

Cutting the chord with the Familiar

Hempel, Charlotte

DOI:

[10.1163/9789004324749_029](https://doi.org/10.1163/9789004324749_029)

License:

Other (please provide link to licence statement)

Document Version

Peer reviewed version

Citation for published version (Harvard):

Hempel, C 2016, Cutting the chord with the Familiar: what makes 4Q265 miscellaneous rules tick? in J Baden, H Najman & E Tigchelaar (eds), *Sibyls, Scriptures, and Scrolls: John Collins at Seventy*. Supplements to the Journal for the Study of Judaism, no. 175, Brill, Leiden, pp. 509-516.
https://doi.org/10.1163/9789004324749_029

[Link to publication on Research at Birmingham portal](#)

General rights

Unless a licence is specified above, all rights (including copyright and moral rights) in this document are retained by the authors and/or the copyright holders. The express permission of the copyright holder must be obtained for any use of this material other than for purposes permitted by law.

- Users may freely distribute the URL that is used to identify this publication.
- Users may download and/or print one copy of the publication from the University of Birmingham research portal for the purpose of private study or non-commercial research.
- User may use extracts from the document in line with the concept of 'fair dealing' under the Copyright, Designs and Patents Act 1988 (?)
- Users may not further distribute the material nor use it for the purposes of commercial gain.

Where a licence is displayed above, please note the terms and conditions of the licence govern your use of this document.

When citing, please reference the published version.

Take down policy

While the University of Birmingham exercises care and attention in making items available there are rare occasions when an item has been uploaded in error or has been deemed to be commercially or otherwise sensitive.

If you believe that this is the case for this document, please contact UBIRA@lists.bham.ac.uk providing details and we will remove access to the work immediately and investigate.

Cutting the Chord with the Familiar: What Makes 4Q265 *Miscellaneous Rules* Tick?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-Yahad*), 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 4Q265.² In the official edition of this text in volume 35 of the DJD Series its editor, Joseph

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 *yahad* 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.

² See Philip S. Alexander, "Rules," in Lawrence H. Schiffman and James C. VanderKam (eds), *Encyclopedia of the Dead Sea Scrolls* (New York: OUP, 2000), II, 799-803; Charlotte Hempel, "תְּרִסְמָה særæk" in Heinz-Josef Fabry et al. (eds), *Theologisches Wörterbuch zu den Qumrantexten* (ThWQ) (Stuttgart: Kohlhammer, 2013), columns 1111-1117; and eadem, "Rules," in George J. Brooke and Charlotte Hempel (eds), *The T&T Clark Companion to the Dead Sea Scrolls* (London: Continuum, forthcoming in 2016).

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).⁶ 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*.⁷ 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:

⁶ Józef T. Milik, *Ten Years of Discovery in the Wilderness of Judaea* (trans. John Strugnell; SBT 26; London: SCM, 1959), 96.

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.

⁹ Geza Vermes, *The Complete Dead Sea Scrolls in English* (London: Allen Lane, 1997), 153.

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”¹¹ although they acknowledge that there is evidence for “a certain process of development” too.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*.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*.”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

¹¹ Michael Wise, Martin Abegg, and Edward Cook *The Dead Sea Scrolls: A New Translation* (London: HarperCollins, 1996), 278.

¹² *New Translation*, 278

¹³ Florentino García Martínez, “The History of the Qumran Community in the Light of Recently Available Texts,” in Frederick H. Cryer and Thomas L. Thompson (eds), *Qumran Between the Old and New Testaments* (JSOTSup 290; Sheffield: Sheffield Academic Press, 1998), 214.

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.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.¹⁶ In DJD 35 Baumgarten observes,

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

¹⁵ See Charlotte Hempel, ‘Part II: 4Q265 Miscellaneous Rules (*olim* Serekh Damascus),’ in eadem, *The Damascus Texts* (CQS 1; Sheffield: Sheffield Academic Press, 2000), 89-101.

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* and the *Damascus Document*,” *DSD* 15 (2008): 191-224.

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."²¹

The description of the make-up of the **council of the community** (4Q265 7 7-10)²² refers to the emerging council as comparable to the temple by emitting soothing odours and bringing about atonement for the land (7 9).²³ As argued convincingly by Cecilia Wassen,

²¹ Shemesh, "Penal Code," 216. For further discussions of the Penal Code see Joseph M. Baumgarten, "The Cave 4 Versions of the Qumran Penal Code," *JJS* 43 (1992): 268-276; Charlotte Hempel, "The Penal Code Reconsidered," in Moshe Bernstein, Florentino García Martínez, and John Kampen (eds), *Legal Texts and Legal Issues: Proceedings of the Second Meeting of the International Organization for Qumran Studies, Published in Honour of Joseph M. Baumgarten* (STDJ 23; Leiden: Brill, 1997), 337-348; Sarianna Metso, "The Relationship Between the Damascus Document and the Community Rule," in Joseph M. Baumgarten, Esther G. Chazon, and Avital Pinnick (eds), *The Damascus Document: A Centennial of Discovery. Proceedings of the Third International Symposium of the Orion Center, 4-8 February 1998* (STDJ 34; Leiden: Brill, 2000), 85-93; Reinhard G. Kratz, 'Der Penal Code und das Verhältnis von *Serekh ha-Yachad* (S) und Damaskusschrift (D),' *RQ* 25 (2011): 199-227; and Lawrence H. Schiffman, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony and the Penal Code* (BJS 33; Chico: Scholars Press, 1983).

²² On the uncertainty surrounding the reconstruction of 7 6b see Charlotte Hempel, *The Qumran Rule Texts in Context: Collected Studies* (TSAJ 154; Tübingen: Mohr Siebeck, 2013), 80-84.

²³ For further discussion see Hempel, *Rule Texts in Context*, 79-96 and eadem, *Damascus Texts*, 98-100.

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

²⁴ Cecilia Wassen, “Do you Have to be Pure in a Metaphorical Temple? Sanctuary Metaphors and Constructions of Sacred Space in the Dead Sea Scrolls and Paul’s Letters,” in Carl S. Ehrlich, Anders Runesson, and Eileen Schullers (eds), *Purity, Holiness, and Identity in Judaism and Christianity: Essays in Memory of Susan Haber* (WUNT 305; Tübingen: Mohr Siebeck, 2013), 55-86, here 69 and eadem, “Purity and Holiness,” in Brooke and Hempel (eds), *T & T Clark Companion to the Dead Sea Scrolls*.

²⁵ On the admission process see Hempel, *Qumran Rule Texts in Context*, 28-31 and eadem, *Damascus Texts*, 95. On the primary concern with defilement by touch in the process see now also Charlotte Hempel, “Who is Making Dinner at Qumran,” in *JTS* 63 (2012): 49-65.

²⁶ See Joseph M. Baumgarten, “Scripture and Law in 4Q265,” in Michael E. Stone and Esther G. Chazon (eds), *Biblical Perspectives: Early Use and Interpretation of the Bible in Light of the Dead Sea Scrolls* (STDJ 28; Leiden: Brill, 1998), 25-33, here 27 and DJD 35:69-72.

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.).²⁷ 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).²⁸

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

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.”

²⁸ See DJD 35: 60-61; Joseph Baumgarten, “Purification After Childbirth and the Sacred Garden in 4Q265 and Jubilees,” in George Brooke (ed.), *New Qumran Texts and Studies: Proceedings of the First Meeting of the International Organization for Qumran Studies, Paris 1992* (STDJ 15; Leiden: Brill, 1994), 3-10; and George J. Brooke, “The Ten Temples in the Dead Sea Scrolls,” in John Day (ed.), *Temple and Worship in Biblical Israel* (London: Continuum, 2007), 417-434, here 419-421.

is comforted. As John Sawyer has argued the single female figure is best interpreted collectively based on the occurrence of the pi. of *qbs* ‘to gather’ in 54:7.²⁹ 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.³⁰ 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 7 8 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 4Q265.³¹ 4Q265 3 2 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

²⁹ See John F. A. Sawyer, “Daughter of Zion and Servant of the Lord in Isaiah,” *JSOT* 44 (1989): 89-107, 95.

³⁰ See DJD 35:62 and Maurya Horgan, *Pesharim: Qumran Interpretations of Biblical Books* (CBQMS 8; Washington DC: CBA, 1979), 125-131.

³¹ On the pivotal place of Micah 8:6 in the Community Rule see Hempel, *Qumran Rule Texts in Context*, 84-92 and eadem, “The Teaching on the Two Spirits and the Literary Development of the Rule of the Community,” in Geza Xeravits (ed.), *Dualism in Qumran* (LSTS 76; London: T & T Clark, 2010), 102-120.

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 texts³² 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.