Cutting the Chord with the Familiar: What Makes 4Q265 Miscellaneous Rules Tick?\textsuperscript{1}

The document known by the siglum 4Q265 went for a long time under the name 4QSerekh Damascus. This original designation was chosen to capture the text's resemblance to the Rule of the Community (Hebrew Serekh ha-Yaḥad), on the one hand, and the Damascus Document on the other hand. It is worth stressing, however, that neither serekh (rule), a term frequently found in headings in the Community Rule, the Damascus Document, and particularly the War Scroll nor Damascus occur anywhere in the preserved fragments of 4Q265.\textsuperscript{2} In the official edition of this text in volume 35 of the DJD Series its editor, Joseph

\textsuperscript{1} It is a great pleasure to offer these reflections in honour of John Collins, a wise and generous mentor to several generations of scholars. John’s prodigious output and range of interests comprise also those manuscripts from the corpus of the Qumran scrolls that attest yaḥad terminology including, briefly, 4Q265, cf. J. J. Collins, Beyond the Qumran Community: The Sectarian Movement of the Dead Sea Scrolls (Grand Rapids, MI: Eerdmans, 2010), esp. 54 and 72.

Baumgarten, renamed the document and chose the more neutral and descriptive designation 4QMiscellaneous Rules.³ He observes,

The provisional title formerly employed, Serekh Damascus, suggesting a blend of excerpts from the Community Rule and the Damascus Document does not adequately reflect the diverse contents of this text. Miscellaneous Rules is a more accurate description of the variety of its subject matter.⁴

His observation draws attention to those parts of 4Q265 that are not reminiscent of either the Community Rule or the Damascus Document. 4QMiscellaneous Rules comprises seven identified fragments (4Q265 1-7) and twelve unidentified fragments (4Q265 a—l).⁵ The

³ Joseph M. Baumgarten, Qumran Cave 4.25: Halakhic Texts (DJD 35; Oxford: Clarendon, 1999), 57-78.
⁴ DJD 35:58.
⁵ Baumgarten did not specify whether by ‘unidentified’ fragments he is referring to insufficient evidence to place the fragments in relation to others or whether he is expressing doubts about the relationship of these fragments to the composition, see DJD 35: 57. For reflections on these issues see Eibert Tigchelaar, ‘Constructing, Deconstruction and Reconstructing Fragmentary Manuscripts: Illustrated by a Study of 4Q184 (4QWiles of the Wicked Woman),’ in Maxine Grossman (ed.), Rediscovering the Dead Sea Scrolls: An Assessment of Old and New Approaches and Methods (Grand Rapids, MI: Eerdmans, 2010), 26-47. I am grateful to Eibert Tigchelaar for a personal correspondence on this question.
script of 4Q265 has been dated to the Herodian period (c. 30-50 CE). The larger and well-preserved portions of text deal with the following topics: penal code traditions, the admission of new members, the sabbath, the make-up and purpose of the council of the community, the purity of the garden of Eden, and citations of Isaiah 54:1-2 and Malachi 3:1-3. Neither an introduction nor a conclusion are preserved, and we cannot be certain 4Q265 ever contained introductory and concluding statements. Few transitions from one apparently disparate portion of text to the next are preserved, cf. 4Q265 4 ii 3 and 7 11. In the latter case the beginning of the line has been left blank apparently to mark the beginning of the new topic dealing with Adam and Eve’s entry into the Garden of Eden from which the periods of purification after childbirth are derived in analogy with Jubilees 3. Let me now briefly turn to the document’s history of scholarship.

**History of Scholarship**

J. T. Milik first alerted scholars to the existence of 4Q265 and gave a brief description of its contents in his now classic monograph *Ten Years of Discovery in the Wilderness of Judaea.* In 1959 Milik refers to 4Q265 as part of a chapter devoted to the History of the Essenes. Milik outlines four phases in the life of the Essene community, and mentions 4Q265 in the context of the description of his fourth phase which begins around 4 BC with the death of Herod the Great:

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7 *Ten Years of Discovery.*
From the point of view of its institutions, the Essene group of the time of the procurators seems to be of a notably hybrid character. Together with the celibate members (who were mainly hermits) married people were also admitted […] A manuscript from Cave IV in the neat hand of the Herodian period may well reflect this hybrid type of life. One of its fragments contains prescriptions concerning Sabbath observance; these are identical with those of the Damascus Document (X.14 ff.), but follow a different order. Another fragment gives us the end of this section of the Damascus Document with a passage immediately following it that corresponds, with some abbreviation, to a section of the Rule of the Community (VIII. 1-10, the Council of fifteen men). After this comes a paragraph concerning the laws of purification after childbirth, derived from Lev. 12.2 f. and Jub. 3.8-14. (emphasis mine)8

Probably partly based on Milik’s description of 4Q265 its relationship to the Community Rule, on the one hand, and the Damascus Document, on the other hand, is frequently described in terms of a hybrid, a medley, or a combination. More precisely, in the latest edition of The Complete Dead Sea Scrolls in English Vermes entitles 4Q265 “A Hybrid Community Rule-Damascus Document Text.”9 Vermes goes on to describe our text as comprising,

remains of a writing dependent both on the Community Rule and on the Damascus Document but also including material which is in neither of these sources.10

8 Milik, Ten Years of Discovery, 96.


10 Complete Dead Sea Scrolls in English, 153
Likewise, in the translation of the Dead Sea Scrolls jointly produced by Wise, Abegg, and Cook 4Q265 is described as “a medley composed from other legal texts found among the Dead Sea Scrolls”\(^\text{11}\) although they acknowledge that there is evidence for “a certain process of development” too.\(^\text{12}\) Thus, Wise, Abegg, and Cook refer to 4Q265 to as “Portions of Sectarian Law” and have renamed the *Community Rule* a “Charter of a Jewish Sectarian Association.” In a similar vein García Martínez comments on our text as follows,

> In spite of the small amount of material preserved, it is clear that the composition is a combination of the Serek and the Damascus Document.\(^\text{13}\)

And finally, John Collins positions himself in the same dominant scholarly trajectory by referring to 4Q265 as “a text that combines elements of the *Serek* and the *Damascus Rule*.”\(^\text{14}\)

Although Milik employed the term hybrid in the context of his description of 4Q265 he did so not with reference to the literary make-up of 4Q265 but rather he was speaking of the


\(^\text{12}\) *New Translation*, 278


\(^\text{14}\) *Beyond the Qumran Community*, 54.
document as reflecting a ‘hybrid type of life.’ In the course of time, Milik’s terminology for a stage in the development of the community apparently came to be applied to the literary character of 4Q265 as a hybrid text. If one bears in mind that until the events of the early 1990s — or the dawn of Qumran glasnost — Milik’s brief description of 4Q265, partly quoted above, was all the information available to all but a few scholars, it is perhaps not surprising that his choice of terminology, though in a slightly distorted manner, somehow stuck. As I have argued elsewhere a description of this text as comprising excerpts taken from the Damascus Document and the Community Rule does not stand up to scrutiny and is in need of considered refinement.\textsuperscript{15}

The issue of the literary genre of 4Q265 has further perplexed scholars who have written on this text, and the nature of that debate is not unrelated to the accounts of its hybrid or miscellaneous character outlined above. The lack of conclusive results in the search for the genre of 4Q265 has led Moshe Bernstein to pronounce recently that Joseph Baumgarten, the editor of 4Q265 and one “the most distinguished scholars of Qumran halakhah” was perplexed by the genre of 4Q265 and, incidentally, also 4Q159 Ordinances.\textsuperscript{16} In DJD 35 Baumgarten observes,

\begin{quote}
4Q265 [...] resembles 4QOrdinances in the variety of its legal contents and in its mixed literary form. Both texts contain medleys of rules which do not appear to follow any particular subject classification or scriptural sequence. They also embrace
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\textsuperscript{16} Moshe J. Bernstein, Reading and Re-Reading Scripture at Qumran (STDS 107/2; Leiden: Brill, 2013), II, 536.
biblical quotations and narrative allusions which are not strictly halakhic, but may have served as support for the rules propounded by Qumran exegetes. The genre of these miscellaneous legal and narrative texts should now be added to the heterogeneous classification of Qumran compositions […]. (emphasis mine) 17

It becomes apparent that most of the scholarship on 4Q265 to date has been relational. Its contents have been scrutinised in relation to three ‘major’ text such as the Community Rule, the Damascus Document and Jubilees with which they share affinities in the topics addressed. Similarly, its genre has been debated largely with reference to the equally elusive genre of 4Q159 with a fair amount of agnosticism predominating on how both are best classified.18

In Search of the Wood Alongside the Trees

17 DJD 35:60.
18 See DJD 35:58-60 and Bernstein, Reading and Re-Reading Scripture, II, 318-539. Also relevant is Aharon Shemesh and Cana Werman, “Halakhah at Qumran: Genre and Authority,” DSD 10 (2003): 104-129, esp. 110-129 where halakhic genres from Qumran are identified as largely falling into two types: those “written in pentateuchal style” and labelled “Temple Scroll and Related Texts” vis-à-vis texts that though drawing on the Torah present halakhic stipulations in a topical manner (113) and including the work identified as Ordinances (115). Lawrence Schiffman similarly draws attention to the shared anthological character of 4Q265 and 4QOrdinances, see “Serekh-Damascus,” in Schiffman and VanderKam (eds), Encyclopedia of the Dead Sea Scrolls, 868-869, here 868.
Without denying the powerful and important connections between 4Q265 and well known
texts such as the Community Rule, the Damascus Document, Jubilees, and 4Q159, I would
like to foreground the rather messy combination of topics we find in 4Q265 itself. In what
follows I propose a more holistic reading of the fragmentary pieces we have in front of us.
Instead of effectively truncating the remaining text according to its relationship to other
compositions my aim is to explore more fully connections between what are at first sight
often arbitrary bedfellows.

The Theme of Holiness

The theme of holiness appears to connect the reasonably well preserved portions 4Q265. As
Aharon Shemesh has demonstrated the Penal Code as preserved more fully in the
Community Rule and the Damascus Document draws on scriptural biblical passages stressing
the holiness of Israel especially Lev 19:11-18 and the paradigmatic opening in Lev 19:1-2
(The LORD spoke to Moses, saying: Speak to all the congregation of the people of Israel and
say to them: You shall be holy, for I the LORD your God am holy.);\(^{19}\) Deut 23 esp. 23:15
[Hebrew; English 23:14] (Because the LORD your God travels along with your camp, to save
you and to hand over your enemies to you, therefore your camp must be holy, so that he may
not see anything indecent among you and turn away from you.); and with the material in
Num 16-17 on complainants.\(^{20}\) The more fragmentarily preserved penal material in 4Q265 4
i 1 – 4 ii 2 clearly comes to a close in 4 ii 2 after which the topic of joining the community
sets in in 4Q265 4 ii 3. In the case of 4Q265 Shemesh’s argument holds true particularly for
the influence from Lev 19. As he astutely observes regarding the penal code in all three

\(^{19}\) All translations from the Hebrew Bible are taken from the NRSV.

\(^{20}\) Aharon Shemesh, “The Scriptural Background of the Penal Code in the Community Rule
documents the harsh stance on the offences listed is based on the movement’s “self-perception as a ‘holy community,’ the theological raison d’être for its existence.”

The description of the make-up of the council of the community (4Q265 7 7-10) refers to the emerging council as comparable to the temple by emitting soothing odours and bringing about atonement for the land (7 9). As argued convincingly by Cecilia Wassen,

This use of metaphors does not indicate that the community saw itself as a replacement for the Jerusalem temple, as some scholars argue, since metaphors by definition are not meant to be taken literally. Instead, the temple metaphors aim primarily to communicate the notion of the community as holy.24

The carefully controlled tiered admission to the council of community (4Q265 4 ii 3-9) mirrors a concern with protecting the holy community from the prospect of defilement by the presence of new members who might compromise the holiness and purity of the community.25 The material dealing with the Sabbath, the Day of Atonement, and the reference to a distance of 30 stadia from the Temple (possibly a prohibition of non-sacral slaughter as found in 11QT 52:17-18)26 are premised on the holiness of the LORD as spelled out in Lev 19:1-3 and Lev 23:26-32 (see, for instance, Lev 23:27: Now, the tenth day of this


seventh month is the day of atonement; it shall be a holy convocation for you: you shall deny yourselves and present the LORD’s offering by fire.). Finally, the material in 4Q265 7 11-17 that resembles Jubilees’ association of the laws for purification after childbirth in Lev 12:1-15 with Adam and Eve’s entry into the Garden of Eden is predicated on preserving the holiness of the sanctuary (Lev 12).

The Prophetic Bedrock

The prominent role attributed to the prophets in this short fragmentary texts is also striking. 4Q265 1 includes parts of a fragmentary quotation from Isa 54:1-2 where a female addressee

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27 On the heterogeneous make-up of fragment 7 see Hempel, Damascus Texts, 97 and Hempel, Qumran Rule Texts in Context, 80-84 where I note that quantities and measures hold a series of stipulations together. I would add now that the temporal and geographical quantities are all subject to the broader concern with maintaining and preserving holiness. See also DJD 35: 69-72 and Lutz Doreing, Schabbat: Sabbathalacha und –Praxis im antiken Judentum und Urchristentum (TSAJ 78; Tübingen: Mohr Siebeck, 1999), 219-221 where he notes at 219 “Denkbar wäre auch, daß Frg. 7 das Sabbathema unabhängig aufgreift, um es mit anderen Themen zu verbinden.” Baumgarten takes this to refer to the sabbath of the Day of Atonement, “Scripture and Law.”

is comforted. As John Sawyer has argued the single female figure is best interpreted collectively based on the occurrence of the pi. of $q_b\mathfrak{s}$ ‘to gather’ in 54:7. Isa 54:5 – not preserved if it was quoted – identifies the LORD as both the maker and husband of the female addressee and the Holy One of Israel. Moreover, Isa 54:11-12 is interpreted in 4QpIsa$d$ as referring to the establishment of the Council of the Community. If the author/editor behind 4Q265 read Isa 54 as alluding to the collective hopes for the council of the community, then the fragmentary reference to Isa 54 ties in with the overall theme of holiness we identified in the fragmentary composition. Moreover, both the reference to the prophets in 4Q265 78 and the pivotal role of another prophetic text, Micah 6:8, in 1QS 8:2 as part of the account of the establishment of the council of the community reinforce the crucial role of prophecy in the generation of an otherwise ‘legal’ text like 4Q265. 4Q265 32 preserves the remains of a quotation from Mal 2:10. Mal 2:10-17 refers interpersonal unfaithfulness and profaning the sanctuary. The profaning nature of unacceptable cultic practice referred to in Mal 1:10 is cited in CD 6 (cf. CD 6:11b-7:6a // 4Q266 3 ii-iv // 4Q269 4ii // 6Q15) followed by a series of rules demanding exacting standards of inter-personal and cultic practice. This list of stipulations resembles concerns that come to the fore in 4Q265.


such the sequence of sabbath and Fast Day and an admonition to teach the difference between holy and profane (CD 6:17b-19a).

It would appear, therefore, that the fundamental concern for holiness underpinned by both pentateuchal and prophetic texts\(^\text{32}\) ties together the various loose ends that were left for us of this fascinating text.

\(^{32}\) The prominent role of the prophets as an important foundation for “legal content” has been demonstrated recently by Alex Jassen, *Scripture and Law in the Dead Sea Scrolls* (New York: CUP, 2014), here 247, and idem “The Presentation of the Ancient Prophets as Lawgivers at Qumran,” *JBL 127* (2008): 307-337.