



Divine Law, Human Prophet: Moses in Hebrew and Greek

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Abstract

The Hebrew lawgiver Moses was compared to ancient Greek lawgivers such as Lycurgus of Sparta and Solon of Athens by the ancient Jewish authors Philo and Josephus—both writing in Greek while living in the Roman empire. This lecture explores their views of Moses and ancient Greek lawgivers on topics including education, ethical habituation, writing, prophecy and political rule. Early modern authors would inherit and examine these lawgivers, along with others, in their own reflections on law, culture, and politics.

Introduction

Moses was ‘the inventor of the first alphabet and the first to write laws’: so claimed the Jewish historian Eupolemus, writing in Greek at the turn of the first to second centuries of the Common (Christian) Era (fr. IB, cited in Westwood 2023: 141). At around the same time, the Jewish historian and former general Josephus, also writing in Greek, asserted that Moses was a far more ancient lawgiver than the figures he called (speaking to his Greek contemporaries) ‘your Lycurguses and Solons’ (CA 2.154). Such claims brought Jewish and Greek histories into a common frame, setting up Moses as the precursor, and the model, for the influential Greek lawgivers Lycurgus of Sparta and Solon of Athens, whose contrasting modes of issuing laws (roughly, oral versus written) would continue to interest Greeks and Romans well into the Common Era.

For those who wrote in this vein, Moses was the earliest lawgiver (of Near East and Mediterranean societies), and he was also the greatest one. Indeed he was often portrayed as lawgiver, king, priest, prophet and philosopher rolled into one: a greater lawgiver than the revered Lycurgus or Solon, and a greater philosopher than the revered Plato. As the pagan Platonist Numenius would ask: ‘What is Plato other than Moses speaking Attic [Greek]?’ (τί γάρ ἐστι Πλάτων ἢ Μωσῆς ἀπικίζων). And Josephus argued that Moses’ laws were far superior to those of Plato: both laid down laws that were hard to observe, yet Plato’s laws remained trapped in the realm of philosophy, whereas Moses had succeeded in making his laws a reality as the cornerstone of the continuing Jewish community (AJ 4.223-224; see also AJ 4.257 on Plato).

Thus in the period of emergence of Christianity, Moses became celebrated among Jews (and early Christians) as the original and the greatest lawgiver, who had forged the Jews into a people with a dedication to their distinctive laws surpassing even the famously patriotic ancient Spartans. Moses was lauded in this way on two related counts: for having succeeded in cultivating the greatest devotion to his laws, and this, in part, for having superlatively practiced what he preached.

The story of lawgivers that I’ve been telling in this year’s Gresham series (on ‘Lawgivers in the Political Imagination’) has been focused on archaic Greece, centuries before the advent of Christianity. I’ve been emphasizing that the Greeks in that period, whose cities were officially devoted to pagan cults, tended to think about laws as the product of great lawgivers, laid down for an ethical purpose, often with divine blessing but not divine dictation. But when later Jewish authors writing in Greek turned to Moses, they saw him as even greater than Lycurgus and Solon. This was only partly because of the divine dictation of laws to him

(the Ten Commandments and more from Mount Sinai). It was also because he managed to combine methods of lawgiving that drew on both Jewish and Greek elements, and also, to combine elements that would later characterize the rival cities of Athens and Sparta.

Before turning to these readings of Moses in detail, let me set the scene in terms of the interplay of Jewish and Greek culture when they were produced. While Lycurgus and Solon were dated to centuries before Christ, they were dated to centuries after Moses: so it was not chronologically impossible for them to have been influenced by Moses' ideas. That said, scholars have pointed out that while archaic Greeks and early Jews had clearly exchanged in trade across the Mediterranean, a fuller exchange of cultures and ideas between them did not begin until probably a century after Solon, sometime in the fifth century BCE (Feldman 1993: 3-6).

So the portrayal of Moses in Greek terms is not a claim that we should necessarily take seriously as being about the historical Moses. Rather, it is a claim that reveals the depth of interaction in the forging of a simultaneously Jewish and Greek culture in the later part of the Second Temple epoch, in the decades before and after the birth of Jesus. By then, there were large Jewish communities living their daily lives in cities where Greek was the common spoken and written language (although very few Jews were granted the privilege of formal citizenship): above all, in Alexandria, in Egypt, where one of my two main characters for this lecture, Philo of Alexandria (c. 20 BCE – c. 40 CE), was born.

Philo grew up and lived in the Alexandrian Jewish community, an observant Jew who participated regularly in Jewish rites of worship and study; studied the books of the Hebrew Bible in the Greek translation known as the Septuagint; and studied and wrote philosophy in Greek, especially the works of Plato as well as the Stoics. (In the wake of a vicious pogrom against the Alexandrian Jews in 38 CE, Philo led a delegation to the emperor Caligula seeking relief for the community.) So when Philo turned to write a 'Life of Moses' (along with Lives of the Jewish patriarchs, which survive only in part), he wove the Greek version of the Hebrew Bible together with Jewish rituals and Platonic and Stoic philosophical ideas.

In Philo's writings, the 'torah' (which in Hebrew means teaching or instruction) became the 'nomos' (which in Greek means law or custom). And for Philo, as we'll see further, Moses was unquestionably a *nomothetēs*, a 'lawgiver', indeed *the* great lawgiver, who preceded and surpassed the doings of Lycurgus and Solon.

My other main character for this lecture was born some two decades after Philo: this is Flavius Josephus (37/38 CE – 100 CE), born in Jerusalem, with the Hebrew name Yosef ben Matityahu, who took up his Latin name in the course of his remarkable and controversial life. A priest of the Second Temple, able (unlike Philo) to read the original Hebrew books of the Bible, Josephus became a general for the Jewish army fighting wars against the Roman imperial authorities, until he was taken prisoner by the general Vespasian. Contriving to survive a suicide pact among the prisoners, and predicting to Vespasian that the latter would soon become emperor, Josephus was granted his freedom when that prediction came true. He became an imperial counsellor, moving to Alexandria and eventually (after the destruction of the Second Temple in 70 CE) to Rome, continuing throughout to identify as a Jew even though he was held by many of his fellows to have traitorously gone over to the enemy. He wrote (among other works) two accounts defending Moses as a lawgiver against pagan attacks and criticisms: *The Antiquities of the Jews* (AJ, completed in 93/94 CE), and *Against Apion* (CA, written after AJ).

These two figures, Philo and Josephus, are fascinating because they embody a fusion of Jewish and Greek perspectives, two dimensions of the ancient world that today we most often study as opposed and apart. My aim in this lecture is to show you how Moses looked as a lawgiver in these fused and combined terms. To do so, I'll have to tease apart the different perspectives, in order to demonstrate how richly they were synthesized in the accounts of Moses that these two authors put forward. I am going to focus on three main questions in the Greek works of Philo and Josephus, while putting them in dialogue with Biblical Hebrew and later rabbinic accounts as well. The questions are: whether Moses was even a lawgiver at all; the purpose of his lawgiving; and the methods used in his lawgiving, including his distinctive synthesis of written laws with memory and practice. I'll close with a criticism of Moses as lawgiver which Josephus presented and sought to counter.

First Question: Was Moses a Lawgiver?

I am going to refer to the deity of the Jews in the Hebrew Bible as Yahweh. That's one way of vocalizing the Hebrew tetragrammaton, the name which first appears in Genesis 2:4 as the Hebrew letters yud – hay – vav – hay. Because Hebrew is not written with vowels, one can pronounce the same set of letters in different ways, and in fact the tetragrammaton name is also sometimes vocalized as Jehovah or in Hebrew replaced

in speaking with the word 'Lord' (*Adonai*).

Now when we think about the role of Yahweh in the Hebrew Bible, issuing the Ten Commandments and other laws to Moses on Mount Sinai, both in speech and writing, we may wonder: how could Moses be a lawgiver at all? If he merely received the laws from the deity, and transmitted them in speech and writing to the people, doesn't that seemingly mere transmitter role disqualify him from the august lawgiver pantheon?

The main line of Jewish thought, as developed by the Rabbis who wrote late in, or after, the period of the Second Temple, said that Moses was not in fact to be called a lawgiver. In their eyes, the only true lawgiver was Yahweh, who was the 'giver' of the Torah (gave the Torah: *matan Torah*), while eventually arranging (after the episode of the Golden Calf when Moses broke the first set of tablets) for it to be written 'by Moses' hand' (Feldman 2005: 215). On this view, Moses was a mere 'receiver' of the Torah, as the point is put in the opening of *Pirkei Avot*, a tractate of the rabbinic Talmud: he was (just) the one who wrote it down.

This rabbinic view captures well the episode in Exodus 24:

Ex. 24:3: Moses went and repeated to the people all the commands of יהוה and all the rules...

Ex. 24:4: Moses then wrote down all the commands of יהוה

So at most, Moses' role here appears to be oral and then written transmission, as the rabbis would insist.

Indeed, that passage shows Moses as writing down the commands of Yahweh even before the giving of the Ten Commandments. Remember that those were given initially on two tablets of stone (see e.g. in anticipation Ex. 24:12, and then 31:18 and 32:15-26), and then, after the Golden Calf, when the first tablets were broken by Moses in anger – given again on a second set of tablets, which Yahweh first promises to inscribe (Ex. 34:1), but then later instructs Moses to 'write down' the commandments on the new tablets instead (Ex. 34: 27-28). So Moses' role again, in the two revelations of the Ten Commandments, focuses on his role as both a carrier of written tablets, and as a scribe who writes down what has been said – as the rabbis would insist.

And that rabbinic perspective might seem to be reinforced by a contrast with the pagan archaic Greeks: for whom, being a lawgiver did not generally mean receiving the laws directly from their gods. Rather, the gods might indicate that a given person was especially qualified to be a wise lawgiver; and/or they might afterward indicate their approval of the laws that such a person had issued. There is no divine voice dictating the laws of Solon, in particular: his laws were his own human compositions. (The case of Lycurgus is more complex because of the reference to his laws in later sources as being *rhētra* of the Delphic oracle.)

Yet this is precisely what makes Philo and Josephus so fascinating. For they had no hesitation in declaring Moses to be a lawgiver – and in comparing him as similar, though far superior, to 'your Lycurguses and your Solons' (to quote Josephus again). To be sure, they did not deny that Moses had received the Torah on Mount Sinai. But while he was not the original giver of the laws, he was the person who had given them onward to the people, both orally and in writing.

Thus, both Yahweh and Moses could be described as 'lawgivers' without any contradiction, as we see in both of our authors. For example, Josephus writes of the deity 'having given you the laws' (AJ 4.319), and then within a few paragraphs, recounts the death of Moses 'the lawgiver' (AJ 4.322).

Philo for his part had opened his *Life of Moses* by announcing that:

'I purpose to write the life of Moses, whom some describe as the lawgiver of the Jews, others as the interpreter of the Holy Laws' (*Vit. Mos.* 1.1, Loeb trans. modified: 'lawgiver' instead of 'legislator').

Philo did not treat this distinction between Moses as lawgiver and Moses as interpreter as any sort of a problem. Instead he immediately went on to refer to the laws which Moses 'left behind him' (*Vit. Mos.* 1.2),¹ and goes on to portray multiple ways in which the deity and Moses functioned in tandem, both in different ways acting as 'lawgivers' (while Moses also played the roles, in Philo's view, of king, priest and prophet).

Thus Moses as lawgiver was not to be viewed as merely a scribe. Rather, for both Philo and Josephus, Moses possessed superlative virtues that enabled him to understand the purpose for which the laws were given, and to shape his transmission of the laws in such a way as to be supremely effective. And this was what made him both comparable to, and greater than, Lycurgus and Solon. Moses was (in their eyes)

¹ Najman 2003: 104, is paraphrased by Westwood 2023: 119 n.44, as 'explor[ing] how Philo appears more interested in the figure of Moses as a source of authority than in the moment of divine revelation itself'.

responsible for shaping the distinctive customs and laws of the Jewish people – just as Lycurgus was responsible for shaping the distinctive customs and laws of the Spartan people.

Moses, like Lycurgus, and indeed also Solon, was responsible for establishing a *politeia*: a constitution, a set of political institutions combined with the customs and laws needed to make and keep the people united in shared virtue. And Moses had done so even more successfully than those later Greeks. For while the identity of the Spartan polity had lasted for centuries (even into the Christian Era, when it had long come under Roman political domination), the close-knit identity of the Jewish people had persisted for (by the early Common Era) for centuries longer.²

Moreover, the laws of Moses could be viewed as comparable to the laws of Lycurgus, the laws of Solon, and other Greek lawgivers, because they were specific legal instructions meant to be followed by the people and applied by their judges. This made them quite different from the much earlier inscribed laws of Babylonia and Sumeria, for example.³ For while much of the content of all of these laws – the *lex talionis*, for example, known as ‘an eye for an eye’ – were similar, nevertheless, as I noted in my January lecture on ‘Writing Laws’, there is scarcely any evidence that the ‘Code of Hammurabi’, for example, was applied in judicial decision-making. Rather, as the scholar Marc Van De Mieroop has argued, this (and other Babylonian codes) seem to have functioned as indications of the king’s wisdom and justice, rather than as inputs to particular legal outputs.⁴

By contrast, the laws of Moses as laid out in the Hebrew Bible (in which scholars have distinguished three different sets of legal codes) were designed to be widely followed and applied, just as the laws of Solon were. And whereas Solon tried to make his laws unchangeable for a decade, or perhaps a hundred years (depending on which source we follow and how we read it), Moses’ laws were intended to be completely permanent and unchanging. It would be up to interpreters – the later rabbis – to read them in ways that could take account of changing circumstances.

Most importantly, Philo and Josephus argued, Moses shared the aim of the ancient Greek lawgivers, while perfecting its realization by combining two methods of lawgiving that the ancient Greek figures tended to keep apart. This brings me to my second question: what was Moses’ aim as a lawgiver, in the eyes of Philo and Josephus?

Second Question: What was Moses’ Aim as a Lawgiver?

Philo called Moses (in his response to conflict in the Israelite community) a ‘mediator and reconciler’ (*mesitēs kai diallaktēs*, *Vit. Mos.* 2.166). The latter Greek word is a pointed one: for it is the very same word which a classical-era Greek text written in Aristotle’s circle (the *Constitution of the Athenians*) used to describe Solon as having been chosen ‘in common’ by the two opposing factions in Athens ‘as reconciler (*diallaktēs*) and archon’ (*Ath. Pol.* 5.2, trans. Lane).⁵ The purpose of the lawgiver for both Moses and Solon was to unite the community through shared laws, which would impart shared values and virtues. Josephus would emphasize a similar purpose, in speaking of the unanimity of mind (*homonoia*) and concord (*sumphōnia*) exhibited by the Jews of his own time (CA 2.179).

² Josephus did insist that the *politeia* established by Moses was a *theokratia*, a word that he was self-conscious about having coined in Greek (CA 2.165).

³ Here is how one scholar has summarized the overall picture for the ancient Near East and Mediterranean in terms of the survival of an inscribed and materially complete collection of laws: ‘Only about a dozen Near Eastern and Greek law codes—or, speaking cautiously, law collections—have survived. Babylonia and Sumeria contribute the collections of Hammurabi and Lipit-Ishtar and the less extensive remains of Ur-Namma and Eshunna. The Old Testament contributes the Deuteronomic, priestly, and Covenant Code, and the Hittite and Assyrian empires contribute one more apiece. Greece contributes the last, from Gortyn in Crete’ (Naiden 2013: 79).

⁴ See Melissa Lane, ‘Writing Laws: Hammurabi to Solon’, delivered at Gresham College on 23 January 2025: <https://www.gresham.ac.uk/watch-now/writing-laws>, citing Van De Mieroop 2008: 102, in which attention is called to the statement in one of the surviving inscriptions of the so-called Code of Hammurabi that it (the inscription) records the ‘just verdicts which Hammurabi the able king has established’: notably, verdicts, not laws.

⁵ The same word for Solon’s role features in an influential text composed decades after Philo’s death, Plutarch’s *Life of Solon* (a text written roughly contemporary with or soon after the later writings of Josephus): Solon ‘was chosen as archon after Philombrotus and at the same time as reconciler (*diallaktēs*) and as lawgiver (*nomothetēs*)’ (ἡρέθη δὲ ἄρχων μετὰ Φιλόμβροτον ὁμοῦ καὶ διαλλακτῆς καὶ νομοθέτης) (*Sol.* 14.2, trans. Lane).

Thus the lawgiver in their eyes could not have been a mere scribe. Rather, they insisted that Moses acted with a purpose (for *gnōmē*: e.g. for Josephus, *AJ* 3.186). And they insisted further that this purpose could only be achieved by a lawgiver as great as Moses, who had what Philo called the proper 'legislative condition of mind' requiring the virtues most closely connected to the task of the lawgiver (*Vit. Mos.* 2.8-9). A lawgiver can only achieve the purpose of their laws if they have the right purpose and the virtues themselves needed to carry it out.

Josephus spelled out the lawgiver's defining virtue:

'the virtue of a lawgiver is to have insight to see what is best, and to persuade those who are to live under the laws that he introduces' (*CA* 2.153, Loeb trans. modified: 'lawgiver' for 'legislator')

And he went on to apply this to Moses, whom he called:

'the great lawgiver under whom they [the Jews] were trained in piety and the exercise of the other virtues' (*AJ* 1.2).

Indeed Philo's treatise on the 'special laws of the Jews' (*De Specialibus Legibus*) identified for each Jewish law, such as each dietary law of *kashrut*, what specific sub-purpose it was supposed to serve, including which specific virtue which it aimed to cultivate.

And this brings me to my third and final question, which is to explore the methods used by Moses as a lawgiver, according to Philo and Josephus, who saw in these methods an extraordinary synthesis on multiple levels. In their eyes, Moses had transcended multiple polarities that had later become established cultural divides: the divide between Spartan lawgiving through orally learned customs put into practice, and Athenian lawgiving through written laws, and likewise, the divide between Jewish ritual and Platonic philosophy. We'll see both of these in addressing the third question that I'll take up, about the modes of lawgiving.

Third Question: the Modes of Lawgiving

The contrast between Athens versus Sparta, written laws versus unwritten customs, had already become a proverbial opposition by the late Second Temple period. In my last lecture on 20 February, I presented that opposition as it would manifest itself in the later *Institutes* of Roman law (I.II.3-10, trans. Moyle): which presented Roman law as relying on two methods, on the one hand the method of written laws (described as characteristically Athenian) and on the other, the method of unwritten laws (described as characteristically Spartan). The key contrast was this: '*[in Sparta, it was usual] to commit to memory what was observed as law, while the Athenians observed only what they had made permanent in written statutes*' (I.II.10), with 'unwritten law' being compared to ancient customs as 'that which usage has approved' and being 'when approved by consent of those who follow them' comparable to 'statute' (I.II.9).⁶

Nonetheless, Philo and Josephus both insisted that Moses had already, centuries before the rise of Sparta and Athens, reconciled the underlying opposition, by synthesizing the two rival methods of lawgiving.

Here is how Josephus presents Moses as a practitioner of 'both/and', the forger of a middle way, which enabled him to outdo the more splintered and divided achievements of his pagan successors. The question is how to engage in moral instruction, and what place law – and in particular – written law – has therein:

'All schemes of education and moral training fall into two categories;

instruction is imparted in the one case by precept [or, literally, 'word': *logos*],

in the other by practical exercising of the character (*dia tēs askēseōs tōn ēthōn*).

All other lawgivers....selected the particular method which each preferred and neglected the other.

Thus the Spartans and Cretans employed practical, not verbal, training;

whereas the Athenians and nearly all the rest of the Greeks made laws enjoining what actions might or might not be performed, but neglected to familiarize the people with them by putting them into practice'.

(*CA* 2.171-2, spacing added and Loeb trans. modified: 'lawgivers' for 'legislators'; 'Spartans' for 'Lacedaemonians')

⁶ See Melissa Lane, 'Unwritten Laws? Legacies from Antigone and Lycurgus', Gresham Lecture delivered on 20 February 2025: <https://www.gresham.ac.uk/watch-now/unwritten-laws-legacies-antigone-and-lycurgus>

For Josephus, the aim of giving laws is fundamentally to shape popular education and thereby inculcate common virtues and a unified community. The Spartans used ‘practical training’ but did so without words; the Athenians uses words, but neglected ‘putting them into practice’.

By contrast, Josephus goes on to emphasize that Moses had already (earlier than Lycurgus or Solon) combined both approaches:

‘Our lawgiver [Moses]...took great care to combine both systems. He did not leave practical training in morals inarticulate; nor did he permit the letter of the law to remain inoperative... ..’.

(CA 2.173, Loeb trans. modified: ‘lawgiver’ for ‘legislator’).

How did Moses effect that combination? Once again, Philo and Josephus drew on both pagan Greek and Jewish practices and ideas in providing their explanations.

Let me start with the Greek side. Behind Philo’s account, in particular of Moses’ combination of written law and internalized practice, lies the Platonic theory of law. Plato in his dialogue the *Laws* (*Nomoi*, 4.720a-e) had proposed that law should ideally consist of a double form, in which persuasive preambles (or preludes) are prefixed to the narrowly coercive laws. The preambles are intended to persuade citizens to internalize the purpose of the law and willingly follow it, so that the coercive conditional command that comprises the law in a narrow sense (if you perform crime X, you will suffer punishment Y) need not be put into practice. So by hearing or reading an explanation of the purpose of a law, the idea is that you will come to internalize it, to make it part of your outlook and habits, and so make the law more effective.

Philo explicitly says that laws should include preambles, attributing, this Platonic mode of giving laws already to Moses (*Vit. Mos.* 2.50-51). And the scholar Ursula Westwood (2023: 182-3) has argued that Josephus also depicts Moses as addressing a preamble to the people before beginning to lay down the overall laws (*AJ* 4.199).

At the same time, Philo and Josephus built in their accounts of the methods of Moses’ lawgiving on the incorporation of writing into Jewish ritual practices. Let me illustrate with two such practices.

First, as noted in a footnote to the Josephus passage above (CA 2.173) in the Loeb edition, already in this period the Jews ‘ascribed to Moses the introduction of the custom of public reading of the Law on Sabbaths and festivals’ (citing the Talmud, Talm. Jer. Megilla, iv.1). By hearing the written laws read out, Jewish communities were imitating and reproducing the original oral transmission of Yahweh’s commands to Moses on Mount Sinai, and Moses’ subsequent oral transmission to the Israelites. Instead of ‘permit[ting] the letter of the law to remain inoperative’, in Josephus’ words, they were using the written words for oral practice and internalization, hearing them read out in order to facilitate better memorizing and acting upon them.

Likewise, Jews had long followed the Biblical commandment to write up lines from the Torah on the doorposts of their houses and the gates of their cities:

Deuteronomy 6:9, quoted in the Jewish Shema prayer: ‘[And you shall] inscribe them [these words—which are commandments] on the doorposts of your house and on your gates’. (*Jewish Publication Society*, 389).

Hebrew: *u’ktavtam al mezuzot beitecha u’visharecha*; Septuagint Greek: *...grapsete...epi tas phlias tōn oikiōn humōn kai tōn pulōn humōn* [city’s gates].⁷

These lines were (and are today) encased in a *mezuzah*, a small case containing these lines of writing, which is traditionally touched (and by some people kissed) by Jews every time they go in or out of the doorway or gates to which it is affixed. In this way, the written words were not left ‘inoperative’ in Josephus’ phrase, not left inert or neglected, but rather, incorporated into daily awareness through this ritual practice.

Thus, the written words and laws of the Torah were not simply a matter for study severed from everyday life (nor even reserved for the often oral private ‘reading’ that was still prevalent in this period). Rather, the Jewish rituals of public reading of the Torah (the law), and incorporating the *mezuzah* into daily actions, brought (and continue to bring) writing into the heart of ritual practice, and so into the hearts of the Jews themselves.

Now some observers of these Jewish rituals in ancient Alexandria seem to have thought that they were missing the underlying educational point: that the Jews were relying on external writing, like the Athenians, instead of cultivating the deeper and richer ethical education that could be gained from unwritten laws, like

⁷ For the Hebrew text as referring to ‘the gates of the cities’, see the authoritative discussion in Tigay 1996, *ad loc.*

the Spartans. This kind of criticism can be discerned in a corpus of writings from this period (around the lifetime of Philo) known as neo-Pythagorean texts: they were ascribed to much earlier followers of the philosopher Pythagoras (who had lived before and influenced Plato), but in fact, were likely written (as the scholar Bruno Centrone has argued) in the first century BCE in ‘an Alexandrian milieu, where a renewed interest in Pythagoreanism is well attested and an influence from Judaic tradition easy to explain’ (Centrone 2000: 5757).

Let’s look at how two of these texts implicitly criticize Jewish reliance on the *mezuzah* as a form of external writing:

Pseudo-Diotogenes, *On Piety*: ‘The laws should not be written on houses and doorways (*en oikēmasi kai thurōmasin*), but in the mores of the citizens. For what is the origin of the whole constitution (*politeia*)? The upbringing of the youth’.

(Pseudo-) Archytas, *On Law and Justice* 33: ‘And [the law should be] present not on houses and doorways (*en oikēmasi kai thurōmasin*), but in the mores of the citizens’.⁸

While Centrone did not spell out where Judaic influence in neo-Pythagorean texts could be found, these references to writing the laws on ‘houses and doorways’ cannot be anything other than a reference to the Jewish practice of posting *mezuzot* containing written laws on the doorways of their houses (and also, when possible, on their cities’ gates). For the neo-Pythagoreans, the practice of posting up written laws was missing the point: it was irrelevant to the education (‘upbringing of the youth’) in order to internalize the mores (customs and habits) of the community, which the Spartans had (for all the militaristic character of their constitution) done so successfully for their limited population of full citizens. So these neo-Pythagoreans are staging an opposition between Jewish reliance on external writing, and an effective program of internalization into mores (customs and habits) through the upbringing of the youth: a clear allusion to a Lyncurgan Spartan approach to education.

This kind of contrast between external writing and writing in the habits of citizens, could be characterized in Jewish vs Greek terms, but also, in Spartan vs Athenian intra-Greek terms. And once again, Philo and Josephus would argue that Moses had overcome all such oppositions. As observant Jews, they held that this did not require renouncing the ritual of the *mezuzah* or any other part of the Laws of Moses. Rather, it required seeing that externally written laws in Torah scrolls and *mezuzot*, had as their purpose the internalization of those laws as habits and customs.

We see this in a passage of Philo discussing customs and habits as being ‘unwritten laws’ that are ‘inscribed...on the souls’ of citizens:

‘Customs (ethē) are unwritten laws, the decisions approved by men of old, not inscribed on monuments nor on leaves of papyrus which the moth destroys, but on the souls of those who are partners in the same constitution (politeia)’.

(*Spec. Leg.* 4.149-50, Loeb trans. modified: ‘constitution’ for ‘citizenship’; ‘papyrus’ for ‘paper’).

Although this passage points out the vulnerability of external writing (to the leaves of papyrus, which moths could destroy), Philo did not think that the value of unwritten laws negated the usefulness of written ones. Yet he emphasized that the purpose of written laws was to facilitate their internalization into custom and practice, even elevating the person who obeys unwritten laws above the person who obeys written ones, in a mode that is again more Spartan than typically Jewish:

‘Praise cannot be duly given to one who obeys the written laws, since he acts under the admonition of restraint and the fear of punishment. But he who faithfully observes the unwritten deserves commendation, since the virtue which he displays is freely willed’ (*Spec. Leg.* 4.150, Loeb trans.)

That synthesis between law as written and unwritten, as external and internal, was most powerfully expressed in a discourse of ‘writing on the heart’ or ‘writing on the soul’, which would be adopted by Philo and Josephus (and other authors) from a combination of Biblical Hebrew and classical Greek sources. The idea was to describe a form of writing that could genuinely permeate a person’s character and so be reliably

⁸ Because the text *On Law and Justice*, which I consider associated with Archytas, has some claims to being considered authentic and is defended as such by some authors, whereas the text attributed to Diotogenes that I cite has no such claim, I have distinguished their authors’ names as ‘pseudo-Diotogenes’ and ‘(pseudo-) Archytas’.

expressed in their virtuous actions. This discourse was a way of overcoming the divide between external writing and internal habits, or as it were, between Athens and Sparta. Writing on the heart is internalized in a way that external writing may not be, and by being incorporated into the heart or soul, it will naturally find expression in appropriate actions.

This discourse builds on an injunction in the Bible:

Jeremiah 31:33: you should 'inscribe' the biblical teaching 'upon their hearts'. (*Jewish Publication Society*, 1090)

And it also connects to a statement in Plato, highlighting and celebrating the kind of discourse that is:

'written down, with knowledge, in the soul of the learner' (*Phaedrus* 276a5-7).

Both Philo and Josephus picked this up. Josephus spoke of himself and other Jews as knowing their written scriptures deeply and in detail, in contrast to other ancient peoples who often did not even know the content of their own laws. He asserted of himself and his fellow Jews that:

'we have them [our laws] as it were engraven on our souls' (CA 2.178).

We saw above Philo's claim about customs being 'inscribed...on the souls'. And Philo developed this discourse further in an extraordinary meditation by Philo on a moment in the Book of Deuteronomy, 17:18, when the Biblical text envisages a future king ordering the priests to write out a copy of the Torah for him to study. Philo elaborates on this idea, imagining the king actually going further by writing out a copy of the laws for himself, and thinking to himself in the following terms:

"I write (*graphein*) them [the laws] in a book in order to transcribe (*metagraphō*) them straightway in my soul, and receive in my mind the imprints of a script more divine and ineffaceable". (*Spec. Leg.* 4.32)

As Josephus had claimed about himself and his fellow Jews, Philo likewise here presented external writing and internalization in the soul as going hand in hand: with the language of writing on the soul as a bravura way of combining them.

But that synthesis of written laws and unwritten customs still left Philo with a problem: how to explain the virtue of Moses (and before him, the Hebrew patriarchs), who had grown up before the written laws were issued on Mount Sinai? If written laws were necessary to shape and inculcate unwritten customs in the heart and soul, then how could Moses himself have become virtuous enough to lay down the written laws? It is a kind of chicken and egg problem. And *a fortiori*, how could any of the patriarchs (Abraham, Isaac, Jacob and Joseph) have become virtuous at all, given that they lived centuries before the 'Laws of Moses' were given?

Philo's solution to that problem once again drew on another dimension of ancient Greek non-Jewish thinking, in this case, the Hellenistic Greek motif of describing the king of a polity as its *nomos empsuchos* or 'living law', literally, 'ensouled law'.⁹ In his *Life* of each of the Jewish patriarchs (though only those of Abraham and Joseph survive, the former subtitled in part 'Unwritten Laws'), as in his *Life* of Moses, Philo describes each of these figures in those terms. Each of them was, by divine providence, made into a 'living law': they embodied the law perfectly, without the need for a lawgiver to transmit it or lay it down on their behalf. For Philo, then, it was Moses the living law that made the work of Moses the lawgiver possible.

Conclusion: a criticism of Moses as lawgiver

Josephus and Philo presented Moses as a lawgiver as having achieved a brilliant synthesis, *avant la lettre*, between Athens and Sparta, between written law and unwritten customs. But they also had to tackle attacks on Moses as a lawgiver (mainly prosecuted by pagan authors of their times), arguing that he had not played a benevolent role for his people as Lycurgus and Solon had done for theirs, and I shall close by considering how Josephus expressed such an attack.

Josephus designed his whole work *Contra Apionem* to rebut criticisms of Moses as a 'trickster and deceiver' (*goēs kai apateōn*), which had been advanced by pagan opponents of Judaism such as Apion and Apollonius Melon. These authors argued that far from having preceded Lycurgus and Solon as a model lawgiver, Moses was actually a fraud.

While rebutting it directly in the *Contra Apionem*, Josephus went so far as to flesh out this line of criticism

⁹ See Goodenough 1938, on which (and also in its own right) Vatter 2021; also, Martens 2003.

elsewhere in his work, in going well beyond the Biblical text to dramatize three rebellions in the desert against Moses' role as lawgiver, as Westwood (2023) has argued. In imaginatively fleshing out the way that Moses' first followers might have turned on him, Josephus was arguably also grappling with the ways that contemporary Jews were being attacked by vociferous pagans. Among their most cutting criticisms was the claim that Moses was not a wise lawgiver, but rather, hiding his aims as a tyrant, who was seeking his own benefit rather than the good of the people.

We may illustrate with Josephus' portrayal of the rebellious speech of Zambrias, who is the leader of the tribe of Simeon and was consorting with a Midianite woman and devoting himself to her cult practices (AJ 4.141). While the Bible does not contain any such speech, Josephus imagines it as having challenged and rejected Moses' authority in the following words:

'Nay, do *thou*, Moses, keep these laws on which thou has bestowed thy pains, having secured confirmation for them (*to bebaion*) only through these men's simplicity...

But *me* thou shalt not get to follow thy tyrannical orders; for thou hast done nought else until now save by wicked artifice, under the pretext of 'laws' and 'God', to contrive servitude for us and sovereignty for thyself, robbing us of life's sweets and of that liberty of action, which belongs to free men who own no master...

I sacrifice to gods to whom I hold sacrifice to be due, deeming it right to get at the truth for myself from many persons, and not to live as under a tyranny, hanging all my hopes for my whole life upon one. And woe be to any man who declares himself to have more mastery over my actions than my own will [or better trans.: judgment/purpose/intention, for *gnōmē*]!

(AJ 4.145-9; spacing introduced; emphasis as per the archaizing Loeb translation).

Here the lawgiver (here also a ruler, issuing 'tyrannical orders') is attacked by claiming that his purpose is not to benefit the ruled, but to exploit them in pursuing his own good. Zambrias asserts that he will follow his own *gnōmē* rather than what Josephus has previously identified as that of Moses, which is embodied in his laws. This makes Moses into a lawgiver who invoked divine revelation only as cover for his own self-serving actions.

Because Josephus was writing a narrative in making that point, he doesn't give a point by point rebuttal. Instead, his work overall is meant to show the falsehood of this kind of accusation about Moses. But it also leaves on the table the important question of what makes someone a good lawgiver, and how we can tell.

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