῖς ἱερεῦσιν… λινῆν στολήν). The priestly garments are not merely a matter of antiquarian interest. Cf. Tuval 2011: 400.
[406] Josephus acknowledges (3.198) that a description of the different kinds of incense might be too much (δι' ὄχλου γένηται) for his readers, showing some awareness of potential fatigue.
[407] Notably, Josephus in his analysis of the tabernacle as universe assumes that the earth should be central, precisely what is denied by Numa's Pythagorean system.

4.2.1.3 Symbolic actions and aniconism in the *Numa*

As part of his evaluation of connections between Numa and Pythagoras, Plutarch includes a section discussing precepts attributed to them, particularly focusing on how these have deeper meanings which are not immediately obvious. Like Pythagoras, Plutarch explains, Numa created rules that have no obvious significance in relation to worship practices. He lists four, two relating to the use of wine and wheat in sacrifices, and two linked to the movements made during worship (14.3-4). On turning during worship Plutarch acknowledges various views, but prefers his own interpretation: because temples face east, the worshipper entering the temple has his back to the sun. Turning means incorporating the Sun into the worship, before turning back to the particular god of the temple, thus associating both gods with the fulfilment of prayer. Yet there is another possibility: that this rotation represents the instability of human life and thus teaches that twists of fate must be welcomed and accepted (14.5). Plutarch finishes his summary of Numa's symbolic precepts with a note that sitting down is required between all acts of worship: the lawgiver, he says, is trying to accustom "us" (ἐθίζοντος ἡμᾶς) not to pray while busy or in a rush, but rather when "we" have time and leisure (χρόνον ἔχωμεν καὶ σχολὴν ἄγωμεν). Plutarch slips into the first person plural here, apparently including himself among those who are to learn the Roman lawgiver's lesson. The lawgiver might belong to a particular people, but his wisdom can be understood and applied by thoughtful people anywhere.

One other feature of Numa's cultic legislation according to Plutarch deserves comment. Continuing his argument for a connection between the Roman king and Pythagoras, Plutarch includes the fact that Numa forbade the worshipping of human or animal icons, so that no

statues were produced for Roman temples for 170 years (8.8). The notion of 170 years of aniconic (and therefore purer, *castius*) worship is found in Varro, cited by Augustine (*De Civ. D.* 4.31), implicitly associated with Numa.[408] Von Ehrenkrook suggests that Plutarch's description here, with its emphasis on the *production* of images as well as their veneration, and its insistence on the divine as only approachable with the intellect (νοήσει), is remarkably similar to Josephus' portrayal of the second commandment in the *Antiquities*, where there is greater emphasis on craftsmanship and iconography compared to the *War*.[409] Plutarch's portrayal of Numa's ban on images as a pure form of religiosity reveals a cultural discourse in which Josephus can easily participate. Like his precepts which embed hidden knowledge, the ban on images serves to teach his people about the divine reality which can only be apprehended by the mind.

In the same way, Moses' tabernacle for Josephus directs those who view it (through Josephus' description) towards contemplation of the heavens – precisely what Moses in the prologue recognised as the starting point for directing one's own life and legislating for others (1.19, see p. 78).[410] When Josephus asks his reader to acknowledge Moses' status as θείος ἀνηρ based on the symbolism of the tabernacle, he is assuming that the wisdom apparent in this heavenly imitation has universal relevance and applicability.[411] In the same way, Numa's precepts have relevance for Plutarch, even though he must in his daily life have had no problem with the use of cult images.

[408] Van Kooten 2007: 638.
[409] von Ehrenkrook 2011: 162.He argues in an earlier chapter that where images cause problems in the *War* it is primarily about *where* they are, rather than *what* they are.
[410] Klawans (2005: 115) observes Josephus' emphasis on *imitatio dei* as the "overall motivation and justification for Jewish practices", and suggests that temple-cosmos symbolism plays into this: as God makes the universe, so mankind makes the temple or tabernacle.
[411] Rodgers 2008: 147.

4.2.2 Priests

Plutarch devotes five full chapters to describing the orders of priesthood which Numa established: the *pontifices*, the Vestal Virgins, the *Salii* and the *Fetiales*.[412] He includes an extended account of the punishment of burial alive for a Vestal Virgin who breaks her oath.[413] More importantly, however, he uses the priesthoods of the *Salii* and *Fetiales* as representatives of the kinds of priesthoods set up by Numa, and says explicitly (12.3) that these institutions "reveal Numa's piety" (αἳ… τὴν εὐσέβειαν τοῦ ἀνδρὸς ἐμφαίνουσιν). We recall Josephus' use of the layout of the temple as evidence to contradict accusations of Jewish impiety. Plutarch does not call Numa a θείος ἀνήρ, and is not defending either Numa or the Romans from a charge of impiety, but something similar is going on.

The *Fetiales*, whom Plutarch designates the "keepers of peace" (εἰρηνοφύλακες) have as their primary function the settlement of disputes without recourse to violence (12.3).[414] The biographer's approval is evident in his comment that this use of discussion rather than force to end conflict is what the Greeks call "peace" (εἰρήνη). By creating priests with responsibility for the avoidance of violence, Numa demonstrates his piety.[415]

Piety is revealed quite differently in the case of the *Salii*. Here, it is about Numa's ability to interpret divine signs correctly. The priesthood is formed during a plague in the eighth year of Numa's reign, when a bronze buckler (χαλκὴν πέλτην) falls from the heavens into Numa's

[412] Numa's reforms to the priesthoods have been read as a mechanism for breaking up the institution of divine kingship. See Hooker 1963: 122–3.
[413] Possibly of particular contemporary relevance, since the penalty was famously implemented by the emperor Domitian (Suet. *Dom.* 8.3-5; Pliny 4.11; Dio 67.3); cf. Parker 2004: 576; Stadter 2002a: 237.
[414] This is Plutarch's rather rose-tinted view of the *Fetiales* and the Roman notion of just war: as Goodman and Holladay (1986: 160) note, however, "unfavourable portents were easily expiated and so long as the sacred chickens kept their natural appetites, the gods were reckoned to view aggression with favour."
[415] He does go on to describe the curses which follow an unsuccessful mediation and lead to a declaration of war.

hands. He explains to the confused people that the object has come to save the city, and that they must make eleven copies, so that the true buckler can be hidden among them. The plague ends, and the priesthood of the *Salii* is established as a group of protectors (φύλακας καὶ ἀμφιπόλους) for the twelve bucklers (13.3).[416] Plutarch notes at the beginning of this process that after the buckler appeared, Numa told a "remarkable story" (θαυμάσιόν τινα λόγον) to explain it, which he had found out (πυθέσθαι) from the goddess Egeria and the Muses. Plutarch does not comment on the validity of this source. The second source of evidence for Numa's piety is thus his ability to hear from the gods – or at least, present a convincing portrayal of such a hearing (see p. 147 above).

For Josephus the prime example of piety through symbolism comes through a physical structure; for Plutarch it is related to the founding stories and functions of priesthoods. We might therefore ask whether there are any parallels within the ways Plutarch and Josephus discuss priesthood. It is generally assumed that when Josephus talks about priests, any reader would easily understand what he means – this is why it is seen as advantageous for Josephus to highlight his own position as a priest.[417] But it is perhaps worth breaking down this assumption when it comes to the description of the establishment of the priesthood by the lawgiver, something we are able to do because we have Plutarch's account of Numa.

[416] There is a marked absence of any reference to Mars, even though the dance of the *Salii* (which Plutarch describes) was performed in Mars' honour at the beginning and end of the campaigning season. The closest he comes to recognising this military aspect of this priesthood is his late mention of their "war-dance" (πυρρίχη).
[417] Tuval 2011: 405–6; Mason 2004: xxiv–xxvii.

4.2.2.1 Priesthoods in Plutarch's *Numa*

As we saw above, Plutarch only writes about the *pontifices*, the *Fetiales* and the *Salii*.[418] The following table summarises what he has to say about each:

	Pontifices	***Fetiales***	***Salii***
Etymology	1. Serve *powerful* gods (δυνατοί, πότηνς) 2. Task is to do what is *possible* (τὰς δυνατὰς) 3. Bridge builders, which Plutarch dismisses as absurd[419]		1. after Salius of Samothrace who taught the dance (wrong) 2. after leaping dance (correct)
Aetiology			Plague; buckler falls from heaven, which *Salii* are established to protect
Responsibilities	"High priests" (ἀρχιερεῖς) All: direct ancestral burials PM: exegete and interpreter; in charge of public ceremonies and private sacrifices to ensure no deviation from standard practice; teacher of proper honour to gods; overseer of Vestals	"Guardians of peace" (εἰρηνοφύλακές) Prevent war by appealing for dialogue; declare war just if overtures refused	Protect bucklers; perform dance in Rome in March

This brief summary demonstrates that Plutarch does not have any straightforward conception of what information is needed when describing a priesthood. He does not associate each with particular deities, nor does he specify how office-holders are chosen or what eligibility criteria

[418] We have left out the Vestals, as a different kind of religious order.

[419] Kavanagh (2000) suggests an etymology from the Umbrian term for five, so that the name would emerge in a period when there were five men in this particular college – linking with Cicero, who claims this was the original number (*Resp.* 2.26), and noting that this suggestion was originally made by Ribezzo.

there are.[420] Even about their responsibilities, he is quite vague.[421] Rather, what he tells us about them depends entirely on which aspect he thinks is most interesting. The *Salii* thus have a detailed aetiology, which both others lack. The *Fetiales* receive neither aetiology nor etymology, but the account of their role in the Roman state is fairly thorough.[422] The duties of the *pontifex maximus* are described in considerable detail, but those of the *pontifices* in general are not specified.[423] Plutarch does not explain which priesthoods are for life, or who is eligible for them. This is not a comprehensive picture of Roman priesthood. At the same time, the absence of such a comprehensive picture reveals that Plutarch, like Josephus, assumes that his readers do not need to be told exactly what a priest does: they only need to be told what is special about particular kinds of priests.

Yet it is still worth observing one thing about the kinds of details which Plutarch emphasises. He focuses on moral and interpretive issues: the justice of the job of the *Fetiales,* the fact that the *pontifices* are teachers, the importance of tradition and doing things in the right way, and the division between public and private kinds of sacrifices, both of which the *pontifices* oversee.[424] This latter has obvious parallels for Josephus, who opens his brief list of sacrificial regulations (*AJ* 3.224) with the basic division between private (ὑπὸ τῶν ἰδιωτῶν) and public

[420] For example, the *Salii* were patricians drawn from particular families.

[421] The *Salii*'s association with war is a striking absence, though it fits into Plutarch's insistence on Numa's love of peace. In fact, the rites of the *Salii* in March were closely associated with the campaigning season (see Tac. *Hist.* 1.89, Suet. *Otho* 8). Cf. Balsdon 1966: 146.

[422] The *Fetiales* seem generally to be seen as inferior to the other priestly colleges; on the other hand, emperors and other members of the imperial family tended to hold this priesthood. See Broughton 1987: 61.

[423] The *flamines*, who also form part of this college are not mentioned, despite being founded by Numa according to Livy (1.20.1), Cicero (*Rep.* 2.26), and Varro (*Ling.* 7.27).

[424] Plutarch's descriptions are intentionally broad, giving the priests educational roles which go beyond their true roles as advisors to the Senate and magistrates on religious matters and portents. See Levene 2010.

(ὑπὸ τοῦ δήμου) offerings.[425] Perhaps most striking is Plutarch's use of the terms "exegete" (οἷον ἐξηγητοῦ) to describe the job of the *pontifex maximus*: this high priest is not simply tasked with performing and managing the rituals which enable the relationship between the community and their gods; he is also meant to explain the deeper meanings of those rituals (meanings encoded and taught by Numa himself).[426] As Hirsch-Luipold and Van Nuffelen have observed, a significant part of Plutarch's literary output is devoted precisely to interpreting and explaining the meanings of sacred rituals, sites, and images, Greek or otherwise.[427] For Plutarch, priesthood in general becomes a position of religious expertise, with interpretation and communication at the core of the priestly task.

4.2.2.2 Aaron the high priest in the *Antiquities*

Immediately after he has finished his account of the symbolism of the temple and priestly garments, Josephus returns to narrative and describes (3.118) how God told Moses to grant the priesthood (ἱερωσύνη) to his brother Aaron, explaining the choice as down to Aaron's own virtue (ἀρετή). Obediently, Moses brings together the assembly, and begins to speak about Aaron's virtue and all he has risked for the sake of the people (τοὺς κινδύνους οὓς ὑπομείνειεν ὑπὲρ αὐτῶν).[428] Aaron's role in Josephus' version of events has been extremely limited, so that

[425] Cf. *Spec.* 1.168; Josephus himself a few chapters earlier (3.205) suggested categorising sacrifices according to which are consumed and which are burnt entire. See Feldman 2004: 3.224.
[426] Cf. Van Nuffelen 2011: 67. We should note that the term is also used by Dionysius (*Ant. Rom.* 2.73).
[427] Hirsch-Luipold 2014: 168; Van Nuffelen 2011: 49.
[428] Thackeray (1930a: 407) takes the αὐτοῦ in this passage as referring to Moses himself, so that he begins his speech by extolling his own virtue. This is not an impossible reading, particularly given that in a few lines Moses will announce that he would have chosen himself for the honour had it been up to him, but it is more natural to take it as referring to Aaron, especially given the repetition of ἀρετὴν. If it were Moses speaking about himself, we would expect a reflexive pronoun. See discussion in Feldman (2004: 3.188). Castelli (2002: 273) agrees that this is the virtue of Aaron, associating it with Moses' modesty, although this is not greatly in evidence in the rest of this passage.

it is not entirely clear what this is referring to.[429] Moses goes on to explain that it is now necessary to receive God into the tabernacle and so to appoint someone to be priest and to administer sacrifices (τοῦ ἱερατευσομένου καὶ ὑπηρετήσοντος ταῖς θυσίαις) on their behalf. The first person plural pronoun (ὑπὲρ ἡμῶν) includes Moses himself among the people for whom sacrifices must be performed, and Moses makes explicit the narrative connection between tabernacle and priest as the starting point for appropriate worship.

Moses acknowledges (3.190) that if it had been entirely up to him, he would have regarded himself as worthy of the honour, both given natural self-love (τὸ φύσει πᾶντας εἶναι φιλαύτους), and his awareness of how much work he has done for their protection (ἐμαυτῷ καμόντι περὶ σωτηρίας).[430] But God's choice is Aaron (3.191), who will therefore wear the priestly garments (ἐνδύσεται στολὴν), take care of the altars (βωμῶν ἐπιμέλειαν ἕξει), and manage sacrifices and prayers (πρόνοιαν ἱερείων καὶ τὰς ὑπὲρ ἡμῶν εὐχὰς ποιήσεται). The job of the high priest is thus defined as a position of great honour (closely associated with the wearing of the sacred garments), which involves performing sacrifices and making prayers.

In the biblical book of Exodus, Aaron's appointment as high priest comes before the account of the garments he is to wear, so that they are consistently associated closely with their first wearer – indeed, Moses is told specifically to make holy vestments "for the adornment of your

[429] Castelli 2002: 273. In Josephus' version, Aaron loses his role as spokesperson, and it is Moses who speaks and usually performs signs, as Feldman (1992a: 311; 1993a: 306) has observed.

[430] This seems at odds with the famous statement (Num. 12:3), that Moses was extremely humble (Hebrew: עָנָו; the LXX translates πραΰς). This statement (and the story of Miriam and Aaron's opposition to which it is attached) is not found in the *Antiquities*, though scholars have attempted to locate Josephus' version of Moses' meekness in his clemency towards opponents (so Damgaard 2008: 226n), or emphasised Graeco-Roman dislike of "false modesty" (so Feldman 2004: 3.188) as an explanation for Josephus' insistence on Moses' awareness of his own merits.

brother Aaron".[431] Josephus' reversal of the order subtly lessens Aaron's status, as does his use of "priesthood" rather than "high priesthood" within this narrative. Indeed, while Josephus refers sixteen times to the "high priest" in *Antiquities III*, this only once refers specifically to Aaron.[432] In Josephus' version then, rather than being the model of priesthood, Aaron is simply the first to hold the position, and the people accept his appointment in part because of his *brother*'s virtue (τὴν ἀρετὴν τἀδελφοῦ).[433]

Josephus' discomfort with the fact that Moses is not the first high priest is obvious, but we can perhaps add to this picture through looking at the parallels with Plutarch's *Numa*. Included in Plutarch's discussion of the *pontifices* (9.1), the "high priests", is the observation that Numa is said to have been the first of them (φασιν αὐτὸν ἕνα τούτων τὸν πρῶτον γεγονέναι).[434] Plutarch gives to the *pontifex maximus* the role not only of performing private and public sacrifices, but also of being an exegete and prophet (ἐξεγητοῦ καὶ προφήτου), and teaching (διδάσκων) the correct manner of worship: these are all functions which Josephus would associate with Moses – particularly as later in the *Life* (14.1), Plutarch describes how Numa spent his time in divine service (ἱερουγῶν), teaching the priests (διδάσκειν τοὺς ἱερεῖς), or contemplating the divine (πρὸς ἐννοίᾳ τινὶ τῶν θείων... σχολάζων). The absence of these functions in Josephus' account of Aaron's high priesthood might not be unexpected in light of his direct source

[431] Ex. 28:2 (NRSV); literally, "for your brother Aaron for glory and beauty" (לְאַהֲרֹן אָחִיךָ לְכָבוֹד וּלְתִפְאָרֶת)

[432] This is at 3.307, when Moses and Aaron "the high priest" (τοῦ ἀρχιερέως) receive abuse from the people after the report of the scouts.

[433] For Philo (e.g. *Mos.* 22.6, 66), the high priesthood is one of Moses' three key positions, alongside lawgiver and king. Because of this, Meeks (1967: 136) sees in Josephus' "denial" of the high priesthood to Moses an attempt to glorify the priesthood at Moses' expense, thus assuming that Josephus could, had he wished, have made Moses the first high priest. The general suppression of Aaron's role which we have observed, however, suggests that Josephus feels constrained by his understanding of reality: that Aaron *was* the forefather of all priests.

[434] Plutarch does not acknowledge any controversy on this point, even though Roman sources tend to regard Numa Marcius rather than Numa Pompilius as the first *PM* (see Livy 1.20.5): Stadter (2014b: 252) highlights this as a "conscious choice" on the part of Plutarch, turning him into an "exemplar for the role of *princeps* as leader of Roman religion."

material, but it is striking in comparison with the *Numa*. Importantly, these latter functions (teaching and contemplation) are precisely what Moses will spend his time doing: he explains the duties of the priests in his laws, and, once the tabernacle is consecrated (3.212), he passes his time in service to God (πρὸς μόνῃ τῇ τοῦ θεοῦ θεραπείᾳ διετέλει). Given that Philo is perfectly happy not only to regard Moses as high priest, but also to emphasise his unique qualifications for this position (*Mos.* 2.66), it is striking that Josephus does not do so.[435] Perhaps, however, the comparison with Numa serves to make the point that it is the institution of appropriate priesthoods that is more important than the holding of those priesthoods: Moses does all the same things as the Roman king, even though he is not formally a priest.[436] Equally, Aaron's status as high priest depends on the lawgiver who, with divine knowledge, chose him for the role.

Indeed, Moses leads and performs all the actions required for the sanctification of the temple and the priests, proving his overarching authority over cultic affairs. Josephus then tells us (3.203) that God revealed that he was pleased with the work that had been done, by entering and settling in the sanctuary (ἐπεξενώθε καὶ κατεσκήνωσε τῷ ναῷ τούτῳ).[437] It was a clear day (ὁ οὐρανὸς καθαρὸς ἦν), but a cloud settled on the tent and produced a sweet dew (ἡδεῖα... δρόσος). In the book of Exodus (40:35), the tent is covered with a cloud as the glory of the Lord fills the tabernacle, so that Moses is not even able to enter. Feldman takes Josephus' version as rationalising, apparently regarding the distilled dew as easier for his audience to accept than a

[435] We can understand Josephus' refusal to call Moses king, as Philo does, in relation to his own hostility to kingship, seen both in his rewriting of Moses' warning to the Israelites about their own future wish for a king (4.224), and throughout the *Antiquities*. See Rodgers 2009: 179–83; Mason 2003: 577; 2009: 324.
[436] Cf. Meeks 1967: 137.
[437] Feldman (2004: 3.203) observes that the picture of God "settling" in the tent is Josephus' addition, and Castelli (2002: 278) notes that Josephus uses the same verb to describe God's entrance into Solomon's temple (*AJ* 8.106).

cloud preventing the lawgiver's entrance into the tent.[438] Yet that one is easier to accept than the other is not self-evident. The sweet dew does not appear in any other account of God's indwelling of the temple.[439] We might be reminded of the dew which congeals into manna according to Josephus (3.26): the association of manna with dew is there in the biblical text (Ex. 16:14), but the picture of it congealing on Moses' hands is not. The repeat of the dew motif may suggest that Josephus is drawing on a similar idea here, related to divine presence and provision.

What is perhaps more important, however, is the distancing formula which Josephus includes (3.203). Instead of his usual refrain of "let each believe as he wills", he states that the miraculous dew revealed the presence of God to "those who wished to see it and believed in it" (θεοῦ δηλοῦσα παρουσίαν τοῖς τοῦτο καὶ βουλομένοις καὶ πεπιστευκόσι). A sceptical reader could regard this simply as confirmation bias: the people see what they want to see. On the other hand, by characterising the people as longing for and trusting in the divine presence, this portrayal underlines the picture of piety which Josephus has been building up. He is playing to all possible crowds here. Yet we should also note that this moment is not linked with the lawgiver at all: Moses says and does nothing after the consecration of the tabernacle, so that this is divine action unmediated.

We now move onto the consecration of the priests, and the first sacrifices, which lead to disaster for Aaron. Josephus has adapted the order from Exodus: the biblical book closes with

[438] Feldman 2004: 3.203.

[439] The phrase "sweet dew" would probably call to mind honey, which Pliny (11.12) explains as distilled by bees from dew which is the "sweat of heaven" (*caeli sudor*) or "saliva of the stars" (*siderum saliva*), with a taste appropriate to its "heavenly nature" (*caelestis naturae*). A tentative link might be made with the honey which the Egyptian princess Asenath eats as part of her conversion process in the romance *Joseph and Asenath* (16.14): the honey is described by the divine messenger as being made from the dew from flowers in Paradise.

the settling of the divine presence on the tabernacle, with the priests consecrated ten chapters earlier (Ex. 29). In the book of Exodus it is also Moses who leads the consecration and performs the first sacrifice, but Aaron plays a significant role, placing his hands on the head of the bull (Ex. 29:10) and then the ram (29:15) before they are killed by Moses himself.[440] Josephus excises Aaron's role during this process.

After seven days of consecration, Moses calls on the people to bring their own sacrifices, and, when these are placed upon the altar, suddenly (αἰφνίδιον) a flame (πῦρ) springs up to consume the offerings (3.207).[441] Feldman sees in the term "of its own accord" (αὐτόματον) an attempt by Josephus to deemphasises the "divine element in the apparent miracle", comparing it with Leviticus (9:24) in which fire came out "from before the Lord" (מִלִּפְנֵי יְהוָה).[442] Yet divine activity is still assumed in Josephus' version.[443]

More importantly, in Leviticus there is an apparent separation between this sudden flame, which indicates God's acceptance of the people's offerings, and the flames which kill Aaron's sons Nadab and Abihu as they approach the altar with "strange fire" (אֵשׁ זָרָה). The same phrase is used – that fire came "from before the Lord" and "devoured them" (וַתֹּאכַל אוֹתָם), but the events are separated (Lev. 10:1-2). Josephus, on the other hand, has the same fire accept the offerings, and kill two of Aaron's sons, explicitly introducing the latter event as parallel to

[440] In Leviticus 8 it is less clear whether it is Moses or Aaron who kills the animal.
[441] Josephus excises Aaron's first sacrifice, which in Leviticus (9:8) occurs before the people bring their offerings and the spontaneous flame emerges.
[442] Feldman 2004: 3.207.
[443] For spontaneous flames as portents (though not on altars), see Plut. *Sull.* 59.4 and Dion. Hal. *Ant. Rom.* 1.59.4.

the offerings (2.208), as he says the fire was "also" (καί) a cause of misfortune (συμφορά τις) to Aaron in his role as human and father (ἐπ' ἀνθρώπῳ καὶ πατρί).[444]

Instead of the new priests bringing the wrong kind of fire, Josephus has them bringing the wrong incense, using what they had used before (οἷς ἐχρῶντο πρότερον) instead of the new, consecrated incense which Moses told them to use.[445] The fire "jumps out" upon them (τοῦ πυρὸς... βαλόντος) and begins to consume their chests and faces, and nobody can extinguish it, so that they die (3.209). Aaron and his remaining sons (τοὺς ἀδελφούς)[446] are commanded by Moses to take the bodies out of the tabernacle to give them a "magnificent" (μεγαλοπρεπῶς) burial.[447] All the people mourn them deeply, but Aaron and his sons are ordered by Moses (3.211) not to dwell on their grief, but to focus on their honouring of God (τὴν εἰς τὸν θεὸν τιμὴν).[448] Josephus then explains that Aaron had "already" (ἤδη) been dressed in the priestly robes, thus making it clear that his role as priest overcomes his family responsibilities.[449]

There are a few points to extract from this story. First, it is worth observing the suppression of the "strange fire" which is found in Leviticus as the source of the priests' downfall: what is meant is probably a flame that is not from the altar fire, but kindled naturally elsewhere.[450] But it may be worth looking briefly at what Plutarch has to say about the fire which the

[444] Cf. Feldman 2004: 2.208.
[445] Smolar and Aberbach (1968: 93) see apologetic motives in this shift, associating it with the suppression of the Golden Calf episode, as part of a general avoidance of material which might reflect badly on the priestly line.
[446] In Leviticus (10:4) it is two named relations of Aaron who are called upon to remove the bodies, avoiding the possibility for the new priests to be immediately made unclean by contact with corpses.
[447] Cf. Smolar and Aberbach 1968: 93.
[448] This broadly follows the commands given by Moses in Leviticus (10:6), though there we also find them forbidden from leaving the tabernacle.
[449] Friis (2015: 58) argues that in mentioning the robes Josephus is "signifying Aaron's high-priestly holiness". Perhaps instead this should be taken as stressing the holiness of the robes, which transform their wearer.
[450] Morgenstern 1963: 6. Josephus may be suppressing similarities picked up by Laughlin (1976: 561) between the fate of Aaron's sons and the fate of Korah and his followers (Num. 16; *AJ* 4.56). This is discussed below (p. 227).

Vestals guard (*Numa* 9.6). This is a perpetual flame, always kept burning, but if it goes out, it has to be kindled not from another fire, but from a "pure and unpolluted ray of the sun" (ἀπὸ τοῦ ἡλίου φλόγα καθαρὰν καὶ ἀμίαντον), using mirrors.[451] The idea of different kinds of fires, and the importance of using the right kind, would not be foreign to Josephus' audience, making his avoidance of the issue even more marked.

Secondly, while there are no stories of instant divine retribution for ritual errors in Plutarch, he does, as we saw, emphasise the role of the *pontifices* as teachers of the right way of doing things in a ritual and sacrificial context – that it is a terrible thing for the priests themselves to perform such duties wrongly, and disobey the lawgiver (as Josephus presents it) would therefore be easily relatable to such an audience.

Josephus presents the story not as evidence of God's righteous judgement, or the sacredness of the altar and tabernacle. Instead, it is a story which demonstrates Aaron's own stoicism in the face of familial disaster, which is based both on his strength of character (τὴν ψυχὴν... στέρρος) and his belief in the fact that this was the will of God (2.208: κατὰ βούλησιν τοῦ θεοῦ). In Plutarch's *Solon*, (6.3) he includes the story of the Athenian lawgiver's visit to the philosopher Thales, whose rejection of marriage and children Solon questions. Thales then organises a messenger to come and inform Solon of the death of his son, which allows him to use Solon's instant grief as an explanation for his own decision to avoid the possibility for such loss of control. Plutarch then launches into a polemic against Thales' purported view, insisting that it is absurd to renounce things simply out of the fear that one may lose them –

[451] Admittedly, this seems mostly to be an opportunity for Plutarch to explain how this mechanism works. He also uses the purity of the flame to explain the need for the Vestals to be virgins – as Parker (2004: 563) notes, Plutarch finds this aspect of the institution puzzling.

instead, he says, unrestrained grief over the loss of something loved is evidence of weakness rather than goodness (ἀσθένεια γάρ, οὐκ εὖνοια). We can only be fortified against loss by reason (λογισμός).

When Josephus writes about Aaron's stoicism in the face of his loss, he is tapping into precisely this kind of discourse. It is a disaster to him as a father – Josephus acknowledges this – but at the same time, because he has taken on the role of priest, and recognises legitimate divine retribution, he is not overcome by grief. Josephus manages to combine an insistence upon doing things correctly within the sacred space of the tabernacle, with an insistence upon the ultimate nobility of Aaron and of his remaining sons.

4.2.3 Conclusions

We can conclude, therefore, that Josephus' portrayal of the institutions set up by Moses to regulate the relationship between the people and their God contains only a few parallels with similar material in Plutarch's *Numa*. This demonstrates that lawgivers were not assumed to be in charge of managing their community's relationship with the divine: that this is such an important feature of Moses' task therefore makes him stand out. Nevertheless, reading Josephus with Plutarch reveals a shared assumption about cosmic and universal symbolism which is inculcated by sacred spaces and the actions taken within them – these meanings ought to be universal, and of relevance to everyone, regardless of whether or not one belongs to the community regulated by the particular lawgiver or not.

We also find differences in the notion of priesthoods. Perhaps unexpectedly, Plutarch highlights the (limited) moral and educational role taken on by priests, whereas Josephus says

nothing about this, avoiding giving Aaron a pedagogical role which is above that of his brother. Josephus' discomfort with Moses' failure to take on the priesthood himself is evident in his repeated downplaying of Aaron's role, which can be linked with Plutarch's assumption that Numa himself was the first *pontifex* and that he was therefore in charge of setting the institution on its way down to his own day. Yet Moses as the instigator of the whole system (with divine help) plays a similar role to that of Numa. Josephus' Moses is not only a lawgiver for the people as a community, but also the mediator between them and their god, a role in which he continues down the ages – and one which is not limited by any priestly position, which would lapse and pass on with death.[452]

4.3 Written law

The final section of this chapter will explore the issue of written law: in the third book of the *Antiquities*, as we have seen, Josephus describes the process by which Moses obtains laws from God (p. 152 above). We have not discussed in detail the format in which these laws were delivered or developed, a question which we might expect to be significant for Josephus, for two reasons.

In Plutarch's *Lycurgus*, the biographer declares that the Spartan lawgiver left no written laws (13.3). Instead he chose to entrust the continuation of his polity to the establishment of strong normative behaviours in his citizens through carefully structured education. Lane has argued that this feature of Sparta is Plutarch's own invention and his concern with the issue reappears when he writes about the texts left by Numa.[453] From the other side, in late antiquity, the rabbinic sages were to claim an unbroken chain of transmission of the Oral

[452] As we see when Aaron transfers his priestly robes to his son before this death (*AJ* 4.83).
[453] Lane 2013: 57.

Torah from Moses to their own day.[454] Nodet, cited by Feldman, goes so far as to see this duality within Josephus' account, when, after the delivery of the Ten Commandments, the people ask Moses to get them "laws" as well from the deity (see p. 154).[455]

Josephus might thus be doubly interested in the question: firstly because Plutarch's concern suggests it might have been a live issue for debate among the Greek-speaking intelligentsia of the period, and secondly because a system of Oral Torah with equal authority to written Torah becomes central to rabbinic Judaism.[456] The relative value of written law, in contrast to "customs" (ἔθη) is also discussed by Philo.[457] Debate about the efficacy of different media for the transmission of law is therefore something to look for in Josephus' text, though this does not mean looking for orally transmitted teachings. As we will show in the final part of this section, Josephus does not seem to have such a concept. Rather, it is consideration of the relative value of written law and unwritten *traditions* which we will search out.

The first part of this section will show that the debate is highly present in Greek discourse, with Plutarch going further than any of his predecessors in his discomfort with written law. The second part will explore the *Antiquities*, showing first how unconcerned Josephus is with the issue as he narrates the writing of the law. Narrative aside, the rest of this section will look for places where we might expect Josephus to make mention of tradition in relation to Moses. Finally, we will look at an example of Josephus' citing of extra-biblical customs and regulations, to ask whether he views this material as distinct from the written Law of Moses.

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[454] M. *Av.* 1.1; Kugel 1999: 659; Goodman 2017: 160.
[455] Feldman 2004: 3.93.
[456] Klawans 2012: 145.
[457] *Spec.* 4.149-50; he is perhaps following Plato (*Leg.* 793a-c); cf. Gagarin 2008: 34.

4.3.1 Plutarch and written law

In Euripides' *Suppliants* (430-7), the hero Theseus contrasts the law of a tyrant with written law, presenting the latter as the only way for the poor to have equal access to justice. This reflects a development in Athenian thought, a "platitude" which regards written law as the guarantor of justice.[458] The inscribed laws we have from Athens do seem to be written not simply as monumental and impressive markers, but in order to be read with relative ease.[459] Athenian writers often refer to "the written thing" (τὸ γράφος, τὰ γεγραμμένα) rather than to "the law".[460] Yet in archaic Greece νόμος did not have to refer to anything written – a fact that is underlined by the decision in the final decade of the fifth century in Athens no longer to allow recourse to unwritten νόμος in the law-courts.[461] It is only at this point that law is finally defined as something written.

Antigone's famous appeal to the unwritten laws of the gods (ἄγραπτα κἀσφαλῆ θεῶν/ νόμιμα), which compel her to bury her brother despite Creon's decree, looks like a criticism of written law.[462] Yet Steiner points out that in fact the complaint has nothing to do with writing; instead it is about the source of laws: what she is referring to are *divine* laws, which have authority outside of individual locations and polities.[463] This notion of "unwritten law", which interacts with theories about the "law of nature", is not the topic of this section. We are interested primarily in the question of writing in connection with specific polities – and indeed, with specific lawgivers. Even Plato, who criticises writing for various reasons, appears

[458] Thomas 1996: 9.
[459] Gagarin 2008: 48.
[460] Gagarin 2005: 37.
[461] Thomas 2005: 51.
[462] Soph. *Ant.* 454-5; Thomas (1996: 13) notes that this reflects the context of Athens in which written law was itself controversial.
[463] Steiner 1994: 171. But Brague (2007: 22) suggests that this distinction is immaterial: the assumption made by Sophocles is that divinity and writtenness are mutually exclusive.

to assume that lawgivers have to write their laws down.[464] Anxiety about written law, its permanence, its communicability, and its potential for abuse, appears regularly in the Greek record, but it is Plutarch who finally suggests that it is possible for a lawgiver to do away with it entirely.[465]

4.3.1.1 Rejection of written law in the *Lycurgus*

According to Plutarch (*Lyc.* 13.1), Lycurgus did not establish written laws. By using the verb τίθημι, Plutarch defines Lycurgus' practice in contrast to other lawgivers, also suggesting that "written laws" are a particular category, a subset of the greater group of νόμοι. The usual goal of legislation, the combination of happiness and virtue (εὐδαιμονίαν πόλεως καὶ ἀρετήν), is said to rely instead on the "customs" (ἤθεσιν) and "conduct" (ἀγωγαῖς) of the citizens, which are instilled by education. Using personification, Plutarch observes that this education places an internal lawgiver (νομοθέτου διάθεσιν) in each citizen. Writing is taken to be necessarily external.[466]

Yet, despite his proclamation against written laws, it is not the actual writing of the laws that Plutarch's Lycurgus is rejecting.[467] We do not have the replacement of written law with oral law, defined as a specific set of commands and prohibitions that are memorised and orally transmitted.[468] Lycurgus' citizens are not imagined as memorising a set of tenets. As Plutarch goes on, this becomes clearer. He refers to business contracts (13.2), and says that it is better

[464] Steiner 1994: 234.
[465] Thomas (2005: 47) cites the curses attached to epigraphic laws, which call down horrors upon anyone who defaces the stone, or misreads the contents, as examples of this anxiety embedded in inscription itself.
[466] Lane 2013: 58: "The very external nature of writing makes its use for ethical habituation problematic."
[467] Hayes (2015: 59) has argued that "unwritten" is one of the features of divine law in the Greek scheme; this is *not* however, the concept of unwritten law which Plutarch is using; for Steiner (1994: 182), "there is an opposition between writing and written law and the properly Spartan virtues of obedience, endurance, and courage."
[468] Lane (2013: 57) notes that Plato was concerned about written law ruining memory. This is not a problem which Plutarch is responding to.

for them not to be constrained by written requirements or unchangeable customs (ἐγγράφοις ἀνάγκαις μηδὲ ἀκινήτοις ἔθεσιν): rather they should be adaptable to new circumstances (ἐπὶ τῶν καιρῶν), something that can be well managed by those who are educated (οἱ πεπαιδευμένοι δοκιμάσωσι).

This is illuminating: it demonstrates that there are two different kinds of law which are being discussed, even though both are unwritten. The reason for not writing the first is the opposite of the reason for not writing the second. When it comes to what we might call "contract law", there needs to be flexibility, which writing would endanger.[469] With respect to the larger concerns of the lawgiver, the happiness and virtue of the state, the opposite effect is hoped for from the same premise (i.e. the absence of written law). Lycurgus aims not at flexibility, but at immutability: imparting habits through education leads to unmoving stability (ἀκίνητα καὶ βέβαια). It is striking that the words ἔθος and ἀκινήτος are both repeated in connection with the dangers of fixed customs to contract law: the repetition highlights the contrast.

We might see this as incoherent: Plutarch attributes to the writtenness of law the potential both to prevent and to ensure change. But that is not the case. Instead, the dual possibility reveals that writing itself is not his problem with respect to the really important laws. These are unwritten, not because writing endangers their immutability, but because writing them is not good enough. Written law is a failure really to imprint ethical standards on the citizens. This is indicated by the use of the superlatives κυριώτατα and μέγιστα (13.1): implicit is the idea that while written law might be *a* method of securing a virtuous and unchanging state, it isn't the most powerful method.

[469] Hayes (2015: 67) observes that a common response to the problem of written law as inflexible is its replacement with a "living law", i.e. a king.

The debate is not about the medium through which law should be transmitted. If that were the case, Plutarch's concern would be about how Lycurgus gets his student-citizens to memorise his words: the body of law would be the same; the only difference would be its transmission. But Plutarch's picture of education as lawgiver points instead to character formation as the central tenet. It is not about creating citizens who know that they should not, for example, crave luxurious items (cf. 13.3). It is about forming citizens for whom luxury has no appeal anyway.

The conclusion we can reach is that when Plutarch refers to the ban on written law in the *Lycurgus*, it is not actually the writtenness that he is rejecting. Instead, it is the notion of law as a body of text. He is instead embracing the notion of νόμος as custom that becomes character. Character-forming custom then replaces written laws – but is still established by a single lawgiver.

4.3.1.2 Secret written documents in the *Numa*

In Chapter Five we will note the significant role played by Numa's writings when he dies; they are equated with the man himself in death, buried in parallel with him in a separate coffin (p. 289). We are interested here in the role of the *writtenness* of the texts. Plutarch brings out the fact that these are writings which Numa wrote "himself", highlighting their physical production (ἐγράψατο… αὐτός). Writing, then, is not only about permanence, but also about the physical link with the lawgiver that such texts create: this is why the books only appear at this moment in the biography, when the lawgiver has died. Written law becomes a physical connection with its writer.

However, Plutarch retains his suspicion of writtenness, as he reports why the books were buried with their writer: their contents he had taught to his priests, not trusting soulless letters (ἐν ἀψύχοις γράμμασι) with the important materials (22.2). Yet Plutarch does not say that he taught the priests "information", "precepts", or "laws": he taught them "the written things" (τὰ γεγραμμένα). Because these *are* written things, there is a fixed body of law which he imparts. This is distinct from the unwritten lawgiving of Lycurgus. Moreover, the audience is limited: because this is cultic law, and there is a subset of society whose job it is to ensure these things are done correctly, there is only a small group which needs access to the information.

Yet as Plutarch goes on (22.3), he points to similarities with Pythagoreans (a recurring theme: see p. 147, 168). For the same reason as Numa (ᾧ λογισμῷ), they did not entrust their precepts (συντάγματα) to writing, choosing instead to impart their unwritten memory (μνήμη) and practice (παίδευσις) to those worthy of receiving them (τοῖς ἀξίοις). There is a difference here, which Plutarch does not acknowledge: Numa's laws *are* written, even if they are *also* taught orally to a select group.

Furthermore, the stated reason is distinct from that of Numa, which related to the "soullessness" of writing, apparently contrasting the medium of lifeless letters with humans, the latter being self-evidently (to Numa, and Plutarch) superior.[470] The Pythagoreans, in contrast, are concerned with the possibility of their secrets being made public, the esoteric knowledge leaving the special group: thus (22.3), there was extreme consernation when a particular secret of geometry was discovered by "some unworthy person" (τινα τῶν ἀναξίων).

[470] Lane 2013: 70.

When Plutarch writes about Pythagoras, he is really writing about the followers of Pythagoras in the generations after he lived.[471] It is not the originator himself whose choice to avoid writing is highlighted; it is his followers, who are parallel to Numa's priests: moreover, the newly educated priests will behave in the same way. Numa himself may have written; his followers apparently will not. When Plutarch reports the unearthing of Numa's writings (22.5), they are burnt, because it is not lawful (θεμιτόν) for them to be "published" (ἔκπυστα).[472]

Only two options are envisaged: the destruction of the writings or their publication. There is no suggestion that once rediscovered they could be hidden again, or that they could simply be passed to the priests.[473] Writtenness is taken to be incompatible with secrecy – just as it is for the Pythagoreans.[474] Yet we should also remember that Numa's "lawgiving", even if it means something quite different from that of Lycurgus, is for the benefit of all Romans: that is, his writings might be secret, but their benefits are felt by the whole community, even if it is only a subset of the community that had access to them.

Writing in *Lycurgus* was a weak form of lawgiving; in *Numa* it is about the creation of a physical link to the lawgiver, but also assumed to be public in a way that is ultimately dangerous when the written laws are only for the knowledge of a select few. Why Numa's

[471] Cf. Volk 2015: 35: "It is but a slight exaggeration to claim that Pythagoreanism is an 'invented tradition', an only partly coherent set of beliefs and practices devised by later 'Pythagoreans' and fathered onto a *theios aner* as their supposed *primus inventor*."

[472] A more detailed version of the story is found in Livy (40.29.3-14), and Varro's account is preserved for mockery by Augustine (*De Civ. D.* 7.34), who interprets the books as an admission of the falseness of Roman ritual practice. Scholars have suggested that the event was staged – Livy and Pliny both comment on the unexpected longevity of the buried texts, and forgeries by Pythagoreans (so Prowse 1964: 41, followed by Humm 2014: 39), or even by the Senate itself are postulated: the latter is suggested by Gruen (1996: 170), who suggests that in this was a mechanism for the "exorcism" of the "Hellenic underpinnings" of Roman religion, eradicating "material that recalled a time of cultural dependence".

[473] None of the other versions of the story suggest that the books which are found contain the same knowledge that priests are supposed to have been taught. Numa's account is selective. Cf. Betz 2008: 59.

[474] Though the example Plutarch provides suggests even unwritten precepts could go astray.

writings needed to be secret is not discussed by Plutarch, but the issue allows us to identify patterns in Plutarch's thinking, in which writing is dangerous, and less than ideal, as a mechanism for the promulgation of law.[475]

4.3.1.3 Inscribed stones in the *Solon*

There are two types of writing left by the lawgiver Solon. The first, and most important, is the public tablets on which his laws are inscribed. The second, and perhaps more enduring, is his poetry. But Plutarch does not see both as aspects of Solon's lawgiving. He only quotes Solon's poetry as evidence of his character (14.5), or of events in his life (15.5). He does not quote poems which exhort citizens to particular behaviours, even though he refers to such poetry being part of Solon's output, when he notes that the lawgiver first wrote poetry for fun, but then began to use it to advance his philosophy (3.3).[476]

It is only when he is formally appointed lawgiver that written law is mentioned, and what is notable about this, in comparison with *Lycurgus-Numa*, is the absence of any concern on Plutarch's part about the format. Indeed, he is proud of the fact that he has *seen* some of these inscriptions, which remain in Athens to his own day (25.1).[477] Yet given the concerns Plutarch had in *Lycurgus-Numa* about the medium of writing, the absence of any similar anxiety is striking. What he cares about is simply their physicality, and their longevity.[478] That he only

[475] Koulakiotis (2008: 409) sees the same discomfort with writtenness in the "rhetorical" Alexander who appears as a kind of lawgiver in the *Moralia* (*De Alex. fort.* 328E).
[476] Steiner (1994: 230) notes that Solon's poetry becomes a form of "communal property".
[477] Loraux (1988: 96) observes that Plutarch pictures Solon writing his laws on the boards himself.
[478] Steiner 1994: 67. The stones are symbolic as well as legislative.

mentions them in connection with Solon's departure also points to the way the written text comes to take the place of its author.[479]

Yet one thing about Solon's laws and how they are written is worth observing. In the *Lycurgus*, discussing business contracts and "small matters", Plutarch suggests that written law is too rigid, lacking the necessary flexibility to allow for such things to be properly managed by educated citizens (see p. 192 above). The idea is that written law, which now means law specifically phrased, is unbending, unchangeable, and not fit for such purposes. Yet in the *Solon*, Plutarch acknowledges the possibility of precisely the opposite, when he observes that Solon is said to have given some of his laws obscure phrasing to maximise the potential for juries to make their own judgements (28.3). With this, Plutarch acknowledges the role of interpretation in the work done by written law.[480] Because of the lack of clarity in the wording, he claims, jurors were effectively made "masters of the laws" (τῶν νόμων κυρίους). Interpretation is here done by jurors themselves in the process of their judgements, and not by a growing body of precedent. Writing can result in flexibility, but the way this then works is through human decision on a case-by-case basis.

An examination of Plutarch's approach to writing and law in these three *Lives* reveals some contradictions. Clear statements about the dangers of writing, both because it weakens the true power of law as mechanism for the acquisition of virtue, and because it limits the scope for flexibility, combine with the more implicit assumption that written things are necessarily public and accessible. We can perhaps observe a distinction between the *Lycurgus-Numa* and the *Solon*, in that the first pair idealises the notion of law in a way that the *Solon* does not, so

[479] Lane 2013: 67; Steiner 1994: 271.
[480] Sanders 1990: 97: if we take "oral law" to mean "law as interpreted", everyone observes a form of oral law.

that in the differences between them, we observe a difference between the role Plutarch sees for written law in the real world, versus its ideal absence in a perfectly formed society.

4.3.2 Josephus on written (and oral?) law

Given the intensity of Plutarch's concern about this issue, it is worth looking for similar concerns in Josephus. We will first explore the question of the medium of the law within the Sinai narrative, before looking more broadly for any references to orality and tradition in relation to Moses' laws. The last subsection will evaluate Josephus' use of extra-biblical regulations as evidence for his awareness of unwritten "Mosaic" legal traditions. Overall, we will find questions about writtenness striking only in their absence.

4.3.2.1 God writing and Moses writing

The physicality of written law was something that seemed to matter to Plutarch, with the act of writing by the lawgiver making the texts into objects with a close connection to their maker. The act of writing and the written things are important to Josephus as well – Moses writes laws and hands them over in book format at the end of his life. *God's* act of writing the Decalogue is highlighted in the narrative, alongside the dramatic account of the divine voice.

The divine voice, and Josephus' explanation for it, might lead us to conclude that, like Plutarch, Josephus regards written text as defective in some way. Apparently merely leaving the written tablets would not be good enough. But it is the human *tongue* that is defective, not human writing. As discussed above (p. 154), Josephus explains (3.89) that it was necessary that the excellence of what was said not be mangled (βλαβείη) by a human tongue (ὑπὸ ἀνθρωπίνης γλώττης). The danger inherent in human speech would appear to be the possibility of

mistranslation: the chance that the words would be incorrectly transmitted – even by a human as virtuous as Moses.

Yet this is not how the rest of the law is transmitted and it is not even how the Decalogue is to be transmitted long-term. Even these perfectly communicated words are immediately referred to as *written* on the tablets (3.90): οὓς Μωυσῆς ἐν ταῖς δύο πλαξὶ γεγραμμένους κατέλιπεν. We will only discover later that these tablets which Moses left were written not by the human lawgiver, but by God himself. At a moment of supreme oral communication, Josephus instantly brings in the written documents which will be the true method of long-term transmission.

The written tablets are brought down after Moses' forty-day sojourn on the mountain. In Exodus, Moses writes down all God has said, and only after the confirmation of the covenant does the Lord call Moses up specifically to receive the law which he has written (Ex. 24:12). Josephus compresses the account considerably, and gives Moses a far more active role in the decision to go up to Sinai. Moreover, Josephus' tendency to refer to the "written tablets" means that he avoids explicitly referring to God in the act of writing.

Yet he does not avoid anthropomorphism entirely. After Moses has finished speaking, he shows the people two tablets (δύο πλάκας) which have the ten words written on them, five on each; and, Josephus says (3.101), the "hand of God was upon the writing" (καὶ χεὶρ ἦν ἐπὶ τῇ γραφῇ τοῦ θεοῦ). Feldman links this to Exodus 31:18, which refers to the "stone tablets written by the finger of God".[481] Χείρ can refer to handwriting, as it does in a couple of the Pauline

[481] Hb: לֻחֹת אֶבֶן, כְּתֻבִים בְּאֶצְבַּע אֱלֹהִים; LXX: … πλάκας λιθίνας γεγραμμένας τῷ δακτύλῳ τοῦ θεοῦ. Cf. Feldman 2004: 3.101.

epistles.[482] This is probably the meaning we should ascribe to it here; at the same time, we could also take "hand" more metaphorically, meaning that God's part in the process was obvious, but not necessarily that there was actually a divine act of writing. Josephus' decision to shift from "finger" to "hand" might be a choice based on the potential for this ambiguity, so that his readers can interpret according to their pre-existing assumptions.

More striking, in terms of the written law as a physical object, and its relationship with its writer, is his description of the Ark of the Covenant. Josephus introduces it as an ark "for God" (κιβωτὸς τῷ θεῷ), before finishing the account (3.134-8) by stating that the tablets with the Decalogue were deposited in it (ἐγκατέθετο). A non-Jewish audience hearing of a box made *for* a deity might imagine that the god himself is meant to dwell there. When this is clarified, and the tablets deposited, we almost end up with an identification of God and the Decalogue, so that they are, in a sense, the same thing. We might recall the place taken by the scrolls of the law in the triumph of 71 CE, suggesting (to the Roman crowd) an identification of the (vanquished) god of the Jews with the Torah-scrolls.[483] Yet this is more specific: these are the tablets which God's hand touched. The identification is more between the written laws and the one who wrote them on those tablets. Indeed, the sanctity of these divinely written tablets is perhaps the main reason for Josephus' omission of the golden calf episode, which involves the lawgiver destroying those tablets (Ex. 32:19), something which Josephus cannot bring himself to describe.[484]

[482] 1 Cor. 16:21= Col. 4:18: Ὁ ἀσπασμὸς τῇ ἐμῇ χειρὶ Παύλου.

[483] Goodman 2007a: 431.

[484] Sterling 2018: 94. He also cites the importance of literary compression (turning five trips up the mountain into two), and the role of Aaron, protection of whose reputation is cited as the primary reason for the suppression by Smolar and Aberbach (1968: 92) but, as we have seen, Josephus is far more interested in protecting Moses than

What is interesting is that we can see the same kind of identification happening with Moses. Josephus writes (3.213) that Moses "was still writing" their constitution and laws (ἔτι… ἔγραφε). The use of the imperfect tense makes explicit that this is a long-term process.[485] Even the reference to God's instructions as part of the process is in the imperfect tense (ταῦτα… κατὰ τὴν ὑπαγόρευσιν τοῦ θεοῦ συνετάττετο). There is also no reference made to the physical context for his writing: scrolls, books, or writing implements. Where he obtained his materials and how these documents were kept are not Josephus' concern. It is only in Moses' final moments, when he hands the finished book, or scroll, over to his people that the physical object becomes a matter of importance, as part of the lawgiver's departure (see p. 295). Its absence from the story so far may imply that we could read it as replacing its author.

Within the narrative, therefore, both God and Moses are writers of the law, creators of physical objects which contain laws. Josephus highlights the process of writing, and never suggests that it is a problem. Indeed, the Sinai narrative implies that human speech is far more of a problem for transmission than human writing.

4.3.2.2 Laws that speak

The laws are unquestionably written down, but we do find emphasis on their ability to speak. Adapting Deuteronomy 31 as part of his summary of the "constitution", Josephus describes the recitation of the laws at the feast of tabernacles every seventh year (see p. 259). The purpose of this seven-yearly reread, he tells us (4.110), is to ensure that people have the law "graven on

Aaron. Von Ehrenkrook (2011: 148) argues that the primary reason for the suppression is to avoid an incident of iconism in the otherwise pristinely aniconic early history of the Jews, but it should be noted that at this stage the ban on images has not actually been communicated. Spilsbury (1996: 355) also takes cultic concerns as primary.

[485] In contrast, the book of Jubilees (2.1) presents Moses as writing to the dictation of an angel upon Mt Sinai, starting with the creation account. See Jaffee 2001: 24.

their hearts" (ταῖς ψυχαῖς ἐγγραφέντας), and so will not sin through ignorance (ἄγνοιαν). For those who are intending to do wrong, the recitation of penalties for such wrongdoing will act as a deterrent. Hearing the law leads to its being written on the heart.[486] Writing and orality are thus not opposites; they complement one another.

There is something else here. The laws, Josephus says, will have "freedom of speech" (ἔξουσι παρρησίαν), a term with particular resonance in classical Athens, where it develops into a "key word for the citizen's freedom in democracy".[487] Within aristocratic contexts, it is particularly associated with the ability of the elite to speak their minds, something that is suppressed under tyranny: that kings ought to allow their advisors παρρησία is a perennial theme in discourses on kingship.[488] Finally, it is seen as important within friendship that both parties should be able to speak freely – and this becomes the mark of a true friend, who does not flatter.[489] Josephus' use of it in this context is therefore striking: the laws themselves enact this value, behaving like the good advisor or friend, to correct citizens and prevent their wrongdoing. The use of this term from Greek political philosophy, and the consequent personification of the written text of the law, suggests that Josephus sees the written laws as acting in Moses' place after his death, powerful and able to speak to individuals.

Unlike Plutarch, Josephus does not regard written-ness in itself as necessarily public. Written law needs to be transmitted through an oral medium. Secondly, like Plutarch, he regards law

[486] Cf. Deut. 6:6, and (for written-ness particularly) Jer. 31:33.
[487] Raaflaub 2004: 49.
[488] E.g. Dio Chrys. *Or.* 3.3 (praise for the good king's appreciation of παρρησία and truth), 4.15 (Alexander delighted with Diogenes' παρρησία), 6.57 (the tyrant hates παρρησία). In Moses' swan song (4.187, see p. 293), he tells the people that παρρησία should not mean the verbal abuse of one's benefactors. This assumes that παρρησία itself, correctly interpreted, is an accepted part of Mosaic society.
[489] Plut. *Mor. Quomodo adulator* 59B7 (on the παρρησία of the true friend).

as moral education. But whereas for Plutarch, written law was defective as education, so that for Lycurgus it had to be entirely replaced by the educational system, for Josephus the two necessarily go together: written law is the method which is employed to educate the people.[490] Indeed, he says not only that the laws should be written on the hearts of the people, but also that this should lead to potential wrongdoers having the "principle" (τὴν προαίρεσιν) fully internalised (4.211). It is not the words of the law-code specifically that they need to internalise; it is the principles. It was argued above (p. 193) that Lycurgus' ban on written law was less about writing itself, and more about a preference for principles over carefully-worded requirements. Here we see Josephus bringing both together: the recitation of the carefully-worded, written code, leads to the instilling of correct principles in the hearts of the hearers.

4.3.2.3 Tradition and custom

Yet Josephus certainly acknowledges the existence of an extra-biblical body of custom. In *Antiquities XIII* (297), he writes about the diverging opinions of Sadducees and Pharisees about ancestral tradition. The Pharisees have handed down a law (νόμιμά τινα παρέδοσαν) which is not written in the laws of Moses (οὐκ ἀναγέγραπται ἐν τοῖς Μωυσέως νόμοις), while the Sadducees reject this (ἐκβάλλει), saying that only written law (νόμιμα τὰ γεγραμμένα) should be considered, and not laws from tradition (τὰ δ' ἐκ παραδόσεως). Sanders has argued that the most natural way that this should be understood is that the Pharisees accept *nomima* handed down from their ancestors that are not written in the laws of Moses, while the Sadducees accept only *nomima* which are written – that is, they only accept the written laws of Moses,

[490] Cf. Deut. 17. Hayes (2015: 35) points out that here the king is commanded to read the laws, not because he needs to learn facts, but in order that he should internalise principles.

and thus reject the Pharisaic traditions.[491] An important adjustment to this is made by Mason, who points out that the primary distinction here is one of *provenance* rather than medium: the Pharisees accept extra-Mosaic customs – that these are unwritten is not strictly required by Josephus' contrast.[492] Even if these Pharisaic traditions are unwritten, Josephus is probably talking about customary *behaviour* rather than orally preserved teachings.[493] In either case, it is crystal clear that *Moses*' laws are certainly written.

Yet, in his rewriting of Mosaic Law, Josephus, as we know, includes extra-biblical material, and, in particular, he associates Moses explicitly with having authority over legal requirements that are not in the Pentateuch. At the end of the third book of the *Antiquities*, Josephus tells a story about a group of travellers from "beyond the Euphrates", who went to the Jerusalem temple to make sacrifices in honour of the Jewish God. However, on arrival they discovered that they could not partake of sacrifices in the temple, because Moses had forbidden this to non-Jews: and indeed, they could not even enter the temple beyond the outer courts. They thus chose to remain outside, obeying Moses rather than doing as they would have preferred (3.319). Yet, as Sanders notes, that the temple should separate gentiles, with special courts, is not a biblical requirement, even though it became a prominent feature of Herod's temple.[494] Sanders sees this as an example of the kind of custom that was universally accepted, rather than being a feature of Pharisaic tradition, or any other subgroup. Josephus sees obedience to this requirement as a clear example of obedience to Moses. This shows that even if Josephus never refers to any aspect of Moses' law being orally transmitted,

[491] Sanders 1990: 100. He concludes (p. 107) that "The Sadducees employed the rhetoric of living only by written law, while the Pharisees admitted that some of their practices were not biblical."
[492] Mason 1991: 242.
[493] Goodman 2007b: 118.
[494] Sanders 1990: 105.

and assumes that the act of writing is exhaustive, he does not actually distinguish between what is in the Pentateuch and what is not.

Josephus thus has no problems with written law; he does not doubt its efficacy, or question its validity. Reading the *Antiquities*, one would think simply that Josephus' notion of Jewish law was of something written by God and the lawgiver, entirely encompassed in the five books of Moses (even if there are more sacred books to come).[495] Unwritten law is not a category he acknowledges in the work, even though he certainly accepts as authoritative certain extra-biblical traditions.[496] The question of writing which was so important to Plutarch is thus absent for Josephus.

4.3.3 Conclusions

This has been a chapter about the nature of the Mosaic law-code in the *Antiquities*. The first part examined the divine origin of the law, closely analysing the Sinai narrative, as well as Josephus' own authorial comments about it outside of the narrative proper, and concluding that in fact, Josephus is more ambivalent about the question than previous scholarship has assumed, and that he leaves options open for his more sceptical readers. Comparison with Plutarch showed that this ambivalence is not unique to Josephus, so that we should not assume a straightforward dichotomy of Jewish divine law and Greek human-made law, but rather a mix of the two appearing in both contexts.

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[495] Friis (2018: 77) notes Josephus' insistence on his written sources for history, despite the likelihood of oral sources for some of his material.

[496] Klawans (2012: 170) evaluates Josephus' treatment of the relationship between customs and Mosaic law throughout his works, and comes to a similar conclusion – that Josephus sees little distinction between "law" and "custom" in terms of authority, which Klawans suggests is related to his Pharisaic perspective: "[Josephus'] indifference to precise categorisation illuminates the fact that he has internalised the equal authority of both scripture and tradition." A particularly good example appears in his account of Pompey's assault on Jerusalem (*AJ* 14.63), where general Sabbath observance is called "ancestral custom" (πάτριον), while the ruling that allows self-defence on the Sabbath is named "the law" (ὁ νόμος). This latter usage is discussed by Meier 2009: 35.

The second section looked into Josephus' portrayal of what we called cultic law, recognising that that most of the regulations which are reported in this book relate directly to the management of the relationship between the people and their God, through the tabernacle, and choice of priests. We did not go into the question of Josephus' adaptation of his source material, but rather asked which parts of these extended accounts might have particular relevance and interest for Josephus' audience, finding his account of temple symbolism particularly productive – with parallels in Plutarch that have not been observed before. Finding Plutarch also judging the piety of his lawgiver on the basis of his religious institutions, we observed that the lawgiver appears to stand in for his people. Finally, looking at the appointment of priests, and Josephus' clear discomfort with Moses' lack of priestly status, we found in Numa a parallel which both explains this discomfort and mitigates it, since we see Moses performing the same functions as the Roman king despite not holding the priesthood.

The final section of the chapter explored the problem of writing: a problem we expect Josephus to face from two sides, Jewish and Greek. The fact that it is *not* an issue is made ever more striking by analysis of parallels in Plutarch: Josephus sees no limits to the power of written law, even emphasising its ability to speak, at the same time as imbuing customs which are not in the Pentateuch with Mosaic authority.

Overall, Josephus' portrayal of the transmission of the Torah to Moses and the Israelites contains numerous points of ambivalence which can most clearly be recognised in comparison to similar ambivalence in the writing of Plutarch. Josephus' depiction has sometimes been dismissed as pious and orthodox; his sensitivity to reception by a non-Jewish audience reveals a more complex attitude to the tradition and to his source texts.

Chapter Five: Leaving the Law

The third book of the *Antiquities* ends with the spies' report back about the land of Canaan and the resulting rebellion against Moses, which leads to the punishment that this generation of Israelites will spend forty years in the wilderness. The short digression on Moses' powers of persuasion (3.317-22, see p. 160, 204) brings the book to a close – an ending which is then immediately thrown into doubt by the opening of the *Antiquities IV*, which shows the people trying to enter Canaan against Moses' orders.

The attempted invasion fails, and Moses leads the people back into the desert, but a fresh rebellion breaks out, led by the Levite Korah (4.14), who has his sights set on Aaron's priesthood and accuses Moses of nepotism. Only a few chapters after this rebellion has been seen off and Aaron's priesthood confirmed, Josephus reports the deaths of both of Moses' siblings, Miriam and Aaron, with the high priesthood passing to Aaron's son, Eleazar (4.83). Soon after this, Moses leads an attack on Midian, in response to a series of hostile actions, starting with the king Balak's attempt to get the prophet Balaam to curse the Israelites (4.102-25), and ending with a more serious incursion: the sending of Midianite women to corrupt the Israelite youth and turn them to the worship of Midianite gods (4.131). Josephus' expansive account of this episode brings to an end the part of the book dealing with rebellion.

With the ending of all conflict within the Hebrew people, and the defeat of the Midianites, it appears that Moses' task is done: he appoints his successor, Joshua (4.165), and prepares for his own death, giving a series of speeches to the assembly on the theme of keeping to the laws he has given, and handing over the text of the laws (4.194): at this moment Josephus breaks off the narrative to provide a digression on the "constitution". Once that is complete, Moses

makes his final speech, obtains an oath of obedience from the people, and departs to a mountain, where he disappears, leaving Joshua as his successor (4.326). The book closes with a short obituary summarising Moses' virtues.

This summary of the contents of the book makes clear what the key issues for discussion will be. The first is the role of rebellion and conflict: Josephus places this series of rebellions in a cluster in the first half of the book, and frames them around Moses' role as lawgiver, mediator, and political leader, suggesting comparison with the role played by conflict in the lawgiver narratives of Plutarch (5.1 Conflict and resistance).

Throughout the first books of the *Antiquities*, Josephus writes about the constitution which Moses gave to his people, but it is only in *Antiquities IV*, before Moses' death, that he provides details about its contents (5.2 The constitutional laws). Josephus claims only to have restructured the material: how he has structured it then becomes important for our understanding of what categories of law Josephus sees as part of the constitution, particularly in comparison with the overview of the Spartan lifestyle in Plutarch's *Lycurgus*.

Finally, the book deals with Moses' preparations for his departure, through a series of speeches, the formal appointment of a successor, administration of oaths, and the handing over of the written laws. Moses then departs and dies. We have already seen (p. 59) that the death of the lawgiver is a significant element within the tradition, if one that develops late. Using Plutarch's particular portrayals of lawgivers leaving and dying in the cases of Lycurgus, Numa, and Solon, we will evaluate some of the influences on Josephus' portrayal of this moment (5.3 Death and departure).

5.1 Conflict and resistance

Rebellion against Moses is a persistent theme in the *Antiquities*, as it is in the story of the Exodus in the Hebrew Bible: the people regularly grumble, complain, and come close to stoning their leader.[497] Yet in the narrative as Josephus tells it, these conflicts become something more than mere dissatisfaction when we reach *Antiquities IV*. The three rebellions that take place in the first half of this book (105 of 331 chapters in Niese's text) are expanded, and all centre on Moses' position as lawgiver and political leader.

The rebellions are as follows: after being banned from entering the Promised Land because of their despondent response to the report of the exploratory spies, the people convince themselves that they retain divine support. They make an attack on Canaan, and are soundly defeated (4.1-8). The second rebellion is instigated by Korah, who takes issue with the selection of Moses' brother Aaron for the high priesthood. He and many of his followers die in a supernatural fire (4.11-66). Finally, following the advice of the prophet Balaam, the king of Midian sends women to the Israelite camp to seduce the young men and get them to abandon their laws; this they do, and the resulting sedition is led by Zambrias, who stands up in the assembly to repudiate Moses and his laws. He and his foreign wife are killed by the zealous Phineas (4.126-55).

In outline, the three look similar to the stories told in Numbers 14-16, but in the detail Josephus' accounts are original: he gives each rebellion an articulated cause, either explaining the thoughts of the rebels, or providing speeches by their leaders in the assembly. Moses sometimes responds, and sometimes does not. Most importantly, the reasons given, in every

[497] E.g. Ex. 14:11, 15:24, 16:2, 17:2; Num. 11:1, 14:2, 16:41, 20:3.

case, relate to political freedom and the status of Moses: Moses is a tyrant, replacing the Egyptians as their slave-master (4.3, 147), God alone is their leader, there is no need for a legislator (4.6), Moses has only *pretended* to get laws directly from God (4.23, 146), and has chosen his brother as high priest in an act of blatant nepotism (4.19); the laws are unnecessarily restrictive, opposed to what is common to the rest of mankind (4.148). This is a series of challenges to Moses as lawgiver.

This element of *Antiquities IV* has not been properly recognised, although previous scholarship has examined these narratives. For Spilsbury, the conflicts serve to underline the importance of following the Mosaic Law for Jewish identity.[498] For Van Unnik, the affair of the Midianite women gives Josephus a chance to dramatize some of the debates within the Jewish community in Rome in his own day.[499] For Feldman, Josephus uses Korah's rebellion to demonstrate the sanctity of the priesthood, the dangers of envy, and the lethal power of demagoguery.[500] For Damgaard, the seditions are Josephus' opportunity to paint Moses as a general skilled at subduing military mutiny, in whom readers are meant to recognise the young Josephus as he appears in the *War* and then the *Life*.[501] There may be some truth in all of these claims, but they fail to identify the common threads between the different challenges.

In fact, while the term νομοθέτης all but disappears from the narrative in *Antiquities III*, it reappears precisely here (4.6), in the thoughts of the misguided Israelites as they think they can attack Canaan with God's support despite the command of their lawgiver. Damgaard is right to note that Josephus appears to frame the sedition of Korah as a military event, as in

[498] Spilsbury 1998: 145.
[499] Van Unnik 1974: 259.
[500] Feldman 1993b: 408, 12, 15.
[501] Damgaard 2008: 220.

Thucydidean language he speaks of the way defeat affects armies: they become ungovernable and difficult (δυσάρκτοις... καὶ δυσπειθέσι).[502] In the same way, the Jews (Ἰουδαίοι, an anachronism)[503] fell into stasis unparalleled among Greeks or barbarians (4.12). Yet although this is framed by the comparison to armies (ὅπερ... τοῖς μεγάλοις συμβαίνει στρατοπέδοις), Josephus does not describe the mutiny as military: Moses here is "leader" (ἡγεμών) and "lawgiver" (νομοθέτης) not "general". The complaints themselves have nothing to do with the army. The explanation for Josephus' expansion of these episodes should be found in Moses' identity as lawgiver, rather than as general. Even when Feldman explicitly compares Josephus' Moses and Plutarch's Lycurgus, he only notes that "both... survived rebellions": he does not discuss the nature of those rebellions.[504]

As we saw in the second chapter (p. 55) Szegedy-Maszak's survey of lawgiver legends results in a three-part pattern, two parts of which involve conflict. The lawgiver is called upon because a community is unable to resolve its state of stasis, and he faces some challenge to his legislation once complete: successfully overcoming this opposition leads to the permanence of his programme.[505] Plutarch explicitly regards dealing with such conflict as the lawgiver's key task: discussing Numa's goddess (see p. 144), he notes in passing that men such as Zaleucus, Lycurgus, Minos and Numa were all dealing with people "hard to handle and hard to please" (δυσκάθεκτα καὶ δυσάρεστα): the list is clearly of legislators.[506]

[502] Thackeray (1930b: 7) cites Thucydides as a parallel (7.80: οἷον φιλεῖ καὶ πᾶσι στρατοπέδοις μάλιστα δὲ τοῖς μεγίστοις), as well as *BJ* 2.92 (τό τε δύσαρκτον καὶ τὸ δυσπειθές) for the choice of adjectives.
[503] Feldman 2004: 4.11.
[504] Feldman 2005: 219.
[505] Szegedy-Maszak 1978: 208.
[506] Note also the passing similarity with Josephus' description of the difficult army (4.12).

Before examining Josephus' versions of these moments of difficulty, therefore, it will be necessary to identify the role played by conflict in Plutarch's narratives: it will be shown that instances of conflict are intimately associated for Plutarch with the need for the lawgiver to obtain consent for his legislative programme, and that this consent is obtained not through force, or reasoned argument, but by recourse to the personal character (or Weberian charisma)[507] of the lawgiver himself. Having identified the model as it appears in Plutarch, we will then examine the three episodes in Josephus' narrative, showing that consent is also an issue with which Josephus deals, but that it is obtained through a combination of reasoned persuasion (by the lawgiver), and force (from others – human and divine).

5.1.1 Resistance and conflict in Plutarch

The role of conflict in Plutarch's lawgiver *Lives* can be divided into two parts: the conflict between citizens that provides the immediate context for the lawgiver to step in, and then the conflict with the lawgiver, by which the legislator obtains consent.

5.1.1.1 The need for law

The almost primordial violence of Spartan society before Lycurgus is repeatedly stressed by Plutarch (*Lyc.* 2.3), who also names the death of Lycurgus' father a direct result of the "lawlessness" (ἀνομία) that "held" (κατέσχε) Sparta for a long time (ἐπὶ πολὺν χρόνον). The king is killed with a butcher's knife (μαγειρικὴ κοπίς) as he tries to stop a fight (ἁψιμαχία), a squalid death with a symbolic role in the narrative.

[507] Cf. Willner 1984: 4: "Charismatic authority… is distinctly personal…[and] derives from the capacity of a particular person to arouse and maintain belief in himself…"

Plutarch presents this kind of street violence as the result of earlier kings pandering to the people (2.2: δημαγωγῶν καὶ χαριζόμενος τοῖς πολλοῖς). Yet conflict is not limited to the "many": the scheming of Lycurgus' sister-in-law reveals corruption in the royal family (see p. 127), and Lycurgus' voluntary exile in response to further plotting after his nephew's birth reveals that factionalism is a feature of all of Spartan society.[508]

On his return, Lycurgus convinces the "leading men" (ἄριστοι) to join him, and then, after secretly gaining more followers, he sends an armed group of thirty into the agora to frighten "the opposition" (τοὺς ἀντιπράττοντας). The event is even named a "disturbance" (ταραχή), a term associated with political conflict (5.5). On the face of it, Lycurgus' coup, which brings him into the position to reform the state, is simply another stage in the eternal factional strife. It is particularly strange in the light of what Plutarch has already told us about how the Spartans were longing (ἐπόθουν) for him to return, seeing him as their natural leader, while even the kings hope his presence will improve the behaviour of the people (5.1).

Plutarch explains the apparent contradiction using the simile of a doctor with a severely ill patient, who must employ desperate methods to purge the illness (5.2). The patient is Sparta; Lycurgus the physician. As such, he is external to the problem: their attitude towards him is unrelated to their illness, and he cannot be a part of the disease. It is within this narrative structure that a violent coup can bring an end to civic violence, and the faction of Lycurgus can bring an end to factionalism.[509]

[508] Cf. *Lyc.* 5.1: the Spartan kings are precisely like "the majority" (μηδὲν διαφέρον τῶν πολλῶν).
[509] Lewis (2009: 123) notes such ambiguity (between lawgiver and tyrant) is common.

Just as Sparta was "held" by "lawlessness", stasis "takes hold of" (καταλάμβανε) the city of Rome over the question of the next king after the death of Romulus. The people suspect the senators of conspiring against Romulus, and of using the *interregnum* to institute oligarchy; there are further divisions according to Roman or Sabine origins.[510] Numa is chosen as an outsider to the factionalism, even though as a Sabine he could be implicated.

Unlike Lycurgus, Numa uses no violence in the process of gaining power. He is notoriously reluctant (p. 131), but once convinced, enters Rome to great acclaim, and his first official action is to disband the regal bodyguard (7.4): the immediate rejection of violence, rather than the use of (potential) violence for legislative purposes. His explanation for this action is that he is not willing to distrust those who trust him, or rule those who do not trust him (οὔτε γὰρ ἀπιστεῖν πιστεύουσιν οὔτε βασιλεύειν ἀπιστούντων). He is thus entirely different from Lycurgus in his accession to power. Yet the model remains the same: a community in a state of unresolvable stasis looks to an external figure to come in and solve their conflict.

Finally, in the *Solon*, we have the same picture of the statesman being called upon in a context of intractable civil conflict: the "old dispute" (ἡ παλαιὰ στάσις) re-emerges after the Cylonian troubles (13.1). People from different regions want different forms of government; there is hostility between rich and poor, the latter irretrievably in debt to the former –some are forced to sell their children into slavery.[511] Plutarch notes that there was "no law" against this practice

[510] *Numa* 2.4, 3.1; the senators are accused of "guiding the constitution between them" (διαπαιδαγωγοῦντες): the image is of a regent overseeing the state while the monarch is too young – but not allowing the monarch to grow up.

[511] On the historical situation see Samuel 1963: 235; Harris 2002: 428.

(οὐδεὶς γὰρ νόμος ἐκώλυε), in effect presenting Athens as a place of "anomia", to which "Eunomia" is soon to come (see p. 54).[512] People begin to band together and talk of revolution.

At this point Solon is reintroduced (14.1): like Numa, and Lycurgus, he is not implicated in the divisions and therefore is the "only" person (τὸν Σόλωνα μόνον) who can end the struggle (καταπαῦσαι τὰς διαφοράς).[513] Because he is wealthy, the rich trust him; the poor think they can rely on his honesty. A saying is attributed to him (14.2) that "equality does not bring war" (τὸ ἴσον πόλεμον οὐ ποιεῖ), and each group can interpret this in a light favourable to themselves.[514] Explicitly, this is the appointment of a lawgiver who transcends the divisions within the society, and is uniquely placed to solve their problems.[515]

5.1.1.2 Response to the law

The second form that conflict takes in these narratives is after the law has been put together, when resistance emerges from some quarter of the community. This conflict is not usually called stasis, which would imply multiple parties warring with each other: instead, there is simply hostility towards the lawgiver. The pattern is most clearly visible with Lycurgus, whose lost eye is testament to the violent enmity engendered by some of his reforms. It is also detectable in the *Solon*, while its absence in the *Numa* is evidence in itself, demonstrating that for Plutarch, the stories of conflict are really about the mechanisms by which a lawgiver can obtain consent: force, reason, or charisma. Plutarch regards only the last of these as effective.

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[512] Cf. Kõiv 2003: 24. The coming of "Eunomia" is a central theme in Solon's poetry (fr. 4 [West], line 32: εὐνομίη δ' εὔκοσμα καὶ ἅρτια παντ' ἀποφαίνει). See also Henderson 1982: 29.

[513] Plutarch includes an alternative version, in which Solon himself tricks both rich and poor into choosing him – yet this still involves Solon intending to save the city (ἐπι σωτηρίᾳ τῆς πόλεως), so rests on the same foundations.

[514] For the role of interpretation in the *Solon* see p. 197.

[515] Almagor (2017: 173) notes that the disputes reawaken when Solon leaves office, "perhaps indicating that he cannot really unify the political and social fragments of Athens." He also observes that Solon as lawgiver ("expected to curb chaos") and poet (meant to "augment" chaos with "fictional creation") performs opposing functions.

Because much of Lycurgus' legislation removes the privileges enjoyed by the wealthy Spartans, it is from that subset of society that opposition emerges. As he lists the features of the society which Lycurgus creates, Plutarch acknowledges the opposition: finally, it is the system of common meals, and the insults that alight on anyone who does not eat (demonstrating that he has consumed his own delicacies beforehand), that leads to an outbreak of real resistance.

A group of wealthy citizens (εὔποροι) attacks Lycurgus in the agora, first verbally (καταβοᾶν) and then with stones (9.1). The lawgiver flees, but is pursued, and one young man strikes him with a staff, resulting in his loss of an eye. The story as Plutarch tells it pits the hasty emotion of the mob (epitomised in the ὀξυς, θυμοειδής young man) against the calm reason of Lycurgus, who is unaffected by his injury (οὐδὲν ἐνδοὺς πρὸς τὸ πάθος). He simply turns to face his attackers, who immediately feel shame (αἰδώς) and dejection (κατήφεια). The culprit is handed over to Lycurgus, and the group disperses.

The challenge to Lycurgus' legislation is not met with a reasoned appeal to the value of common meals: Lycurgus speaks not one word. His actions are limited to displaying his bloodstained face (ἔδειξε... τὸ πρόσωπον ἡμαγμένον). The wider group is convinced of their wrongdoing simply by observing the violent outcome, and their lawgiver's serene response: opposition is quelled by the personal authority of Lycurgus himself.

The journey from opposition to acquiescence through the lawgiver's charisma is made more explicit in the case of the young man who struck him. Rather than being punished, he is made to wait on Lycurgus, and through living with him (συνδιαιτώμενος) becomes one of his most

devoted followers (11.3). The aspects of Lycurgus' behaviour that have this impact are his gentleness (πραότης), his serenity (τὸ ἀπαθὲς), his simple (αὐστηρός) lifestyle, and his unwearied hard work (τὸ πρὸς τοὺς πόνους ἄκαμπτον). The young man goes on to tell his friends that Lycurgus is *not* harsh (σκληρὸς) and remorseless (αὐθάδης) as they had thought, but mild (ἥμερος) and gentle (πρᾷός). The reference to the falsity of their earlier ideas suggests that their original opposition to Lycurgus was based on their perception of his character. The narrative is not about resistance to the legislative programme; it is about the character of the lawgiver.

Successful legislation is therefore enacted not through convincing the people through reasoned argument that this is the best way to live: instead, it is entirely based on the demonstration of the lawgiver's good character. The opposition Lycurgus faces actually gives him the chance to make such a demonstration, and thus strengthens his laws.

The same emphasis on the personal authority of the lawgiver, rather than on any use of argument to persuade, is evident in the *Numa.* We have already observed (p. 214) that his first action on becoming king is the disbanding of the regal bodyguard, a mechanism for demonstrating that he trusts his people, and chooses to assume that they trust him as well. In fact, there is no example of opposition to Numa.

This ought to be surprising. As was noted at the beginning of this chapter (p. 211), it is in the *Numa* that Plutarch refers to lawgivers who are in charge of "difficult" populations (4.8). Numa himself, in one of his speeches refusing the crown, bases this refusal on the dangers faced by kings, pointing to the fate of Romulus as evidence that there is physical danger to the person

in the position of king (5.3). There is thus a contradiction between how the Romans are presented before Numa's accession, and how they behave afterwards. We are told that he used religious processions, dances, and sacrifices to soften the city's iron-like harsh temperament (see p. 146), but this warlike attitude has no impact on the people's response to Numa himself.[516] The moment of conflict in the *Lycurgus* is a flash point which demonstrates how the lawgiver's personal authority extends over the population. Numa has no such flash points, but he nevertheless represents the same ideal: that it is trust in the lawgiver, and not reason, which results in the success of the lawgiver's programme.[517]

Finally, the *Solon* provides an example of opposition which curtails the lawgiver's project. From the beginning of his appointment as lawgiver, Plutarch highlights the limitations of Solon's position: he does not change everything, fearing that if he completely overturns the system, he would be too weak (ἀσθενέστερος) to re-establish it appropriately (15.1). As with Lycurgus, Plutarch employs medical imagery: if something is not in need of treatment (ἰατρεία) he does not act. He only does what can be achieved successfully by verbal persuasion, or what the people will submit to as necessity (ἀνάγκη). Plutarch closes this explanation of the limitations on Solon with reference to a saying attributed to him. When asked whether he had written the "best laws" (τοὺς ἀρίστους νόμους) for the Athenians, he answers in the conditional mode (15.2): "the best of those they could receive" (ὧν ἄν

[516] Boulet (2004: 250) observes that this softening results in a city that is *erotic* (i.e. emphasises individual freedom to pursue pleasure) rather than *thumotic* (emphasis on public pride): precisely the opposite of Plato's ideal regime.

[517] This trust is also linked to the idea of the noble lie about the lawgiver's relationship with the gods, discussed in Chapter Four (p. 148): these stories are also a mechanism by which Numa trains the Romans in obedience to him, but again, this does not make use of reasoned arguments.

προσεδέξαντο τοὺς ἀριστοῦς).[518] Unlike Lycurgus and Numa, who are able to impose order on chaos, Solon, for whom Plutarch has considerably more detailed evidence, is presented as working under severe restrictions.[519]

Solon gets into trouble when he abolishes debts – not, at first, because of the hostility this might create on the part of the rich, but because some of his friends take advantage of his confidence. He explains to them that he is going to abolish debts, but not redistribute land: they therefore borrow money to buy land (15.6). As a result, Solon is blamed. This is not quite the same as the kind of opposition faced by Lycurgus, which is a violent response to his legislation itself; nevertheless, Plutarch highlights again that the way the situation is dealt with is through Solon's demonstrating his good character and his own obedience to the law: he is the first to remit a debt of five talents. The opposition was rooted not in disagreement with the law, but in the idea that Solon had done wrong (ὥσπερ... συναδικοῦντα).

The abolition of debt pleases nobody: the rich are frustrated, while the poor are displeased that he has not gone further and redistributed land. Plutarch here expressly compares Solon to Lycurgus, who established extreme equality by means of this measure: he explains (16.1) that Lycurgus was able to do that in part because he was a king, descended from Herakles, which meant he had significant power. More importantly, he employed force rather than persuasion (βίᾳ μᾶλλον ἢ πειθοῖ), with the result that he lost his eye (ὥστε καὶ τὸν ὀφθαλμὸν ἐκκοπῆναι). In contrast, Solon was a common citizen (δημοτικός) and modest in his station (μέσος), relying on the citizens' wishes and trust (τοῦ βούλεσθαι καὶ πιστεύειν αὐτῷ).

[518] On Plutarch's use of fragments of Solon's poetry to reconstruct legal aims, see Almagor 2017: 167.
[519] On irrationality as a feature of Plutarch's Solon, see Almagor 2017: 175. For the *Lycurgus-Numa* as ahistorical models (thus different from the *Solon*), see Boulet 2004: 245.

This portrayal of Lycurgus as using force, and even being king, contradicts what Plutarch says in the *Lycurgus*: he was only king for eight months and this was well before he took on the role of lawgiver. More importantly, we saw (p. 213) that while Plutarch acknowledges the use of force to gain power, he downplays it, and certainly presents it as once-off. Lycurgus' loss of an eye, in particular, is not, in that *Life*, the result of his use of force to enact his legislative programme; instead, it is the result of his *rejection* of force in the response to the violence of a group of his people. It is Lycurgus' gentleness that produces the authority which he then uses to establish his legislative programme.

The difference here draws attention to to fact that the Lycurgus of the *Lycurgus* is quite similar in his response to conflict to Solon: both, when faced with opposition, demonstrate their own good characters and acquiescence to the laws, resulting in acceptance. This reveals that Plutarch has a model in mind for how the lawgiver ought to operate.

5.1.1.3 Modelling the lawgiver's response to conflict

In Plato's *Laws* (4.720a), the Athenian stranger suggests that in order to obtain consent for the constitution and laws of the new colony Magnesia, each piece of legislation will have a preamble, explaining to the citizens what its purpose is, and why they should be obedient. Such preambles appear to be mechanisms for persuasion through reason.[520]

Plutarch's picture in the lawgiver *Lives* is quite different. In each case, it is the charismatic authority of the lawgiver himself that results in obedience – Solon's *lack* of this is precisely why his reforms have to be limited. This examination of the role of conflict in lawgiver narratives by Plutarch demonstrates that his ideas are distinct from those of Plato's *Laws*.

[520] The contrasting reality is discussed in Chapter Two (p. 65)

5.1.2 Challenging the lawgiver in *Antiquities IV*

Unlike Plutarch's lawgivers, Josephus' Moses is not an outsider coming in to solve a situation of stasis.[521] He leads his people in national liberation from oppression by divine election. The reappearance of the term νομοθέτης early in *Antiquities IV*, precisely when Moses begins to face the most serious challenges to his position, is suggestive: Josephus frames these as stasis, combining the two parts of the Greek model we have just examined. By examining each of the three revolts, the reasons behind the rebels' actions, and Moses' response, it will be shown that the form the conflict takes is shaped by expectations about facing opposition as part of the lawgiver's task, although Josephus' answer to these expectations is different from that of Plutarch.

5.1.2.1 Attacking Canaan

The fourth book of the *Antiquities* begins almost immediately after the final events of *Antiquities III*: Josephus' book division cuts the events of the final two verses of Numbers 14 off from the rest of that chapter. When we start Book Four, the attack on Canaan seems like a separate event, which Josephus frames not simply as a response to the vicissitudes of the desert, but as a revolt against Moses' status and his position as mediator with the divine.

It is made explicitly clear at the beginning of the book (4.1) that it is *God* and not Moses, who has forbidden the attack (κωλύοντος τοῦ θεοῦ); nevertheless, the people convince themselves that the order is only from Moses. This is a common strategy for Josephus: he frames the rebellious arguments in such a way that they are undermined. In this case, they accuse Moses of wanting to retain their dependence on him; moreover, they argue that God's provision for

[521] The one example in the Exodus narrative that could be made to fit this model is excised from Josephus' story of Moses: this is his intervention in a fight between two Hebrew slaves in Egypt (Ex. 2:13-14).

them thus far has not been for Moses' sake, but for their own, based on the virtue (ἀρετή) of their ancestors whom God had taken under his protection (4.2). If they put in the work (πονεῖν), he will be their ally (σύμμαχος). Undermining their own argument somewhat, they then insist that they are strong enough (ἱκανοί) to overcome the Canaanites even if "Moses wishes to alienate God from them" (ἀπαλλοτριοῦν αὐτῶν Μωυσῆς ἐθελήσῃ τὸν θεόν), implying that they still accept Moses' special access to the divinity. They argue that they should be their own masters (αὐτοκράτορες), and not accept Moses as tyrant (τύραννος) in place of the Egyptians, living thus in accordance with *his* will (βούλησις), and "deluded" (ἐξαπατωμένοι) into believing him the only one to whom God reveals things about them (4.3). In taking matters into their own hands they will prove themselves sensible (συνετοί). Thus they end up eager for battle (4.6), claiming God as their general (στρατηγός) and awaiting no cooperation (συνεργία) from their lawgiver.

This extended "speech", without any named speaker, incorporates ideas that will be expressed even more clearly in the coming rebellions. It sets up the debates, acting as a "preface" to the more significant rebellions that are coming.[522] There is the naming of Moses as a tyrant, the claim that he uses the name of God as a smokescreen for his own wishes (ἐπ' ὀνόματι τοῦ θεοῦ), an appeal to autonomy and liberty, and, most importantly, the argument that there is a separation between the lawgiver and God. The key reason they feel confident in making their attack is their conviction that what Moses says does not represent what God says: they distinguish "between obedience to Moses and obedience to God."[523]

[522] Spilsbury 1998: 133.

[523] Spilsbury 1998: 134; cf. Damgaard 2008: 225: "While the sedition in Numbers was a revolt against both Moses and God, Josephus recasts the scene as a revolt directed only against Moses."

Moses makes no answer to the arguments that are being circulated, and nor does Josephus as narrator – though as we noted above, by referring to God's prohibition at the very beginning, he undermines the argument before it is made. But rather than combatting the claims, Josephus and Moses allow events to make the case for them. The attack on Canaan is a disaster. The people return dejected, having learned their lesson: that Moses' commands represent the will of God.

Formally, this episode ought to have little to do with the status of Moses as lawgiver: it should be much more about his role as general.[524] Yet Josephus names Moses lawgiver as he is being ignored (4.6), and all of the arguments relate to political questions. This is the first formal challenge to Moses *as* lawgiver, and Josephus' choice to frame it in this way is the reason he has split it from the previous episode.[525]

5.1.2.2 Korah's rebellion

In the book of Numbers, a series of laws separates the failed attack on Canaan from the revolt by Korah.[526] Josephus instead creates a build-up of resistance to Moses' authority. This is the rebellion which is introduced in Thucydidean language as unparalleled among Greeks or barbarians (4.12).[527] The term "stasis" appears three times in the introduction alone, and this has been linked with Josephus' concern with this theme in the *War* (1.10), where he blames

[524] Cf. Damgaard's (2013: 140) emphasis: "We expect a portrait of a lawgiver, but what we get is a portrait of a general." Yet at a moment ostensibly military in character, Moses is presented as a legislator.
[525] Josephus' rewriting of the first part of Numbers 14 also deals with opposition to Moses, but the issues debated are all about the spies' report. Questions about political organisation are all pushed into *Antiquities IV*.
[526] Including the rule about wearing *tzitzit*, which in some post-biblical literature is an aspect of Korah's rebellion, with the rebel representing the rejection of the divine origins of the law. See Vermès 1975: 174; Biale 2016: 20.
[527] Rajak (2000a: 139) discusses the appearance of the "Greeks and barbarians" cliché at *BJ* 5.117 and 6.199, and her conclusion, that Josephus would designate the Jews a "third race, right outside the polarity" applies equally here.

"internal conflict" (στάσις οἰκεία) for the destruction of the temple.[528] This alone cannot explain the expansion of these episodes: in the *War*, the different factions involved are regularly denigrated, but Josephus never explains their motives.[529] Yet it is precisely in explaining the arguments of Moses' detractors that Josephus' version of events in *Antiquities IV* differs from the biblical material.

The introductory paragraph also highlights the role of Moses, whose leadership protects his people and prevents them facing the natural consequences of their actions (4.13), despite their "outraging" (ἐξυβρισάντων) their lawgiver and the commands (ἐντολαί), which God himself sent through Moses (ἃς αὐτὸς διὰ Μωυσέος αὐτοῖς ἐπέστειλεν). Rejection of Moses and his laws is assumed to be an outrage to God; by naming Moses "lawgiver" here, and referring to the broken commandments, Josephus makes it explicitly clear that the conflict is about Moses' status, and his law, even though the dispute itself will be about the choice of high priest, which is not necessarily the same thing. Josephus frames the story as a constitutional crisis.[530]

Korah, the leader of the revolt, is introduced as eminent in birth and wealth, as well as eloquent.[531] His genealogy is included in Numbers (16:1), and stories of his fabulous wealth are common in rabbinic literature.[532] Josephus has probably not invented this detail, but at the same time the wealthy and the noble are precisely the groups that rebel against the lawgiver in Plutarch's narratives.

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[528] Feldman 2004: 4.11.

[529] The exception is Eleazar's speech at Masada (*BJ* 7.320-336), advocating suicide, but this occurs after the destruction of Jerusalem.

[530] Cf. Mason 2004: xxi: His analysis of the "chiastic" structure of the *Antiquities* places *AJ* 3-4 (the Mosaic constitution) in parallel with *AJ* 18-19 (Roman constitutional failure), though it is hard to accept that Josephus had such a precise plan over so long a work; the Caligula-Claudius material can be understood as fitting into Josephus' constitutional concerns (cf. Mason 2012: 149) without any need for such a precise narrative structure.

[531] Prerequisites for the ideal statesman: Feldman 1993b: 406.

[532] Biale 2016: 24; Feldman 1993b: 402. On Korah's family tree, see Magonet 1982: 6.

Korah sows discord among the Levites by claiming that Moses is seeking glory for himself under the pretence of following God's orders (ἐπὶ προφάσει τοῦ θεοῦ). He also names the appointment of Aaron illegal (παρὰ τοὺς νόμους), because it was Moses' sole choice, rather than a common vote (κοινὸν δόγμα). This is a considerable adjustment from the dispute in Numbers. There, alongside the other 250 leaders, Korah argues that there should be no priest at all, because the whole assembly is holy.[533] Biale observes that just before this (Num. 15:41) those who obey the commandments are designated holy to the Lord. Korah might seem, therefore, to be right.[534]

But Josephus frames the debate about the priesthood as primarily about Moses' authority, and its source. Feldman suggests that where the debate in Numbers is theological ("a contest between G-d and Korah's impiety"), Josephus has made it political.[535] Yet what is most overtly "political" is not so much the argument itself, as the way in which it plays out. Josephus presents Korah as a classic demagogue, a type well known to his audience: he plays on the people's fears (that Moses might be deceiving them), and claims to be looking after the common good, but actually he just wants the position for himself (4.20).[536]

Notable is his claim that Moses has appointed Aaron *against the laws*. This creates a separation of laws from lawgiver: Korah is (on the surface) accepting the legitimacy of laws which have just been laid down through Moses' own work, while at the same time blaming

[533] Num. 16:3: "You have gone too far! All the congregation are holy, every one of them, and the LORD is among them. So why then do you exalt yourselves above the assembly of the LORD?" (NRSV)
[534] Biale 2016: 16–7.
[535] Feldman 1993b: 401; for Spilsbury (1998: 135), too, this is a "political revolt against [Moses'] leadership."
[536] Feldman (1993b: 415) links this to Cleon and Alcibiades in Thucydides. Van Kooten (2008: 169–70) suggests that Korah is constructed as a "sophist rival" to Moses – with Moses holding his own in debate.

Moses for failing to live up to them.[537] It is not true that Aaron's appointment is against the law; nevertheless, it matters that this is how Korah frames it.[538] The accusation that Moses has acted "contrary to the laws" is about making Moses' authority into something distinct from God's – while Josephus insists that the two are the same.

Josephus also adds an extra stage to the conflict: Korah works his poison around the Levites, and then it spreads to the 250 leaders of the biblical account, before corrupting "the whole army" (ἅπας ὁ στρατός) so that "the multitude" (τὸ πλῆθος) begins to complain about Moses' high-handedness, which leads to an attempted stoning (4.22). Their accusations are entirely based on Korah's earlier claims: Moses is a tyrant, who has enslaved them by claiming he speaks for God (τῇ τοῦ θεοῦ προφάσει): the same accusations appeared before the attack on Canaan. The choice of Aaron for high priest becomes evidence that it was Moses', rather than God's decision, because "God would have chosen the most worthy" (4.23). Josephus demonstrates the success of the demagogue, who has placed his own words in other mouths.

Now that Moses is facing open opposition, Josephus has the chance to demonstrate how the lawgiver will respond to that challenge. His first demonstration of skill lies in his awareness of where the origin of the violence is to be found: he speaks not to the shouting mob, but to their instigator. We may remember Lycurgus' focused response to the individual who injured him. Moses agrees with Korah, that he and his 250 followers deserve such high positions – in fact, he goes so far as to extend the compliment to the whole multitude (4.25).

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[537] Spilsbury (1998: 136n142) fails to observe this irony, but points to significance of the charge of acting against the laws in the context of Hellenistic kingship, citing Goodenough (1928: 61ff).

[538] Cf. Feldman 1993b: 418: "To the Romans, with their great tradition of respect for the laws, the charge that Moses had acted in defiance of the laws would be especially effective..." He does not note the implicit contradiction.

We noted that Josephus suppressed the argument made by Korah in Numbers, that the whole assembly is holy. Here, however, he has repackaged it, in *Moses*' speech. The language is different – this is presented as political honour (τιμή), rather than "holiness".[539] Yet the idea is that all the assembly deserve to be priests: the same claim as that made by Korah in Numbers (16:3).

Moses' argument is that his choice of Aaron does not make sense except as a response to divine commandment. This he argues first by noting the excellence of his opponents, and then by stating that it would have been better for him to select himself, rather than give someone else the benefits of his "lawlessness" (4.27). By naming the potential crime "lawless" (τοῦ παρανομεῖν), he also accepts the framework established by Korah. The only difference is that, as will be demonstrated in detail as the episode progresses, he knows the choice really was God's. For this reason, he sets up a test involving censers. He closes his speech by calling upon the assembly to stop the sedition, and the leaders to take part in this new contest for the position of high priest.[540] The crowd disperses, no longer suspicious of their lawgiver. Even though the assembly the next day is also excited, with some still expecting Moses to be convicted of the crime, Moses' plan has been accepted by almost everyone.

This might have been the end of the stasis, had Josephus not been bound to follow his source, which means that he has to describe the final outcome for the rebels: supernatural death. Korah and his followers are devoured by fire in the process of taking part in the test, a violent

[539] Reflecting the broad shift in the debate from theological to political; cf. Feldman 1993b: 415.
[540] Spilsbury (1998: 138) identifies "Athenian" details in Josephus' description of the competition.

demonstration of the fact that Moses' original choice was indeed divinely approved.[541] Other rebels (Abiram and Dathan), who refused to take part, are swallowed by an earthquake (4.52). Moses specifically asks God to give them an "uncommon" (μὴ κοινῶς) death so that all will know it is God's will, and not that of Moses (4.48).[542] In both cases, far from "rationalising" the miracles, Josephus emphasises their supernatural elements.[543] He may not refer to the "mouth" of the earth (Num. 16:32), but his claim (4.52) that there was no evidence left of the earthquake once it was over (an "exhibition of God's power", ἐπίδειξις τοῦ θεοῦ τῆς ἰσχύος), and that the fire was unlike any ever kindled in history (4.55), makes it quite clear that these are divine actions.

What we have, therefore, in the description of how Moses deals with this first major case of opposition to his authority, is a combination of two different methods. On the one hand, Josephus highlights the role of Moses' speaking in reclaiming control of the crowds: his speeches are long, detailed, and self-justifying. They make it clear that the accusations against him are false, and, more importantly, they succeed in their aims, making the people willing to accept the censer test for the new high priest. This is quite different from Lycurgus, Numa, and even Solon, since reasoned argument played a very limited role in their mechanisms for establishing their authority. The second way, however, is through divine intervention on

[541] The word αὐτομάτως (4.55) referring to the flame's destructive action may remind us of the fate of Aaron's sons (3.208, see p. 184), with the significant difference that this flame devours its victims, bodies and all, whereas Aaron's sons remained to be buried. For the connection between the two lethal incense-bringing events within the Pentateuch, see Laughlin 1976: 561. By focusing on the wrong incense in the case of Aaron's sons, Josephus suppresses the parallel.

[542] Cf. Num. 16:28-30; Spilsbury (1998: 139) also points out that Josephus adds Moses' caveat that if they are innocent of wrongdoing, the punishment should fall on him instead (4.50). Thackeray (1929: 114) saw in this passage an echo of Thuc. 2.77, and therefore credited it to his "Thucydidean hack", adding "purple passages" to the *Antiquities*.

[543] On "detheologising" as a feature of Josephus' adaptation of biblical material, see Feldman 1998: 205–214. Feldman himself acknowledges that in the Moses material this trend is less persistent.

Moses' behalf, which is essential to this story precisely because it is Moses' link with God, and the indivisibility of law, lawgiver, and divine origins, that is being questioned. Moreover, it suggests that force *is* employed, but not directly by the lawgiver. Moses is exculpated from the accusation that he used violence.

Josephus uses the story to demonstrate that Moses holds a unique position as the mediator of law between human and divine.[544] Like Plutarch's legislators, Moses faces and overcomes opposition. Despite the enormous role played by divine intervention in the narrative, Josephus' Moses, in his use of rhetoric and argument, is almost a lawgiver more Greek than Plutarch's Lycurgus, whose authority is established without recourse to reason.

5.1.2.3 The Midianite women and Zambrias

The third rebellion in *Antiquities IV* is that of Zambrias. Josephus' adaptation of this episode goes even further in its changes to the biblical base story than in the case of Korah. In the biblical version (Num. 25: 1-14), Israelite men indulge in sexual immorality with Midianite women, leading to their worship of Baal; God tells Moses to put the leaders who have allowed this to death, and Moses then appoints judges to kill those who have "yoked themselves to Baal". In the midst of the assembly an unnamed Israelite brings a Midianite woman into his tent, and Phineas follows and kills them both. Only then is the name of the dead man noted.[545]

Josephus' version is different in that the Midianite women are sent specifically to corrupt the Israelite youth and the plot is developed by the prophet Balaam, with the aim of stripping the

[544] Aaron also has his status (and that of his descendants) fully ratified (see 4.58).
[545] Num. 15:1-14; Spilsbury (1998: 141) observes that the sexual immorality itself is dealt with in a single verse.

Israelites of divine support.[546] The second difference relates to Zambrias, who, as described above, is named only because of his death in the biblical version; for Josephus, Zambrias becomes the leader of a formal rebellion against Moses. If there is rebellion in the Numbers version, it is implicit, and not given voice.[547] Josephus' Zambrias gives a speech detailing the reasons why he rejects not only Moses' leadership, but his whole legislative programme. Where the biblical account is ultimately about idolatry, for Josephus the rebellion is about the nature of the law.

Thus, while the conflict as it is described in the bible would not fit into the matrix of resistance to the lawgiver, in Josephus' version it definitely does. At the same time, because Josephus makes it effectively an external attack, it is different from the example of Korah: it is a challenge from the outside, which infiltrates the community. My discussion will focus on the arguments made about why the law should not be followed – by the Midianite women and by Zambrias in the assembly – before looking at Moses' response.

The Midianite women are sent to seduce the Hebrew young men and then threaten to leave unless their lovers marry them, renounce their ancestral laws (πάτριοι νόμοι) and worship the (unspecified) gods of the Midianites and Moabites (4.130).[548] As they threaten to leave, Josephus gives them a detailed speech in which they accuse the men of dishonouring them, and demand marriage, alongside the renunciation of customs which are "alien to the rest of mankind" (πρὸς ἅπαντας ἀλλοτριώτατα). The women can only rely on the affection of their

[546] A common connection made in post-biblical literature (cf. Rev. 2:14); Van Unnik 1974: 245.
[547] For Spilsbury (1998: 140) the "spirit" of Zambrias' speech is nevertheless justified by the Hebrew Bible, which implies defiance in his deliberate flouting of Moses' orders.
[548] For Van Unnik (1974: 249) it is significant that Josephus has stripped Baal of his name.

husbands if they worship the same gods (4.138: τὸ τοὺς αὐτοὺς ἡμῖν θεοὺς προσκυνεῖν).[549] Spilsbury observes that the argument is not theological (about the nature of the gods worshipped), but rather "sociological", about "participation in the dominant culture".[550]

More importantly, the women's arguments are about more than merely their own marriages to the Israelite men: their final sentence claims (4.138) that the men should either hold the same opinions as everyone (ταὐτὰ πᾶσιν ἡγητέον) or they should seek out some other world (ζητεῖν ἄλλην οἰκουμένην), in which they could live alone following their laws (βιώσονται μόνοι κατὰ τοὺς ἰδίους νόμους).[551] The claim that it is *impossible* for the Israelites to follow their strange laws and inhabit the same world as everyone else is an extreme and unexpected ending to the argument, one which goes further than in strictly necessary for the Midianite scheme. The absence of a counterargument from Josephus is remarkable.[552] Furthermore, when Josephus describes the young men's swift capitulation to their demands (4.139), he specifies that they adapted their *beliefs*: "having believed that there are many gods" (θεούς… πλείονας εἶναι νομίσαντες). This is about a mental rejection of monotheism, not merely the rejection of monolatry which is contained in the decision to sacrifice to other gods.

[549] Thackeray (1930b: 67) links the women's speech in Josephus with those of the Amazons to the Scythians in Herodotus (iv.114ff); Spilsbury (1998: 127n120) adds to this the observation that Herodotus' Amazons "desire to dwell apart because of their distinct customs"; Van Unnik (1974: 249) disagrees with Thackeray, suggesting that the voice in the women's speech contains rather "charges made in the Hellenistic and Roman periods against the Jews." His dismissal of *any* connection with Herodotus perhaps goes too far.

[550] Spilsbury 1998: 128.

[551] Cf. Hayes 2015: 113: She notes Philo's "ironic" response to accusations of Jewish particularism (such as are made here by the Midianite women), when in his *Life of Moses* (2.44) he explains that one day the rest of the world will also conform to Moses' laws: "It is not Israel that clings to a particularist law against the rational and universal law of other societies. On the contrary, it is Israel that honours the universal law of nature while other nations follow particularistic and 'peculiar' ways and customs."

[552] Spilsbury (1998: 129) suggests that the women's argument could have been intended as "a kind of apologetic for *amixia* from a Gentile perspective."

The revolt expands to include some of the leading men (τινες τῶν πρώτων ἀνδρῶν), most importantly Zambrias. He, we are told (4.141), is attached to Chosbia, the daughter of a Midianite prince, and, placing her wishes above those of Moses, he devotes himself to what pleases her (τὸ πρὸς ἡδονὴν αὐτῇ γενησόμενον ἐθεράπευεν). Moses calls an assembly and, without naming names, encourages everyone to repent of their actions.[553] In response, Zambrias gives a speech defending his choices. Where Moses' words were in reported speech, Zambrias' speech is direct and therefore more forceful.[554]

Yet the speech is carefully framed, so that we should recognise that there is irony beneath everything the rebel leader says.[555] The young men, in their first response to the women's threats, promise to make them "mistresses of all they possess" (δεσποίνας... πάντων ὧν ὑπῆρχεν αὐτοῖς), as with subtle irony they make God witness to their oaths (4.132). The women recognise that their lovers are "enslaved" (δεδουλωμένους). The rejection of the law which follows is specifically "to please these women" (εἰς ἡδονὴν τῶν γυναικῶν). When Zambrias is "commanded" (κελευσθεὶς) by his wife, rather than by Moses, we are primed to recognise in him the same enslavement to passion.[556] Moses' restrained call to repentence reminded his hearers that "manliness" (ἀνδρεία) is found not in forceful violation of the laws (τῷ βιάζεσθαι τοὺς νόμους), but in not yielding to passions (τῷ μὴ εἴκειν ταῖς ἐπιθυμίαις) – a careful redefinition of courage which feminises and weakens Zambrias before he gets up to speak.[557]

[553] Damgaard (2008: 226) highlights the profound difference between this, and the biblical command to kill all transgressors.
[554] Van Unnik 1974: 253.
[555] A similar tactic to his framing of the attack on Canaan, against the will of God (p. 221).
[556] This framing of the speech is not observed by either Spilsbury or Van Unnik.
[557] The same definition of ἀνδρεία is understood by Numa (3.6; see p. 102).

This lends irony to the otherwise impressive content of Zambrias' speech. He begins by saying Moses is welcome to keep his own laws, which he has convinced the people of purely through their guilelessness (εὐηθεία): the implication is that Moses is a charlatan, and the people too simple to call him out for it. This is made explicit as Zambrias goes on, saying that *he* at least will not follow tyrannical orders (τυραννικῶς), which are delivered under the pretext (πρόσχημα) of "laws" and "god" and result in slavery (δουλεία). Moses has stripped them of the sweetness of autonomy (τὸ κατὰ τὸν βίον αὐτεξουσίον), and makes their lives worse than they were in Egypt. He then moves on to the ideas expounded by the Midianite women: Moses should be punished for his rejection of things that are universally recognised as good.[558] Zambrias himself has made his choices based on his own search for truth, which involves obtaining it from many people, and not getting all opinion from a single tyranny. He closes with a passionate cry of freedom (4.149): "May nobody delight in declaring himself more in control of my actions (κυριώτερον) than my own will (γνώμη)."

The "power" in this speech leads Van Unnik to conclude that this is the "voice of [Josephus'] contemporaries": a group who had chosen to abandon their laws.[559] The key arguments are about autonomy, the rejection of tyranny, and the requirement to fit in with what is generally accepted.[560] The second of these was framed very clearly by the Midianite women, so that Zambrias' claim to have "sought truth" from *all* quarters is undermined: he only has one source. The first claim, that this is about autonomy and the rejection of slavery, is belied by what we are told before the speech: Zambrias is enslaved by his passion for his wife. He claims to be rejecting slavery, but in fact he has *chosen* a form of slavery. Van Unnik cites a parallel in

[558] Spilsbury 1998: 142. He notes the similarity, but not its significance.
[559] Van Unnik 1974: 259. Cf. Feldman 2004: 4.145; Attridge 1976: 169.
[560] Spilsbury (1998: 142) summarises this part of the speech as about "the right to self-determination".

the *Against Apion* (2.173), when Josephus praises Moses for removing autonomy from his people, and thereby the dangers of wrongdoing.[561] The slavery chosen by Zambrias is precisely what Moses' laws protect against.

Despite the appearance of reasoned argument on the side of the rebels, it is made clear by the surrounding narrative that they are not the reasonable side. Nevertheless, Moses' response is surprising, particularly given the extent to which he was given speeches to respond to Korah's rebels. After Zambrias has spoken, there is silence in the assembly: the people are afraid of what will happen next (having learned, perhaps, from the fate of Korah), and they see that "the lawgiver" is unwilling to respond directly for fear of making things worse (4.150-3). Calling Moses νομοθέτης at this key moment is a reminder of the nature of the conflict. He is afraid, Josephus tells us, that Zambrias might have many imitators in the assembly, and so breaks it up. The absence of a riposte to the arguments is striking, but perhaps less so when we recognise the extent to which Josephus has inserted irony into the debate, so that we cannot take Zambrias seriously as an opponent.

Earlier on, Josephus had emphasised Moses' conciliatory response – his desire to use persuasion rather than force (4.142).[562] This represents a major departure from the biblical narrative: in some ways Moses' response is precisely the opposite of the response in Numbers.[563] There, God had commanded Moses to have the ringleaders put to death in a public way, and he had begun the process (Num.25:4-5); here, Moses vacillates, and never threatens violence. Zambrias *does* come to a violent end, but that is not Moses' doing.

[561] Van Unnik 1974: 257.
[562] Damgaard 2008: 226.
[563] Van Unnik 1974: 253.

Different explanations have been proposed: Van Unnik tentatively suggests that the change is meant to bring out Moses' famous meekness (Num. 12:3), while Feldman thinks it is playing on the Graeco-Roman virtue of wise restraint.[564]

Yet the "assault of evil" (ἡ τοῦ κακοῦ πεῖρα) might well have continued, Josephus tells us, had it not been for the action of Phineas, who kills Zambrias and Chosbia in their tent (4.151): his actions are imitated by other young men, who slaughter most of the wrongdoers (4.154). A plague carries off the rest (4.155). There is no doubt that Phineas' unilateral mechanism for ending the conflict meets with Josephus' approval; yet the historian does not try to suggest that this was at all connected with Moses. We might even go so far as to say that Moses' way of dealing with this particular conflict was actually a failure, so that it becomes an example of how persuasion and kindness might not be strong enough to protect laws and constitution against an attack.

5.1.3 Moses and conflict: Josephus' problem

In the first half of *Antiquities IV*, Josephus thus tells the stories of three rebellions against Moses. These are named "stasis", and the rebels frame their actions in the language of autonomy, freedom, and opposition to tyranny. Damgaard thinks the most striking feature *is* this naming of Moses as tyrant.[565] Yet the accusation of tyranny is simply part of the broader matrix of political themes. As such, each revolt deals with Moses' status as lawgiver.

[564] Van Unnik 1974: 253; Feldman 2002: 331. That Moses' humility in Numbers should be taken rather as deference towards the deity is argued by Rosner and Dickson 2004: 476. The Septuagint uses πράως to translate the Hebrew עָנָו, but Josephus never applies this adjective to Moses.
[565] Damgaard 2008: 226.

Political arguments play a significant role in these stories, highlighted by comparison with Plutarch. Discussion, argument, and dialogue are regarded as deeply Greek – with Gagarin seeing the role of these elements *in law* as the unifying feature of otherwise disparate systems of law in Archaic and Classical Greece.[566] Yet when Plutarch writes about challenges to legendary lawgivers, head-on argument plays no role in these conflicts. Conflict is solved simply by demonstrations of good character and the resulting charismatic authority enjoyed by the lawgiver himself.

In contrast, Josephus painstakingly constructs the arguments made against Moses. Of course, they are all wrong-headed, and he demonstrates this in various ways, from allowing the narrative to make it obvious when the attack on Canaan is made, to bringing out themes of deception and demagoguery in connection with Korah, and finally by demonstrating that the freedom-loving Zambrias is a slave to his wife. Josephus' narrative makes clear that the rebels are choosing the tyranny of subjection to passion over the freedom of obedience to Moses' laws.[567]

Yet despite this, Moses is not really given much opportunity to respond: it is *only* in the case of Korah that he makes a reasoned response, and even then, his success lies only in convincing the assembly to accept the replacement test, and not in convincing them that his original choice of Aaron was correct. As such, while Josephus makes argument a larger part of these narratives than Plutarch does, he still does not make reasoned persuasion the mechanism by which the lawgiver obtains consent for his laws.

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[566] Gagarin 2005: 35. There is obviously a distinction between the procedures of law, and the stories told about lawgivers.

[567] Attridge 1976: 132. On this definition of freedom see also Rajak 2000b: 595.

By emphasising Moses' gentleness, and restraint, throughout the stories, Josephus does something very similar to what we find in the *Lycurgus* and *Numa*: an appeal to personal authority rooted in kindness and trust. Yet, this is not ultimately the way in which the conflicts are dealt with. Instead, the ringleaders of the rebellions are killed through divine intervention. An audience familiar with the stories of Greek legislators, might find the complete annihilation of dissidents (particularly dissidents guilty of no violence, and with well-articulated concerns) rather bizarre, if not worse. Josephus' careful separation of his lawgiver from these divine actions reflects his awareness that violence, and the use of force to obtain consent for legislation, is not best practice. At the same time, the narratives which Josephus constructs challenge both argument *and* charisma as feasible ways to overcome existential threats to the laws.[568]

5.2 The constitutional laws

After the defeat of the Midianites, Moses prepares for his own departure, giving a series of speeches, and finally handing over the laws and constitution (τοὺς νόμους καὶ τὴν διάταξιν τῆς πολιτείας) to the people (4.194): this leads to Josephus' final digression within the Moses narrative, a description of the πολιτεία, which takes up nearly a third of *Antiquities IV* (4.193-201).

This part of the *Antiquities* has received much comment, because it provides evidence of legal practices in first century Judaea, which can usefully be compared with interpretations of biblical injunctions in rabbinic literature, the Dead Sea Scrolls, and Philo, to put together a

[568] Cf. Price 2007 on the failure of persuasive speeches as a feature of the *War*.

picture of the development of Jewish halakha.[569] In other cases the summary of the constitutional laws in *Antiquities* is compared with the encomium on the constitution at the end of the *Against Apion* to trace developments in Josephus' own thought.[570] These are valuable approaches, but they perhaps fail to take seriously some of the claims which Josephus makes as he introduces the digression.

This section will be formed of three parts: the first examines the introduction to the digression to evaluate Josephus' stated goals. From there, we will move to Plutarch, to explore the categories employed in his summary of the Spartan way of life instituted by Lycurgus. Finally, with those categories in mind we will turn back to Josephus and assess his categorisation, as well as identifying unexpected but persistent themes.

5.2.1 Introducing the constitutional laws

Josephus announces a formal digression with the words "I want first to speak about the constitution… before returning to the narrative" (*AJ* 4.196). He provides two reasons for his decision: first, the constitution is representative of (or, more precisely, analogous to: ἀναλογοῦσαν) Moses' reputation for virtue (τῷ…Μωυσέος ἀξιώματι τῆς ἀρετῆς), and second, readers will learn about the origins of Jewish customs (τὰ καθ' ἡμᾶς). The constitution thus acts as a premature obituary, evidence first of the lawgiver's virtue.

But we might ask what Josephus means by "constitution". As he goes on, he again makes the famous claim that he has neither added to nor subtracted from what Moses left; yet, as scholars have repeatedly observed, what we have in the coming verses is a carefully selected

[569] See for example Weyl 1900; Revel 1924; Goldenberg 1976; Altshuler 1982; Schröder 1996.
[570] Amir 1994; Rajak 1998; cf. Hayashi 1991.

set of legal prescriptions from the Pentateuch, and certainly not a full list.[571] We might see the declaration as a formula and nothing more, but, as Van Unnik argues, it is the particular uses to which such formulae are put which give them their meaning.[572] In this case, it forms a preface to Josephus' primary claim about his approach to this legal material.

5.2.1.1 Josephus' innovation

This claim (4.197) is that he has developed a new system of categorisation (νενεωτέρισται δ' ἡμῖν τὸ κατὰ γένος ἕκαστα τάξαι). Josephus' use of the verb νεωτερίζω has occasioned some comment: elsewhere in Josephus' works, this term is associated with violent revolution, to which the historian is implacably opposed; Nodet therefore suggests that its apparently neutral use here is evidence of the involvement of collaborators.[573] Josephus' ensuing apology to any Jewish readers may reveal his awareness of these potential negative connotations.[574]

Yet at the same time, we should note the importance of this passage within the work as a whole. Josephus began the *Antiquities* with the statement that everything "depends" on the lawgiver, who studied the nature of God in order to develop his constitution – the constitution whose "arrangement" (διατάξις) forms the content not only of this digression, but of the *Antiquities* as a whole (1.5; see p. 74). Josephus' repeated use of the phrase διατάξις τῆς πολιτείας (or πολιτευμάτος) reveals that organisation is a significant part of what he sees

[571] Altshuler 1982: 5; Thackeray and Marcus 1930b: 96. Kingdon's (1972: 30) discussion condemns Josephus for "lying", and trusting that his non-Jewish readers could not check his sources: perhaps an unhelpful approach to the problem.

[572] Van Unnik 1978: 39. He observes the formula's association in Dionysius and Diodorus with the author's insistence on his own even-handedness, which can be linked with Josephus' use of the phrase in his prologue ("dass er, was in seiner Quelle fand, treue widergegeben hat, ohne aus Hass oder Schmeichelei etwas an der Sache zu ändern"). This connection works less well here.

[573] Nodet 1992: 4.197 cited by Feldman 2004: 4.197. Cf. *AJ* 2.254 (fears that Moses is plotting revolution), 4.63 (Moses fears Korah's revolution).

[574] Cf. *CA* 2.183, on the absence of inventors (καινῶν εὑρετάς) among the Jews, since they do not see anything good about daring to break away from tradition.

himself as doing. Indeed, he explains his decision to reorganise the material as a response to the "scattered" (σποράδην) nature of the laws as Moses wrote them as he learnt each from God: it is worth observing that this is not precisely how Moses' writing of the laws was presented in *Antiquities III* (see p. 201).

The marked nature of this digression is also obvious if we consider the apology to his countrymen which Josephus includes. He explains (to his non-Jewish primary audience) that he thought it necessary to flag this change, in case any of his countrymen (ὁμόφυλοι) might blame him (μέμψις) for error if they read, or come across (ἐντυχόντων), the text and notice his adjustments (4.197). This anxiety is performative: there are plenty of other passages in the *Antiquities* which cause readers familiar with the Hebrew Bible to raise an eyebrow, yet Josephus does not feel it necessary to make this kind of prefatory comment. This tells us that even if the concern Josephus signals is real, its performance serves a particular function at this moment. As he embarks on his categorisation of the Mosaic constitution, Josephus uses possible Jewish readers as a tool to demonstrate his competence to his non-Jewish readers, at the same time as signalling his authority over the new thing that he is doing.

The last detail of the introduction which deserves comment is Josephus' final statement (4.198) that this is the arrangement of the laws which "pertain to" (ἀνηκόντων) the constitution. This reveals that for Josephus the terms "laws" (νόμοι) and "constitution" (πολιτεία) have distinct meanings: the constitution is made up of a subset of laws, but not all

laws belong to the constitution. This modifies the claim not to have left anything out: it is the constitution which is fully described, rather than Moses' laws as a full collection.[575]

In particular, laws concerning social relations (οὓς... κοινοὺς... καὶ πρὸς ἀλλήλους) are not constitutional and therefore delayed to a later work (περὶ ἐθῶν καὶ αἰτιῶν).[576] The absence in the coming summary of dietary laws, Sabbath observance, and circumcision might suggest that these laws are included in the excised category of social laws: what is perhaps notable is that these are some of the distinctive features of Jewish life known to the non-Jewish world.[577] Their absence from this "constitution" may therefore have been noticed – and it is possible that in relegating the best known features of Jewish life to a future (non-constitutional) work, Josephus is actively challenging the assumptions about Judaism which his audience brings to his text.[578]

At the same time, Rajak has rightly pointed out that this introduction does not entirely match the content of the summary which then comes: we expect only laws about government and social order, but we find far more than that.[579] Festivals, tithing, agriculture, property, and

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[575] Cf. *AJ* 3.286: after summarising an eclectic selection of laws about purity, adultery, and Jubilees, Josephus concludes that such was the order of "laws" (διάταξις τῶν νομῶν) which Moses learned and wrote at Sinai. He does not refer there to the πολιτεία.

[576] Vermès (1982: 289–90) seems to assume that the later work would have been similar in content to this summary, despite what Josephus here says about the distinction between types of law. Altshuler (1979: 231) notes that Josephus suggests the cultic law of *Antiquities III* is intended to help the people live without reproach against each other (3.213), as part of his argument that the legal material in that book represents the contents of the "Customs and Causes", inserted later. Yet the close association of that material with the newly built tabernacle, and Moses' descent from the mountain, means it is necessary to see it as primarily cultic rather than social in character.

[577] Diet: Philo *Leg.* 361; Macrob. *Sat.* 2.4.11; Sabbath: Suet. *Aug.* 76; Plut. *Mor. De Superst.* 169C , Tac. *Hist.* 5.4 (associated particularly with Moses); circumcision: Tac. *Hist.* 5.5; Martial 7.30.5, 82.6. Dietary laws are referred to at *AJ* 3.259-60.

[578] I owe this point to Martin Goodman.

[579] Rajak 1998: 234; also 2000b: 590, although her point that we then find laws related to purity and cult is perhaps misleading: there is limited ritual law here, since Josephus discussed cultic law in *Antiquities III*, and does not

marriage all appear; government itself is given limited attention. But this should not lead us to conclude that Josephus has contradicted himself, or that his notion of a πολιτεία is "not yet settled" – looking forward to "development" in the *Against Apion*.[580] Rather we should take this introduction as evidence that Josephus has thought carefully about what he is doing. The laws he chooses to include in the constitution, and the order in which he places them, tell us either what Josephus himself thinks a constitution ought to look like, or what he thinks his audience will expect. It is particularly interesting to ask where Josephus might be challenging such expectations – which comparison with Plutarch' *Lycurgus* allows us to do.

5.2.1.2 The preamble

Before turning to the *Lycurgus*, however, we need first to look at Josephus' opening to the constitution itself, because instead of diving straight in with particular laws, he provides a preamble, in Moses' voice, which presents the constitution's operation as dependent on entrance into the land, as well as on the foundation of cities. The former matches biblical parallels; the latter does not.[581]

The preamble is distinguished from the constitution itself by its grammar: the laws of the constitution appear generally in the third person, whether imperatives or impersonal verbs such as δεῖ.[582] The preamble uses future indicatives in the second person plural, so that Moses is speaking directly to his people. The very fact that there is a preamble may reflect awareness of the argument of Plato's *Laws* (see p. 64), but more important is the content, which is

repeat the material. For a comparison of the law collections in *Antiquities III* (from Leviticus and Numbers) and *IV* (mostly from Exodus 20-28 and Deuteronomy), see Altshuler 1982: 4.

[580] Rajak 1998: 234.

[581] E.g. Deut. 4:5, 6:1.

[582] We also find infinitives: e.g. *AJ* 4.276, 289.

delivered in a dense temporal clause with participial phrases (4.199). A very literal translation would be: "When, having taken possession of the land of the Canaanites and so having leisure for the enjoyment of good things, you choose then at last to found cities, by doing these things you will do what is pleasing to God and you will have stable prosperity."[583] Feldman's translation takes the subjunctive verb of the subordinate clause (προαιρῆσθε) as an effective imperative, so that Moses commands the people to found cities, and locates God's pleasure in this activity.[584] This ignores the dependence of the subjunctive on the indefinite temporal conjunction ἐπειδάν, and makes the demonstrative pronoun ταῦτα refer back to the act of founding cities. It is true that οὗτος has a tendency to point backwards, but this is usually in contrast to ὅδε, in the context of speeches.[585] Recognising that this sentence is a preamble to the constitution as a whole means that we should understand ταῦτα as referring to the list of commands that is coming: it is by doing *the following* that you will please God and have prosperity. Given that εὐδαιμονία is regularly presented as the divine reward for following the laws, this is the most natural interpretation.

Dwelling on the particular grammar of the preamble reveals that the foundation of cities in the land is made by Josephus into a necessary precondition to the constitution. In Philo's *Life of Moses* (2.51), he praises Moses for beginning his writings with the creation of the world, in contrast to other lawgivers who begin by "founding cities in words" (πόλιν δὲ τῷ λόγῳ κτίσαντες): by this choice Moses establishes his constitution as effective in the whole world (itself like a "great city", μεγαλόπολις), his laws an image of the universal constitution (εἰκόνα

[583] Ἐπειδὰν τὴν Χαναναίων γῆν κτησάμενοι καὶ σχολὴν ἐν χρήσει τῶν ἀγαθῶν ἔχοντες πόλεις τὸ λοιπὸν ἤδη κτίζειν προαιρῆσθε, ταῦτα ποιοῦντες τῷ θεῷ φίλα πράξετε καὶ τὴν εὐδαιμονίαν βεβαίαν ἕξετε.
[584] Feldman 2004: 4.199: "Whenever you have acquired the land of the Chananaians and have leisure to enjoy the good things, choose from that time on to found cities."
[585] Smyth 1956: 307 (1245); Goodwin 1997: 216 (1005).

τῆς τοῦ κόσμου πολιτείας).[586] Similarly in his treatise *On the Decalogue* (3.14), Philo insists that laws need to come before cities.

There is a sharp contrast with Josephus' framing, which immediately locates Mosaic constitutional law (as opposed to social and cultic laws) within a local, πόλις context.[587] Given the importance of the πόλις within Greek political thought (against which Philo polemicises),[588] it is not arbitrary that Josephus chooses to associate the full expression of Moses' constitutional laws with city-dwelling: clearly, he has Greek models in mind, and whereas Philo challenges those models, Josephus, for now, is embracing them.[589]

5.2.2 Lycurgus' constitution: power, property, people

Plutarch's biography of Lycurgus provides the fullest contemporary expression of such models. His description of Lycurgus' reforms "effectively constitutes an overview of traditional Spartan manners and customs."[590] Plutarch himself becomes "the foremost ancient representative of the view of Sparta as the stronghold of economic and social equality, military ascetism, and totalitarian state-education, and of Lycurgus as a radical and ruthless revolutionary and reformer."[591] Cartledge identifies the components of the "literary mirage" of Sparta: its freedom from stasis and its uniquely law-abiding citizens, who follow laws distinct from all other Greek cities: laws which permeate each aspect of Spartan life, public and private.[592] It is this last element which Plutarch's description fully draws out.[593]

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[586] See also *Mos.* 2.157 on Moses as κοσμοπολίτης.
[587] Cf. *AJ* 3.314, when the people are condemned to wander "cityless" (ἀπόλιδας) for forty years.
[588] Van Nuffelen 2011: 207.
[589] But cf. *AJ* 1.59, when Cain is claimed as the first builder of a city.
[590] Kennell 1995: 23.
[591] Tigerstedt 1965: 257.
[592] Cartledge 2001: 170.

For our purposes, the reality of Spartan society, whether in the archaic or Roman period, is not important: it is the mirage itself, and the way Plutarch chooses to describe it, that provides us with a baseline against which to examine Josephus' account of Moses' constitution. The aspects of life which are regulated by the lawgiver, and how these are categorised by the biographer, will give us an idea of the content expected in a constitutional digression.

There are a few necessary caveats. First, Plutarch is external to the way of life he describes, much as he might show great admiration for it (see p. 164).[594] Second, and perhaps more importantly, Plutarch uses the grammar of description, rather than prescription: he presents Lycurgus' constitutional legislation using indicatives rather than imperatives. The implication is that Lycurgus' laws shaped the Spartans' characters in such a way as to make them live this life, rather than that they were constantly obeying particular precepts (see p. 193).

Nevertheless, it is a helpful point of comparison because Plutarch makes explicit the categories of life about which Lycurgus thought it necessary to legislate, and always presents his material as controlled, regulated reform, even as he denies a set of formal legal precepts. His signposting of categories and clear explanations of which parts of life are associated with one another allows us to develop a framework to evaluate Josephus' categories, which are not clearly signposted.

[593] Plutarch also links this with his own day, citing his experience of watching Spartan youths "expiring" at the altar of Artemis Orthia; on the role of this temple as a site of evidence for Spartan stability, see Kennell 1995: 6, 73.
[594] Tigerstedt 1965: 247.

5.2.2.1 Power

The first and most important thing (πρῶτον καὶ μέγιστον) is the reorganisation of political power through the the creation of a council of elders, which is intended to stabilise the government (5.6). Before Lycurgus, Plutarch explains, the state tottered between tyranny and democracy, both of which are dangerous. The council of elders (κατάστασις τῶν γερόντων) holds an equal vote with the monarch, and so balances out the other two (5.7: ἰσορροπήσασα). This starting point reveals the underlying assumption that the relationship between democracy, oligarchy, and monarchy, is the core element of a constitution.

Yet Plutarch does not spend much time describing the mechanics of this new political system. He only observes that the number of elders was twenty-eight, with various explanations: he acknowledges the view that this was the number of Lycurgus' original supporters, but prefers the number to be symbolically grounded (and so ahistorical), either because twenty-eight is seven multiplied by four, or because with the two kings the number reaches thirty (5.8). He also discusses developments in later periods: the king Theopompus added ephors to the system, to balance it out even further (7.1): this reveals that Lycurgus' system is allowed to change, and such change can be regarded as improvement.[595]

A last point on the reorganisation of the political system is that Plutarch here includes the division of people into tribes (6.2). Something like this is done by Numa as well: Plutarch praises the Roman king for replacing the divisions between his people along Roman-Sabine lines with the institution of occupation-based groups (*Numa* 27). The lawgiver reshapes the body politic, and redefines citizens' relationships to one another in light of the new system.

[595] Cf. *CA* 2.182 for the absence of any kind of innovation in Judean life.

5.2.2.2 Property

The second measure which Lycurgus takes is the equalisation of citizens through the parcelling out of land (8.1). This Plutarch names "extremely bold" (νεανικώτατον): each citizen ends up with a tract of land which has the same productivity. Nothing is said about how agriculture is to be pursued: it is clear that land in this scheme is primarily property. Thus, Lycurgus attempts to divide "movable property" (τὰ ἔπιπλα) in the same way, and as part of the same process, but realises this will be more strongly fought (9.1). He therefore uses political trickery (ἐπολιτεύσατο) to achieve the same ends: the creation of a fiat currency of large iron bars, so that wealth cannot be amassed, and foreign artisans leave Sparta, unable to make money. Finally, the third "political device" (πολίτευμα) is the institution of common meals (10.1: συσσιτία) – with mockery of anyone who, by not eating properly in public, reveals that he has been gorging on delicacies beforehand.[596]

We have therefore a series of political measures which are all about creating equality. Discussion of property within this constitution is restricted to the question of how it should be controlled and limited, rather than how it should be used, or how other people's property should be treated. Land, movable property, and eating are brought together within the category of equalising citizens. Later (*Lyc.* 24.4), among his anecdotes illustrating the Spartan character, Plutarch includes a story of a Spartan visiting Athens who heard that a citizen was being fined for idleness (ἀργία); confused, he asked those around him to show him the citizen

[596] This leads to the resistance to Lycurgus discussed on p. 216.

receiving the penalty of freedom (ὁ τὴν ἐλευθερίας ἑαλωκὼς δίκην). For, the biographer explains, in Sparta all gainful activity was regarded as "slavish" (δουλοπρεπές).[597]

5.2.2.3 People – forming citizens

As we already know (p. 191), the largest part of Plutarch's description is devoted to the Spartan *agoge*, the ritualised educational system by which children are brought up and into the citizen body. The system itself is less important for our purposes than how Plutarch frames it: he announces (14.1) that Lycurgus devoted most of his attention to education (παιδεία), which is the "greatest and best task of a lawgiver" (μέγιστον... τοῦ νομοθετοῦ καὶ κάλλιστον ἔργον), but then explains that the real starting point for this education is managing marriages and births (τὰ περὶ τοὺς γάμους καὶ τὰς γενέσεις): this ensures the best possible children are born to be educated. The physical education of girls is thus the real starting point (with their strict exercise regimes intended to get rid of "femininity", θηλύτης), while those men who choose not to get married are scornfully regarded as disobeying the laws (15.2). Newly married couples do not live together, but instead the husband visits his wife secretly for a short period each night: this "training in self-restraint" (ἐγκρατείας καὶ σωφροσύνης ἄσκησις) is understood to result in sexual unions that are "fresh" (πρόσφατος), implying that they can produce the strongest children – whereas sexual incontinence is unfruitful, as Plutarch notes in passing later on (19.1). Marriage is thus about the production of healthy children, to the extent that fidelity in marriage by women is less important than ensuring children are fathered by the best possible males (15.6). Infants are only brought up if healthy, and the decision lies with the elders, and not with parents (16.1).

[597] Plutarch acknowledges (24.3) that this attitude was only possible because of Spartan dependence on the Helots to perform all productive work.

Plutarch's description of the educational system of Sparta need not concern us: competition in virtue and regulated relationships produce citizens who do not even wish to live according to their own interests (κατ' ἰδίαν), but always place the common good (τὸ κοινόν) first (26.3). This starts with marriage: regulating the family is the first step towards producing good citizens.

5.2.3 Categorising Josephus' constitution

Plutarch's description of Lycurgus' legislation can thus be broadly divided into three categories: political power, parity of property, and the creation of new citizens, under which rubric he discusses both marriage and education. Despite Josephus' opening statement that he has innovated in terms of the categorisation of Mosaic laws, he does not announce his categories as he goes; he assumes that his readers will be able to see the connections between the different laws as they are organised (sometimes using logical particles such as οὖν or ὁμοιῶς). The exception is the rules for warfare, which appear in an "appendix" at the end.[598]

In his article, which is focused on the encomium on the constitution at the end of the *Against Apion*, Vermès included a summary of the categories of law found in the *Antiquities IV* constitution: these are, he says, "the Temple, festivals, prayer, law courts, the king, duties towards the poor, marriage, the rebellious son, and various humanitarian precepts."[599] This categorisation works in part, but there are several problems: first, as can be seen in the table below, this division gives certain laws a whole category to themselves (the king, and the rebellious son); secondly, there are anomalies, such as "humanitarian precepts" including the right to kill a burglar, or the banishment of eunuchs; thirdly, the agricultural laws are ignored.

[598] Vermes 1982: 290.
[599] Vermes 1982: 290.

Vermes did not set out to categorise the material in the *Antiquities*: rather, his concern is with proving the differences between this and *Against Apion*, so that he can insist, correctly, that the shorter constitutional summary in the latter work is "not an abridgement" of the former.[600] This reveals a broader point: the tendency to read the *Antiquities'* constitution in the light of *Against Apion*, so that it is regarded as less well structured, and, often, less interesting.

But what happens if we examine the *Antiquities IV* material with the assumption that Josephus' claim of careful reorganisation is accurate? The table below sets out the laws and one possible way of categorising them which is based both on content, and on Josephus' explanatory particles and notes, and demonstrates that, while there remain anomalies, most of the legislation is thematically organised. The question we then have to ask is whether it makes sense in the light of Plutarch.

1: Honouring God		**Explanation?**	**Source**
200-1	Single sacred city and temple	Oneness of God and nation	Deut. 12:5 Ex. 20:25-6
202	Blasphemy (against God)		Lev. 24:16 Deut. 21:22
203-4	Three times per year nation to assemble in sacred city	Unity, mutual knowledge	Ex. 23:14-17 Deut. 16:16
205	Tithes for priests and Levites from produce of land		Deut. 26:12
206	Ban on offerings from proceeds of prostitution or dog breeding	God has no pleasure in results of outrage (ὕβρις) and shame (αἰσχύνη)	Deut. 23:18
207	No blasphemy against other gods, no robbing of temples		Ex. 22:28 Deut. 7:25
208	No wearing wool and linen	Reserved for priests alone	Deut. 22:11
209-11	Seven-yearly reading of law at feast of Tabernacles	Knowledge of laws prevents wrongdoing	Deut. 31:10, 11:9

[600] Vermes 1982: 291.

212-3	Twice daily prayers of thanksgiving and inscribing of God's beneficence on doorposts, head and arm	Display God's care (πρόθυμον) for them	Deut. 6:8, 11:18, 20
2: The political system			
214-8	Seven judges in each city, virtuous, not accepting bribes; they should judge freely, neither fear nor favour	God's strength is justice	Deut. 16:18-20, 17:8
219	Three witnesses (but no women or slaves)	Levity (κουφότης) of women; baseness (ἀγένεια) of slaves' souls	Deut. 17:6, 19:15
220-2	Purification for unsolved murder outside of town		Deut. 21:1
223-4	Aristocracy is best; rules for king if wanted	God is a sufficient ruler (ἡγεμών)	Deut. 17:14
3: Land and agriculture			
225	Leave boundary stones in place	Potential for wars and stasis	Deut. 19:14, 27:17
226-7	Rules for offering of first fruits in the fourth year of production		Lev. 19:23
228-30	No mixing of plant or animal types in single field	Nature does not celebrate the uniting of unlike things; might lead to corruption of the constitution	Deut. 22:9 Lev. 19:19
231-2	Leave gleanings for the poor	Greater reward from gratitude than retained wealth; God will make land more productive	Deut. 24:19 Lev. 19:9
233	Don't muzzle ox	Unjust to exclude fellow labourer from fruit	Deut. 25:4
234-9	Let travellers pick fruit in autumn; allow workers to taste grapes on the way to wine vats; penalty of flogging for transgressor	Unjust to grudge good things in season; generosity with God's gifts; memory of affliction in Egypt and desert	Deut. 23:25, 25:3
240	Third tithe for widows and orphans		Deut. 14:28, 26:12
241-3	Rules for bringing first fruits		Deut. 26:3

4: Marriage and families			
244-5	Upon age of marriage, marry virgins (παρθένοι), not previously married, not slaves, not prostitutes	Result in children with free minds (φρονήματα ἐλευθέρια) directed towards virtue	Deut. 22:22 Lev. 21:7
246-8	Procedure if there are doubts about bride's virginity		Deut. 22:13-21, 25:3
249-50	Inheritance in case of two wives, not equally loved	Unjust that elder by birth should be deprived	Deut. 21:15
251-2	Rape or seduction of young woman		Deut. 22:23-8 Ex. 22:15
253	Divorce (for any reason)	These things happen	Deut. 24:1
254-6	Levirate marriage	Public good to preserve family name and property	Deut. 25:5
257-9	Marrying captive, required mourning period	Good and just (κάλον καὶ δικαίον) to respect her wishes	Deut. 21:11
260-5	Disobedient youth, eventual death penalty	Insult to God as father; making enemy of the laws	Deut. 21:18-21
5: Property			
266	No lending with interest to compatriot	Not just to profit from compatriot's misfortune; gratitude and reward from God	Deut. 23:20
267-70	Limits on lenders' rights to reclaim property; may not take mill in pledge	Should not deprive of means to produce food	Deut. 24:6, 10, 12 Ex. 22:26
271-2	Theft (and permitted killing of burglar)		Deut. 24:7 Ex. 22:1-3
273	Enslavement of compatriot: 7 year limit		Ex. 21:2 Deut. 22:1
274	Restoring lost money or cattle	Dishonest to profit from another's loss	Deut. 22:1
275	Help fallen animal		Deut. 22:4
276	Give accurate directions, don't insult the blind or mute		Deut. 27:18 Lev. 19:14
6: Accidental Injury			
277	During a fight		Ex. 21:18, 12, 21
278	Injury causing miscarriage	Diminishment of population	Ex. 21:22
279	Poison banned	Possessor undergoes fate he would have inflicted	Ex. 22:17

280	Maiming	Like for like	Ex. 21:24 Lev. 24:19
281-2	Treatment of goring bull		Ex. 21:28, 32, 35
283	Keep pits closed, fence roofs	Prevent injury	Ex. 21:33 Deut. 22:8
7: General principles			
285-8	Respect deposits; similarly pay wages on the day	Knowledge of own conscience, God as witness; God's wish that labourer not wait for wages	Ex. 22:8, 11 Deut. 24:14
289	Don't punish children for parents' wrongs and vice versa	Pity children of bad parents; young do much against parents' wishes	Deut. 24:16
290	Banish eunuchs like infanticides	Preventing growth of nation; evidence of effeminate soul	Deut. 23:1 Cf. Lev. 22:24 LXX
8: Rules for War			
296	Seek terms for peace first	Good to insist on possibility of peace	Deut. 20:1-8
297	God as commander; single human general	Divided rule causes harm	Deut. 20:1, 4
298	Pure army of physically and mentally strong soldiers; get rid of any who have recently built houses or got married	Fear of loss might cause to shirk danger	Deut. 20:5-8
299	Do not cut down cultivated trees	They would move if they could	Deut. 20:19
300	Kill enemies who resist; the rest to pay tribute (except Canaanites)		Deut. 20:13
301	No cross-dressing		Deut. 22:5

This table divides Josephus' constitution into seven categories, with war as the eighth. The first four categories are straightforward: honouring God, the political (and judicial) system, land and agriculture, and marriage. Property, accidental injury, and "general principles" are perhaps more complicated – particularly the last, which includes three apparently disparate

pieces of legislation, each of which could have reasonably been incorporated into earlier categories. Discussion of the unexpected elements in each category, and the broader problems, will form the rest of this chapter, but there are a few aspects of this overview that deserve preliminary comments.

The most obvious point revealed by the table is that Josephus very often adds extra-biblical explanations.[601] These are usually rooted in abstract (and thus potentially universal) principles such as justice, unity, and piety.[602] The emphasis on justice is particularly noticeable: it is explicitly cited seven times, and might be detectable in a few other cases. Interestingly, we don't find the term εὐσεβεία or cognates, but several laws are explained by recourse to the authority of God, and God's favour as the result of law-following is regularly mentioned.

The foregrounding of justice, perhaps at the expense of piety, deserves some interrogation, particularly in light of the *Against Apion*, where Josephus claims that Moses made εὐσεβεία the virtue on which everything else depends (2.170). The Jewish "cardinal virtues" (2.146), which emerge from the constitution, are piety (εὐσεβεία), fellowship (with one another: κοινωνία μετ' ἀλλήλων), general philanthropy (καθόλου φιλανθρωπία), as well as justice (δικαιοσύνη), fortitude (καρτερία), and contempt for death (θανάτου περιφρόνησις). Rajak has observed that this list designates "justice" a secondary virtue.[603] The contrast with *Antiquities* is marked.

An overview of the categories in the *Against Apion* provides another contrast. Both start with apparently similar issues relating to God and worship, but the *Against Apion* then moves straight into marriage (or the household) and society, which is contrasted with regulations

[601] Of 48 laws, 33 are explained.
[602] Cf. Altshuler 1982: 4.
[603] Rajak 1998: 231.

about treatment of outsiders (ἀλλοφύλοι). The constitution finishes with penalties and rewards.[604] A broad conception of the constitution as dealing with three core relationships is detectable: first, the nation and God, then the nation within itself, and finally the nation and those outside it.

The first of these is shared by the *Antiquities*, but with significant changes in focus (see p. 256); the key insider-outsider distinction, however, is almost entirely absent in the earlier description of the constitution: this reflects the extent to which the *Against Apion* really is apologetic, whereas the *Antiquities* has broader aims.[605] While the *Against Apion*'s constitution is interesting, it is *Antiquities IV* which tells us more about how Josephus can shape biblical material into a comprehensible set of constitutional laws for his non-Jewish audience.

5.2.3.1 Honouring God

For Josephus, the starting point for the constitution is not the overarching political system; instead, it is the appropriate honour of the deity. Thus we start with the single temple and altar, in one of the cities to be founded; blasphemy against the one God is banned, and the nation is ordered to assemble three times per year, and to pay tithes for the upkeep of the ministers for the temple, both priests and Levites; offerings from dishonourable activities are forbidden, and even blasphemy against the gods of others is banned; wool and linen are not to be worn together; the law is to be read out in full every seven years at the feast of Tabernacles, and everyone is to pray twice a day, while inscribing statements about God's benevolence upon doorposts, head, and arms. The laws are taken mostly from Deuteronomy and Exodus, but the order is Josephus'.

[604] Barclay 2013: 2.190.
[605] Cf. Gerber 1997: 250–52.

He is careful about the material he chooses to put here: we find reference to offerings, but nothing about the mechanisms of sacrifices or purity laws, while even the pilgrim festivals are left without much detail, the focus on the fact of gathering, rather than on what is to be done. Ritual, or cultic, law is not regarded as part of the constitution, and Josephus does not even link this material explicitly with his account of cultic law in *Antiquities*.

This is significant, particularly if we compare it with *Against Apion*. As he does here, there (*CA* 2.193) he places the single temple for the single God (εἷς ναὸς ἑνὸς θεοῦ) at the head of the constitution, but it is the *priests* (ἱερεῖς) who are continually worshipping (θεραπεύσουσιν… διὰ παντὸς), with particular emphasis on the high priest (chosen by descent, κατὰ γένος). Throughout the *Against Apion*, constitution, priests, sacrifices, and purity appear as central to the working of Moses' laws.[606] The contrast with *Antiquities* is sharp: the single temple is for the single God and his single nation (θεὸς γὰρ εἷς καὶ τὸ Ἑβραίων γένος ἕν), but the focus is on the physical structure of the temple and altar (of unhewn stones, with a ramp), and the priests are not mentioned. Indeed, within the whole section on honouring God, priests only appear as recipients of tithes, and as the wearers of wool and linen. Honouring God as the first category of the constitution is in the *Antiquities* primarily about the activities of laypeople, rather than the priestly class.[607]

It is something of a surprise to find the regulation against mixed fibres (Deut. 22:11) here, but Josephus helpfully explains (*AJ* 4.208) that it is only priests who are allowed to wear mixed

[606] E.g. *CA* 2.194 (priests' jobs: sacrifice, safeguard laws, adjudicate, punish), 195-6 (sober sacrifices and prayers), 198 (purifications after funeral, childbirth, sex), 203 (explanation for purifications).

[607] Josephus does not acknowledge the real world absence of the temple, revealing, as Gerber (1997: 332) has noted with respect to *Against Apion*, that it retains its essential importance in his concept of Judaism. See also Barclay 2013: 2.193; Mason 2014: 395. Gerber also observes (1997: 335) that even in the *Against Apion*, where priestly activity is key, laypeople themselves know the law and have a pious and direct relationship to God.

wool and linen. Aside from demonstrating that this law is really about respecting priestly prerogatives, this explanation also suggests that the audience for the constitutional laws is non-priestly.

Similarly, the pilgrim festivals are presented primarily not as mechanisms for honouring the divine, but rather as a means for the geographically dispersed nation to remain unified (4.203): it is good (καλὸν) that they not be ignorant of each other (ἀγνοεῖν ἀλλήλους). They get to know each other through these festivals, creating collective memory (τῇ ὁμιλίᾳ μνήμην αὐτῶν ἐπιθέντας); they would otherwise become complete strangers (ἀλλοτριωτάτους) to one another. The oneness of the temple represented the oneness of both God and nation; this unity is then reinforced through regular interactions at the pilgrim festivals. Compare here the role of festivals in Plutarch's *Numa* (8.2): the Roman king develops festivals and sacrifices as a mechanism to create social cohesion and a gentler national character (see p. 146).

Gallant saw the separation of the pilgrim festivals from the temple requirement as a problem: an "interruption" by the punishment for the blasphemer of the precepts about unity.[608] The blasphemer against God (ὁ δὲ βλασφημήσας θεὸν)[609] is to be hung and ignobly buried (4.202). For Feldman, the placement of this requirement makes sense because Josephus is describing "sacerdotal theocracy" and therefore "starts with the one who radically denies this system after having taken part in it."[610] But as we have seen, Josephus' account does not centre priestly activity. Feldman is reading the *Antiquities* constitution through the claims made in *Against Apion.* The early appearance of blasphemy in the *Antiquities* should therefore be explained in

[608] Gallant 1988: 170.
[609] Josephus leaves out the usual definite article with θεός – there is nevertheless no doubt that this refers to the one God just mentioned.
[610] Feldman 2004: 4.202.

another way. First, Josephus does not provide a definition for blasphemy: the Leviticus passage (24:16) that is assumed to be Josephus' source refers to using the name of God. In the Septuagint, this is translated as follows: νομάζων δὲ τὸ ὄνομα κυρίου θανάτῳ θανατούσθω. Josephus' vocabulary is different, but his grammatical structure (using an attributive participle to define the wrongdoer who is to die, followed by a third person imperative) is similar.[611] This led Collins to conclude that for Josephus, the verb βλασφημέω is a technical term, meaning to speak the divine name.[612] His argument ignores Josephus' use of the same verb twice more within this digression alone, once about other gods (4.207), and once about human judges (4.215). Moreover, even if Josephus means it technically here, that is not what his audience would understand. A broader meaning of "insult" or "speak profanely about" should be understood – and this reminds us that Plato in his *Laws* made arguments against atheism and sacrilege a cornerstone of legislation.[613] By placing the death of the blasphemer right at the beginning of his constitution, Josephus is removing the potential for atheism from the citizen body before anything else can happen. At the same time, by separating this from the later ban on insulting the gods of *other* cities, he makes it implicitly clear that the only kind of blasphemy that has such a profound effect on the constitution is that against the *one* God.

The later ban, which appears after the pilgrim festivals, tithes, and limitations on offerings, also points to an embrace of a Greek way of thinking: the law itself, that no-one should blaspheme the gods of other cities (4.207), is based on the Septuagint of Exodus 22:28, which

[611] *AJ* 4.202: ὁ δὲ βλασφημήσας θεὸν καταλευσθεὶς κρεμάσθω δι' ἡμέρας καὶ ἀτίμως καὶ ἀφανῶς θαπτέσθω.
[612] Collins 2004: 392.
[613] Pl. *Leg.* 800c, 821d, 934e.

translates the usual plural-for-singular Elohim with the plural θεοὺς in this one case.[614] Philo refers to this in the *Life of Moses* (2.205), explaining that the ban on insulting other gods is to teach respect for the noun "god" (the LXX verb is κακολογήσεις). For Feldman, Josephus is "dependent" on Philo's explanation.[615] But the most interesting part of Josephus' adaption is not the plural "gods", but rather the "cities": it is gods "whom other cities revere" (οὓς πόλεις ἄλλαι νομίζουσι). The verb νομίζω in a relative clause like this might make a reader think of the charge against Socrates (ἀδικεῖ Σωκράτης οὓς μὲν ἡ πόλις νομίζει θεοὺς οὐ νομίζων)[616] and, at the very least, creates a picture of polis-based religious activity. Other gods are not independent; they are socially and politically constructed, and Moses' people are to respect those constructions. The practical value of this law as a defence against charges of Jewish impiety should not be underestimated, but Josephus' small adaptations also reveal a sophisticated grasp of the religious landscape.

The final two laws in this category are the seven-yearly reading of the law at Tabernacles (4.201-11) and the requirements for prayers and signs of thanksgiving. The first of these is notable particularly for the inclusion of slaves among the audience for the reading: in Deuteronomy 31, where this is prescribed, the audience (31:12) is made up of men, women, children, and proselytes (προσήλυτος, Hebrew גֵּר). Josephus instead refers to the inclusion of women, children, and "even" slaves.[617] The replacement of foreigners, or proselytes, with slaves may point to Josephus' own assumptions about the core make-up of society. Slaves will

[614] Goldenberg (1997: 388) evaluates the translation in light of its embrace (in word if not in spirit) by Philo and Josephus, concluding that it reflects an Alexandrian "project", which sought to improve Jewish-gentile relations. Bohak (2000: 15) calls it Jewish "flexibility".
[615] Feldman 2004: 4.207. He also notes that in *QE* 2.5 Philo limits this commandment to proselytes.
[616] Xen. *Mem.* 1.1.1; Pl. *Ap.* 26b.
[617] *AJ* 4.209: ... μήτε γυνὴ μήτε παῖδες εἰργέσθωσαν τοῦ ἀκουεῖν, ἀλλὰ μηδὲ οἱ δοῦλοι... ; cf. Gallant 1988: 183.

emerge again as a strangely important aspect of Josephus' thought in the rest of the constitution; their presence here should be flagged.

Finally, the requirement for the display of gratitude in the form of prayers twice a day includes the inscription of God's benefactions on doors: the combination of the verbs ἐπιγράφειν and εὐεργετῶ is striking, suggesting God has the place of a civic benefactor for each household.[618]

What we have in the first category, therefore, is a set of prescriptions for how individuals within the community should, and should not, honour their God: this is the starting point for the constitution according to Josephus. This is decidedly unlike Plutarch's *Lycurgus*, but the use of festivals for the creation of community parallels Numa, while the early placement of the blasphemy law may implicitly indicate Platonic parallels and the references to cities and euergetism fit this constitution into a broader world.

5.2.3.2 The political system

The first issue for Lycurgus was the re-organisation of the political system. By placing rules for honouring God first, Josephus is defying this expectation, but the issue still comes in second place. Josephus first defines local officials, their duties and jurisdictions, before describing the overarching system. These local rulers are operational within "cities": this is hardly unexpected (the LXX of Deut. 16:18 also takes the Hebrew "gates" as "cities"), but it is worth observing that Josephus does not at first define them as "judges" – instead, they are men who are to "rule" (ἀρχέτωσαν), and later, when he does refer to "judges" (δικασταί) he avoids the

[618] Cf. *CA* 2.74 (on honorific images) with Rajak (2000a: 376). Attridge (1976: 81) suggests that the language of benefaction, rather than covenant, allows for universal application, and Spilsbury (2005: 218) links this more broadly with patron-client relationships in the Roman world.

term κριταί, which is used by the Septuagint, and does not make absolutely explicit that this is the same group. The result is that this material becomes very much about local administration, and not merely about the judiciary.[619]

It is here that we find the verb βλασφημῶ used with respect to human judges – creating a link on the level of vocabulary between the first categories. This link is also made on a deeper level: insisting that judges must not be "blasphemed", Josephus explains that respect for human authority ensures that there is no possibility for contempt towards God (4.215). Difficult cases are finally sent to the "sacred city", again bringing us back to the first category.

The law requiring two witnesses is biblical, but the rejection of evidence from women and slaves (4.219) is an addition: women, Josephus explains, because of their "lightness" (κουφότης) and "brazenness" (θράσος), and slaves because of the "baseness of their souls" (τῆς ψυχῆς ἀγένεια) and the likelihood that they will lie through fear or desire for potential gain (διὰ κέρδος εἰκὸς ἢ διὰ φόβον).[620] The notion that slaves make unreliable witnesses is reflected in Roman practice: evidence from slaves must be obtained through torture.[621] Josephus roots the notion of testimony in the character of the witness: even evidence from admissible (male, free) witnesses has its truth-value assessed based on their past lives (τὰ προβεβιωμένα). This might be how witness evidence is assessed in practice, but Josephus has placed it within the constitution itself.

[619] With the regulation on unsolved murder in the countryside (4.220), he also implies that each city has its *chora*.
[620] Gallant (1988: 196) observes that the women's characteristics link with insolence towards judges (4.215: θρανύνεσθαι), while the slave's wish for profit repeats the potential for judicial bribery (4.216: κέρδει χαριζομένους). Friedman (2014: 537) links the slave characteristics with the influence of Aristotle's famous discussion.
[621] Buckland 2010: 87.

It is only at the end of the category that we find reference to the overarching political organisation of the state, when Josephus' Moses exhorts his people to embrace aristocracy before making allowances for monarchy if need be (4.223). Amir saw this delay to the big question of the constitution as evidence that Josephus did not really understand the categories of Greek political theory which he was employing – when, in *Against Apion*, the notion of "theocracy" is placed at the head of the description of the constitution, Amir concludes that Josephus has done his research.[622] It is certainly true that there is more engagement with the traditional Greek tripartite categorisation in the *Against Apion*: Josephus goes so far as to say that Moses *ignored* (ἀπεῖδεν) the usual three to institute theocracy, assuming the universal applicability of the Greek model (*CA* 2.164). But as Barclay suggests, what Josephus is trying to do in the *Against Apion* (particularly suggested by his coining of a new word) is to solve the problem of having different systems in different periods of Judaean history: theocracy is a different kind of category, a "shift from political structure to theological foundation."[623] Rajak also points out the potential problem Josephus faced with this term, since in the *War* he had condemned the Zealot ideal of "no ruler but God" (*BJ* 2.118): possibly the first books of the *Antiquities* were written too soon after that condemnation for any attempt to explain the constitution in such terms.[624]

More importantly, Josephus introduces aristocracy with the particle οὖν: this is not an afterthought, and Josephus has not forgotten to discuss the overarching political system.

[622] Amir 1994: 16.
[623] Barclay 2013: 2.164. For the abstraction of this concept from any concrete historical situation, see Gerber 1997: 343.
[624] Rajak 1998: 243.

Rather, he seems to regard his account of local authorities and the judicial system as necessary parts of the aristocracy which the people are here ordered to embrace.

This explains why Josephus does not actually define the aristocrats in this aristocracy. All he says is that "aristocracy and the life lived according to it is the best thing" (ἀριστοκρατία μὲν οὖν κράτιστον καὶ ὁ κατ' αὐτὴν βίος); no desire for another kind of system should be entertained, and the laws should be taken as masters (τοὺς νόμους ἔχοντες δεσπότας). On the one hand, the system described up until now, with judges in each city, is the aristocracy; on the other hand, it is the laws themselves that are really in charge. Moreover, the phrase "the life according to it" relates more to the regulation of individual lives that to the institutions of the state. From aristocracy, Josephus moves to kingship, providing a summary of the kingship laws of Deuteronomy: his choice to frame these biblical laws with an ode to aristocracy is important: kingship is a step down.[625]

5.2.3.3 Land and agriculture

The third category for Josephus is land and agriculture: laws concerning boundary stones, offerings of first fruits, mixing of plants and animals, and generosity with agricultural produce. All of these, aside from the boundary stones, deal with the mechanisms and uses of agriculture.

The ban on moving boundary stones (4.225) assumes absoluteness to the divisions of land (which are divinely attributed), but unlike what we find in the *Lycurgus*, there is no emphasis on a need for equal portions. The moving of boundary stones is banned to avoid conflict

[625] Vermès (1982: 295) suggested that this negativity about kingship was down to the danger in Josephus' own day of discussing Jewish kings, while Spilsbury (2005: 224) sees in Josephus' insistence on aristocracy as the ideal subtle polemic against the Roman political system of the day.

(πόλεμοι) and stasis (στάσεις) – not only internally, but also with neighbouring communities. By referring to such action as the behaviour of the "covetous" or "competitive" (πλεονεκτοῦντας), Josephus employs similar discourse to Plutarch's *Lycurgus* (competition over land ownership as a threat to stability) – but there is no need for pre-emptive equality.

Instead, most of the laws are about how land should be used, a question which was absent from the land divisions of Lycurgus: there, land straightforwardly translated into household food, because of the accessibility of helot slave labour. The emphasis in Josephus' Mosaic laws on offerings and generosity is about something quite different: the mention of offerings takes us back to the first category – the honouring of God. The importance of generosity reveals the assumption that there will be inequality within the population, and this is a way to mitigate it.

Thus, the agriculturalist is enjoined to leave gleanings for the poor (4.231), to let travellers pick ripe fruit (4.234), and to share grapes on the way to the wine vats (4.235). There is a promise of divine favour alongside human gratitude, which is greater in value than the potential wealth lost. Most significantly, a penalty of whipping is instituted for anyone who transgresses these laws (4.238): they are to receive the forty lashes less one as a public punishment (τῷ δημοσίῳ σκύτει). This punishment as it appears in Deuteronomy (15:3) is a general method, not attached specifically to agricultural regulations. Josephus provides an explanation: despite the free status of the culprit (ἐλεύθερος), he undergoes this shameful punishment (τιμωρίαν ταύτην αἰσχίστην) because by his enslavement to profit (τῷ κέρδει δουλεύσας) he has outraged his own

dignity (ὕβρισε τὸ ἀξίωμα).[626] The association of profit with slavery reminds us of the rejection of slave-witnesses, but also of the Spartan mindset to which Plutarch refers (see p. 247).

Also interesting in this section are the references to Egypt in connection with generosity and offerings of first-fruits. After describing the penalty for transgressors, Josephus explains (4.239) that it is appropriate, given their experiences in Egypt and the desert, for the Israelites to be concerned for those in similar circumstances (τῶν ἐν τοῖς ὁμοίοις ὑπαρχόντων). No reference is made to slavery as such, merely to troubles (συμφορῶν) and neediness (δεομένοις). At the end of this section, provisions are made for tithes on behalf of widows and orphans, and then for the bringing of the first-fruits to the temple, as part of which the one bringing the offering is told to give thanks to God for salvation from Egyptian hybris (ἀπ' Αἰγυπτίων... ὕβρεως ἀπαλλάξας). The presence of the Egyptians in the constitution, particularly in connection with land and agriculture, is marked – less so than in Josephus' biblical source, but nevertheless we can see the assumption that these rules are rooted in past experiences.

Finally, the laws on mixing (other than textiles) are placed in this category, providing details on how agriculture should be pursued. Fields are not to be worked with different animals yoked, nor are they to be sown with different kinds of seeds (4.228), for nature dislikes the conjoining of unlike things (οὐ γὰρ τῇ τῶν ἀνομοίων κοινωνίᾳ χαίρειν τὴν φύσιν). This leads into the issue of mating different species, also banned. Josephus provides a broader interpretation of this law. There is, he explains (4.229), a fear (δέος) that "dishonour towards the fact of being of the same kind" (ἡ πρὸς τὸ ὁμόφυλον ἀτιμία) might cross into human affairs (τῶν ἀνθρωπείων)

[626] The differentiation of physical penalties by social status was a feature of the legal system of the Roman Empire, perhaps most clearly articulated by Philo in his complaint against Flaccus for having the Jewish elders of Alexandria flogged with the scourges usually reserved for Egyptians (*Flacc.* 78). See Garnsey 1970: 137; Coleman 1999: 232; Gibbs and Feldman 1986: 303.

from this small, apparently common, starting point (ἀρχὴν ἀπὸ τῶν περὶ τὰ μικρά καὶ τὰ φαῦλα). Altshuler takes this as a reference to foreign marriage, an issue covered in great detail earlier in *Antiquities IV* with the affair of the Midianite women.[627] This is admittedly the most natural interpretation, but Josephus' coyness is notable, particularly given his strong language in the earlier passage, and the fact that he does *not* include a ban on foreign marriage in the next category, which describes prescriptions for marriage and families.

The function of this explanation, rather than making clear that foreign marriage is unacceptable (which this does not do), is to defend the inclusion in the constitution of apparently trivial regulations. As he goes on to say, small innovations through imitation (κατὰ μίμησιν) lead to bigger, and this can lead to the perversion (παρατροπή) of the constitution. Yet what we might ask is why, if Josephus is so defensive about these rules, he found it necessary to include them at all – a non-Jewish audience would not have noticed, and even a Jewish audience might accept that these are not "constitutional" laws, and could be left for the "Customs and Causes". Yet for Josephus this is not an option: he regards these laws as an essential part of Moses' constitutional rules for agriculture.

5.2.3.4 Marriage and families

We come then to marriage and families, a category which we expect, and which is clearly delineated. The section begins with the requirement that young men should marry, and specifies appropriate brides; next is the procedure if a new wife's virginity is doubted, inheritance laws in the case of unequally loved wives, rape or seduction, divorce, Levirate marriage, marriage to a captive, and finally, the treatment of a disobedient child. Entirely

[627] Altshuler 1982: 123.

absent is any concern with the contractual mechanics of marriage, for which we have considerable varied evidence in the papyrological material.[628]

Each of these laws comes fairly directly from Deuteronomy, but Josephus' small changes are revealing, bringing to light his concern with issues of status and slavery.[629] Thus (4.244) marriage should be made to virgins of free status (παρθένοι ἐλευθέραι) from good parents (γονεῖς ἀγαθοί); marriage to slaves by free men is forbidden (δούλας δὲ μὴ γαμεῖσθαι τοῖς ἐλευθέροις). This prohibition is not actually found in Deuteronomy, but Glancy notes that it reflects practices among the Graeco-Roman elite, as well as later rabbinic rulings.[630] This is an important point, but more significant is the conceptual role played by slavery in Josephus' explanations.

First (4.244), he assumes that (prohibited) marriage to a slave would be "compelled by sexual desire" (ὑπ' ἔρωτος... ἐκβιάζωνται); he then explains (4.245) that marriages in accordance with these rules (to well-born virgins, rather than slaves or prostitutes) will produce children with "free minds directed upright towards virtue" (τὰ φρονήματα ἐλευθέρια καὶ πρὸς ἀρετὴν ὄρθια). Such children cannot be born of "shameful marriages" (ἐκ γάμων... αἰσχρῶν) or of "desire which is not free" (ἐξ ἐπιθυμίας οὐκ ἐλευθερίας). The association of sexual desire with slavery is hardly unusual – we might remember the Israelite men, enslaved to their Midianite wives (4.122, see p. 232).[631] But it must be recognised that it is not merely the status of a slave wife which would, in this construction, result in slavish children; it is the nature of the sexual union itself. In the

[628] Collins 1997: 149. We may also note that Josephus refers to bans on adultery and incest in *Antiquities III* (3.274), but does not choose to include those laws in what he designates constitutional material.
[629] Noted by Friedman (2014: 539).
[630] Glancy 2019: 633.
[631] Gibbs and Feldman (1986: 302) note Josephus' penchant for the metaphorical notion of slavery to passion, but fail to link this with the notion of legitimate "free" marriage.

same way, when he describes the penalties involved in the case of seduction (4.251), Josephus finds the penalty of death for the man appropriate because such a man has convinced the woman to prefer "great disgrace" (τὸ αἴχιστον) to "free marriage" (ἐλευθέρου γάμου), while she has done this either for pleasure or profit (δι' ἡδονὴν ἢ διὰ κέρδος). Again, we find the association of illicit sexual activity with slavery, and, in the attribution of the woman's action to a desire for profit, we might find a parallel with the reason why slaves were excluded as witnesses (p. 261).[632]

The final piece of legislation included in this category relates to the punishment for a rebellious child. We might ask whether this law really fits into a category which primarily covers marriage. The reason that it does, is that marriage is for Josephus primarily about the production of good children: this piece of legislation, which explains what to do if the child produced by a marriage does not live up to these expectations, closes the circle, as well as providing a framework for society as a whole, with the creation of reciprocal relationships between parents and children.[633]

This is achieved in two ways. First, in the speech which the parents are told to make to their son as the first step, they explain that, in accordance with the principles Josephus has set out above, they did not get married for the sake of pleasure (οὐκ ἡδονῆς ἕνεκα) or wealth, but in order to have children (4.261). The rejection of pleasure as a reason for marriage (and so sexual relationships) echoes the first law in this category; moreover, this claim by the parents

[632] Cf. *AJ* 2.41. Pentephres' wife expects Joseph, as a slave, to be eager to sleep with her: she looks at the "appearance of his present slavery" (τὸ σχῆμα τῆς τότε δουλείας) rather than at his inner character.
[633] The command in Genesis (1:28), to be fruitful and multiply, was also taken seriously by the rabbis, but Collins (1997: 127) notes that Ben Sira (36:29-30) allows for a view of marriage which is primarily about companionship.

insists that this particular child was not conceived in any "slavish" passion, which would have injured his character. Instead these parents have so far done everything appropriately.

Secondly, they go on to explain that they got married in order to produce children who would care for them in their old age (οἳ γηροκομήσουσιν). With this simple relative clause of purpose, Josephus neatly frames his vision for society and family life according to the Mosaic constitution. As we have seen with Lycurgus, the regulation of the family was a big part of the Spartan system; the family for Josephus remains the core of society, but he takes this chance to present a theory of parenthood and family. Gallant also suggests that there is bookending going on: the marriage category starts with instructions to young men (those at the age of marriage). By finishing with a subset of young men who scorn and dishonour their parents, he may be implying that one way in which this dishonour manifests itself is in the refusal to make an appropriate marriage.[634]

Josephus roots the penalty for the rebellious youth not merely in his parents' appropriate behaviour, but also in God's status as divine father of all: the parents are to explain (4.262) that God is grieved (χαλεπῶς ἔχειν) by insolence towards fathers, because he himself is the father of the whole human race (αὐτὸς πατὴρ τοῦ παντὸς ἀνθρώπων γένους). He therefore shares in the indignity done to a mistreated parent. The universalism of this claim, especially within a constitution which started with the statement that God, like the Hebrew γένος, is one, is striking.

Broadly, the marriage and family laws are drawn with precision from Deuteronomy; nevertheless, Josephus very clearly brings out a few core principles on which he sees marriage,

[634] Gallant 1988: 238.

and therefore society, as based, particularly relating to the control of sexual desire, which is closely associated with symbolic slavery. That he closes the category with the penalty for a disobedient child, and roots this in the idea of God as universal father of all, suggests that Josephus sees the broader principles of this marriage legislation as applicable to all, regardless of whether they belong to Moses' people or not.

5.2.3.5 Property

From marriage, we move to property, a category which includes regulations about lending, theft, enslavement, and the treatment of lost property, as well as an injunction to give accurate directions and not to insult the blind. The principle underlying this category is that it is not right to profit from another's loss: this is explicitly cited as the reason for the ban on loans with interest to a compatriot, as well as for the requirement to restore lost property. Two further elements in this category are worth drawing out.

First, there are two references to slavery. In the law about theft, the first regulation (4.271) is that the "theft of a person" (ἀνθρώπου... κλοπή) has a penalty of death. In Deuteronomy, which limits this to fellow Israelites, it is further specified that this applies whether the culprit has sold the victim on, or retains him as a slave: the Hebrew (עָמַר in the hitpael) refers directly to slavery; the Septuagint (καταδυναστεύσας) is less specific. Quite clearly, theft of a person implies treating that person as property and therefore enslavement; Josephus' avoidance of the term is therefore notable, as is his failure to specify that this applies to Israelites only (taken as "apologetic" by Feldman).[635] Josephus brings together disparate parts of the Pentateuch by combining the theft of a person (Deut. 4.71) with theft of goods (Ex. 22:1-3,

[635] Feldman 2004: 4.271.

mostly about livestock. He stipulates (4.272) that a thief unable to pay the fine is to become a slave "to those who have condemned him" (τοῖς καταδεδικασμένοις).[636] This creates ring composition with the opening clause – the law on theft starts and ends with slavery – but this is ordinary slavery, not slavery as a moral construct as it appeared in the marriage laws.[637]

Finally, the last laws in this category appear unrelated to the others: giving accurate directions and not insulting the blind at first glance have little to do with questions of property. The law about directions appears after the requirement to help a fallen animal, associated with the requirement to restore animals found wandering. This progression makes logical sense: the wandering animal is the one which may fall into a ditch and need rescuing, and the association of wandering with needing directions is obvious. The inclusion of the requirement not to mistreat the blind or mute may follow on in general principle (the need for kindness towards others when they are in difficult circumstances), but that it is a tenuous connection is indicated by Josephus' use of the particle ὁμοῖως to link the clauses: by highlighting the association between these two precepts, Josephus acknowledges that they don't naturally follow on from what has gone before; it is rather a matter of a unifying principle than a clear and systematic category. Given accusations that are made in Latin literature of Jewish misanthropy, it is perhaps worthwhile for Josephus here, as in the case of agriculture, to

[636] Zeitlin (1963: 190–1) takes this as enslavement to those from whom he had stolen, arguing that theft was regarded as a private matter – he associates this with *Antiquities XVI,* when Josephus relates Herod's innovation to laws of theft, which involved selling thieves to non-Judaeans, defined as a transgression of the laws (16.3: οἱ νόμοι). This has usually been associated with political opponents, rather than regular theft.

[637] Slavery also appears as a lens through which God's relationship with his people can be viewed – thus God is most commonly called δεσπότης by those praying to him, and Joshua is able to refer to Moses as "your slave" (τοῦ σοῦ δούλου) as he prays. See Jonquière 2007: 258.

highlight the principle of kindness, the necessity of not profiting (even in small ways, such as gaining amusement) from other's troubles.[638]

5.2.3.6 Accidental injuries

The final parts of the constitution become more difficult to categorise. In this section, in which Josephus follows Exodus (21-22) unusually closely, we find laws describing what to do in the case of injury or death during a fight, injury to a pregnant woman causing miscarriage, maiming, and a goring bull, as well as the injunction to fence roofs and cover pits: these regulations deal with cases where injury is accidental, or where culpability is unclear.

There is one exception, which is the ban on owning poison (4.279). This is not a direct biblical injunction: most commentators see it as based in Exodus 22:18 ("You shall not permit a female sorcerer to live"). In the Septuagint, the Hebrew "female sorcerer" (מְכַשֵּׁפָה)[639] is translated φάρμακος, a masculine noun associated with producing potions, rather than magic as such (slippery as these terms are).[640] That Josephus uses the neuter φάρμακον here to refer to poison suggests that this is his source; nevertheless, he is much more specific. A ban on possessing poison could perhaps have fit into the category of accidents: just as a roof needs to be fenced to prevent anyone falling into it, poison in a home might cause accidental death. But Josephus precludes this interpretation.

He explains that any poison, whether it causes death or other injury (μήτε θανάσιμον μήτε τῶν εἰς ἄλλας βλάβας πεποιημένων), is banned and if anyone does possess it, he should be put to

[638] See Juvenal *Sat.* 14.103, claiming that Jews do not even give directions to outsiders. Cf. Feldman 2004: 4.276.
[639] This is a feminine participle, meaning "woman who practices witchcraft/ sorcery" – the masculine participle is used elsewhere in the Hebrew Bible (Ex. 7:11, Deut. 18:10, Dan. 2:2), and usually translated φαρμακός in the Septuagint. Interestingly, at Malachi 3:5 the gender is switched (τὰς φαρμακοὺς).
[640] The same word is used for the masculine sorcerers whom Pharaoh employs (Ex. 7:11).

death, suffering precisely what he had intended to inflict (πάσχων ὃ διέθηκεν ἂν ἐκείνους καθ' ὧν τὸ φάρμακον ἦν παρεσκευασμένον). Whereas for every other injury, or potential injury, in this category, intention was absent, here it is present, so that the death penalty is required regardless of whether what was intended is actually carried out. Goodenough linked this, and a similar discussion in Philo (*Spec.* 3.95) with the Roman *Lex Cornelia de Sicariis et veneficiis*, which seems to have prohibited the production and distribution of poisons (*venenium/ venena mala*).[641] Rives shows, however, that in the republican and early imperial period both prosecutions and hypothetical discussions of this law deal with substances once administered, not simply possession.[642] Nevertheless, the shift from sorcery to poison as well as the insistence on the intention of the possessor to cause death may reflect the concerns of that law as interpreted in the early empire.[643]

The law against sorceresses is found in the same part of Exodus as the other laws in this section: here, Josephus is more concerned with getting material from the Mosaic laws into his constitution directly, than with ensuring his categories work perfectly. In any case, poison, like the goring bull, or an uncovered pit, causes death or injury: in that much these laws are entirely united.

5.2.3.7 General principles

The final category, before the laws for war, is a set of three apparently disparate regulations: the requirement to respect deposits, and similarly pay wages immediately, a prohibition on punishing children for the sins of their parents and vice versa, and finally, a command to

[641] Goodenough 1929: 107. The original wording of the *lex* is lost, but for a reconstruction see Ferrary 1996: 752.
[642] Rives 2006: 49–50.
[643] See Quint. *Inst.* 8.5.31 with Rives 2006: 51.

banish eunuchs. What unites these three laws is that they provide Josephus with an opportunity to highlight some of the broader principles underlying the constitution as a whole.

First, though, we should observe that each of these laws could have fitted into one of our categories. The requirement to respect deposits and pay wages timeously (4.285-88) is a matter of property and finance; the ban on generational punishments (4.289) is associated with families and therefore with marriage, while the banishment of eunuchs (4.290) is a response to their supposed destruction of their generational capacity, thus linking again with marriage, the goal of which in Josephus' view is the production of children. That he has not included these laws in earlier sections is therefore interesting.

The law about deposits (Ex. 22:7-15) is significantly expanded and explained, as well as being combined with the requirement to treat hired workers well (Deut. 24:15): with the particle ὁμοίως (4.288) Josephus makes clear that this is the same kind of thing. He explains (4.285-6) that anyone receiving a deposit should treat it as a sacred object (ἱερόν τι), and not defraud the person who entrusted the object (τὸν πεπιστευκότα): he should listen to his own conscience (τὸ συνειδὸς) as well as acknowledging that no evil escapes divine detection (τὸν θεόν ὃν οὐδεὶς πονηρὸς ὢν λανθάνει). There is no explanation of why such a deposit would have been made (in Exodus it is explicit that the purpose is safekeeping): this reveals that Josephus is mainly concerned with the underlying principle of acting rightly even in secret. In the case of paying wages, we find the explanation that wages (in place of land or other possessions) are the hired worker's God-given portion, and God does not want the worker delayed in the enjoyment of

the fruits of his labour. Josephus' tone here, as he writes that this payment should be made "on the same day" (αὐθημερὸν) is more of universal principle than particular law.

The same is true of the final two "laws" in the collection: first, we have the children who are to be pitied (οἴκτου) rather than punished for the wrongdoing of their parents, and the parents who should not be blamed if their children act wrongly, since the young often act contrary to instruction (4.289).[644] The injunction is there (μὴ κολάζειν), but it is worth comparing with the source text in Deuteronomy (24:16), which is specifically about the death penalty. By making it more general, Josephus also broadens the perspective. The principle is of individual rather than collective guilt.

Finally, eunuchs are to be banished (4.290) because, Josephus explains, they have destroyed their own masculinity (τὸ ἄρρεν) and fruitfulness (παιδοποιίας καρπός), which God provided humankind for the growth of the nation (ἐπ' αὐξήσει τοῦ γένους ἡμῖν). They are to be expelled "as if for infanticide" (ὡς ἐπὶ τέκνων σφαγῇ). Tacitus, in his hostile account of Jewish customs, highlights their opposition to infanticide as a mechanism to increase their population (*Hist.* 5.5). In *Against Apion* (2.202), Josephus explains that the law requires all children to be brought up (τέκνα τρέφειν ἅπαντα), and bans abortion, with a woman convicted of the offence regarded as an infanticide (τεκνοκτόνος), who has destroyed a soul and diminished the nation. What is worth noting in the *Antiquities*, however, is the universalism of Josephus' claims. First, he has included nothing in the constitution about a Mosaic requirement to bring up children: that infanticide is bad is simply assumed. More importantly, he states that God has given fertility to *humankind* (ἄνθρωποις): he could have simply used the dative ἡμῖν which appears

[644] As Josephus himself has explained in his account of the rebellious child (p. 268 above).

later to limit his claim to his own people. He does not do so, making God's gift universal and therefore assuming that the principle of generation which he is describing is universal as well.

Josephus thus takes the ban on eunuchs from Deuteronomy 23 as an opportunity for a broader claim, based in the assumption that reproductive capacity is a common good, so that individual rejection of it injures the community as a whole. But Josephus is also concerned about issues of gender. The comparison with infanticide leads him into the second part of the explanation (4.201): it is clear that this bodily adaptation is a response to the feminization of their souls (τῆς ψυχῆς αὐτοῖς τεθηλυσμένης). Feldman suggests that Josephus' "strong language" is influenced by the attitude of Domitian, who seems to have banned castration.[645] The ban is mentioned in several ancient sources, but is usually associated with the castration of slaves, who, it seems safe to assume, did not choose to have this done to them: as such, there is little connection with Josephus' moralising against feminised souls.[646] Josephus' use of the term γάλλοι for this is also significant: it refers to the priests of Cybele, whose self-castration during religious frenzy is a popular satirical theme in Roman authors.[647] This law is for Josephus therefore not about the protection of vulnerable slaves from castration (as Domitian's ban is sometimes seen),[648] but rather about gender transgression and procreation.

Strikingly, this is the last law of the peacetime constitution, as Josephus makes clear with a summary statement: "this then is the peacetime arrangement of the laws of our constitution"

[645] Feldman 2004: 4.290.
[646] Suet. *Dom.* 7; Martial 2.60, 6.2; Dio Cass. 67.2.3; see also Charles and Anagnostou-Laoutides 2010: 185; Buckland 2010: 37; Hunt 2017: 205.
[647] See Juv. *Sat.* 6.514; Mart. 3.81, 3.34, 13.63-4; Lucian *Syr. D.* 51; Pliny *NH* 35.165. They are described with a "predictable combination of fascination, revulsion, and disdain" (so Beard 2012: 323). Valerius Maximus (7.7.6) reports the disinheritance of the *gallus* Genucius on the grounds that he is neither male nor female (and thus does not exist within the categories accepted by law): for Roman anxiety about this as gender transgression, see Roller 1997: 549.
[648] See Southern 1997: 39.

(αὕτη μὲν οὖν ὑμῖν εἰρηνικὴ τῶν νόμων κατὰ τὴν πολιτείαν διάταξις ἔστω). He closes with a pious wish that God will not allow this constitution to face stasis (ἀστασίαστον αὐτῆς τὸν κόσμον) and so change (καινίσει).

5.2.3.8 War

This leads us into the final section, which is how war should be conducted: there is an implication that war itself might be the result of a failure to retain the laws, as well as that it is during war, whether internal or external, that the laws will be most sorely tested.[649] There are three parts to the war regulations. First, before war is declared, an embassy should be sent to seek peace (4.296), which assumes that the enemy is the aggressor (τοὺς ἑκουσίως πολεμίους) – we may recall the task of Numa's *Fetiales* (12.4, see p. 175).[650] Then, if that is rejected and war is therefore assured, the organisation of the army is arranged, with a single human commander and strict limits on army membership (4.297-8). Finally, there are rules about the waging of war itself: cultivated trees are not to be cut down (4.299), only resisting enemies are to be killed (with the exception of the Canaanites, 4.300), and finally, there is a ban on cross-dressing (4.301).

In his account of the organisation of the army, Josephus insists on three things (4.297-8): first, the ultimate commander (στρατηγός αὐτοκράτωρ) is God; second, there should be a single human commander (ὑποστράτηγος), surpassingly virtuous; and finally, the army should be pure (καθαρός), made up of the strongest in mind and body, and with any potential cowards removed.

[649] Feldman (2004: 4.294) sees this as Josephus bemoaning his own times.
[650] A contrast with the Pentateuch, which is referring to the coming war of conquest; this may be an attempt to link Moses' laws with the Roman concept of just war: see Feldman 2004: 4.296.

In Deuteronomy 20, on which this passage is loosely based, the campaign begins with a speech from the priests, who declare that God fights for them, followed by the "officers" (or "administrators", Hebrew הַשֹּׁטְרִים)[651] providing the set of conditions which allow soldiers to go home (a new house or vineyard, a betrothal, fear). Josephus removes the priests, and, while the presence of administrators under the single commander is not a problem, chooses rather to emphasise the absoluteness of the single commander's position, insisting (4.297) that divided control causes injury (πολυαρχία βλάπτειν πέφυκε τοὺς χρωμένους) by getting in the way of prompt action. His explanation for the exemptions is less sympathetic: the biblical officers send soldiers home to ensure that they enjoy whatever it is that they have newly acquired. In the case of the "fainthearted" (LXX: δειλὸς τῇ καρδιᾳ), it is to prevent their causing the same condition in their comrades (Deut. 20:8). In Josephus' version (4.298), the coward is rejected because he might flee and give advantage to the enemy, while those with new acquisitions, as a result of longing (πόθος) for these things, might value their lives too highly (φειδόμενοι τοῦ ζῆν) and so avoid danger (ἐθελοκακήσωσι). Josephus' concern with the purity of the army is reminiscent of his description of the army which Moses led out of Egypt (3.5) – *not* a pure army (οὐ γὰρ καθαρὸς... στρατός), capable of facing trouble with "manliness" (τὸ ἀνδρεῖον), but rather one corrupted by a crowd of women and children (παίδων τε καὶ γυναικῶν ὄχλος). The need for a sharp divide between civil and military life, which Josephus' division of the constitution makes clear, has already been prefigured at the beginning of the Israelite story.

[651] LXX: οἱ γραμματεῖς.

Indeed, the (unsurprisingly) gendered nature of warfare is also a clear issue for Josephus, which explains why he brings the injunction against cross-dressing into this part of the constitution. In Deuteronomy 22, it appears after the requirement to help a fallen animal (which Josephus included in "Property" above, p. 271), and is not related to warfare at all. Josephus, by placing it here (4.301), makes it part of the rules for war, but also says explicitly that it applies "particularly in battle" (μάλιστα ἐν ταῖς μάχαις).

Reeder has suggested that, in the *Jewish War*, Josephus transfers Roman stereotypes of the defeated Jews as effeminate (for example on the *Judaea capta* coinage) onto the subgroup of rebels, particularly those associated with John of Gischala. This comes to a head towards the end of *War IV* (4.561-3), when this faction terrorises Jerusalem while dressing up in female clothing and make-up. In wearing women's garments (γυναικείαι ἐσθῆτες) they are clearly disobeying this regulation, but Reeder suggests that the problem goes deeper than that because there is a subtle distinction between what men and women are allowed to do according to this law. Women are not to "use men's equipment" (ἀνδρικὴ σκευή), while men are banned from women's "clothing" (στολή). The term σκευή can apply to clothing, but it has a broader semantic range than στολή. When the rebels dressed up as women whip out swords from beneath their garments to commit murder, they are doubly transgressive: men dressed as women using men's equipment.[652] Of course, when he wrote the account of the rebels in the *War*, Josephus could only have had Mosaic Law in mind, rather than his adaptation of it, but clearly the association of cross-dressing with war, and the problem this creates, is not new to the *Antiquities*' constitutional material.

[652] Reeder 2015: 79.

Gender transgression (by eunuchs or soldiers) appears at the end of both parts of the constitution, since here we come to the end of the constitution as a whole, at which point Josephus reminds us, yet again, that this has been a selection: such was the constitution Moses left (πολιτείαν... τοιάνδε Μωυσῆς κατέλιπε), and he also handed over the laws written over the past forty years (4.302).

5.2.4 Comparison and conclusion

In Josephus' account of Moses' constitution, therefore, we have a series of fairly straightforward categories, with a few anomalies, as well as some overarching themes (slavery, generosity, justice) which reappear, sometimes unexpectedly. The question, then, is whether looking at Plutarch's description of Lycurgus' constitution, with its fewer, broader categories, helps to make sense of Josephus' choices. Are there overlaps in terms of the aspects of life covered by a constitution?

Several elements of Josephus' constitution, while not inexplicable without comparison with Plutarch, do make more sense in this light, such as the emphasis on the function of marriage as the production of good, virtuous children who will be good citizens (see p. 268). The assumption that sexual desire is dangerous and should be tightly controlled, with implications for the moral nature of offspring if not, is also shared (see p. 248, 268). Moreover, Josephus' inclusion of a full social framework within the law about a rebellious child (p. 269) suggests his awareness that such a holistic view is required – though the close relationship between parent and child for Josephus is very different from the state-managed childcare of Sparta.

The theme of slavishness as a moral danger, and the characteristics called slavish (most notably a concern for profit) are shared, visible in Plutarch's story of the Spartan in Athens (p. 247), and in Josephus' concerns about sexual relationships (p. 268), as well as generosity with produce (p. 265).

Josephus' inclusion of a definition of the constitution as an aristocracy reflects his awareness that this classification is a central feature of Greek constitutions. Plutarch and Josephus also share a concern about powerful kings, and a requirement that they have good and reliable advisors. By mentioning aristocracy only at the end of his second category, Josephus downgrades it, making the first concern of the constitution the appropriate worship of the deity. That this worship is by laypeople rather than by priests is a distinction from the emphasis in *Against Apion*.

Then there are the points of contrast, where a category is either completely absent in Plutarch, or has a different meaning. Thus, when Plutarch talks about land, it is only about equalising citizens, and not about how land should be used: land is the same sort of thing as movable property, in that Lycurgus regulates both primarily to ensure his citizens have the same possessions (p. 247). For Josephus, land and property are different categories, not even next to each other, though a concern with generosity appears in both.

A significant reason for this difference (equality compared with generosity), is that Lycurgus' constitution is only intended for the small, defined group of citizens: Josephus' constitution explicitly includes even slaves (who are called to listen to the law read at Tabernacles, see p. 259). His rhetoric of slavishness is an issue separate from the presence of real slaves in society.

There is nothing judicial in Plutarch: his idealised Spartan society includes no legal wrangling, since this is associated with the motive of profit, which has been excised from this group of free citizens.[653] Plutarch is thus much less realistic than Josephus.

Using Plutarch's *Lycurgus* thus allows us to identify those places where Josephus' constitution could have surprised or challenged his audience – by not starting with the basic classification of the constitution, including material on how agriculture should be pursued and the need for generosity towards those less fortunate. Reading the extra-biblical explanations provided by Josephus reveals the core virtues he wants to highlight: piety, unity, and, most of all, justice. While conforming to some of his audience's expectations, Josephus challenges them by insisting that the most important thing for a constitution to do is ensure appropriate worship.

5.3 Death and departure

In the Greek model, once law has been developed, handed over, and (after conflict), accepted by the community, it is time for the lawgiver to depart, or die, ceding his own authority to his code. As we noted in Chapter Two, this motif is not present in the earliest reports about legislators' actions (p. 59), but it is certainly there in Plutarch, as will be shown in the first part of this section, and Josephus' structuring of *Antiquities IV*, with a series of challenges to Moses followed by his departure and death (after handing over in physical format the constitution just described), suggests his awareness of this narrative requirement. This final section of our final chapter will demonstrate that at the very end of Josephus' narrative about Moses, he seems to have something like Plutarch's model in mind.

[653] Cf. *BJ* 1.16 for Josephus' embrace of the association between legal disputes and profit as a mechanism for attacking the "Greeks" (see p. 37).

5.3.1 Departure and death in Plutarch

Given that the motifs around the lawgiver's departure, such as oaths and law-confirming deaths, are not present in the earliest traditions, it is possible that Plutarch himself played an important role in making this element a core feature of the model which is then identified by Szegedy-Maszak (see p. 59), though more probably he works with pre-existing assumptions. The first part of this section will evaluate departure and death as important events in the *Solon*, *Lycurgus* and *Numa*, showing the different manifestations of a model which emphasises the need for the lawgiver to cede his authority to the laws, as well as, in the latter two cases, the continuing power of the physical body of the lawgiver.

5.3.1.1 Solon departs

Plutarch's *Solon* is the most helpful of the *Lives* for this investigation, because in his account of the reason for which Solon left Athens, he explains why it is not appropriate for a lawgiver to remain in his newly-minted state. Solon was appointed lawgiver to deal with the deep-seated divisions within the Athenian body politic. Once he has finished his task, he resigns from the position, having established that the laws he has developed should remain unchanged for 100 years, and ensured that all council members have sworn an oath to uphold these new laws (25.2).

However, almost at once he finds himself facing a barrage of questions, comments, and criticism from citizens, who come to him to discuss his laws (25.4). This happens every day: some want him to add (ἐμβάλλειν), others want him to subtract (ἀφαιρεῖν); there is also a group that simply want him to explain laws to them (ἐπεκδιδάσκειν καὶ σαφηνίζειν). This group is interesting, as Plutarch has already noted that a feature of Solon's law-code was its

imprecision, intended to increase the decisive power of the law-courts (28.3, see p. 197). There is no explicit link made between ambiguously-worded laws and the arrival of these citizens at Solon's doorstep asking for explanations, but there is a natural relationship.[654] By asking Solon how such laws ought to be interpreted, rather than doing the interpretative work themselves, these citizens are preventing the laws from achieving their aim.

When, therefore, Plutarch says (25.4) that the constant trickle of questions made Solon decide to leave because this was "inappropriate" (ἄτοπον), the point is that Solon's presence is undermining his laws. His refusal to change anything in response to queries was also a potential source of hostility (ἐπίφθονον). The people need to be able to deal with the laws on their own terms, without the lawgiver getting in the way, or becoming a focus for a new wave of conflict.

Hertzoff, who regards the *Life of Solon* as Plutarch's example of how the philosopher can work in the real political world (as opposed to the idealism of the *Lycurgus*), sees the withdrawal of the Athenian lawgiver as a philosophical retreat, with the destinations (Egypt, Crete) as more significant than what he is leaving behind.[655] Certainly, as the travel narrative develops this is the point – an opportunity for Solon's wisdom to interact with other great individuals in the ancient Greek world. It is also true that Plutarch describes this journey as an "escape" (διαφυγεῖν) from the irritations of the city. However, it is acceptance of the laws which is at the heart of his decision, so that the paragraph ends with Plutarch's statement of the lawgiver's hope that, during this period, the people would become accustomed (συνήθεις) to his laws (25.5). He is gone for ten years, yet he fails to achieve his object, because stasis breaks out in

[654] Also see p. 59 on these themes in Herodotus and the Aristotelian *Athenian Politeia*.
[655] Hertzoff 2008: 359: "… the urge to pursue philosophical travels under the guise of a business trip".

Athens in his absence (ἐστασίαζον ἀποδημοῦντος τοῦ Σόλωνος). With the word πάλιν ("again"), Plutarch reminds us of the pre-reform situation, and makes Solon's absence part of the explanation for the revival of hostilities (28.4).

Solon's departure provides a model, in that Plutarch makes it clear that the presence of the lawgiver in the city means it is impossible for the laws to "stick" and develop their own independent authority. Unfortunately, it seems that there were other figures in the city able to reclaim that authority when Solon had left – departure alone was not good enough.

5.3.1.2 Lycurgus departs and dies

The story of Lycurgus seems to recognise this problem and combat it, through combining the departure motif with the death of the lawgiver. Plutarch describes Lycurgus' final actions in densely Platonic language, making this the high point of the *Life*. There are three stages to the process: Lycurgus looks at his now-running constitution, and decides it is ready (29.1). He administers an oath from his citizens, that they will not change anything until his return (29.2). Finally, he travels to the Delphic oracle to confirm that all is well, before choosing to die (29.4). Each of these stages is described in great detail, and with an eye to the pattern which Lycurgus provides for good legislation.

References to Plato are concentrated in the first stage, when Plutarch says that Lycurgus delights in observing the new constitution at work. It carries and protects itself (φέρειν ἑαυτὴν καὶ σώζειν δι' ἑαυτῆς) and is compared to creation: just as God delighted in the first motion of the universe (τὴν πρώτην κίνησιν εὐφρανθῆναι τὸν θεόν), so Lycurgus enjoys observing his

system of laws doing its great and noble work (29.1).[656] Moreover, the reference to Plato is not merely implicit. It is stated outright (ὥσπερ ὁ Πλάτων φησὶν), as it will be again towards the end of the *Numa*, where he cites Plato's philosopher-kings as being exemplified in the second king of Rome (20.6).[657]

The greatness of this new creation is not in itself enough to ensure its immortality. Thus Lycurgus desires (ἐπεθύμησαν) to ensure its longevity (ἀθάνατος) and immutability (ἀκίνητος) – as far as is humanly possible (ὡς ἀνυστὸν ἐξ ἀνθρωπίνης προνοίας). The reminder of Lycurgus' humanity, just after he has been compared with a deity, is surprising – as is the contrast implied between his human nature and his desire to make something ἀθάνατος.

But this is the point – thinking back to Plato's *Laws*, which start with the discussion of whether law comes from a divine source, we recall that one conclusion in that text is that law itself can be divine, when it conforms to the requirements of reason (p. 62).[658] The insistence on Lycurgus' humanity at this moment serves to underline the divinity not of the lawgiver (which was implied by the demiurge comparison above), but of his laws.

This brings us to the method by which this is attained: Lycurgus calls an assembly. He tells the citizens that there remains one piece of the puzzle, which he must go to Delphi to obtain: they are therefore to leave things as they are and await his return (29.2). He calls the law-code as it stands sufficient (ἱκανῶς) to secure prosperity (εὐδαιμονία) and virtue (ἀρετή); still, what remains is the most important feature (κυριώτατόν). The same word was used at the beginning

[656] Castelnérac 2008: 440: Lycurgus is "like a god" because of the longevity of his laws.
[657] Cf. Boulet 2004: 245; Lane 2013: 57.
[658] Nightingale 1993; Welton 1995: 57.

of the passage, which stated that the most important institutions had been implemented (κατειλημμένων... ἤδη τῶν κυριωτάτων). The repetition reveals Lycurgus' benevolent duplicity.

He obtains oaths, first from the kings and senators, and then from "the rest" (τῶν ἄλλων πολιτῶν), that they will "remain in" (ἐμμενεῖν) and "employ" (χρήσεσθαι) the constitution as it has been established so far until his return (29.3). Oaths were also administered by Solon, although not in direct connection with his departure.

Lycurgus now goes to Delphi, but, instead of asking for the "final piece", he asks whether his constitution is good, and whether it will continue to promote happiness and virtue in his citizens – the same language as he used *to* those citizens. The need for the divine stamp of approval reflects Lycurgus' human limitations, and places his laws on a plane higher than he is necessarily able to access. The god confirms that the laws are good (τοὺς νομοὺς καλῶς κεῖσθαι), and that Sparta will flourish as long as they are followed (29.4: τῇ Λυκούργου χρωμένην πολιτειᾳ). This repeats some of the vocabulary of the oath (χρῶμαι, πολιτεία): the Delphic god uses similar language to Lycurgus himself, highlighting the extent to which Lycurgus is able to transcend the human-divine boundary – in what he is able to create, if not in himself.

Lycurgus then sends this prophecy back to Sparta, which is his final communication with his city. This letter, and not the speech and extracted promise, becomes the lawgiver's final word. Although there was a lie in that final speech, he is honest with the city at the last. We could take this prophecy as itself the "final piece" which was necessary to the flourishing of Sparta – that, or Lycurgus' own departure. Indeed, in Plutarch's narrative it is only at this point that Lycurgus *decides* not to return, and so not to release them from the oath. Yet he goes further

and decides on his own willing (ἑκουσίως) death (29.4). His death is finally then named the "guardian" (φύλαξ) of all the good things which he had created for his people (29.5). This makes explicit what was implicit before: the death of the lawgiver is precisely what gives his laws a divine longevity.

Through the combination of departure and death, Lycurgus provides a model for how lawgiving should operate: the concentration of Platonic language and idealism about happiness and virtue as the main goals of law makes clear that Plutarch has infused his account of the Spartan lawgiver with broader political and philosophical ideas.

Plutarch finishes the *Life* with a few comments about Lycurgus' afterlife – his worship, and what happened to his body. Because the question of the lawgiver's afterlife in memory, as well as the physical body, is an important one for Josephus, it is worth noting how the body of the lawgiver becomes an important locus for communal identity and perhaps worship – not only in the *Lycurgus*, but also in the *Numa* and the *Theseus-Romulus*. Lycurgus is honoured with a temple and sacrifices (ὡς θεῷ) in Sparta, and Plutarch reports Aristotle's comment that this is not enough (31.3). He deserves more because, as the biographer has noted, his polity is the example followed by all great political philosophers (Plato, Zeno and Diogenes).[659] Moreover, unlike those who copied it in words, he left behind him an actual πολιτεία; the term now clearly means a functioning political community. The contrast between words and actions, between political theory and a political creation, is sharply made.[66o] Lycurgus is worshipped for being an actual creator.

[659] Tigerstedt 1965: 236.
[66o] Castelnérac 2008: 477.

Yet his worship is *also* linked with his body itself, a physical memorial: after mentioning Aristotle's comment about the lawgiver's cult, Plutarch notes the tradition (31.3) that Lycurgus' tomb, when his body was brought home, was struck by lightning, which Plutarch takes as evidence that Lycurgus was holy and beloved of the gods (τῷ θεοφιλεστάτῳ καὶ ὁσιωτάτῳ). The reference to Lycurgus' body being returned to Sparta is itself perhaps unexpected: after all, didn't he intend not to give the citizens any excuse to be released from their oaths? Thus there is a second tradition, which Plutarch records. By placing it at the end of the *Life*, with a source referenced, Plutarch gives it the most credence: this is the story that his friends burned his body and scattered the ashes in the sea, following his wishes – thus preventing any possibility of his "return" by any means (31.5). This locates power in the physical body of the lawgiver.

5.3.1.3 Numa dies

The same thing seems to be true of Numa, although ultimately his story does not follow the departure-and-death narrative. He remains in Rome all his life; his death is natural, and there are no "lawgiver" overtones in how Plutarch describes it – the key features are only that he receives a matchless funeral, and that the people of Rome all mourn him "as though for a young family member" (22.1). During his account of the funeral, Plutarch notes that the king had insisted his body not be burnt, as would be normal custom, but instead that there should be two coffins made: his body is placed in one, his writings in the other (22.2). These writings are compared with the tablets written by the Greek lawgivers (ὥσπερ οἱ τῶν Ἑλλήνων νομοθέται τοὺς κύρβεις).[661] While Numa is paired with the lawgiver who *doesn't* write, he is here

[661] Cf. *Sol.* 25.1 (p. 196)

compared with "normal" Greek legislators, and the written-ness of their laws is assumed. Yet this analogy is being made at the precise moment when it no longer stands: "tablets" are by definition public, a way of making the law known to the population at large (in theory, if not in practice). Yet these writings by Numa are only mentioned now because they are being hidden away alongside their writer (p. 194): Plutarch highlights the physical act of writing undertaken by the king (ἃς ἐγράψατο... αὐτός). By taking his writings with him when he dies, Numa enacts a kind of departure alongside his death, leaving his authority entirely in the hands of the priests: he does not depart in the same way as Lycurgus, but he has made a plan for the way in which his laws are to continue without him, once which involves people, rather than things, taking on the legislator's authority.

There is more going on with Numa's body, and that of his law: as we noted before (p. 195), Plutarch includes a story from the Republic, 400 years later, when a storm leads to the coffins being unearthed.[662] The one which ought to have contained Numa's remains is completely empty: Livy (40.29.5) explains the absence of the king's body as the natural decay of the long years underground (thus emphasising the unnatural, and perhaps fraudulent, survival of the books), but Plutarch provides no explanation, presenting it, perhaps, as supernatural, with his reference to there being no "trace" (λείπψανον) of the body. The other coffin still contains the books: these are burnt to prevent any of their secrets being discovered (22.5). Numa had forbidden the burning of his own body, but now his writings are burnt: there is a close relationship between law as a physical thing, and the lawgiver's body.

[662] In the accounts from Livy and Varro, the discovery is by labourers digging: in removing human agency, Plutarch implies divine activity, a "natural miracle" (so Betz 2008: 59).

5.3.2 The "departure" and death of Josephus' Moses

This section will first examine the contents of the speeches which Josephus composes for Moses, as his "swan songs": while they draw on Deuteronomy, they are entirely Josephus' invention, and display his own idea of what the lawgiver needs to say before his departure. The second part of this discussion will cover the considerably shorter passage devoted by Josephus to Moses' departure.

5.3.2.1 Moses' swan songs

There are two speeches which Moses gives in preparation for his death. The first (4.177-95) finishes with him handing over the books of the law (see p. 201). The constitutional digression separates it from the second (4.311-19), which takes place "the next day", right before Moses departs up the mountain to his death.

The first speech is presented as taking place in an assembly (ἐκκλησία) of all the people (4.176): much like Lycurgus' gathering of the Spartans before his departure, Moses has called the people together. In Deuteronomy, Moses is described as beginning to "expound the law" and his speech recounts events since the divine order to leave Horeb. Josephus' Moses neither elucidates the law, nor tells the people their story. Instead, he announces his impending death, which is the basis for his now taking his final opportunity to suggest to them ways in which they might live prosperously in the future. There is thus a distinct similarity with the picture of Lycurgus giving a last speech to the Spartan population: indeed, Plutarch there also uses the terms συναγαγών and ἐκκλησία (29.2), which do not appear in the Septuagint translation of Deuteronomy.

Moses has a dual identity: he is both lawgiver and general, and the speech does have a military character. He greets his audience as ἄνδρες συστρατιῶται (4.177), and he speaks of his past role as their helper (βοηθός) and fellow-fighter (σύμμαχος).[663] This is something that is entirely absent in the Greek lawgiver narratives, but is essential to Josephus' portrayal of Moses.

The message of the speech is that the people should follow the laws and keep to the constitution, and if they do, it will go well for them.[664] This will lead to εὐδαιμονία (4.179, 186, 193), a term which reflects Deuteronomy (e.g. 4:1, 11:22), but looks more like Lycurgus' repeated promise to the Spartans (29.2), particularly when combined with an emphasis on virtue (ἀρετή).[665]

In Deuteronomy, the focus is on retelling the history of how the Israelites reached this point. It is about the experience of slavery in Egypt, God's intervention at Sinai, and the revolts in the desert. Josephus' Moses includes no narrative in his speech: it is all exhortation. Egypt is not mentioned, and neither are events at Sinai. The law is mentioned repeatedly, but nothing about the moment of its provenance. The Ten Commandments are not referred to as a special category. The revolts are referred to, but not narrated. There are, instead, two particular emphases in the speech which Josephus writes. The first is an exhortation to submit to authority. The second is a warning against the dangers of wealth. Both can be found in Deuteronomy, but can also be explained by recourse to the model of Greek lawgivers.

Naming Eleazar, Aaron's son and the new high priest, and Joshua, his successor, Moses commands the people to obey these leaders, and then becomes momentarily sharp, warning

[663] Feldman 2004: 4.177.
[664] The core message of the *Antiquities* as a whole (1.14, p. 28).
[665] *AJ* 4.182; cf. Feldman 2004: 4.178.

them not to regard freedom (ἐλευθερία) as insolence to their rulers, which, he suggests, is what they use their current "freedom of speech" (παρρησία) for – the abuse of their benefactors (εὐεργέται).[666] He links this specifically with their treatment of him, telling them not to bring the same anger (ὀργή) to their future leaders as they have often dared (ἐτολμήσατε) to use against him, noting that he has more often been in mortal danger from them than from their enemies (4.188). Josephus' use of Greek political discourse here goes further than we find in the *Lycurgus*.[667] The linking of ἐλευθερία with παρρησία makes the latter into the main example of the former: freedom comes down to what can be said, even as Moses is making an argument for what *should not* be said.[668]

There is no explicit reference to the rebellions of Korah and Zambrias, but as the two key examples of free political speech, hostile to Moses, they are certainly to be understood, and perhaps this claim about the nature of freedom is Josephus' much-delayed answer to the problem of autonomy versus law posed by Zambrias (see p. 234).[669] Yet even now, Josephus' response, through Moses, tells only what freedom is not, and not what freedom is.

The second threat in the speech relates to wealth, and has its roots in Deuteronomy (4:27), where we find a warning for the future: if, after generations in the land, they turn to idols, they will be driven out and scattered. Josephus brings in this punishment (4.189), but associates it instead with the corruption of wealth (πλοῦτος), which leads to outrage (ἐξυβρίσαι) against

[666] This can be understood apologetically as an insistence on submission to Roman rule, yet, as Spilsbury (2005: 226–7) observes, this speech *also* declares eventual victory over enemies through obedience to the laws (*AJ* 4.191), combining "a message of both acquiescence and national fortitude."
[667] Importantly, παρρησία as a core political value is a feature of Athenian thinking, and not Spartan: see Raaflaub 2004: 54.
[668] Cf. Rajak 1998: 241.
[669] Feldman 2004: 4.188.

rulers. This is associated with the rejection of God (4.190), and will lead to dispersion (σκεδασθέντες διὰ τῆς οἰκουμένης). The reference to scattering may suggest that the biblical warning about idols was in Josephus' mind, but the picture is of wealth corrupting the relationship with rulers.

That wealth is the thing that eventually ruins Sparta is Plutarch's thesis (*Lyc.* 30.1). Yet what is striking is the difference between what Josephus has to say about wealth, and what we find in Plutarch. Plutarch refers to the introduction of gold and silver into the Spartan economy by Agis and then Lysander (rulers), which then leads to the corruption of the "laws of Lycurgus". It is the rulers who bring wealth in, which leads to the laws being undermined. Notably absent in Moses' warning is reference to the laws: wealth instead brings about hostility towards *governors* (προεστηκότες).[670] While Josephus later makes clear that this necessitates breaking the laws, the emphasis is different. Given the broad designation of governors, rather than priests or kings, we might interpret this as apologetic: obedience to authority (including *Roman* authority) is built into the model Moses provides.[671]

Surprisingly, Moses then goes on to insist that eventually even repentance (μετανοία) and remembrance of the broken laws will be of no use. This appears to contradict the promise of Deuteronomy 4:29: "From there you will seek the LORD your God, and you will find him..." (NRSV). Josephus has suggested precisely the opposite, in his desire to crank up the pressure in Moses' final going-away speech. There is no reference made to the possibility of the "laws and constitution" being observable while in this exiled state, even though of course for Josephus (and all other Jewish writers in Greek) this is usually assumed. Perhaps part of the

[670] Cf. *AJ* 20.125.
[671] Cf. Spilsbury 2005: 226.

reason for this apparent confusion lies in the lawgiver narratives which provide some of Josephus' inspiration: because Greek lawgivers are so deeply bound up with individual cities and locations, the problem of obeying the law when settled elsewhere is not one which is addressed. The model of the lawgiver conflicts with the diaspora model which Josephus employs elsewhere.

The speech finishes with a final appeal: to prevent "nature" (φύσις) leading the people astray, Moses has put together (συνέθηκα) these laws and this constitution, with God's help (ὑπαγορεύσαντός μοι τοῦ θεοῦ), which will lead them to happiness (4.193): this he now hands over in physical format to the people (4.197). The language is Platonic: it is ignorance (ἀμαθία) that might lead to disaster. The last relative clause, which promises happiness, has as its antecedent the constitution rather than the laws.[672] Once again, therefore, we have language which certainly retains some of the spirit of the source text, but ultimately looks Greek, at a key moment of transition in the lawgiver narrative. The handing over of the laws is an important stage in the progression, a stage at which the lawgiver is also handing his personal authority over to a new entity, whether the laws themselves (as in the case of Lycurgus), or a subset of the community (as in the case of Numa).

During the speech, we saw Josephus emphasising obedience to authority, specifically to the authority of his (and Aaron's) successors: the general Joshua, and the high priest Eleazar. Yet as he rewrites the scene in which the books are handed over, it is this aspect which he changes. In Deuteronomy (31:9), Moses writes the laws, and gives them to the priests who carry the Ark of the Covenant, and to the elders of Israel – that is, to the rulers, those whose

[672] 4.193: …καὶ πολιτείαν, ᾗς τὸν κόσμον φυλάξαντες πάντων ἂν εὐδαιμονέστατοι κριθείητε.

authority Josephus will highlight. Josephus in his rewriting (4.194) instead makes Moses hand the laws over not to an elite subsection of the community, but to the people in general. The same people who receive the book from him lament their own mistreatment of their legislator in earlier times (4.195). By avoiding any reference to the priests, Josephus broadens the picture of the laws' accessibility: unlike Numa's writings, hidden away and only taught to a small group of priests (see p. 194), Moses' laws belong to the whole people (ἅπαντα τὸν λαὸν).

This marks the end of the first stage of the lawgiver's departure: there is weeping, and repentance for past rebellion, but the scene ends calmly, with the meeting breaking up.[673] Josephus takes this opportunity to describe the constitution, as we have discussed (p. 238), as a proof of Moses' virtue: the importance of the content here can hardly be overstated. Yet the effect of this extended digression is *also* to divide Moses' leave-taking into two parts, the first consisting of the speech and delivery of the law, the second specifically about his death.

5.3.2.2 Moses' departure

Adding a chronology that is not there in Deuteronomy, Josephus takes up the narrative again after his summary of the law with "on the next day" (τῇ δ' ὑστεραίᾳ), when Moses calls together another assembly (4.309). The purpose of this assembly is that the people are to swear an oath to obey the laws. Such an oath is suggested in Deuteronomy (29:14), but it is not as formally administered as in Josephus' text, and it is not hard to see parallels with Solon and Lycurgus, who have their citizens swear just such an oath before they depart. The inclusion of women, children and slaves may reflect Deuteronomy 29:10, when Moses refers to women,

[673] Feldman (2004: 4.195) takes this as a reference in itself to Moses' death. The later reference to "the next day", however, militates against that reading.

children, foreigners, and those who draw water and chop wood.[674] It marks a difference from other lawgiver narratives, which, while they include a good deal of material on the required behaviour of women, children, and even foreigners, do not include these groups within the assemblies.

The oath is rather more specific than those administered by Solon and Lycurgus. They swear not only to observe the laws, but also to punish any who try to draw them away from the laws, whether family members or whole cities (4.310). In Deuteronomy 13 there is a warning first against prophets, who may try to entice the people away from their devotion to God, then against family members (13:6), and then against cities (13:12). The requirement in the first two instances is that the person should be put to death, while the city should be destroyed. Josephus draws on this, referring to the need to defend the nation, both collectively and individually, and "uproot" (ἀνασπᾶν) ground beneath the rebellious city and person. Yet the oath ends simply with the promise to "demonstrate that this was against their will" (τὸ μὴ κατὰ βούλησιν ἰδίαν ταῦτα γίνεσθαι δεικνύναι), if the more decisive options are not available (4.310).

The danger which Josephus specifies is not the turning to other gods, which is the repeated concern of Deuteronomy (13:2, 13:6, 13:13): it is instead the destruction (συγχεῖν καὶ καταλύειν) of the constitution. No doubt for Josephus the two would be mutually compatible, but it still matters that he focuses on the constitution rather than idolatry: the oath in *Antiquities* is easily comparable with those found in the lawgiver narratives of Plutarch.

[674] Cf. Gallant 1988: 183.

The scene continues with Moses giving a few specific instructions about sacrifices and war, before making the prediction, revealed to him by God, that if they transgress, a series of disasters will follow: cities will be razed and temple burnt (4.314).[675] This time, although he includes a comment about the uselessness of repentance in that situation, as he did before, he *also* refers to the restoration by God of cities and temple, not just once, but many times (οὐχ ἅπαξ, ἀλλὰ πολλάκις).[676]

Without going into what this says about Josephus' hopes of temple restoration in his own time, it is worth noting the use of the term *citizens* (πολῖται) to denote the Israelites.[677] This is unusual: the term by this point in the *Antiquities* has only been used twice before.[678] Its use here may simply depend on the nearby πόλις: no doubt πόλεις τε πολίταις has a nice ring to it (particularly as it forms chiasmus with ὑμᾶς and ὑμετέροις). Yet given the rarity of the term in this part of the *Antiquities*, it might also be reflecting the extent to which Josephus at the end of his lawgiver narrative is influenced by the assumptions at work in the model in the Greek world.

This is when Moses makes his final speech to the people. This is, he says, the day when he will "return to our forefathers" (πρόγονοι), a day selected by God (4.315). He thanks God for all he has done in helping Moses lead the people, pivoting to explain that it is God, and not himself, who has taken the lead in every part of the story. Moses is just his underling (4.317: ὑποστράτηγος, ὑπερέτης): we thus come to the striking ending of the speech, which names God

[675] Cf. Deut. 28:52.
[676] Feldman (2004: 4.314) points out that the specification of the temple is Josephus' invention.
[677] On Josephus' hopes for the rebuilding of the temple, see Goodman 2004: 25; 2008: 154; van Henten 2015: 6.
[678] In the prologue (*AJ* 1.21), referring to Moses' education of his citizens (see p. 76) and 2.101, when Reuben explains to the unrecognised Joseph that they had heard that the Egyptians had opened their stores to foreigners as well as their own citizens. The term is common from Book Five onwards, appearing 65 times in total.

the true lawgiver (4.319, cf. p. 150). Josephus' Moses first encouraged the people to accept the authority of the human leaders he had appointed (see p. 294). Now, the shift is from the authority of Moses as lawgiver, to the authority of God as lawgiver. Whereas Lycurgus and Numa transferred their authority to the laws themselves, or to a select group, Josephus' Moses relinquishes his authority to a higher power –the power from which his authority originated.

Josephus next refers to the prophecies made by Moses to each tribe (4.320), revealing that he is still working with Deuteronomy (33), but his extended description of the people's mourning is not directly based on scripture. The "many" (τὸ πλῆθος) weep, women beat their breasts, children wail (4.320). The remarkable extent of this grief is made evident in the fact that Moses himself is moved to tears (4.322: ἐνικήθη δακρῦσαι). This, we are to understand, is an extreme reaction: after all, in his obituary for Moses, Josephus' highest praise goes to his control of the passions – which is so great that it would almost seem that he didn't *have* such things (4.328). Yet at this moment, to highlight his close relationship with the people he has led, Josephus makes his lawgiver cry – which is not something that has parallels in any other lawgiver narratives. The grief of the population has resonance with the mourning for Numa in Rome (22.1, see p. 289). Yet that occurs after the king's death, rather than in preparation for it.

Moses is then followed by the congregation as he goes to the appointed place; he signals to them to stop, and continues with only the elders, Joshua, and Eleazar for company. Up on the mountain of Abaris, he dismisses the elders. While still speaking to Joshua and Eleazar, he disappears into a ravine, a cloud descending to hide the event (4.326).[679]

[679] Similarities with the deaths of Aeneas and Romulus in Dionysius of Halicarnassus are observed by Thackeray 1929: 57.

While Josephus makes mention of the wide views of Canaan which the mountain enjoys (4.325), he does not say anything about this being part of the reason it was chosen: that God was showing Moses the land into which he was not permitted to go.[680] The journey to the place is also presented as at Moses' own volition; no command from God is reported. The group-by-group dismissal of those following him is not found in Deuteronomy. The scene is framed by Josephus' choices, despite continuity with his biblical source.

5.3.2.3 Deification?

One of the most striking features of the account of Moses' death in the *Antiquities* is the use of the verb ἀφανίζω: it occurs twice, once referring to the "place where he was destined to disappear" (4.323: οὗ ἔμελλεν ἀφανισθήσεσθαι), and once at the moment of his disappearance (4.326). This is the same word used of Romulus by Plutarch, once when introducing the story of the Roman founder's disappearance (27.3), and once at the very end of the book (29.7).[681] Given that the Hebrew Bible very clearly states (Deut. 34:5) that Moses *died* (וַיָּמָת שָׁם מֹשֶׁה), Josephus' choice here is interesting, particularly since he himself will clarify that Moses did in fact die a few lines later. On the other hand, the frightening supernatural storm which Plutarch reports (27.6) has more in common with Josephus' account of Sinai (3.81; see p. 152) than with the mostly harmless cloud which descends upon the lawgiver.[682]

The inclusion of Joshua and Eleazar in the scene is another marked choice, since they are not mentioned as present in Deuteronomy. If we are looking for parallels with Romulus, this is a

[680] Deut. 34:3; Freund (1994: 116) points out that Josephus' characterisation of Moses as barely even having παθή in his obituary seems to preclude any outburst of the kind that leads to his banishment.
[681] Cf. Pelling 2002: 175, 188; Talbert 1975: 425: "Josephus knew of a Jewish tradition of the end of Moses' career that spoke of his passing in the same terms as those employed for the legendary heroes of other Mediterranean peoples."
[682] Cf. Acts 1:9.

bit dangerous: after all, the senators who remain with the Roman king when he dies are accused of his murder (*Rom.* 28.8)! That is certainly not something which Josephus wishes his audience to imagine. Rather, Josephus wishes to make clear that there were witnesses to the disappearance.

Finally, we come to the question of the body. We saw in the stories both about lawgivers and founder figures, that the physical remains were an important part of the narrative, whether by their presence (Theseus, Lycurgus) or absence (Romulus, Numa, and again, Lycurgus). Josephus has already made his job harder for himself by referring to Moses' disappearance, rather than his death.[683] The burial of Moses' body in Deuteronomy (34:6) is by an unspecified masculine singular subject (וַיִּקְבֹּר אֹתוֹ): this is generally taken to be God, which is confirmed by the next statement, that no man knows where the grave is.[684] Aside from the possible scepticism of an audience about a divine burial, this version of events would fit quite nicely in with stories such as Numa's vanishing corpse, and Theseus' long-hidden body on Scyros.[685] Within the landscape of foundational figures, a hidden grave, and even a divine burial, would not be so very strange.

Yet Josephus does not go that route, instead choosing not to refer to Moses' body, or grave, at all.[686] He only insists (4.326) that Moses did die, referring carefully to the sacred books which Moses wrote – and which we have recently seen him hand over to the community. Afraid that

[683] Tabor (1989: 228) notes that the biblical story of the end of Elijah's life looks more like this; that Josephus avoids the echoes there, and inserts them here may suggest that Josephus wishes to ensure that Moses retains his position as the most significant Jewish hero.
[684] The Septuagint changes the singular to a plural, so that "they" bury Moses. Damgaard (2008: 44) suggests that this is to avoid anthropomorphism.
[685] Plutarch reports (*Th.* 36.2) that Theseus' body was recovered from Scyros by the Athenians under Cimon.
[686] Tabor 1989: 237: he thus loses "the most striking" aspect of the Hebrew story.

people would think he had "gone back to the divinity" (πρὸς τὸ θεῖον αὐτὸν ἀναχωρῆσαι), Moses prepared the ground to prevent such stories by writing of his own death (γέγραφε δ' αὐτὸν ἐν ταῖς ἱεραῖς βίβλοις τεθνεῶτα). "Going back to the divinity" and "dying" are not the same thing: furthermore, the verb ἀναχωρῆσαι means to "return", implying that Moses originally *came* from the divine realm: or at least, this is the belief which Josephus is combatting. Again, Romulus comes to mind: when he appears to Proculus after his disappearance (*Rom.* 28.2), he says that he "came from the gods" to found a city before going back to live in heaven. What is implied is that Romulus' pre-existent soul was with the gods before his birth: by choosing the word "return", Josephus suggests that the same story might have been told about Moses.[687]

Of course, the point of Josephus' intervention is that such a story would be wrong: Moses himself precluded it. Yet the very need for any intervention on the part of our historian is entirely his own doing: he has chosen to shroud the end of Moses' life in mystery, and thus to create those resonances – particularly for an audience who would pick them up. Precisely what Josephus is hoping to achieve is unclear: at one and the same time, he wants to place Moses in the category of heroes such as Romulus, while rejecting the possibility of worship, or any bridging of the human-divine barrier.[688] He could even be implying that Moses *did not die*, even though Moses himself wrote that he did. There might be a distinction between what the lawgiver wrote, and what actually happened. But Josephus uses the verb ἐτελεύτησε in the "obituary" which follows, which should not be interpreted as anything other than death.

[687] Cf. Tabor 1989: 237: this is "conscious resistance to contemporary evaluations of other extraordinary figures."
[688] This desire to "have it both ways" is noted by Tabor (1989: 237–8) and Feldman (2004: 4.326). See also Mathews 2012: 23: "Most likely, Josephus wants to imply the divinisation of Moses, but not on the level of an apotheosis like other Graeco-Roman leaders and heroes." Mathews does not, however, parse the distinction between "divinisation" and "apotheosis".

In this "obituary", Josephus extends the extreme mourning beyond Moses' first followers, as he insists that everyone who reads the laws regrets Moses' loss, recognising his remarkable qualities from the writings he left behind (4.331). We have, at last, the final transfer of authority. During Moses' speeches we saw it transferred to his human successors to leadership, and then to God as the true lawgiver. Now we see authority ending up in the laws which Moses leaves. Like Lycurgus, he leaves evidence of his particular virtue in the laws he enacted, which stand as a memorial.

A comparison of Plutarch's departure and death stories about lawgivers with the last part of *Antiquities IV* reveals that Josephus' narrative is shaped by forces quite distinct from the material in Deuteronomy on which it is based. The language of the political assembly, the announcement of his departure, and the administering of oaths are all features that have rather more in common with Plutarch. When we arrive at the death scene itself, Josephus appears to muddy the waters, using language reminiscent of Plutarch's *Romulus* to create a picture of not-quite-apotheosis. In Moses' speeches, actions, and disappearance, Josephus is concerned to present the final stage of the lawgiver's task as conforming, in part, to the Greek model of legislation.

5.3.3 Conclusions

This chapter has shown two things. When it comes to narrative, Josephus is clearly deeply influenced by expectations similar to those of the readers presupposed by Plutarch in his *Lives*: thus the conflicts with Korah, or the Midianite women, turn into assembly-based debates about Moses' role as leader. Josephus even makes Moses' responses look a bit like Plutarch's lawgivers' reactions to violent criticism, with an emphasis on gentle personal

authority and kindness. Yet at the same time, conflicts are ultimately dealt with by divine punishment. Similarly when Moses dies, we have assembly-based speeches, oaths, and a formal transition into the law-led period of history after the lawgiver's departure, which looks similar to events around Solon or Lycurgus. Josephus even hints towards deification in the death-scene of Moses, using imagery reminiscent of Romulus. At the final moment in the "Life of Moses" portion of the *Antiquities*, the parallels with Plutarch are at their strongest.

Yet, conversely, when describing the constitution itself, something he has been writing about since the prologue, the appeals to the kind of audience we have been constructing are limited – they would be surprised by a starting point which does not relate to political leadership, and perhaps confused by the emphasis on interpersonal generosity and agriculture. Even the marriage laws, in which Josephus' explanations link quite closely with the sober, child-focused marital arrangements of Plutarch's Spartans, contain little that is directly relatable to that constitution. Yet Josephus' clear framing of this set of laws as the constitution, his mention of aristocracy as the political system, and his tendency to universalism reveals his attempt to reach out to such an audience. Where his choices diverge from their expectations, this reveals Josephus' personal stamp on his material – and his challenge to his first readers.

Chapter Six: Conclusion

This thesis set out to formulate a picture of how Josephus' first audience of Greek-identifying readers in Rome might have responded to his portrayal of Moses, using Plutarch's *Lives* as a heuristic tool. Having worked through the full Moses narrative as it appears in the first four books of the *Antiquities*, we can now draw some conclusions about how Josephus has adapted his material for such an audience, and what this might mean for how we read his work more generally.

Key to this conclusion is that such adaptation does not happen in every case: there are situations where we might expect parallels to be exploited where they are not, or even where parallels between Greek figures and the biblical Moses disappear in Josephus' retelling of the story. Our conclusions must therefore be divided into two parts: first, we will identify and discuss those parts of the Moses-portrait in the *Antiquitie*s that do seem designed to appeal to an audience with expectations similar to those of the readers presupposed by Plutarch in his *Lives*. We will then look at the opposite cases, when no attempt to appeal seems to have been made, before coming to a final conclusion about what this project contributes to our understanding of Josephus' place in his literary environment.

6.1 Appealing to his audience

It is in the prologue that Josephus makes his most direct appeal to his audience, as was shown in Chapter Two: his description of Moses as lawgiver, and particularly as a lawgiver who centred his legislation on an accurate conception of the nature of God, was carefully calibrated to appeal to an audience familiar with the tradition of the lawgiver in the Greek world (p. 74) – particularly as it had developed in the centuries before he wrote. But this first

case also demonstrates that Josephus' appeals are not simply attempts to make his material seem familiar to his audience – he also shapes and manipulates the tradition to which he is appealing, by incorporating the writing of aetiological narrative into the picture of what a lawgiver ought to do – bringing in Greek mythographers whom he can then criticise (p. 81). This opening to the work prepares us for what we should expect: appeals combined with manipulation and challenge.

Once we moved into the narrative portion of the *Antiquities*, the adaptations and appeals became more subtle. We can identify narrative similarities to figures in Plutarch's *Lives* which Josephus highlights in the infancy story – the inclusion of a prophecy about the unborn Moses (p. 86), the surveillance of the threatening midwives (p. 92), and the moving river (p. 96) all increase parallels with lawgivers and founders whose stories Plutarch will tell, and with whom Josephus' audience would be familiar. In the story of Moses' flight from Egypt, Josephus incorporates themes that have obvious appeal: role reversal (p. 124), envy, and elite corruption (p. 127). Similarly, when Moses dies, his preparation of the people in the assembly (p. 291), administering of an oath (p. 297), and careful departure before his death (p. 299), make him look much more like a Lycurgus or Solon than would happen automatically with the biblical story (p. 291). Josephus appears to downplay Moses' original reluctance to take on leadership, but in fact comparison with Numa suggests that this trope would not have made sense in the context of direct divine intervention anyway (p. 132).

But parallels and appeals are not limited to events in the stories. We also find similar overarching themes in Josephus and Plutarch. Both emphasise the absolute importance of education – lawgivers as educated men who also educate their populations – but fail to show

any concern about the way in which their lawgivers are actually educated within the narrative (p. 110). They also show an unexpectedly similar ambivalence about the question of divine law: Plutarch, from whom, as the representative of the Greeks, we might expect extreme cynicism, constantly apologises to a potentially sceptical audience at the same time as highlighting the reality of the divine aid offered to favoured legislators. Even as he does this, he constructs a double-sided picture, in which lawgivers have real connections to the divine, but also exaggerate and weaponise these connections in order to influence and control their populations (p. 148). Josephus shows a similar ambivalence – an awareness of a potentially sceptical audience, slight distancing from the actively divine elements in the process (p. 152), and consistent emphasis on Moses' own ingenuity and control of his legislation (p. 160). While he often makes pious statements about the law's divine origins, he places these in voices other than his own, leaving it open to his audience to be sceptical without dismissing his narrative as a whole (p. 150).

Both Plutarch and Josephus have a tendency to universalise, particularly when it comes to cultic symbolism and the interpretation of sacred activities and spaces (p. 174), and the principles underlying the constitutional system which the lawgiver develops, such as the fatherhood of God (p. 269), and the requirements of justice (p. 254). In his description of rebellions against Moses, which are transformed from their biblical models into full-scale political challenges to Moses' position as lawgiver and leader, Josephus employs a similar framework to what we find in Plutarch, with the lawgiver needing to establish his authority in order to validate his legislation. Strikingly, Josephus' Moses faces carefully structured arguments, and not just violence (p. 209). Plutarch's lawgivers respond to violence with

gentleness and so convince their political opponents of their good character, which establishes their authority (p. 217). Josephus does something similar, but Moses' kindness and gentleness towards those who would do him wrong does not prevent divine punishments from descending – it is by ensuring that these are not seen as Moses' own doing that Josephus calibrates his narrative for his audience (p. 220).

6.2 Challenging his audience

These adaptations, adjustments, and approaches show that Josephus is able to, and does, appeal to an audience similar to that presupposed in Plutarch's *Lives*, who would expect these kinds of narrative tropes and concerns when it comes to the story of the great lawgiver and founder of a nation. Yet despite his evident ability and willingness to do this, there are places where such appeals are not made, both on the level of narrative, and in terms of broader concerns and assumptions about which questions matter. Given Josephus' proven ability to make adjustments if he chose to, each of these "failures to adjust" can tell us about a particular challenge which Josephus is offering to the expectations and assumptions his audience bring to his text.

Thus, on the narrative level, even in the infancy story, which contains numerous parallels with Plutarch's *Lives*, Josephus avoids some of the obvious motifs – highlighting the protective role of Moses' parents (p. 95) to prevent any suggestion of Moses' exposure (despite this idea appearing in Philo, and other Jewish sources), or insisting upon Moses' open Hebrew identity from early on, an adaptation of his material which makes the story itself far less coherent (p. 117), and means that Moses does not have the dual identity which is common to some of the Graeco-Roman founder figures (despite such a dual identity being apparent in biblical and

other Jewish sources). Dual identities, mixed parentage, and complicated origin stories are important in the stories Plutarch tells (p. 114). By giving Moses an uncomplicated status and identity, at the cost of narrative coherence, Josephus insists that a single identity is possible (and desirable) even in a world of competing identities. The lawgiver is straightforwardly a part of the community and nation for which he legislates.

Similarly, while Josephus transforms the conflicts of Numbers into political battles in the model of resistance to a legislator, and provides his antagonists with carefully constructed rhetorical set-piece speeches, his refusal to answer their charges, except through contradictions embedded in the narrative (such as Zambrias' slavery, p. 232) and divine punishment, suggests that there are limits to the power of argument as a tool to deal with such existential threats.

When Josephus fails even to question the efficacy of writing as a medium for the transmission of law, this is perhaps less of a challenge to his audience, but it certainly tells us about the value placed in written text in Josephus' world-view – such that the questions posed about writing and law in the world around him simply had no impact (p. 205). That they should have is evident both from the longer Greek tradition, and from Plutarch's extreme approach in the *Lycurgus* (p. 197).

Finally, when we come, at last, to the description of the constitution, for which we have been waiting since the prologue, Josephus announces that he has shaped the material according to his own categories and we might expect this categorisation to be designed to appeal to his immediate audience (p. 239); yet comparison with Plutarch reveals little overlap in

overarching categories of law, and the categories into which Josephus *has* organised his material are not in the order we would expect. More importantly, while Josephus pays lip service to Greek constitutional categories, his insistence on the importance of proper worship, by placing it first, is a challenge to those systems. In the prologue he depicted Moses as a lawgiver who knew to start by looking at creation in order to understand God – appealing to certain traditions in the Greek world. Yet his constitution asks his reader to go further: if the lawgiver should start with God, should the citizen not do the same?

In each of these cases, it would be wrong to say that Josephus is simply ignoring the concerns of the kind of audience we have posited. That he tries to appeal in relation to other concerns demonstrates that he can appeal when he chooses to. Nor should we say that in these situations Josephus was blindly following a source (or indeed, that the parallels and similar concerns in other parts are simply the result of a source being followed): it is noticeable that it is within narrative that Josephus appeals most often to the expectations raised by legislator stories. It is on the level of themes and questions that he tends to diverge. Appealing to an audience is only part of the picture: the other half is the attempt to challenge and change their expectations. Reading Josephus in light of a Greek audience with assumptions like those made in Plutarch's *Lives*, using those *Lives* to imagine where Josephus' text fits neatly into their expectations, brings out these key elements of challenge, which are not fully recognised outside of this interpretative framework. Not merely making use of language and theoretical models familiar to his audience, Josephus reformulates them with his own contribution to his intellectual community.

Bibliography

A. Primary texts, translations, and reference works

Babbitt, F. C. (trans.). 1927-8 (repr. 1962-9). *Plutarch's Moralia*. 2 vols (Cambridge, MA)

Barclay, J. M. G. 2013. *Flavius Josephus: Translation and Commentary, Volume 10: Against Apion* (Boston, MA)

Bardy, G. (ed.). 1952-8. *Eusèbe de Césarée. Histoire ecclésiastique.* 3 vols (Paris)

Boissevain, U. P. (ed.). 1895-1901 (repr. 1955). *Cassii Dionis Cocceiani historiarum Romanarum quae supersunt*. 3 vols (Berlin)

Brémond, É. and G. Mathieu (eds). 1929 (repr. 1963). *Isocrate. Discours*. Vol. 1 (Paris)

Burnet, J. (ed.). 1900, 1907. *Platonis opera*. Vols 1&5 (Oxford)

Büttner-Wobst, T. (ed.). 1889-1905 (repr. 1962-67). *Polybii historiae*. Vols 1&4 (Leipzig)

Clark, A. C. (ed.). 1909. *M. Tulli Ciceronis Orationes.* Vol. 4 (Oxford)

Cohn, L. and S. Reiter (eds). 1915. *Philonis Alexandrini opera quae supersunt*. Vol. 6 (Berlin)

Cohn, L. 1902, 1906. *Philonis Alexandrini opera quae supersunt*. Vols 4-5 (Berlin)

Colson, F. H. and G. H. Whitaker (trans.). 1930. *Philo*: *On the Unchangeableness of God. On Husbandry. Concerning Noah's Work As a Planter. On Drunkenness. On Sobriety* (Cambridge, MA)

Colson, F. H. (trans.). 1937. *Philo: On the Decalogue. On the Special Laws, Books 1-3* (Cambridge, MA)

Colson, F. H. (trans.). 1935. *Philo: On Abraham. On Joseph. On Moses* (Cambridge, MA)

Colson, F. H. (trans.). 1939. *Philo*: *On the Special Law IV. On the Virtues. On Rewards and Punishments* (Cambridge, MA)

Colson, F. H. (trans.). 1941. *Philo*: *Every Good Man is Free. On the Contemplative Life. On the Eternity of the World. Against Flaccus. Apology for the Jews. On Providence* (Cambridge, MA)

Colson, F. H. (trans.). 1962. *Philo*: *On the Embassy to Gaius. General Indexes* (Cambridge, MA)

Danby, H. (trans.). 1933. *The Mishnah* (Oxford)

Drachmann, A. B. 1903-27. *Scholia vetera in Pindari carmina*. 3 vols (Leipzig)

Feldman, L. H. 2004. *Flavius Josephus: Translation and Commentary, Volume 3: Judean Antiquities 1-4* (Boston, MA)

Fischer, K. T. and F. Vogel (eds). 1888-1906. *Diodori bibliotheca historica*. 5 vols. 3rd ed. (Leipzig)

Fisher, C. D. (ed.). 1911. *Cornelii Taciti Historiarvm Libri* (Oxford)

Fowler, H. N. (trans.). 1936 (repr. 1969). *Plutarch's moralia*. Vol. 10 (Cambridge, MA)

Freedman, H. and M. Simon (trans.). 1977. *The Midrash rabbah*. Vol. 2: Exodus (London)

Goodwin, W. W. 1997. *Greek Grammar* (London)

Green, P. 2006. *Diodorus Siculus, Books 11-12.37.1: Greek History 480-431 B.C., the Alternative Version* (Austin, TX)

Green, W. M. (trans.). 1963. *Augustine*: *City of God.* Vol. 2 (Cambridge, MA)

Harmon, A. M. (trans.). 1925. *Lucian*. Vol. 4 (Cambridge, MA)

Henry, R. (ed.). 1959-77. *Photius. Bibliothèque*. 8 vols (Paris)

Jacobson, H. 1996. *A commentary on Pseudo-Philo's Liber antiquitatum biblicarum, with Latin text and English translation* (Leiden)

Jacoby, K. (ed.). 1885-1905 (repr. 1967). *Dionysii Halicarnasei antiquitatum Romanarum quae supersunt*. 4 vols (Leipzig)

Kaster, R. A. (ed.). 2016. *Suetonius: De vita Caesarum libros VIII et De grammaticis et rhetoribus librum* (Oxford)

Kaster, R. A. (ed.&trans.) *Macrobius*: *Saturnalia.* Vol. 1 (Cambridge, MA)

Kayser, C. L. (ed.). 1871. *Flavii Philostrati opera*. Vol. 2 (Leipzig)

Kent, R. G. (trans.). 1938. *Varro: On the Latin Language.* Vol. 1 (Cambridge, MA)

Kilburn, K. (trans.). 1959. *Lucian*. Vol. 6 (Cambridge, MA)

Lloyd-Jones, H. and N. G. Wilson (eds). 1990. *Sophoclis fabulae* (Oxford)

Long, H. S. (ed.) 1964. *Diogenis Laertii vitae philosophorum*. 2 vols (Oxford)

Marchant, E. C. (ed.). 1921 (repr. 1971). *Xenophontis opera omnia*. Vol. 2. 2nd ed. (Oxford)

Marcus, R. (trans). 1953. *Philo*: *Questions on Exodus* (Cambridge, MA)

Mason, S. 2001. *Flavius Josephus: Translation and Commentary, Volume 9: Life of Josephus*, (Leiden)

Mattingly, H. 1972. *The Roman Imperial Coinage.* Vol. 2 (London)

Meiggs, R. and Lewis, D. M. 1975. *A selection of Greek historical inscriptions to the end of the fifth century B.C.* (Oxford)

Meineke, A. (ed.). 1877. *Strabonis geographica*. 3 vols (Leipzig)

Nachstädt, W. 1935 (repr. 1971). *Plutarchi moralia*. Vol. 2.2 (Leipzig)

Nauck, A. (ed.). 1886. *Porphyrii philosophi Platonici opuscula selecta*. 2nd ed. (Leipzig)

Niese, B. 1885-92 (repr. 1955). *Flavii Iosephi opera.* 5 vols (Berlin)

Nodet, É. (ed.). 1992. *Les Antiquités juives* (Paris)

Oppermann, H. (ed.). 1928 (repr. 1968). *Aristotelis Ἀθηναίων Πολιτεία* (Leipzig)

Perrin, B. (trans.). 1914. *Plutarch's lives*. Vol. 1 (Cambridge, MA)

Perrin, B. (trans.). 1916. *Plutarch's lives*. Vol. 4 (Cambridge, MA)

Petit, F. (ed). 1978. *Philo: Quaestiones in Genesim et in Exodum. Fragmenta Graeca* (Paris)

Radt, S. L. 2002. *Strabons Geographika: mit Übersetzung und Kommentar* (Göttingen)

Reynolds, D. (ed.). 1965. *Seneca*: *Ad Lucilium epistulae morales libri XIV–XXL* (Oxford)

Ross, W. D. (ed.). 1957 (repr. 1964). *Aristotelis politica* (Oxford)

Rudd, N. and J. G. F. Powell (eds). 1998. *Cicero: The republic and the laws* (Oxford)

Slings, S. R. (ed.). 2003. *Platonis Rempublicam* (Oxford)

Smyth, H. W. 1956. *Greek Grammar* (Cambridge, MA)

Snell, B. (ed.). 1971. *Tragicorum Graecorum fragmenta*. Vol. 1 (Göttingen)

Thackeray, H. St. J. (trans.). 1926. *Josephus: The Life. Against Apion* (Cambridge, MA)

Thackeray, H. St. J. (trans.). 1927-8. *Josephus*: *The Jewish War.* 3 vols (Cambridge, MA)

Thackeray, H. St. J. (trans.). 1930a. *Josephus: Jewish Antiquities I-III* (Cambridge, MA)

Thackeray H. St. J. & R. Marcus (trans.). 1930b. *Josephus: Jewish Antiquities IV-VI* (Cambridge, MA)

von Arnim, J. (ed.). 1893-96 (repr. 1962). *Dionis Prusaensis quem vocant Chrysostomum quae exstant omnia*. Vols. 1&2. 2nd ed. (Berlin)

Wendland, P. (ed.). 1897 (repr. 1962). *Philonis Alexandrini opera quae supersunt*. Vol. 2 (Berlin)

Wilson, N. G. (ed.). 2015. *Herodoti Historiae.* 2 vols (Oxford)

Winterbottom, M. (ed.). 1970. *Fabi Quintiliani: Institutionis Oratoriae Libri Duodecim*. 2 vols (Oxford)

Zangemeister, K. F. W. (ed.). 1889. *Pauli Orosii Historiarum Adversum Paganos Libri VII* (Leipzig)

Ziegler, K. (ed.). 1969. *Plutarchi vitae parallelae*. Vol. 1.1. 4th ed. (Leipzig)

B. Secondary literature

Allison, D. C. 2013. *The New Moses: A Matthean Typology* (Eugene, OR)

Almagor, E. 2015. 'Josephus and Greek Imperial Literature', in H. H. Chapman and Z. Rodgers (eds), *A Companion to Josephus* (Chichester), 108–122.

Almagor, E. 2017. 'Facts, fragments and fiction: Plutarch's *Solon*', in T. Derda, J. Kwapisz and J. Hilder (eds), *Fragments, Holes, and Wholes: Reconstructing the Ancient World in Theory and Practice* (Warsaw), 163–180.

Altshuler, D. 1979. 'The treatise Περὶ ἐθῶν καὶ αἰτιῶν "On Customs and Causes" by Flavius Josephus', *JQR* 69: 226–232.

Altshuler, D. 1982. 'On the classification of Judaic laws in the *Antiquities* of Josephus and the Temple Scroll of Qumran', *AJS Review* 7: 1–14.

Amir, Y. 1994. 'Josephus on the Mosaic "Constitution"', in H. G. Reventlow, Y. Hoffman, and B. Uffenheimer (eds), *Politics and Theopolitics in the Bible and Postbiblical Literatures* (Sheffield), 13–27.

Assmann, J. 1997. *Moses the Egyptian: The Memory of Egypt in Western Monotheism* (Cambridge, MA; London)

Attridge, H. W. 1976. *The Interpretation of Biblical History in the* Antiquitates Judaicae *of Flavius Josephus* (Missoula, MT)

Avioz, M. 2014. 'Josephus' land theology: a reappraisal', in K. Berthelot, J. E. David, and M. G. Hirshman (eds), *The Gift of the Land and the Fate of the Canaanites in Jewish Thought* (Oxford; New York, NY), 36–49.

Avioz, M. 2019. 'Abraham in Josephus' Writings', in S. A. Adams and Z. Domoney-Lyttle (eds), *Abraham in Jewish and Early Christian Literature* (London), 93–108.

Balfour, M. 1995. 'Moses and the Princess: Josephus' *Antiquitates Judaicae* and the *Chansons De Geste*', *Medium Aevum* 64: 1–16.

Balsdon, J. P. V. D. 1966. 'The *Salii* and campaigning in March and October', *CR* 16: 146–147.

Barclay, J. M. G. 1992. 'Manipulating Moses', in R. P. Carroll and R. Davidson (eds), *Text as Pretext: Essays in Honour of Robert Davidson* (Sheffield), 28-46.

Barclay, J. M. G. 1996. *Jews in the Mediterranean Diaspora: From Alexander to Trajan* (*323 BCE-117 CE*) (Edinburgh)

Barton, J. 1986. *Oracles of God: Perceptions of Ancient Prophecy in Israel after the Exile* (London)

Beard, M. 2012. 'The cult of the "Great Mother" in Imperial Rome: The Roman and the "Foreign"', in J. R. Brandt and J. W. Iddeng (eds), *Greek and Roman Festivals: Content, Meaning, and Practice* (Oxford), 323–362.

Becker, H.-J. 2011. 'Shemot Rabbah', H. D. Betz, D. S. Browning, B. Janowski and E. Jüngel (eds) *Religion Past and Present Online* (Leiden)

Bellis, A. O. 1994. *Helpmates, Harlots, and Heroes: Women's Stories in the Hebrew Bible* (Louisville, KY)

Betz, H. D. 2008. 'Plutarch's *Life of Numa*: some observations on Graeco-Roman "Messianism"', in M. N. A. Bockmuehl and J. C. Paget (eds), *Redemption and Resistance: The Messianic Hopes of Jews and Christians in Antiquity* (London), 44–61.

Biale, D. 2016. 'Korah in the Midrash: The hairless heretic as hero', *Jewish History* 30: 15–28.

Bilde, P. 1988. *Flavius Josephus, between Jerusalem and Rome: His Life, His Works and Their Importance* (Sheffield)

Bloch, R. S. 2011. *Moses und der Mythos: die Auseinandersetzung mit der griechischen Mythologie bei jüdisch-hellenistischen Autoren* (Leiden; Boston, MA)

Bohak, G. 2000. 'The impact of Jewish monotheism on the Greco-Roman world', *Jewish Studies Quarterly* 7: 1–21.

Boulet, B. 2004. 'Is Numa Plato's philosopher-king?', in L. de Blois (ed.), *The Statesman in Plutarch's Greek and Roman Lives* (Leiden; Boston, MA), 243–256.

Bowden, H. 2008. 'Before superstition and after: Theophrastus and Plutarch on Deisidaimonia' *P&P* 199: 56–71.

Bowie, E. L. 2002. 'Plutarch and literary activity in Achaea: A.D. 107-117', in L. van der Stockt and P. A. Stadter (eds), *Sage and Emperor: Plutarch, Greek Intellectuals, and Roman Power in the Time of Trajan* (*98-117 A.D.*) (Leuven), 41-56.

Bowie, E. L. 1970. 'Greeks and their past in the Second Sophistic', *P&P* 46: 3–41.

Brague, R. 2007. *The Law of God: The Philosophical History of an Idea* (Chicago)

Brenk, F. E. 1998. *Relighting the Souls: Studies in Plutarch, in Greek Literature, Religion, and Philosophy, and in the New Testament Background* (Stuttgart)

Broughton, T. 1987. 'Mistreatment of foreign legates and the Fetial priests: three Roman cases', *Phoenix* 41: 50–62.

Buckland, W. W. 2010. *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian* (Cambridge)

Cartledge, P. 2001. *Spartan Reflections* (London)

Cartledge, P. and A. Spawforth. 1989. *Hellenistic and Roman Sparta: A Tale of Two Cities* (London)

Case, S. J. 1925. 'Josephus' anticipation of a Domitianic persecution', *JBL* 44: 10–20.

Castelli, S. 2002. *Il terzo libro delle Antichità Giudaiche di Flavio Giuseppe e la Bibbia: problemi storici e letterari* (Como)

Castelnérac, B. 2008. 'Plutarch's *Life of Lycurgus* and the philosophical use of discourse', in A. G. Nikolaidis (ed.), *The Unity of Plutarch's Work: 'Moralia' Themes in the 'Lives', Features of the 'Lives' in the 'Moralia'* (Berlin), 429–444.

Charles, M. B. and E. Anagnostou-Laoutides. 2010. 'The sexual hypocrisy of Domitian: Suet. *Dom*. 8.3', *L'Antiquité Classique* 79: 173–187.

Childs, B. S. 1974. *The Book of Exodus: A Critical, Theological Commentary* (Philadelphia, PA)

Cohen, J. 1993. *The Origins and Evolution of the Moses Nativity Story* (Leiden)

Coleman, K. 1999. '"Informers" on parade', *Studies in the History of Art* 56: 230-245.

Collins, A. Y. 2004. 'The charge of blasphemy in Mark 14:64', *Journal for the Study of the New Testament* 26: 379-401.

Collins, J. J. 1997. 'Marriage, divorce, and family in Second Temple Judaism', in L. G. Perdue (ed.), *Families in Ancient Israel* (Louisville, KY), 104–162.

Colman, J. 2015. 'The philosopher-king and the city in Plutarch's *Life of Numa'*, *Perspectives on Political Science* 44: 1–9.

Cotton, H. and W. Eck. 2005. 'Josephus' Roman audience', in J. Edmondson, S. Mason, and J. Rives (eds), *Flavius Josephus and Flavian Rome* (Oxford), 37–52.

Cowan, J. A. 2018. 'A tale of two antiquities: a fresh evaluation of the relationship between the ancient histories of T. Flavius Josephus and Dionysius of Halicarnassus', *JSJ* 49: 475–497.

Damgaard, F. 2008. 'Brothers in arms: Josephus' portrait of Moses in the *Jewish Antiquities* in the light of his own self-portraits in the *Jewish War* and the *Life'*, *JJS* 59: 218–235.

Damgaard, F. 2013. *Recasting Moses: The Memory of Moses in Biographical and Autobiographical Narratives in Ancient Judaism and 4th-Century Christianity* (Frankfurt am Main)

Den Hollander, W. 2014. *Josephus, the Emperors and the City of Rome* (Leiden)

Dillon, J. 2002. 'Plutarch and the end of history', in E. N. Ostenfeld, K. Blomqvist, and L. C. Nevett (eds), *Greek Romans and Roman Greeks: Studies in Cultural Interaction* (Aarhus), 233–239.

Duff, T. E. 2008. 'Models of education in Plutarch', *JHS* 128: 1–26.

Exum, J. 1983. '"You shall let every daughter live": a study of Exodus 1:8-2:10', *Semeia* 28: 63-82.

Fantham, E. 1996. *Roman Literary Culture: From Cicero to Apuleius* (Baltimore, MD; London)

Feldman, L. H. 1990. 'Prophets and prophecy in Josephus', *Journal of Theological Studies* 41:386-422

Feldman, L. H. 1992a. 'Josephus' portrait of Moses', *JQR* 82: 285–328.

Feldman, L. H. 1992b. 'Josephus' portrait of Moses: part two', *JQR* 83: 7–50.

Feldman, L. H. 1993a. 'Josephus' portrait of Moses: part three', *JQR* 83: 301–330.

Feldman, L. H. 1993b. 'Josephus' portrait of Korah', *Old Testament Essays* 6: 399–426.

Feldman, L. H. 1998. *Josephus's Interpretation of the Bible* (Berkeley, CA)

Feldman, L. H. 2002. 'The portrayal of Phinehas by Philo, Pseudo-Philo, and Josephus', *JQR* 92: 315–345.

Feldman, L. H. 2005. 'Parallel lives of two lawgivers: Josephus' Moses and Plutarch's Lycurgus', in J. Edmondson, S. Mason, and J. Rives (eds), *Flavius Josephus in Flavian Rome* (Oxford), 209–242.

Ferrary, J.-L. 1996. 'Lex Cornelia de sicariis et veneficiis', in M. H. Crawford (ed.), *Roman Statutes*. 2 vols (London), 2:749–753.

Finley, M. I. 1981. *Early Greece: The Bronze and Archaic Ages* (London)

Flusser, D. and S. Amorai-Stark. 1993. 'The Goddess Thermuthis, Moses, and Artapanus', *Jewish Studies Quarterly* 1: 217–233.

Fox, M. 2015. 'Plutarch's *Numa* and the rhetoric of aetiology', in R. Ash, J. Mossman, and F. B. Titchener (eds), *Fame and Infamy: Essays for Christopher Pelling on Characterization in Greek and Roman Biography and Historiography* (Oxford), 177–192.

Franxman, T. W. 1979. *Genesis and the* Jewish Antiquities *of Flavius Josephus* (Rome)

Freudenburg, K. 2014. '*Recusatio* as political theatre: Horace's letter to Augustus*', *JRS* 104: 105–132.

Freudenthal, J. 1874. *Hellenistische Studien: Alexander Polyhistor Und Die von Ihm Erhaltenen Reste Jüdischer Und Samaritanischer Geschichtswerke* (Breslau)

Freund, R. A. 1994. 'Thou shalt not go thither', *Scandinavian Journal of the Old Testament* 8: 105–125.

Friedman, D. 2014. 'Josephus on the servile origins of the Jews', *JSJ* 45: 523–550.

Friis, M. 2015. '"Aaron... the more deserving of us". Josephus on the high-priest in the third and fourth books of the *Jewish Antiquities*', *Journal of the World Union of Jewish Studies* 50: 51–66.

Friis, M. 2018. *Image and Imitation: Josephus'* Antiquities *1-11 and Greco-Roman Historiography* (Tübingen)

Gagarin, M. 2002. 'Schiedsrichter, Gesetzgeber und Gesetzgebung im Archaischen Griechenland', *The American Historical Review* 107: 1618–1619.

Gagarin, M. 2005. 'The unity of Greek law', in M. Gagarin and D. Cohen (eds), *The Cambridge Companion to Ancient Greek Law* (Cambridge), 29–40.

Gagarin, M. 2008. *Writing Greek Law* (Cambridge)

Gager, J. G. 1972. *Moses in Greco-Roman Paganism* (Nashville, TN)

Gallant, R. 1988. 'Josephus' expositions of biblical law: An internal analysis'. Yale University

Garnsey, P. 1970. *Social Status and Legal Privilege in the Roman Empire* (Oxford)

Gerber, C. 1997. *Ein Bild des Judentums für Nichtjuden von Flavius Josephus: Untersuchungen zu seiner Schrift* Contra Apionem (Leiden)

Gibbs, J. G. and L. H. Feldman. 1986. 'Josephus' vocabulary for slavery', *JQR* 76: 281–310.

Glancy, J. A. 2019. 'slavery and sexual availability', in B. J. Dunning (ed.), *The Oxford Handbook of New Testament, Gender, and Sexuality* (Oxford), 627-644

Gnuse, R. K. 1996. *Dreams and Dream Reports in the Writings of Josephus: A Traditio-Historical Analysis* (Leiden)

Goldenberg, D. 1976. 'The Halakha in Josephus and in Tannaitic Literature: A Comparative Study', *JQR* 67: 30–43.

Goldenberg, R. 1997. 'The Septuagint ban on cursing the gods', *JSJ* 28: 381–389.

Goodenough, E. R. 1928. *The Political Philosophy of Hellenistic Kingship* (New Haven, CT; London)

Goodenough, E. R. 1929. *The Jurisprudence of the Jewish Courts in Egypt: Legal Administration by the Jews under the Early Roman Empire as Described by Philo Judaeus* (New Haven, CT)

Goodman, M. 1989. 'Nerva, the *Fiscus Judaicus* and Jewish Identity', *JRS* 79: 40–44.

Goodman, M. 1994. 'Josephus as Roman citizen', in F. Parente and J. Sievers (eds), *Josephus and the History of the Graeco-Roman Period* (Leiden), 329–338.

Goodman, M. 2004. 'Trajan and the origins of Roman hostility to the Jews', *P&P* 182: 3–29.

Goodman, M. 2005. 'The *fiscus judaicus* and attitudes to Judaism', in J. Edmondson, S. Mason, and J. Rives (eds), *Flavius Josephus and Flavian Rome* (Oxford), 167–177.

Goodman, M. 2007a. *Rome and Jerusalem* (New York, NY)

Goodman, M. 2007b. *Judaism in the Roman World: Collected Essays* (Leiden; Boston, MA)

Goodman, M. 2008. 'Messianism and Politics in the Land of Israel, 66-135 C.E.', in M. N. A. Bockmuehl and J. C. Paget (eds), *Redemption and Resistance: The Messianic Hopes of Jews and Christians in Antiquity* (London), 149–57.

Goodman, M. 2017. *A History of Judaism* (London)

Goodman, M. 2019. *Josephus'* Jewish War*: A biography* (Princeton, NJ, 2019)

Goodman, M. and A. J. Holladay. 1986. 'Religious scruples in ancient warfare', *CQ* 36: 151–171.

Gruen, E. S. 1996. *Studies in Greek Culture and Roman Policy* (Leiden)

Gruen, E. S. 2016. *The Construct of Identity in Hellenistic Judaism: Essays on Early Jewish Literature and History* (Berlin; Boston, MA)

Halpern-Amaru, B. 1981. 'Land theology in Josephus' *Jewish Antiquities*', *JQR* 71: 201–229.

Harris, E. M. 2002. 'Did Solon abolish debt-bondage', *CQ* 52: 415–430.

Hayashi, M. 1991. 'Moses in the *Jewish Antiquities*: Josephus' Political Philosophy', Hebrew Union College

Hayes, C. E. 2015. *What's Divine about Divine Law?: Early Perspectives* (Princeton, NJ)

Hayward, R. 1996. *The Jewish Temple: A Non-Biblical Sourcebook* (London)

Hayward, R. 2009. *Targums and the Transmission of Scripture into Judaism and Christianity* (Leiden; Boston, MA)

Heemstra, M. 2010. *The Fiscus Judaicus and the Parting of the Ways* (Tübingen)

Hemer, C. J. 1973. 'The Edfu Ostraka and the Jewish Tax', *Palestine Exploration Quarterly* 105: 6–12.

Henderson, W. 1982. 'The nature and function of Solon's poetry: Fr.3 Diehl, 4 West', *AClass* 25: 21-33.

Hertzoff, A. 2008. 'Eros and Moderation in Plutarch's *Life of Solon*', *The Review of Politics* 70: 339–369.

Hirsch-Luipold, R. 2005. 'Der eine Gott bei Philon und Plutarch', in R. Hirsch-Luipold (ed.), *Gott und die Götter bei Plutarch* (Berlin; New York, NY), 141–168.

Hirsch-Luipold, R. 2014. 'Religion and Myth', in M. Beck (ed.), *A Companion to Plutarch* (Chichester), 163-176.

Hölkeskamp, K.-J. 1992. 'Arbitrators, lawgivers and the "codification of law" in Archaic Greece: problems and perspectives', *Mètis. Anthropologie Des Mondes Grecs Anciens* 7: 49–81.

Hölkeskamp, K.-J. 1999. *Schiedsrichter, Gesetzgeber und Gesetzgebung im archaischen Griechenland* (Stuttgart)

Holladay, C. R. 1977. *Theios Aner in Hellenistic-Judaism: A Critique of the Use of This Category in New Testament Christology* (Missoula, MT)

Hooker, E. M. 1963. 'The significance of Numa's religious reforms', *Numen* 10: 87–132.

How, W. W. and J. Wells, 1989. *A Commentary on Herodotus, with Introduction and Appendixes* (Oxford)

Huitink, L. and J. W. van Henten. 2009. 'The publication of Flavius Josephus' works and their audiences', *Zutot* 6: 49–60.

Humm, M. 2014. 'Numa and Pythagoras: the life and death of a myth', in J. H. Richardson and F. Santangelo (eds), *The Roman Historical Tradition: Regal and Republican Rome* (Oxford), 35–52.

Hunt, P. 2017. *Ancient Greek and Roman Slavery* (Newark, NJ)

Hurst, I. 2019. 'Plutarch and the Victorians', in S. A. Xenophontos and A. Oikonomopoulou, (eds), *Brill's Companion to the Reception of Plutarch* (Leiden), 563-572.

Huttner, U. 2004. *Recusatio imperii: ein politisches Ritual zwischen Ethik und Taktik* (Hildesheim)

Ilan, T. 2009. 'The Torah of the Jews of Ancient Rome', *Jewish Studies Quarterly* 16: 363-395.

Jackson, M. 2012. *Comedy and Feminist Interpretation of the Hebrew Bible: A Subversive Collaboration* (Oxford)

Jacobson, H. 1983. *The Exagoge of Ezekiel* (Cambridge)

Jaffee, M. S. 2001. *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE* (Oxford)

Janssen, R. 2018. 'A new reading of Shiphrah and Puah – recovering their voices', *Feminist Theology* 27: 9-25

Johnstone, W. 1990. *Exodus* (Sheffield)

Jones, C. P. 1966. 'Towards a Chronology of Plutarch's Works', *JRS* 56: 61-74.

Jones, C. P. 1970. 'Sura and Senecio', *JRS* 60: 98–104.

Jones, C. P. 1971. *Plutarch and Rome* (Oxford)

Jones, C. P. 2005. 'Josephus and Greek literature in Flavian Rome', in J. Edmondson, S. Mason, and J. Rives (eds), *Flavius Josephus and Flavian Rome* (Oxford), 201–208.

Jonquière, T. M. 2007. *Prayer in Josephus* (Leiden)

Kavanagh, B. J. 2000. 'Pontifices, bridge-making, and Ribezzo revisited', *Glotta* 76: 59–65.

Kemezis, A. 2016. 'Flavian Greek Literature', in A. Zissos (ed.), *A Companion to the Flavian Age of Imperial Rome* (Chichester), 450-468.

Kennell, N. M. 1995. *The Gymnasium of Virtue: Education & Culture in Ancient Sparta* (Chapel Hill, NC; London)

Keresztes, P. 1973. 'The Jews, the Christians, and Emperor Domitian', *Vigiliae Christianae* 27: 1-28.

Kingdon, H. P. 1972. 'The origins of the zealots', *New Testament Studies* 19: 74–81.

Klauck, H.-J. 1997. 'Religion without fear. Plutarch on superstition and Early Christian Literature', *Verbum et Ecclesia* 18: 111–126.

Klawans, J. 2005. *Purity, Sacrifice, and the Temple: Symbolism and Supersessionism in the Study of Ancient Judaism* (Oxford)

Klawans, J. 2012. *Josephus and the Theologies of Ancient Judaism* (Oxford)

Kõiv, M. 2003. *Ancient Tradition and Early Greek History: The Origins of States in Early-Archaic Sparta, Argos and Corinth* (Tallinn)

Koskenniemi, E. 2008. 'Moses—A Well-Educated Man: a look at the educational idea in early Judaism', *Journal for the Study of the Pseudepigrapha* 17: 281–296.

Kottek, S. S. 1994. *Medicine and Hygiene in the Works of Flavius Josephus* (Leiden)

Koulakiotis, E. 2008. 'Greek lawgivers in Plutarch: A comparison between the biographical Lycurgus and the rhetorical Alexander', in A. G. Nikolaidis (ed.), *The Unity of Plutarch's Work: 'Moralia' Themes in the 'Lives', Features of the 'Lives' in the 'Moralia'* (Berlin), 403–422.

Kugel, J. L. 1999. *Traditions of the Bible: A Guide to the Bible As It Was at the Start of the Common Era* (Cambridge)

Ladouceur, D. 1983. 'The language of Josephus', *JSJ* 14: 18–38.

Laks, A. 2000. 'The *Laws*', in C. J. Rowe, M. Schofield, S. Harrison, and M. S. Lane (eds), *The Cambridge History of Greek and Roman Political Thought* (Cambridge), 258–292.

Lane, M. S. 2013. 'Platonising the Spartan Politeia in Plutarch's *Lycurgus*', in V. Harte and M. S. Lane (eds), *Politeia in Greek and Roman Philosophy* (Cambridge), 57-77.

Laqueur, R. 1920. *Der jüdische Historiker Flavius Josephus: ein biographischer Versuch auf neuer quellenkritischer Grundlage* (Giessen)

Laughlin, J. 1976. 'The "Strange Fire" of Nadab and Abihu', *JBL* 95: 559–565.

Lavery, G. B. 1974. 'Training, trade and trickery: three lawgivers in Plutarch', *CW* 67: 369–381.

Levene, D. S. 2010. 'Priesthoods, Roman', in M. Gagarin (ed.), *The Oxford Encyclopedia of Ancient Greece and Rome* (Oxford)

Lewis, S. 2009. *Greek Tyranny* (Exeter)

Lierman, J. 2004. *The New Testament Moses: Christian Perceptions of Moses and Israel in the Setting of Jewish Religion* (Tübingen)

Liou-Gille, B. 2000. 'La figure du législateur dans le monde antique', *Revue belge de Philologie et d'Histoire* 78: 171–190.

Loraux, N. 1988. 'Solon et la voix de l'écrit', in M. Detienne (ed.), *Les savoirs de l'écriture en Grèce ancienne* (Lille), 95–129.

Lutz, M. J. 2012. *Divine Law and Political Philosophy in Plato's* Laws (London)

Magonet, J. 1982. 'The Korah rebellion', *Journal for the Study of the Old Testament* 7:3–25.

Mason, S. 1991. *Flavius Josephus on the Pharisees: A Composition-Critical Study* (Leiden)

Mason, S. 2003. 'Flavius Josephus in Flavian Rome: Reading on and between the lines', in A. J. Boyle and W. J. Dominik (eds), *Flavian Rome: Culture, Image, Text* (Leiden), 559–590.

Mason, S. 2004. 'Introduction to the *Antiquities'*, in L. H. Feldman (ed.), *Flavius Josephus: Translation and Commentary, Volume 3: Judean Antiquities 1-4* (Boston, MA)

Mason, S. 2005a. 'Of audience and meaning: reading Josephus' *Bellum Judaicum* in the context of a Flavian audience', in J. Sievers and G. Lembi (eds), *Josephus and Jewish History in Flavian Rome and Beyond* (Leiden), 71–100.

Mason, S. 2005b. 'Figured speech and irony in Josephus', in J. Edmondson, S. Mason, and J. Rives (eds), *Flavius Josephus and Flavian Rome* (Oxford), 243–288.

Mason, S. 2009. 'Of despots, diadems and diadochoi: Josephus and Flavian politics', in W. J. Dominik, J. Garthwaite, and P. A. Roche (eds), *Writing Politics in Imperial Rome* (Leiden), 323–350.

Mason, S. 2011. 'Josephus, publication, and audiences: a response', *Zutot* 8: 81–94.

Mason, S. 2012. 'The importance of the latter half of Josephus' *Judaean Antiquities* for his Roman audience', in A. Moriya and G. Hata (eds), *Pentateuchal Traditions in the Late Second Temple Period: Proceedings of the International Workshop in Tokyo, August 28-31, 2007* (Leiden), 129–54.

Mason, S. 2014. 'The priest Josephus away from the temple: a changed man?', *Revue de Qumrân* 26: 375–402.

Mason, S. 2015. 'Josephus as a Roman Historian', in H. H. Chapman and Z. Rodgers (eds), *A Companion to Josephus* (Chichester), 89–107.

Mason, S. 2016. *A History of the Jewish War* (Cambridge)

Mathews, D. 2012. *Royal Motifs in the Pentateuchal Portrayal of Moses* (London)

Mattern, S. P. 1999. *Rome and the Enemy: Imperial Strategy in the Principate* (Berkeley, CA; London)

Mayhew, R. 2010. 'The theology of the *Laws'*, in C. Bobonich (ed.), *Plato's 'Laws': A Critical Guide* (Cambridge), 197–216.

Mayhew, R. 2011. *Laws 10* (Oxford)

McGlew, J. F. 1996. *Tyranny and Popular Culture in Ancient Greece* (Ithaca, NY; London)

Meeks, W. A. 1967. *The Prophet-King: Moses Traditions and the Johannine Christology* (Leiden)

Meier, J. P. 2009. *A Marginal Jew: Rethinking the Historical Jesus.* Vol. 4 (New Haven, CT)

Mendelson, A. 1982. *Secular Education in Philo of Alexandria* (New York, NY)

Morgenstern, J. 1963. *The Fire Upon the Altar* (Leiden)

Morrow, G. R. 1960. *Plato's Cretan City: A Historical Interpretation of the* Laws (Princeton, NJ)

Murphy, F. J. 1993. *Pseudo-Philo: Rewriting the Bible* (New York, NY)

Najman, H. 2003. *Seconding Sinai: The Development of Mosaic Discourse in Second Temple Judaism* (Leiden)

Neufeld, E. 1993. 'The redemption of Moses', *Judaism* 42: 50-58.

Niehoff, M. 1992. *The Figure of Joseph in Post-Biblical Jewish Literature* (Leiden)

Nightingale, A. 1993. 'Writing/reading a sacred text: a literary interpretation of Plato's *Laws'*, *CP* 88: 279–300.

Nodet, É. 1997. 'Josephus and the Pentateuch', *JSJ* 28: 154–194.

Ogden, D. 1994. 'Crooked speech: the genesis of the Spartan rhetra', *JHS* 114: 85-102.

Opsomer, J. 2014. 'Plutarch and the Stoics', in M. Beck (ed.), *A Companion to Plutarch* (Chichester), 88–103.

Osborne, R. 2000. 'Archaic Greek Law: Schiedsrichter, Gesetzgeber und Gesetzgebung im Archaischen Griechenland', *CR* 50: 497–499.

Osborne, R. 2003. 'Law and laws: how do we join up the dots?', in L. Mitchell and P. J. Rhodes (eds), *The Development of the Polis in Archaic Greece* (London), 39–43.

Parker, H. 2004. 'Why were the Vestals virgins? Or the chastity of women and the safety of the Roman state', *AJPh* 125: 563–601.

Payen, P. 2014. 'Plutarch the antiquarian', in M. Beck (ed.), *A Companion to Plutarch* (Chichester), 235–248.

Pelling, C. B. R. 1990. *Characterization and individuality in Greek literature* (Oxford)

Pelling, C. B. R. 2002. *Plutarch and History: Eighteen Studies* (Swansea)

Pelling, C. B. R. 2014. 'Political philosophy', in M. Beck (ed.), *A Companion to Plutarch* (Chichester), 149–162.

Petitfils, J. M. 2014. 'Martial Moses in Flavian Rome: Josephus's *Antiquities* 2-4 and exemplary Roman leadership', *Journal of Greco-Roman Christianity and Judaism* 10: 194–208.

Price, J. 2005. 'The provincial historian at Rome', in J. Sievers and G. Lembi (eds), *Josephus and Jewish History in Flavian Rome and Beyond* (Leiden), 101–118.

Price, J. 2007. 'The Failure of rhetoric in Josephus' *Bellum Judaicum*', *Ramus* 36: 6–24.

Prowse, K. R. 1964. 'Numa and the Pythagoreans: A Curious Incident', *G&R* 11: 36–42.

Raaflaub, K. 2000. 'Poets, lawgivers, and the beginnings of political reflection in Archaic Greece', in C. J. Rowe, M. Schofield, S. Harrison, and M. S. Lane (eds), *The Cambridge History of Greek and Roman Political Thought* (Cambridge), 2–59.

Raaflaub, K. 2004. 'Aristocracy and freedom in the Greco-Roman world', in I. Sluiter and R. M. Rosen (eds), *Free Speech in Classical Antiquity* (Leiden; Boston, MA), 41–62.

Rajak, T. 1978. 'Moses in Ethiopia: legend and literature', *JJS* 29: 111–122.

Rajak, T. 1982. 'Josephus, and the "Archaeology" of the Jews', *JJS* 33: 465–477.

Rajak, T. 1998. 'The *Against Apion* and the continuities in Josephus' political thought', in S. Mason (ed.), *Understanding Josephus: Seven Perspectives* (Sheffield), 222–246.

Rajak, T. 2000a. *The Jewish Dialogue with Greece and Rome: Studies in Cultural and Social Interaction* (Leiden)

Rajak, T. 2000b. 'Josephus', in C. J. Rowe and M. Schofield (eds), *The Cambridge History of Greek and Roman Political Thought* (Cambridge), 585-596.

Rajak, T. 2005. 'Josephus in the diaspora', in J. Edmondson, S. Mason, and J. Rives (eds), *Flavius Josephus and Flavian Rome* (Oxford), 79–95.

Rappaport, S. 1930. *Agada und Exegese bei Flavius Josephus* (Frankfort am Main)

Redford, D. B. 1967. 'The literary motif of the exposed child (cf. Ex. ii 1-10)', *Numen* 14: 209–228.

Reeder, C. A. 2015. 'Gender, war, and Josephus', *JSJ* 46: 65–85.

Remus, H. E. 1996. 'Moses and the Thaumaturges: Philo's *De Vita Mosis* as a rescue operation', *Laval Théologique et Philosophique* 52: 665–680.

Revel, B. 1924. 'Some anti-traditional laws of Josephus', *JQR* 14: 293–301.

Ribary, M. 2014. 'Josephus' "rewritten Bible" as a non-apologetic work', in J. Zsengellér (ed.), *Rewritten Bible after Fifty Years: Texts, Terms, or Techniques?: A Last Dialogue with Geza Vermès* (Leiden), 249-292.

Richter, D. S. and W. A. Johnson. 2017. 'Periodicity and Scope', in D. W. Richter and W. A. Johnson (eds), *The Oxford Handbook of the Second Sophistic* (New York, NY), 3–10.

Rives, J. 2006. 'Magic, religion, and law: the case of the *Lex Cornelia de sicariis et veneficiis'*, in C. Ando and J. Rüpke (eds), *Religion and Law in Classical and Christian Rome* (Stuttgart), 47–66.

Robertson, S. 1991. 'The account of the ancient Israelite Tabernacle and first priesthood in the "Jewish Antiquities" of Flavius Josephus', Annenberg Research Institute

Rodgers, Z. 2008. 'Josephus' "theokratia" and Mosaic discourse: the actualisation of the revelation at Sinai', in G. J. Brooke, H. Najman, L. T. Stuckenbruck, and N. Lacoste (eds), *The Significance of Sinai: Traditions about Divine Revelation in Judaism and Christianity* (Leiden; Boston, MA), 129–148.

Rodgers, Z. 2009. 'Monarchy vs. Priestood: Josephus, Justus of Tiberias, and Agrippa II', in S. Freyne, Z. Rodgers, M. Daly-Denton, and A. Fitzpatrick-McKinley (eds), *A Wandering Galilean: Essays in Honour of Sean Freyne* (Leiden; Boston, MA), 173–184.

Rodrigues, Á. R. C. 2014a: 'The figure of the lawgiver in Greek political tradition until Plutarch' Universidade de Coimbra

Rodrigues, Á. R. C. 2014b. 'Political reforms in the *Lives* of Lycurgus and Numa: Divine revelation or political lie?', in J. R. Ferreira, D. F. Leão, and C. A. M. de Jesus (eds), *Nomos, Kosmos & Dike in Plutarch* (Coimbra), 67–83.

Roller, L. E. 1997. 'The ideology of the eunuch priest', *Gender & History* 9: 542–559.

Römer, T. 2007. 'La construction d'une 'Vie de Moise" dans la bible hébraique et chez quelques auteurs Hellenistique', in G. J. Brooke and T. Römer (eds), *Ancient and Modern Scriptural Historiography* (Leuven; Dudley, MA), 109–25.

Roskam, G. 2002. 'A παιδεία for the ruler. Plutarch's dream of collaboration between philosopher and ruler', in P. A. Stadter and L. van der Stockt (eds), *Sage and Emperor: Plutarch, Greek Intellectuals, and Roman Power in the Time of Trajan (98-117 A.D.)* (Leuven), 175–90.

Rosner, B. and J. Dickson. 2004. 'Humility as a social virtue in the Hebrew Bible', *VT* 54: 459–479.

Runnalls, D. 1983. 'Moses' Ethiopian campaign', *JSJ* 14: 135–156.

Rutledge, S. H. 2001. *Imperial Inquisitions: Prosecutors and Informants from Tiberius to Domitian* (London)

Samuel, A. E. 1963. 'Plutarch's account of Solon's reforms', *GRBS* 4: 231–236.

Sanders, E. P. 1990. *Jewish Law from Jesus to the Mishnah* (London)

Schäfer, P. 1997. *Judeophobia: Attitudes toward the Jews in the Ancient World* (Cambridge, MA; London)

Schmitz, T.A. 2014. 'Plutarch and the Second Sophistic', in M. Beck (ed.), *A Companion to Plutarch* (Chichester), 32–43.

Schofield, M. 2003. 'Religion and philosophy in the *Laws'*, in S. Scolnicov and L. Brisson (eds), *Platos 'Laws': From Theory into Practice : Proceedings of the VI Symposium Platonicum Selected Papers* (Sankt Augustin), 1–13.

Schröder, B. 1996. *Die 'väterlichen Gesetze': Flavius Josephus als Vermittler von Halachah an Griechen und Römer* (Tübingen)

Schwartz, D. 2015. 'Many sources but a single author: Josephus' *Jewish Antiquities'*, in H. H. Chapman and Z. Rodgers (eds), *A Companion to Josephus* (Chichester), 36–74.

Schwartz, D. R. 2013. *Reading the First Century: On Reading Josephus and Studying Jewish History of the First Century* (Tübingen)

Schwartz, D. R. 2014. *Judeans and Jews: Four Faces of Dichotomy in Ancient Jewish History* (Toronto)

Silver, D. J. 1973. 'Moses and the Hungry Birds', *JQR* 64: 123–153.

Smallwood, E. M. 1956. 'Domitian's attitude towards the Jews and Judaism', *CP* 51: 1–13.

Smallwood, E. M. 1976. *The Jews under Roman Rule* (Leiden)

Smolar, L. and M. Aberbach. 1968. 'The golden calf episode in postbiblical literature', *Hebrew Union College Annual* 39: 91–116.

Southern, P. 1997. *Domitian: Tragic Tyrant* (London)

Spilsbury, P. 1996. '*Contra Apionem* and *Antiquitates Judaicae*: Points of Contact', in L. H. Feldman and J. R. Levison (eds), *Josephus'* Contra Apionem*: Studies in Its Character and Context with a Latin Concordance to the Portion Missing in Greek* (Leiden), 348–68.

Spilsbury, P. 1998. *The Image of the Jew in Flavius Josephus' Paraphrase of the Bible* (Tübingen)

Spilsbury, P. 2005. 'Reading the Bible in Rome: Josephus and the Constraints of Empire', in J. Sievers and G. Lembi (eds), *Josephus and Jewish History in Flavian Rome and Beyond* (Leiden), 209–27.

Stadter, P. A. 2002a. 'Plutarch and Trajanic ideology', in L. van der Stockt and P. A. Stadter (eds), *Sage and Emperor: Plutarch, Greek Intellectuals, and Roman Power in the Time of Trajan* (*98-117 A.D.*) (Leuven), 277-241.

Stadter, P. A. 2002b. 'Introduction: Setting Plutarch in his context', in L. van der Stockt and P. A. Stadter (eds), *Sage and Emperor: Plutarch, Greek Intellectuals, and Roman Power in the Time of Trajan* (*98-117 A.D.*) (Leuven), 1-25.

Stadter, P. A. 2014a. 'Plutarch and Rome', in M. Beck (ed.), *A Companion to Plutarch* (Chichester), 13–31.

Stadter, P. A. 2014b. *Plutarch and His Roman Readers* (Oxford)

Stalley, R. F. 1983. *An Introduction to Plato's Laws* (Oxford)

Steiner, D. 1994. *The Tyrant's Writ: Myths and Images of Writing in Ancient Greece* (Princeton, NJ)

Sterling, G. 1991. *Historioraphy and Self-Definition: Josephus, Luke-Acts and Apologetic Historiography* (New York, NY)

Sterling, G. 2018. 'When silence is golden: the omission of the golden calf story in Josephus', in E. F. Mason and E. Lupieri (eds), *Golden Calf Traditions in Early Judaism, Christianity, and Islam* (Leiden), 87–96.

Swain, S. C. R. 1990. 'Hellenic culture and the Roman heroes of Plutarch', *JHS* 110: 126–145.

Swain, S. C. R. 1996. *Hellenism and Empire: Language, classicism, and power in the Greek world, AD 50-250* (Oxford)

Szegedy-Maszak, A. 1978. 'Legends of the Greek Lawgivers', *GRBS* 19: 199–209.

Tabor, J. D. 1989. '"Returning to the divinity": Josephus's portrayal of the disappearances of Enoch, Elijah, and Moses', *JBL* 108: 225–238.

Talbert, C. H. 1975. 'The concept of immortals in Mediterranean antiquity', *JBL* 94: 419–436.

Thackeray, H. St. J. 1929. *Josephus: The Man and the Historian* (New York, NY)

Thomas, R. 1996. 'Written in stone? Liberty, Equality, Orality and the codification of law', in L. Foxhall and A. D. E. Lewis (eds), *Greek Law in Its Political Setting: Justifications Not Justice* (Oxford), 9–31.

Thomas, R. 2005. 'Writing, law, and written law', in M. Gagarin and D. Cohen (eds), *The Cambridge Companion to Ancient Greek Law* (Cambridge), 41–60.

Thompson, L. A. 1982. 'Domitian and the Jewish Tax', *Historia* 31: 329–342.

Tiede, D. L. 1972. *The Charismatic Figure as Miracle Worker* (Missoula, MT)

Tigerstedt, E. N. 1965. *The Legend of Sparta in Classical Antiquity* (Stockholm)

Townend, G. B. 1980. 'Tacitus, Suetonius and the temple of Janus', *Hermes* 108: 233–242.

Tuval, M. 2011. 'A Jewish priest in Rome', in J. Pastor, P. Stern, and M. Mor (eds), *Flavius Josephus: Interpretation and History* (Leiden), 397–411.

Tuval, M. 2013. *From Jerusalem priest to Roman Jew: on Josephus and the paradigms of ancient Judaism* (Tübingen)

Van Effenterre, H. and F. Ruzé. 1994. *Nomima: recueil d'inscriptions politiques et juridiques de l'archaïsme grec* (Rome)

Van Harten, A. 2003. 'Creating happiness: the moral of the myth of Kronos in Plato's *Laws* (*Laws* 4, 713b-714a)', in S. Scolnicov and L. Brisson (eds), *Platos 'Laws': From Theory into Practice : Proceedings of the VI Symposium Platonicum Selected Papers* (Sankt Augustin), 128–38.

Van Henten, J. W. 2015. 'Josephus, fifth evangelist, and Jesus on the Temple', *HTS Teologiese Studies* 71: 1–11.

Van Kooten, G. H. 2007. 'Pagan and Jewish monotheism according to Varro, Plutarch, and St Paul: the aniconic, monotheistic beginnings of Rome's pagan cult – Romans 1:19-25 in a Roman context', in A. Hilhorst, E. Puech, E. J. C. Tigchelaar, and F. García Martínez (eds), *Flores Florentino: Dead Sea Scrolls and Other Early Jewish Studies in Honour of Florentino García Martínez* (Leiden), 633-651.

Van Kooten, G. H. 2008. 'Why Did Paul Include an Exegesis of Moses' Shining Face (Exod 34) in 2 Cor 3? Moses' Strength, Well-being and (Transitory) Glory, according to Philo, Josephus, Paul, and the Corinthian Sophists', in G. J. Brooke, H. Najman, L. T. Stuckenbruck, and N. Lacoste (eds), *The Significance of Sinai: Traditions about Divine Revelation in Judaism and Christianity* (Leiden; Boston, MA), 149–181.

Van Nuffelen, P. 2011. *Rethinking the Gods: Philosophical Readings of Religion in the Post-Hellenistic Period* (Cambridge)

Van Unnik, W. C. 1974. 'Josephus' account of Israel's sin with alien women in the country of Midian (Num. 25.1 ff)', in M. A. Beek, N. A. van Uchelen, M. S. H. G. Heerma van Voss, and P. H. J. Houwink ten Cate (eds), *Travels in the World of the Old Testament: Studies Presented to Professor M. A. Beek on the Occasion of His 65th Birthday* (Assen), 241–261.

Van Unnik, W. C. 1978. *Flavius Josephus als historischer Schriftsteller* (Heidelberg)

Vasunia, P. 2003. 'Plutarch and the return of the archaic', in A. J. Boyle and W. J. Dominik (eds), *Flavian Rome: Culture, Image, Text* (Leiden), 369–390.

Vermes, G. 1975. *Post-Biblical Jewish Studies* (Leiden)

Vermes, G. 1982. 'A summary of the law by Flavius Josephus', *NT* 24: 289–303.

Vokes, F. E. 1968. 'The Ten Commandments in the New Testament and in First Century Judaism', in F. L. Cross (ed.), *Studia Evangelica 5.2* (Berlin), 146–54.

Volk, K. 2015. 'Roman Pythagoras', in G. D. Williams and K. Volk (eds), *Roman Reflections: Studies in Latin Philosophy* (Oxford), 33-49

Von Ehrenkrook, J. 2011. *Sculpting Idolatry in Flavian Rome: (An)Iconic Rhetoric in the Writings of Flavius Josephus* (Atlanta, GA)

Wade-Gery, H. T. 1944. 'The Spartan Rhetra in Plutarch *Lycurgus* VI B. The Eunomia of Tyrtaios', *CQ* 38: 1–9.

Wardman, A. 1976. *Rome's Debt to Greece* (London)

Weaver, P. R. C. 1994. 'Epaphroditus, Josephus, and Epictetus', *CQ* 44: 468–479.

Weiß, H.-F. 1979. 'Pharisäismus und Hellenismus: Zur Darstellung des Judentums im Geschichtswerk des jüdischen Historikers Flavius Josephus', *Orientalistische Literaturzeitung* 74: 211–217.

Weissenrieder, A. 2017. 'A roadmap to heaven: High-priestly vestments and the Jerusalem Temple in Flavius Josephus', in R. L. Gordon, G. Petridou, and J. Rüpke (eds), *Beyond Priesthood: Religious Entrepreneurs and Innovators in the Roman Empire* (Berlin), 157–183.

Welton, W. A. 1995. 'Divine inspiration and the origins of the laws in Plato's *Laws'*, *Polis* 14: 53–83.

Westenholz, J. G. 1997. *Legends of the Kings of Akkade: The Texts* (Winona Lake, IN)

Weyl, H. 1900. *Die jüdischen Strafgesetze bei Flavius Josephus in ihrem Verhältnis zu Schrift und Halacha: mit einer Einleitung: Flavius Josephus über die jüdischen Gerichtshöfe und Richter* (Berlin)

Whitmarsh, T. 2001. *Greek Literature and the Roman Empire: The Politics of Imitation* (Oxford)

Whitmarsh, T. 2017. 'Hellenistic and early imperial continuities', in D. S. Richter and W. A. Johnson (eds), *The Oxford Handbook of the Second Sophistic* (New York, NY), 11–21.

Williams, M. H. 1990. 'Domitian, the Jews, and the "Judaizers": a simple matter of *cupiditas* and *maiestas*?', *Historia* 39: 196–211.

Willner, A. R. 1984. *The Spellbinders: Charismatic Political Leadership* (New Haven, CT)

Xenophontos, S. A. 2016. *Ethical Education in Plutarch: Moralising Agents and Contexts* (Berlin)

Yee, G. A. 2009. '"Take this child and suckle it for me": wet nurses and resistance in ancient Israel', *Biblical Theology Bulletin* 39: 180–189.

Zeitlin, S. 1963. 'Slavery during the Second Commonwealth and the Tannaitic Period', *JQR* 53: 185–218.

Zuiderhoek, A. 2009: *The Politics of Munificence in the Roman Empire: Citizens, Elites and Benefactors in Asia Minor* (Cambridge)

Zurawski, J. M. 2017. 'Mosaic Paideia: The Law of Moses within Philo of Alexandria's model of Jewish Education', *JSJ* 48: 480–505.