EXPULSION AND EXCLUSION IN THE
COMMUNITY RULE AND THE DAMASCUS DOCUMENT*

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Introduction

One of the most intriguing features in the Cave 4 fragments of the Damascus Document is the list of offenses and punishments (of which only the beginning survived, moreover only fragmentarily, in the Cairo Genizah manuscripts [14:18–23]), and the expulsion ceremony following it. This unit seems also to be the original conclusion of the work,¹ so that an understanding of its text may clarify the structure and purpose of the whole composition.

The penal code has a parallel in the Community Rule (6:24–7:26).² The two lists are not identical, and some scholars have already given thought to comparing them and seeking out connections, generally with an eye to identifying the circles in which the respective lists were composed, and to studying the development of the law in the Qumran Community and the history of the text itself.³ The two lists differ in

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² Another partially preserved penal code is recorded in 4Q265 4 i (DJD 35; Oxford: Clarendon Press, 1999) 64–65.

regard to both the offenses listed and the specific punishments prescribed for each (including offenses figuring in both lists). For our present purposes, however, it is important to note one basic principle in which the two lists agree. Both lists specify two kinds of punishment; most offenses are punished by temporary banishment for varying periods (probably dependent on the gravity of the offense), known as מָפִּיל, i.e., separation or exclusion; a small proportion of the most serious offenses are punished by expulsion from the sect. It turns out that, despite the differences between the lists, they agree as to the basic classification into offenses punished by exclusion, on the one hand, and those punished by expulsion, on the other. This is attested in a twofold manner. 1) There is no specific offense that is punishable by exclusion in one list and by expulsion in the other. 2) There are two sins that appear in both lists, and the punishment in both is expulsion. The first is the sin of slandering the Many. And the other, although worded differently in each list, is actually the same. In the Community Rule we read, “Whoever complains against the foundation of the Community shall be expelled and will never return,” while the parallel in the Damascus Document is, “Whoever complains against the Fathers shall be expelled from the Community and will never return.” I believe that these two offenses are the same, except that the Damascus Document rephrases its version so as to differentiate complaints against the Fathers (= the foundation of the Community) from those against the “Mothers,” which are not punished with expulsion but only “he shall be punished for ten days.”

It follows, therefore,

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4 Exclusion itself includes two elements: the offender is barred from “the purity” (תֹּחַ), that is, from contact with the food or liquid of “the Many”; and from the “Council” (מִקְרָא), that is, from participating in assemblies of “the Many.” As noted by J. Licht (The Rule Scroll [Heb.] [Jerusalem: Mossad Bialik, 1965] 154) these stipulations are made in 8:17–18 and in 7:24–25. In the Cave 4 penal code a period of “punishment” (אָסִית) is added to each “exclusion,” probably amounting to a reduction in the offender’s food ration (Baumgarten, “Penal Code,” 272–73). Only in three cases does a “punishment” appear on its own. It is plausible (as suggested by Licht, Rule Scroll) that in these cases too the offender was “excluded” as well as having his food ration reduced, and that the two penalties were in force simultaneously (for a different view see: Baumgarten, “Penal Code”). At any rate, it would seem to follow that the term “punishment” in the penal code of the Community Rule refers not only to exclusion but also to reduction in one’s food ration. This is also the view of Licht (Rule Scroll) and Baumgarten (“Penal Code”), contra G. Forkman, The Limits of the Religious Community (ConBNT 5; Lund: Gleerup, 1972) 58, and L.H. Schiffman, Halakhah, Custom and Messianism in the Dead Sea Sect (Heb.) (Jerusalem: Merkaz Shazar, 1993).

5 As shown by Baumgarten (“Penal Code,” 260–61), the reference to “Fathers” and