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**Katell Berthelot**

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*Life of Moses* 2.12–24: The Significance of the Roman  
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**Mohr Siebeck**

Katell Berthelot

CNRS/Aix-Marseille University, France

## The Superiority and Universality of the Torah in Philo's *Life of Moses* 2.12–24: The Significance of the Roman Context

**Abstract:** In the section of *On the Life of Moses* that deals with Moses as lawgiver, Philo praises the Torah as the most excellent legislation ever written and emphasizes its universal popularity among Greeks and barbarians alike. This article contends that these two claims are to a great extent novel compared to previous Jewish discourses about the Law. Earlier Jewish authors writing in Greek celebrated the Torah's superior wisdom but did not compare it to other legal systems. Moreover, previous Jewish reflections on the Law's universality emphasized its accordance with the law of nature, while *Mos.* 2.12–24 introduces a new notion: the universal adoption of some of the Mosaic precepts by non-Jews. This paper argues that Philo's innovative statements in *On the Life of Moses*, which have parallels in Josephus' *Against Apion*, are to be understood in the framework of contemporary perceptions of and discourses on Roman law and jurisdiction.

**Key words:** Jewish law, Roman law, Josephus, Cicero, Dionysius of Halicarnassus.

### Introduction

According to Greg Sterling, “Philo understood *The Life of Moses* to be the entry point ... for any who would enter the world of Judaism.”<sup>1</sup> As a matter of fact, Philo makes clear at the beginning of his treatise that he is speaking to people who do not know exactly who Moses was:

I purpose to write the life of Moses, whom some describe as the legislator of the Jews, others as the interpreter of the Holy Laws. I hope to bring the story of this greatest and most perfect of men to the knowledge of such as deserve not to remain in ignorance of it; for, while the fame of the laws which he left behind him has travelled throughout the civilized world and reached the ends of the earth, the man himself as he really was is known to few. Greek men of letters have refused to treat

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1 G. Sterling, “Philo of Alexandria's *Life of Moses*: An Introduction to the Exposition of the Law,” *Studia Philonica Annual* 30 (2018) 31–45, qu. 45. On Philo's non-Jewish audience for *On the Life of Moses* (and the *Exposition of the Law* as a whole), see also Maren Niehoff, “Philo's Exposition in a Roman Context,” *Studia Philonica Annual* 23 (2011) 1–21, and *Philo of Alexandria: An Intellectual Biography* (New Haven: Yale University Press, 2018) 111–112.

him as worthy of memory, possibly through envy, and also because in many cases the ordinances of the legislators of the different cities are opposed to his.<sup>2</sup>

While *On the Life of Moses* describes Moses as possessing the qualities of the ideal king-philosopher, lawgiver, priest and prophet,<sup>3</sup> its starting point is his role as lawgiver. It emphasizes right from the outset the universal fame of his laws and the contrast between this reputation and non-Jews' ignorance about Moses himself. Philo blames the Greeks for not having written about the legislator of the Jews and explains their silence as a consequence of their "envy" (*phthonos*) of Moses, whose laws contradict many ordinances of other legislators in various cities (*poleis*). This remark about the Greeks' silence on Moses makes the allegedly universal fame of his legislation all the more paradoxical and surprising.

Philo returns to the topic of Moses as *nomothetes* in the second part of the book (2.8–65),<sup>4</sup> stating boldly that he was "the best of all lawgivers in all countries, better in fact than any that have ever arisen among either the Greeks or the barbarians, and ... his laws are most excellent (*kallistoi*) and [can be considered] as truly divine (*os alethos theioi*)."<sup>5</sup> To sustain this claim, Philo advances two main arguments: first, that, unlike all the other legal codes, the Mosaic legislation has remained unchanged from its original conception down to the present day, despite the hazards of Israel's history (§§ 13–16); second, that people among all the nations of the *oikoumene* have adopted Moses' laws, as illustrated by the examples of the Sabbath and the "fast" (§§ 17–24). Philo sees the second argument as even "more amazing" (*thaumasioteron*) than the first (§ 17). He develops this reasoning further in the following paragraphs, where he tells his readers about the translation of the Torah into Greek under Ptolemy II Philadelphus, which in his opinion demonstrates non-Jews' attraction to the Mosaic law. Finally, he ends this section by conjecturing that if the Jewish people ever enjoys a better fate in future times, all peoples will abandon their own laws to eagerly embrace those of the Jews (§§ 43–44).<sup>6</sup>

Philo's praise of Moses' legislation in *On the Life of Moses* may at first glance look similar to previous statements by Jewish Hellenistic authors.

2 *Mos.* 1.1–2, trans. F. H. Colson (Loeb Classical Library [LCL]) 277, very slightly modified. All translations of this text here use Colson, unless indicated otherwise.

3 Cf. *Praem.* 53.

4 Niehoff views the book's second part as dominated by "religious themes" (*Philo of Alexandria*, 119–120). Surprisingly, this emphasis leads her to disregard Philo's discussion of Moses as lawgiver.

5 *Mos.* 2.12 (Colson, 457, slightly modified).

6 Here Philo may have had the events of 38 CE in mind.

However, it differs from them in important respects. The paper shows that (1), while previous Jewish writings in Greek praise the perfection of Moses and his law, they relate Moses' superior wisdom mainly to Greek philosophy and poetry and never compare Moses' laws to those of Greek or barbarian legislators. Furthermore, while previous Jewish texts in Greek characterize the Mosaic law as divine, rational and in accordance with nature, they do not present it as universal in the way Philo does – namely, by pointing to a universal adoption of Jewish laws by non-Jews. Conversely, Josephus' *Against Apion* displays the same kind of rhetoric as Philo's *Life of Moses*. This phenomenon may be explained by Josephus' dependence on Philo, but also by their common Roman context.<sup>7</sup> Then by (2) comparing Philo's *Life of Moses* and Josephus' *Against Apion* to each other and (3) to how Roman and pro-Roman authors such as Cicero and Dionysius of Halicarnassus talked about Roman law and the universality of Roman dominion, I argue that Philo's statements in *On the Life of Moses* (and Josephus' argumentation in *Against Apion*) are to be understood in the framework of contemporary perceptions of and discourses about Roman law, jurisdiction and domination.<sup>8</sup>

7 *On the Life of Moses* and *Against Apion* were both aimed at a Greco-Roman audience (which does not preclude Jewish readers). On Josephus' dependency on Philo's *Life of Moses*, see John M. G. Barclay, *Flavius Josephus, Against Apion* (Leiden: Brill, 2007) 325, n. 1110, and App. 5, at 359; G. Sterling, "A Man of the Highest Repute: Did Josephus Know the Writings of Philo?" *Studia Philonica Annual* 25 (2013) 101–113, at 106–107. On the impact of Philo's Roman context on his works, see, e.g., Maren Niehoff, *Philo on Jewish Identity and Culture* (Tübingen: Mohr Siebeck, 2001) esp. 17–158, and "Philo's Exposition," and *Philo of Alexandria*; Torrey Seland, "'Colony' and 'Metropolis' in Philo: Examples of Mimicry and Hybridity in Philo's Writing Back from the Empire?" *Etudes Platoniciennes* 7 (2010) 11–33; and Katell Berthelot, *Jews and their Roman Rivals: Pagan Rome's Challenge to Israel* (Princeton: Princeton University Press, 2021). On Josephus' Roman context, see, e.g., Martin Goodman, "Josephus as Roman Citizen," in *Josephus and the History of the Greco-Roman Period*, ed. Fausto Parente (Leiden: Brill, 1994) 329–338; Steve Mason, "Flavius Josephus in Flavian Rome: Reading on and between the Lines," in *Flavian Rome: Culture, Image, Text*, ed. Anthony J. Boyle and William J. Dominik (Leiden: Brill, 2003) 559–589; Jonathan Edmondson, Steve Mason and James Rives, eds., *Flavius Josephus and Flavian Rome* (Oxford: Oxford University Press, 2005); Michael Tuval, *From Jerusalem Priest to Roman Jew: On Josephus and the Paradigms of Ancient Judaism* (Tübingen: Mohr Siebeck, 2013) (esp. Chapter Four).

8 *On the Life of Moses* was composed after 38 CE and Philo's embassy to Rome, as both René Bloch and Maren Niehoff have convincingly argued; see Bloch, "Alexandria in Pharaonic Egypt: Projections in *De Vita Mosis*," *Studia Philonica Annual* 24 (2012) 69–84, at 74, and Niehoff, "Philo's Exposition" and *Philo of Alexandria*, 3.

## 1. Philo's Praise of the Mosaic Law in Light of Previous Jewish Hellenistic Writings

In the Hellenistic period the encounter with Greek culture represented a particular challenge that led some Jews to articulate a new vision of their own tradition. Numerous Jewish authors from this period present Moses as having influenced other peoples' cultural achievements and emphasize the Mosaic law's philosophical dimension.<sup>9</sup>

### 1.1. Artapanus and Eupolemus

The fragments of Artapanus (3rd or 2nd century BCE), for example, describe Moses as a *Kulturbringer* who benefited the Egyptians and as the inventor of no less than philosophy itself.<sup>10</sup> Eupolemus (probably the Judean emissary sent to Rome in the 160's<sup>11</sup>) writes that "Moses was the first wise man" and that "he gave the alphabet to the Jews first; then the Phoenicians received it from the Jews, and the Greeks received it from the Phoenicians. Also, Moses was the first to write down laws, and he did so for the Jews."<sup>12</sup> Unambiguously stating that Moses' inventions preceded the cultural achievements of the Phoenicians and the Greeks, he probably implies that the former were greater than the latter – in line with the argument, common in antiquity, that the more ancient the better.

### 1.2. Aristobulus

Aristobulus, a Jewish philosopher from the second century BCE, is a particularly interesting case for the present investigation, insofar as he has sometimes been seen as Philo's predecessor.<sup>13</sup> He argued that Orpheus, Homer,

<sup>9</sup> John Gager, *Moses in Greco-Roman Paganism* (Nashville: Abingdon, 1972) 76–79, esp. 77.

<sup>10</sup> Artapanus, frag. 3, in Carl R. Holladay, *Fragments from Hellenistic Jewish Authors* (4 vols.; Chico: Scholars, 1983–1996) 1:208–209 (Eusebius, *Praep. Ev.* 9.27.4); Philippe Borgeaud, Thomas Römer and Youri Volokhine eds., *Interprétations de Moïse: Égypte, Judée, Grèce et Rome* (Leiden: Brill, 2010) 31.

<sup>11</sup> See 2 Macc 4:11; 1 Macc 8:17.

<sup>12</sup> Eupolemus, frag. 1 (Holladay, *Fragments*, 1:113). This quotation stems from Eusebius' *Praeparatio Evangelica* and differs slightly from that of Clement of Alexandria in the *Stromata*, which does not mention Moses' activity as legislator.

<sup>13</sup> See, e. g., Ekaterina Matusova, "Allegorical Interpretation of the Pentateuch in Alexandria: Inscribing Aristobulus and Philo in a Wider Literary Context," *Studia Philonica Annual* 22 (2010) 1–51.

Hesiod, Pythagoras, Socrates and Plato were inspired by the Mosaic legislation (*nomothesia*), which he thought was known through Greek translations that had preceded that of the Septuagint.<sup>14</sup> He states that “those who have keen intellectual powers are amazed at his wisdom and inspired spirit,”<sup>15</sup> among them Greek philosophers and poets, “who have taken from him significant seeds of inspiration.”<sup>16</sup> He asserts that “Pythagoras, Socrates and Plato ... seem to me to have followed him [Moses] in saying that they hear God’s voice by reflecting on the cosmic order as something carefully created by God and permanently held together by him.”<sup>17</sup> And he affirms that Homer and Hesiod took the idea of the seventh day’s holiness from the law of Moses.<sup>18</sup> At the same time, although Aristobulus claims a major influence of Moses’ legislation on the most famous Greek intellectual figures, we do not find in his fragments a statement concerning the impact of Moses on Greek lawgivers.<sup>19</sup> Nowhere does he compare Moses’ legislation to those of Greek (or barbarian) *nomothetai*.

The fact that only fragments of Aristobulus’ work have come down to us means that our knowledge of it is only partial. However, the preserved fragments convey the impression that what Aristobulus wanted to emphasize was the philosophical dimension of Moses’ law, and this was the reason why he presented it as rational and in accordance with nature. For example, he asserts that the Sabbath corresponds to the law of nature (it is *ennomos*) and “serves as a symbol [or sign] of the sevenfold principle established all around

14 Aristobulus, frags. 3–4, in Holladay, *Fragments*, 3:150–163.

15 Frag. 2.4 (Eusebius, *Praep. Ev.* 8.10.4; Holladay, *Fragments*, 3:137).

16 Frag. 2.5 (Eusebius, *Praep. Ev.* 8.10.5; Holladay, *Fragments*, 3:137).

17 Frag. 4.4 (Eusebius, *Praep. Ev.* 13.12.4; Holladay, *Fragments*, 3:163).

18 Frag. 5 (Eusebius, *Praep. Ev.* 13.12.13; Holladay, *Fragments*, 3:188–189); also Reinhard Weber, *Das Gesetz im hellenistischen Judentum: Studien zum Verständnis und zur Funktion der Thora von Demetrios bis Pseudo-Phokylides* (Frankfurt: P. Lang, 2000) 317; J. Cornelis de Vos, “Aristobulus and the Universal Sabbath,” in *Goochem in Mokum/Wisdom in Amsterdam*, ed. George J. Brooke and Pierre Van Hecke (Leiden: Brill, 2016) 138–154.

19 In the two passages where he claims that both the Hebrews and the Greeks consider the number seven holy, he refers to Solon’s teaching about a sevenfold order embedded in nature (Michael LeFebvre, *Collections, Codes, and Torah: The Re-characterization of Israel’s Written Law* [London: T&T Clark, 2016] 192–193). In both extracts the context is Solon’s elegies, not his legislative work. The poem in which Solon refers to seven-year periods of life shows that Greeks acknowledged the perfection of the number seven, the underlying argument being that the Sabbath is grounded in the natural order of the cosmos. There is no indication that Aristobulus thought Solon got his inspiration from Moses, but even if he did, this would hardly be an example of Moses’ influence on Solon as lawgiver.

us through which we have knowledge of things both human and divine.”<sup>20</sup> J. Cornelis de Vos notes that with his exposure of the Sabbath’s universal dimension, Aristobulus “proclaimed the Jewish law as an expression of the logical structure of the world and of knowledge.”<sup>21</sup> From Aristobulus’ perspective, the Torah as a whole was grounded in the natural, rational order created by God. And he claims that observing the commandments of the Mosaic law fosters virtue:

All philosophers agree that it is necessary to hold devout convictions about God, something which our school prescribes particularly well. And the whole structure of our law has been drawn up with concern for piety, justice, self-control, and other qualities that are truly good.<sup>22</sup>

According to Aristobulus, then, life in accordance with the law of Moses is comparable to membership in a philosophical school, and the excellence of the Jews’ “philosophy” is proven by the virtues that such a lifestyle helps to develop.

### 1.3. Aristeas

The Letter of Aristeas, another second-century BCE source that includes an apologia for the law of Moses, praises the philosophical dimension of the Mosaic law in similar terms.<sup>23</sup> It claims that “our lawgiver first defined matters concerning piety and justice, explaining each in detail.”<sup>24</sup> A report to Ptolemy II states that “it is necessary that these books, having been made exact, be with you, because this legislation is both very philosophical and uncorrupted, inasmuch as it is divine.”<sup>25</sup> The translators of the Torah dis-

<sup>20</sup> Eusebius, *Praep. Ev.* 13.12.12; Holladay, *Fragments*, 3:185; De Vos, “Aristobulus,” 153.

<sup>21</sup> De Vos, “Aristobulus,” 151. On the Sabbath’s universal dimension in Aristobulus, see also Lutz Doering, *Sabbat: Sabbathalacha und -praxis im antiken Judentum und Urchristentum* (Tübingen: Mohr Siebeck, 1999) 306–315.

<sup>22</sup> Aristobulus, frag. 4 (Eusebius, *Praep. Ev.* 13.12.8); Holladay, *Fragments*, 3:175.

<sup>23</sup> On the law’s rationality and conformity with nature, see esp. Let. Aris. 161, 171; on the connection between the Mosaic law and virtue, §168. See Benjamin G. Wright, *The Letter of Aristeas: “Aristeas to Philocrates” or “On the Translation of the Law of the Jews”* (Berlin: De Gruyter, 2015) 246–313 (on Let. Aris. 128–171); Christine E. Hayes, *What’s Divine about Divine Law? Early Perspectives* (Princeton: Princeton University Press, 2015) 105–110. On the letter’s purpose and audience, see Wright, *Letter*, 62–74; Noah Hacham and Lilach Sagiv, “Social Identity in the Letter of Aristeas,” *Journal of Ancient Judaism* 9 (2018) 325–343; L. Michael White and G. Anthony Keddie, *Jewish Fictional Letters from Hellenistic Egypt: The Epistle of Aristeas and Related Literature* (Atlanta: SBL, 2018) 39–42.

<sup>24</sup> Let. Aris. 131 (Wright, *Letter*, 246; White and Keddie, *Jewish Fictional Letters*, 104–105).

<sup>25</sup> Let. Aris. 31 (Wright, *Letter*, 142; White and Keddie, *Jewish Fictional Letters*, 72–73).

play superior wisdom, which is implicitly based on their knowledge of the Mosaic law. Thus the king praises them and declares that “in their conduct and speech, [they have] surpassed the philosophers by a lot, since they made God their starting point.”<sup>26</sup> However, the Mosaic law is not compared to Greek or barbarian legal systems.<sup>27</sup> The challenge is Greek philosophy, not Greek legislation.

Except for the Letter of Aristeas, the writings quoted above are excerpts, which means we cannot be sure that they represent the full extent of their authors' discourses about Moses' legislation. However, these fragments draw a picture that is consistent with the Hellenistic period's cultural context. In a world that witnessed the development of Stoic philosophy, which placed nature and rationality at the core of its ethical thinking, reconciling Greek and biblical notions of law was not an easy task – hence the development of a Jewish discourse presenting the law of Moses as conforming to the law of nature.<sup>28</sup> The main issue for Jews involved in intellectual exchanges with Greeks was demonstrating the rational and philosophical character of the Mosaic law, not comparing the Torah with the legal systems of the Greek *poleis*.

This Jewish Hellenistic discourse about law can still be found – sometimes with new developments – in philosophically oriented works from the Roman period, such as 4 Maccabees and the work of Philo himself (including *On the Life of Moses*).<sup>29</sup> In a Roman context, the issue of the Mosaic law's rationality and conformity to the law of nature remained relevant.<sup>30</sup> However, in addition to these familiar debates, Philo's *Life of Moses* displays a new type of discourse about the Mosaic law, which we also encounter in the writings of Josephus.

26 Let. Aris. 235 (Wright, *Letter*, 368; White and Keddie, *Jewish Fictional Letters*, 142–143).

27 Let. Aris. 140–157 (Wright, *Letter*, 266–292). The letter only occasionally compares the teachings of Moses with the religious beliefs and cultic practices of other peoples, praising the superiority of the former; see Let. Aris. 130–139 (Wright, *Letter*, 248–251).

28 See Hayes, *What's Divine*, 105–124.

29 See in particular 4 Macc 5:22–25; Philo, *Opif.* 3, *Mos.* 2.14, 2.48, 2.51–52, *Spec.* 2.37, 3.32.

30 See, e.g., Cicero, *On the Laws* 1.57, 2.4. On the similarities and differences between the discourses of Cicero and Philo on law (Roman and Jewish, respectively) and nature, see Carlos Lévy, *Cicero Academicus: recherches sur les Académiques et sur la philosophie cicéronienne* (Rome: École Française de Rome, 1992) 509–521; John W. Martens, *One God, One Law: Philo of Alexandria on the Mosaic and Greco-Roman Law* (Leiden: Brill, 2003) esp. 119.

## 2. Philo and Josephus on the Superiority and Universality of the Mosaic Law

### 2.1. Philo

Philo's *Life of Moses* exalts the distinctiveness and superiority of the Mosaic law in a way that is unheard of in Jewish works of the Hellenistic period. He not only claims that the Mosaic law is wise and rational and that it teaches virtue, but also argues for much more – namely, that it surpasses the law codes of all other nations and trains people for virtue better than them. Hence, in *Mos.* 2.12–24 he places Moses' laws above all other legislation, including that of Athens and that of Sparta.<sup>31</sup> The comparison between the Mosaic law and other law codes – rather than between Moses and Greek philosophers and poets – is a new phenomenon.<sup>32</sup>

In *Mos.* 2.12–24 Philo first emphasizes that Moses' legislation has remained unchanged throughout the ages. He contrasts this exceptional feature with the situation both in Greek *poleis* and among barbarian peoples, noting that “anyone who takes a considered view of the *nomima* (laws or customs) of other [peoples] will find that they have been unsettled by numberless causes – wars, tyrannies or other mishaps,” and that wealth and luxury have also generated violence and the upsetting of laws (§ 13). He emphasizes that conversely, the Mosaic laws have remained unaltered despite the numerous changes of fortune experienced by the Jews.

According to Philo, the reasons for the Mosaic laws' permanence lie in their connection to the law of nature – they are “stamped, as it were, with the seals of nature herself” (§ 14) – and “their venerable and godlike [character] (*to semnon kai theoprepes auton*)” (§ 15).<sup>33</sup> As mentioned above, Jewish authors of the Hellenistic period already emphasized the harmony between Moses' law and the law of nature, and the Torah's divine character.

31 See also *Mos.* 2.48–52 and *Opif.* 1–2 for general comparisons between Moses and other lawgivers; for references to Solon and/or Lycurgus, see *Opif.* 104–105; *Probus* 47. Philo rejects the claim that Greek laws were divinely inspired, even though he admits that the notion of law, generally speaking, does have a divine origin (*Sacrif.* 131). Cf. Polybius, *Hist.* 6.48.2; and see Ian W. Scott, “Revelation and Human Artefact: The Inspiration of the Pentateuch in the *Book of Aristeas*,” *Journal for the Study of Judaism* 41 (2010) 1–28.

32 In Philo's work, in addition to *Mos.* 2.12–24, see *Spec.* 3.22 (an implicit comparison of Moses' prohibition on marriage between brothers and sisters to similar yet “inferior” laws in Athens and Sparta); 4.61 (Greek lawgivers have copied Moses' law forbidding judicial testimony based on hearsay [Exod 23:1]); *Conf.* 141; *QE* 2.9.

33 See also *Mos.* 2.11 and 2.51–52; Hindy Najman, *Seconding Sinai: The Development of Mosaic Discourse in Second Temple Judaism* (Leiden: Brill, 2003) 74.

What is new is that these statements here become arguments to assert the superiority of the Mosaic law to all other legal systems.

Beyond immutability, another decisive argument proving the Torah's superiority in Philo's eyes is its universal character: "not only Jews but almost every other people, particularly those which take more account of virtue, have so far grown in holiness as to value and honour our laws. In this they [the laws] have received a special distinction which belongs to no other code" (§ 17).<sup>34</sup> All people, Philo argues, reject the laws of other nations as foreign: the Athenians reject the customs and institutions of the Lacedaemonians and vice versa, and barbarian peoples such as the Egyptians and the Scythians reject other peoples' laws too (§ 19).<sup>35</sup> However, Philo says,

it is not so with ours. They [the laws of Moses] attract and win the attention of all, of barbarians, of Greeks, of dwellers on the mainland and islands, of nations of the east and the west, of Europe and Asia, of the whole inhabited world from end to end (§ 20).<sup>36</sup>

Elsewhere Philo emphasizes the universal dimension of the Mosaic law in a traditional philosophical way,<sup>37</sup> but in *Mos.* 2.17–24 he puts forward another type of universalism, grounded in the observation that at least some of the Jewish laws have been adopted by other people throughout the world:

For, who has not shown his high respect for that sacred seventh day, by giving rest and relaxation from labour to himself and his neighbours, freemen and slaves alike, and beyond these to his beasts? ... who does not every year show awe and reverence for the fast, as it is called, which is kept more strictly and solemnly than the "holy month" of the Greeks? (§§ 21–23)

The fast that is kept "every year" is probably the Day of Atonement (Yom Kippur). Philo compares it to the Greeks' *hieromenia* (sacred month), which was associated with a feast. He contrasts Greek festivals – characterized in his eyes by banquets, excessive eating and drinking, and the bodily passions – to the Jewish fast, which involves prayers, forgiveness of sins

<sup>34</sup> Compare Wisdom 18:4, which states that through the children of Israel, "the incorruptible light of the law was to be given to the world." This passage affirms only that the law was given universally, not that people readily accepted it. Wisdom of Solomon is generally dated to the beginning of the Roman period.

<sup>35</sup> Cf. *Ebr.* 193; *Ios.* 29–31.

<sup>36</sup> Philo passes over in silence the fact that some Romans believed that part of the laws contained in the Twelve Tables were of Greek origin, contradicting his general point about peoples' national chauvinism in the legal realm. On Roman views of Greek laws, see further below.

<sup>37</sup> E. g., he states that the Sabbath is "the festival, not of a single city or country, but of the universe, and it alone strictly deserves to be called 'public' as belonging to all people, and the birthday of the world"; *Opif.* 89 (F. H. Colson and G. H. Whitaker [LCL] 73).

and divine blessings (§§ 23–24). There is a convergence between Philonic/Jewish and Roman ideals of frugality and self-restraint (*enkrateia*), meant to integrate the Jews “among the Roman elite of the world.”<sup>38</sup>

Philo’s claim that crowds of non-Jews regularly observed the Sabbath and the fast of Yom Kippur is clearly exaggerated, but not without parallels in Greco-Roman sources. Roman satirists often referred to the practice of the Sabbath in Roman society,<sup>39</sup> and several Roman authors associated the sabbatical rest with fasting.<sup>40</sup> However, these sources are often ironic and do not express admiration for these Jewish customs. According to Augustine, Seneca wrote that the Sabbath was “inexpedient, because by introducing one day of rest in every seven they lose in idleness almost a seventh of their life, and by failing to act in times of urgency they often suffer loss.”<sup>41</sup> The adoption of Jewish customs and rituals by non-Jews could indicate Judaizing practices or cases of full conversion (the Roman sources are rarely detailed enough to allow us to draw firm conclusions), but in Juvenal’s *Satire* 14 the distinction between the Judaizing father, and his son who undergoes circumcision and becomes a Jew, is explicit.<sup>42</sup> Whatever Philo

38 Niehoff, *Philo on Jewish Identity*, 105–106, 109–110 (qu. 110). See also *Spec.* 1.148, 2.193–197. On the parallels between Philo’s description of the Therapeutae’s meals and Seneca’s views of symposia, see Niehoff, “The Symposium of Philo’s Therapeutae: Displaying Jewish Identity in an Increasingly Roman World,” *Greek, Roman and Byzantine Studies* 50 (2010) 95–116, at 101–103, 111–112.

39 Horace’s *Satires* 1.9.60–78, for instance, features a certain Aristius Fuscus, who observes the Sabbath. See also Juvenal’s *Satires* 14. For other examples, see Robert Goldenberg, “The Jewish Sabbath in the Roman World up to the Time of Constantine the Great,” *Aufstieg und Niedergang der Römischen Welt* II.19.1, ed. Wolfgang Haase (Berlin: De Gruyter, 1979) 414–447; Katell Berthelot, “To Convert or Not to Convert: The Appropriation of Jewish Rituals, Customs and Beliefs by Non-Jews,” in *Lived Religion in the Ancient Mediterranean World: Approaching Religious Transformations from Archaeology, History and Classics*, ed. Valentino Gasparini et al. (Berlin: De Gruyter, 2020) 493–515, at 497–502.

40 See Pompeius Trogus, *apud* Justin, *Epitome* 36.2.14; Petronius, *Fragmenta*, ed. Ernout, no. 37 (he speaks of “the fasts of Sabbath [*ieiuna sabbata*] imposed by the law”); Martial, *Epig.* 4.4.7; Suetonius, *Life of Augustus* 76.2. See also Goldenberg, “Jewish Sabbath,” 439; Margaret Williams, “Being a Jew in Rome: Sabbath Fasting as an Expression of Romano-Jewish Identity,” in *Negotiating Diaspora: Jewish Strategies in the Roman Empire*, ed. John M. G. Barclay (London: T&T Clark, 2004) 8–18.

41 *City of God* 6.11; William M. Green (LCL) 361.

42 See Folker Siegert, “Gottesfürchtige und Sympathisanten,” *Journal for the Study of Judaism* 4 (1973) 107–164; Judith M. Lieu, “The Race of the God-Fearers,” *Journal of Theological Studies* 6 (1995) 483–501; Irina Levinskaya, *The Book of Acts in Its Diaspora Setting* (Grand Rapids: Eerdmans, 1996) 51–126; Bernd Wander, *Gottesfürchtige und Sympathisanten: Studien zum heidnischen Umfeld von Diasporasynagogen* (Tübingen: Mohr Siebeck, 1998); Ross S. Kraemer, “Giving Up the Godfearers,” *Journal of Ancient Judaism* 5 (2014) 61–87; Paula Fredriksen, “If It Looks like a Duck, and It Quacks

had in mind, his focus on the adoption of Jewish rituals by non-Jews and his claim that this phenomenon reveals the superior worth of the Mosaic law, which is the only truly universal law, have both a rhetorical and an apologetic dimension.

## 2.2. Josephus

Josephus' strategy in *Against Apion*, where he defends Moses and his laws against various charges, resembles that of Philo in several respects. Like Philo, he argues that the Mosaic law is in fact the best legislation ever found among human beings.<sup>43</sup> He explains that he does not want to criticize the laws of other peoples but is forced to do so because detractors of the Jews have undertaken such a comparison themselves.<sup>44</sup> As Philo did in *On the Life of Moses*, Josephus passes over the Roman laws in silence.<sup>45</sup> His criticism focuses primarily on the Greeks – especially the Athenians and the Lacedaemonians.<sup>46</sup> He includes barbarian peoples only occasionally.<sup>47</sup>

Like Philo in *Mos.* 2.12–16, Josephus highlights the immutability of the Jewish laws and the Jews' exceptional faithfulness to them, and contrasts these Jewish characteristics with Greek fickleness.<sup>48</sup> This permanence is all the more extraordinary as the Mosaic law is extremely ancient. Josephus claims that it is the most ancient law ever written down by humans:

... our legislator exceeds in antiquity the legislators referred to anywhere else. The Lycurguses, and Solons, and Zaleukos, the legislator of the Locrians, and all those admired by the Greeks seem to have been but "yesterday or the day before"

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like a Duck ...: On Not Giving Up the Godfearers," in *A Most Reliable Witness: Essays in Honor of Ross Shepard Kraemer*, ed. Susan Ashbrook Harvey et al. (Providence: Brown University, 2015) 25–33; Berthelot, "To Convert," 497–498.

43 See *C. Ap.* 2.163, 170–175, 188. On this theme in the *Jewish Antiquities*, see, e.g., 1.14–24; Steve Mason, "Introduction to the *Judean Antiquities*," in Louis H. Feldman, *Flavius Josephus, Translation and Commentary: Vol. 3, Judean Antiquities 1–4* (Leiden: Brill, 2000) xxviii.

44 *C. Ap.* 2.150, 237–238, 287. In *C. Ap.* 2.237 he writes: "For my part, I would have preferred not to conduct an inquiry into other people's rules (*nomima*): it is our tradition to observe our own and not to criticize others'" (Barclay, *Flavius Josephus, Against Apion*, 306). Josephus' caution is probably due to his Roman audience, whom he did not want to offend, especially after having become a Roman citizen himself.

45 Philo does refer to the Roman legal principle of *patria potestas* in *Legat.* 28, in a very negative context (and in *Spec.* 2.231–233, he may be implicitly contrasting biblical and Roman laws concerning paternal authority); see Niehoff, *Philo of Alexandria*, 160.

46 *C. Ap.* 2.172, 259–268.

47 Scythians and Persians in *C. Ap.* 2.269–270.

48 On the laws' immutability and Jews' faithfulness to them, see *C. Ap.* 2.220–221, 226, 228, 232–233, 277–279; on Greek fickleness, 2.182, 221, 226–227, 273–275.

compared to him, which is why not even the term “law” was known among the Greeks of old.<sup>49</sup>

That the antiquity of one’s law is a key issue is clear from the preceding: “Of course, each attempts to trace their legislation back to the most ancient point in time, so as to appear not to imitate others but themselves to have instructed others how to live in a lawful manner.”<sup>50</sup> Here Josephus allusively suggests that the Mosaic law inspired other legislators (a point that is explicit in Philo’s *On the Special Laws* 4.61).

*Against Apion* also echoes Philo’s view that the Mosaic laws are meant to endure forever. While Philo writes, “We may hope that they will remain for all future ages as though immortal, so long as the sun and moon and the whole heaven and universe exist” (*Mos.* 2.14), Josephus affirms that no matter what hardships have befallen or may befall the Jews, “at least the law endures for us immortal.”<sup>51</sup>

Philo’s statements concerning the universal adoption of at least some of the Mosaic laws by non-Jews have a parallel in *Against Apion* as well. Josephus first claims that while remaining faithful to the civic laws of their *poleis*, the Greek philosophers followed the Mosaic law’s teachings on the nature of the deity and ethical matters (*C. Ap.* 2.281).<sup>52</sup> Then he adds:

What is more, even among the masses for a long time there has been much emulation of our piety, and there is not one city of the Greeks, nor a single barbarian nation, where the custom of the seventh day, on which we rest, has not permeated,<sup>53</sup> and where our fasts and lighting of lamps and many of our prohibitions with regard to food have not been observed.<sup>54</sup>

Like Philo, Josephus highlights the Mosaic law’s universality by dividing humankind into two categories, Greeks and barbarians, and asserting that people who emulate Jewish customs are found in both categories, which means that the Jewish laws are truly universal.<sup>55</sup> The Sabbath (“the seventh

<sup>49</sup> *C. Ap.* 2.154 (Barclay, *Flavius Josephus, Against Apion*, 254–55). See also 2.295.

<sup>50</sup> *C. Ap.* 2.152 (Barclay, *Flavius Josephus, Against Apion*, 254).

<sup>51</sup> *C. Ap.* 2.277 (Barclay, *Flavius Josephus, Against Apion*, 325).

<sup>52</sup> See also *C. Ap.* 2.168, which similarly contends that Greek philosophers have adopted Moses’ teachings concerning the deity.

<sup>53</sup> Barclay notes the parallel use of the verb *phoitaio* in Philo, *Mos.* 1.2, 2.27 (*Flavius Josephus, Against Apion*, 328, n. 1136).

<sup>54</sup> *C. Ap.* 2.282 (Barclay, *Flavius Josephus, Against Apion*, 327–328). See also *B. J.* 2.463, 2.560, 7.45.

<sup>55</sup> Neither the Romans nor the Jews easily fit into this binary division of humankind; see Berthelot, “Grecs, Barbares et Juifs dans l’œuvre de Philon,” in *Philon d’Alexandrie. Un penseur à l’intersection des cultures gréco-romaine, orientale, juive et chrétienne*, ed. Baudoin Decharneux and Sabrina Inowlocki (Turnhout: Brepols, 2011) 47–62.

day”) and the fast(s) are precisely the two “laws” that Philo mentions in *Mos.* 2.21–24 to illustrate his claim that the Mosaic legislation enjoys universal recognition. The lighting of lamps, which Josephus states is a Jewish practice imitated by non-Jews, is associated by Seneca with the Sabbath (*Epistles* 95.47) and by Persius with “Herod’s day” (*Satires* 5.180–181).<sup>56</sup> Like Philo in *On the Life of Moses*, Josephus understands the universality of the Mosaic law as a concrete fact demonstrated by its worldwide reception among the nations, a practical universality that is reminiscent of the universal presence of Roman law in the empire.<sup>57</sup>

For Josephus, the superiority of Jewish legislation is manifest in other respects as well. He argues that it is the only legal code that unites theoretical and practical teachings:

All education and custom-construction is of two kinds: one instructs by means of words, the other through training in character. 172) Other legislators (*nomothetai*) were divided in their opinions, choosing one kind and omitting the other, as each saw fit: thus, the Lacedaemonians and Cretans used to conduct their education through customs, not words, whereas the Athenians and almost all the rest of the Greeks used to issue instruction on what should or should not be done through laws (*nomoi*), but neglected to accustom people to these through deeds. 173) But our legislator combined both forms with great care: he neither left character-training mute nor allowed the words from the law to go unpracticed.<sup>58</sup>

Here Josephus explicitly compares the laws of Moses with those of Greek cities. As in Philo, the Lacedaemonians and the Athenians form a pair of polar opposites that together represent both the elite and the totality of the Greek *poleis*. The Mosaic law is thus contrasted with the law codes of all the Greek cities and declared once again to surpass them all.

In the conclusion of *Against Apion*, Josephus suggests that it was the Mosaic legislation that taught other peoples the very notion of legal order, or obedience to law – the underlying argument being that the Torah is the most ancient law code ever written.<sup>59</sup> Immediately afterward, Josephus

56 For the view that this refers to the Sabbath, see Menahem Stern, *Greek and Latin Authors on Jews and Judaism, Vol. 1* (Jerusalem: Israel Academy of Sciences and Humanities, 1976) 436–437. For the view that it refers to the way Hanukkah was celebrated from Herod’s reign onward, see Samuel Krauss, “La fête de Hanoucca,” *Revue des Etudes Juives* 30/59 (1895) 36; Moshe Benovitz, “Herod and Hanukkah” (Hebrew), *Zion* 68 (2003) 5–40, esp. 32–38.

57 Josephus also contends that the Mosaic law has achieved universal popularity despite being difficult to follow, hence demonstrating its virtuous nature (*C. Ap.* 2.284–286).

58 *C. Ap.* 2.171–173 (Barclay, *Flavius Josephus, Against Apion*, 267–268).

59 *C. Ap.* 2.293; see also 2.154 and 295. This is in line with Josephus’ general argument about the antiquity of the Jews, which runs throughout the *Jewish Antiquities* and constitutes the main point of the first part of *Against Apion*.

lists other values that the Jews' legislation is supposed to have taught humankind – namely, *homonoia* (*concordia*) between citizens, bravery displayed through contempt for death in war, dedication to work (notably agriculture) in time of peace, and piety.<sup>60</sup> The emphasis on these values has a distinctly Roman flavor, especially when they are taken together.<sup>61</sup> They reflect the conservative ethos of the Roman elite. Along with other passages of *Against Apion*, these lines show how Josephus not only described Judaism “in Roman dress,” but also suggested between the lines that the Jews had a more ancient, stable and effective legal tradition than the Romans.

### 3. Responses to Roman and Pro-Roman Discourses on Law and Empire

It is in a Roman imperial context that Philo's and Josephus' emphases on the Mosaic law's superiority to other legislation and its universal diffusion fully make sense. Their writings may even partly mimic Roman or pro-Roman discourses about Roman law.

Roman authors easily conceded that other peoples had surpassed the Romans in the arts, philosophy, science and even physical endurance or vigor.<sup>62</sup> Yet they held that the Romans excelled in the legal realm and had no serious competitors in that field. Even though there was a tradition that some of the laws in the Twelve Tables were modeled on Solon's legislation,<sup>63</sup> Cicero writes:

60 *C. Ap.* 2.294. Barclay, *Flavius Josephus, Against Apion*, concludes: “The above survey suggests that, at least in part, *Apion* aligns Judeans with Romans, politically and culturally, both in what is said overtly, and in what is left unsaid or merely implied” (369).

61 *Concordia* was particularly valued in Rome after the civil wars of the first century BCE. War and agriculture were considered traditional activities of Roman citizens (see, e.g., Dionysius of Halicarnassus, *Rom. Ant.* 2.28.1–2). On the Roman piety, see Cicero, *Response of the Soothsayers*, 19; Valerius Maximus, *Memorable Doings and Sayings* 1.1.8; Katell Berthelot, “Power and Piety: Roman and Jewish Perspectives,” in *Reconsidering Roman Power: Roman, Greek, Jewish and Christian Perceptions and Reactions*, ed. K. Berthelot (Rome: École Française de Rome, 2020) 269–289, at 269–274.

62 See, e.g., Cicero, *Response of the Soothsayers* 19; *Tusculan Disputations* 1.1–2.

63 See Livy, *History of Rome* 3.31.8, 3.32.6, 3.33.5; Dionysius of Halicarnassus, *Rom. Ant.* 2.23.3, 2.27.3, 10.57.5; Florus, 1.17.24; also Dionysius, *Rom. Ant.* 2.61.1. Cicero admits that some rules “were borrowed ... from the laws of Solon” (*On the Laws* 2.59; Clinton W. Keyes [LCL] 445). According to Olga Tellegen-Couperus, “the XII Tables do have some points in common with the laws of Solon, but these are almost exclusively matters of detail”; O. Tellegen-Couperus, *A Short History of Roman Law* (New York: Routledge, 1993) 20.

I solemnly declare, that, if anyone looks to the origins and sources of the laws, the small manual of the Twelve Tables by itself surpasses the libraries of all the philosophers, in weight of authority and wealth of usefulness alike .... Wisdom as perfect went to the establishment of her [Rome's] laws, as to the acquisition of the vast might of her empire (*imperium*). You will win from legal studies this further joy and delight, that you will most readily understand how far our ancestors surpassed in practical wisdom the men of other nations, if you will compare our own laws with those of Lycurgus, Draco and Solon, among the foreigners. For it is incredible how disordered (*inconditum*), and wellnigh absurd (*ridiculum*), is all national law (*ius civile*) other than our own.<sup>64</sup>

According to Cicero, it is precisely in comparison with the legislation of the most prestigious Greek cities, Sparta and Athens, that Roman laws distinguish themselves by their superior wisdom.<sup>65</sup> Moreover, he suggests that Rome's *imperium* (dominion) coincided with its legal wisdom; consequently, it was beneficial for the peoples conquered by Rome to live under its sway.

Another important Roman ideological claim was that the empire provided access to a judicial system and justice to the peoples who lived under its dominion, especially where there had been none before.<sup>66</sup> Even though Roman jurists were clearly aware of the legal systems of non-Roman peoples – they considered that each *civitas* had its own laws (*ius civile*), while all nations shared common laws (*ius gentium*)<sup>67</sup> – the assertion that the Romans brought legal order to numerous areas and peoples can be found under the pens of various authors from the 1st century BCE up to the 5th century CE.<sup>68</sup>

64 *On the Making of an Orator* 1.44.195–197; E. W. Sutton and H. Rackham (LCL) 137. See also Cicero, *Tusculan Disputations* 1.1.2.

65 Pride in the intrinsic genius of the Roman laws was not merely a rhetorical stance suited to orators' speeches. Jill Harries notes that “well into the imperial period, Roman legal writers prided themselves on the separateness of ‘their’ *ius civile*. In his explanation of the Roman *ius civile*, [the jurist] Gaius was at pains to point out that certain revered institutions and legal practices were unique to the Romans”; J. Harries, “Roman Law from City State to World Empire,” in *Law and Empire: Ideas, Practices, Actors*, ed. Jeroen Duindam et al. (Leiden: Brill, 2013) 47. These legal practices included *patria potestas*, *manus*, and certain forms of purchase and sale.

66 According to H. Rushton Fairclough's translation of the *Aeneid* in the Loeb Classical Library (rev. G. P. Goold; 593), Virgil claimed that the Romans were a people destined to bring legal order to the *oikoumene* (“to crown peace with justice” [6.852]). Yet *mos*, here translated as “justice,” can also mean “habit” or “morality,” and Nicholas Horsfall, for example, favors the translation “to set the force of habit upon peace”; N. Horsfall, *Virgil, ‘Aeneid’ 6: A Commentary* (Berlin: De Gruyter, 2013) 1:59, 2:585.

67 On *ius civile* and *ius gentium*, see Gaius, *Inst.* 1.1.

68 See, e. g., Velleius Paterculus, *Compendium of Roman History* 2.118.1 (and the much later account of Cassius Dio, *Rom. Hist.* 56.18.1–2); Aelius Aristides, *Roman Oration*

In the first century CE, Romans did not impose their laws on conquered peoples.<sup>69</sup> Yet provincials increasingly turned to Roman courts, which were inseparable from Rome's *imperium* and, alongside taxes and the military, among its most tangible manifestations. Two factors could motivate this decision: legal authority and effectiveness (a judgment issued by the governor's court was generally more effective than one pronounced at a local level) and in some cases, the notion that Roman judges could be more favorable to the plaintiff than those of his or her own community. Even though Roman *ius civile* was in principle restricted to Roman citizens, it could be extended to non-citizens in various contexts, either through legal fictions or without such fictions in specific cases decided by Roman authorities.<sup>70</sup> Therefore Roman law became increasingly present in the lives of provincials, who progressively developed forms of "forum shopping" between different courts and bodies of legislation.<sup>71</sup> This phenomenon meant that local, traditional legal systems could lose part of their authority, a threat clearly felt by the rabbis in the following centuries.

In short, the challenge for the Mosaic law during the Roman period did not lie primarily in the philosophical understanding of law.<sup>72</sup> It consisted

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102; Ammianus Marcellinus, *Res Gestae* 14.6.5; Rutilius Namatianus, *A Voyage Home to Gaul* 1.63–66.

69 See, e. g., Julien Fournier, *Entre tutelle romaine et autonomie civique: l'administration judiciaire dans les provinces hellénophones de l'Empire romain, 129 av. J.-C. – 235 apr. J.-C.* (Athens: École française d'Athènes, 2010) 593–595; John S. Richardson, "Roman Law in the Provinces," in *Cambridge Companion to Roman Law*, ed. David Johnston (Cambridge: Cambridge University Press, 2015) 56.

70 See Clifford Ando, *Law, Language, and Empire in the Roman Tradition* (Philadelphia: University of Pennsylvania Press, 2011) 6–11, and "Legal Pluralism in Practice," in *Oxford Handbook of Roman Law and Society*, ed. C. Ando, Paul du Plessis and Kaius Tuori (Oxford: Oxford University Press, 2016) 283–293, at 286–288; Frédéric Hurler, "(Re)penser l'Empire romain: Le défi de la comparaison historique," *Dialogues d'Histoire Ancienne Suppl.* 5 (2011) 107–140, at 132–133, and "Justice, *Res Publica* and Empire: Subsidiarity and Hierarchy in the Roman Empire," in *The Impact of Justice on the Roman Empire: Proceedings of the Thirteenth Workshop of the International Network Impact of Empire (Gent, June 21–24, 2017)*, ed. Olivier Hekster and Koenraad Verboven (Leiden: Brill, 2019) 122–137, at 125–127; Anna Dolganov, "Reichsrecht and Volksrecht in Theory and Practice: Roman Justice in the Province of Egypt (P. Oxy. II 237, P. Oxy. IV 706, SB XII 10929)" *Tyche* 34 (2019) 27–60, at 47.

71 See, e. g., Caroline Humfress, "Thinking through Legal Pluralism: 'Forum Shopping' in the Later Roman Empire," in Duindam et al., *Law and Empire*, 225–250, and her forthcoming book, *Multilegalism in Late Antiquity* (Oxford: Oxford University Press).

72 Obviously, this does not mean that philosophy did not remain an important intellectual activity for some Jews, as Philo's case illustrates. Nor should my statement be interpreted as meaning that Greek culture did not matter to Jews (especially in the East). In the Roman context, however, new concerns emerged.

mainly of two elements: the ideological message of Rome's superiority in the legal realm vis-à-vis other peoples, and provincials' growing attraction to Roman jurisdiction throughout the empire. Philo's and Josephus' discourses, which claim the superiority of the Mosaic law to all other legislation – including that of Rome – and a universal attraction to Jewish laws throughout the *oikoumene*, may be considered implicit responses to this twofold challenge.<sup>73</sup>

### 3.1. Dionysius of Halicarnassus' Praise of Romulus' Laws

To illustrate the ideological challenge that Philo and Josephus faced in their Roman context and to assess whether they imitated Roman or pro-Roman discourses in their attempts to defend Moses' legislation, it is illuminating to compare their writings with the *Roman Antiquities* of Dionysius of Halicarnassus, who was active slightly before Philo, wrote in Greek and may be considered to reflect a Greek pro-Roman perspective.<sup>74</sup> Moreover, as Daniel Hogg observes, "Dionysius was not only a Greek historian of Rome,

73 In this respect their responses to Rome were different from those of Greek authors. Two remarks are in order. First, in their respective encounters with the Romans, Greeks and Jews occupied very different positions: whereas the Romans acknowledged the Greeks' superiority in the cultural realm and admitted that they had learned from the Greeks (especially as far as philosophy and the arts were concerned), they did not consider the Jews to have contributed to their civilization. Second, while Greek authors, especially those said to belong to the Second Sophistic, used Greek history, language and culture to elaborate a political and cultural response to Roman imperialism but did not confront Roman claims to superiority in the legal realm, the Jews' response focused much more on law than on culture or language. Several scholars thus view the elaboration of the Mishnah as a response to the Roman imperial order; see Ishay Rosen-Zvi, "Is the Mishnah a Roman Composition?," in *The Faces of Torah: Studies in the Texts and Contexts of Ancient Judaism in Honor of Steven Fraade*, ed. Michal Bar-Asher Siegal et al. (Göttingen: Vandenhoeck & Ruprecht, 2017) 487–508; Seth Schwartz, "The Mishnah and the Limits of Roman Power," in Berthelot, *Reconsidering Roman Power*, 387–415 (comparing, inter alia, the Mishnah to the Second Sophistic). On Greek authors and Rome at the time of the High Roman Empire, see Simon Swain, *Hellenism and Empire: Language, Classicism, and Power in the Greek World, AD 50–250* (Oxford: Clarendon, 1996); Tim Whitmarsh, *Greek Literature and the Roman Empire: The Politics of Imitation* (Oxford: Oxford University Press, 2001); Simon Goldhill, ed., *Being Greek under Rome: Cultural Identity, the Second Sophistic, and the Development of Empire* (Cambridge: Cambridge University Press, 2001). On Josephus and the Greek authors associated with the Second Sophistic, see Christopher P. Jones, "Josephus and Greek Literature in Flavian Rome," in Edmondson, *Flavius Josephus and Flavian Rome*, 201–208.

74 Emilio Gabba, *Dionysius and the History of Archaic Rome* (Berkeley: University of California Press, 1991) 152–153.

but was also to some degree a product of first-century Rome.<sup>75</sup> Thus, to a certain extent, Dionysius' view of the world and of the Roman empire was both Greek and Roman.

As a matter of fact, his work does not reflect a clear-cut dichotomy between Greeks and Romans. His claim that the Romans had Greek origins is well known. His statement that they had surpassed the Greeks as far as values, virtues and institutions were concerned is thus more complex than a straightforward pro-Roman stance and has been interpreted in various ways.<sup>76</sup> Moreover, as Irene Peirano has argued, we must evaluate his praise of the Romans and their achievements in light of the (now fragmentary) account of the Pyrrhic War and its aftermath, which reflects a concern with the possible "barbarization" of the Romans.<sup>77</sup>

Yet neither of these arguments undermines the importance of Dionysius' praise of Romulus as a lawgiver or of early Roman law.<sup>78</sup> The statements about the Romans' Greek origins should not overshadow the many instances in which Dionysius clearly contrasts and even opposes the Greeks and the Romans.<sup>79</sup> Moreover, Dionysius' argument about Rome's Greekness was primarily addressed to Greeks whom he wanted to convince that Rome was not unworthy of its dominion: by suggesting that Rome originally belonged to the Greek world, he implied that the Greeks somehow had a share in its

75 Daniel Hogg, "How Roman Are the Antiquities? The Decemvirate according to Dionysius," in *Dionysius of Halicarnassus and Augustan Rome: Rhetoric, Criticism and Historiography*, ed. Richard Hunter and Casper C. de Jonge (Cambridge: Cambridge University Press, 2019) 221–241, qu. 222.

76 See *Rom. Ant.* 1.5, 2.9–11, 2.16–17, 2.26.1, 11.45.6, 20.13.2; Clemence Schultze, "Dionysius of Halicarnassus and His Audience," in *Past Perspectives: Studies in Greek and Roman Historical Writing*, ed. Ian S. Moxon et al. (Cambridge: Cambridge University Press, 1986) 121–141, esp. 133; François Hartog, "Rome et la Grèce: les choix de Denys d'Halicarnasse," in *ΕΛΛΗΝΙΣΜΟΣ: quelques jalons pour une histoire de l'identité grecque*, ed. Suzanne Saïd (Leiden: Brill, 1991) 149–167; Irene Peirano, "Hellenized Romans and Barbarized Greeks: Reading the End of Dionysius of Halicarnassus, *Antiquitates Romanae*," *Journal of Roman Studies* 100 (2010) 32–53, esp. 39–43; Hunter and de Jonge, *Dionysius of Halicarnassus*, "Introduction," 6–11.

77 Peirano, "Hellenized Romans and Barbarized Greeks," 43–53; see also Hunter and De Jonge, *Dionysius of Halicarnassus*, "Introduction," 16–17.

78 In Book 2, where Dionysius discusses Romulus' work as lawgiver, he sometimes ventures critical remarks on contemporary evolutions in Rome; according to Marta Sordi, these are not his own words, but rather go back to a source from the end of the Republican period that reflects an anti-Caesarean perspective; M. Sordi, "La 'costituzione di Romolo' e le critiche di Dionigi di Alicarnasso alla Roma del suo tempo," *Pallas* 39 (1993) 111–120. In any case, this criticism does not pertain to the time of Romulus himself.

79 See the references in n. 76; see also *Rom. Ant.* 2.20.

success.<sup>80</sup> As to the underlying criticism of Rome in Dionysius' work, it can be understood as a warning, a call to the Romans to remain faithful to the *exempla* of their ancestors, which is a discourse that we also find in Roman authors such as Cicero and Livy.<sup>81</sup> Finally, Dionysius' criticism pertains to the political and moral evolution of the Roman state from the Decemvirate onward but not to the reign of Romulus.

It is probable that both Philo and Josephus, while in Rome, had access to Dionysius' *Roman Antiquities*, whose first books were published in 8/7 BCE. Scholars have long noticed parallels between Dionysius and Josephus; the *Jewish Antiquities* has even been described as modeled on Dionysius' *Roman Antiquities*.<sup>82</sup> Much less attention has been paid to possible connections between Dionysius and Philo.<sup>83</sup> Yet the way that Dionysius describes Romulus as legislator and praises the superiority of Roman laws to those of Greek cities provides an illuminating background to the arguments of both Philo and Josephus.<sup>84</sup>

In connection with the episode of the promulgation of the first Roman public law code, dated to the middle of the 5th century BCE (the Decemvirate), Dionysius states that the Roman laws he "found written on the

<sup>80</sup> Hartog, "Rome et la Grèce," 155.

<sup>81</sup> See Sandrine Crouzet, "Les *Excerpta* de Denys d'Halicarnasse, un reflet de l'idéologie romaine du I<sup>er</sup> siècle av. J.-C.," *Pallas* 53 (2000) 159–172. On Dionysius and Livy, see Domenico Musti, "Tendenze nella storiografia romana e greca su Roma arcaica: studi su Livio e Dionigi d'Alicarnasso," *Quaderni Urbinati di Cultura Classica* 10 (1970) 3–159.

<sup>82</sup> On the relationship between Josephus' work and that of Dionysius, see H. St. John Thackeray, *Josephus: The Man and the Historian* (New York: Jewish Institute of Religion, 1929) 56–58; Harold W. Attridge, *The Interpretation of Biblical History in the Antiquitates Judaicae of Flavius Josephus* (Missoula: Scholars, 1976) 43–66; David Balch, "Two Apologetic Encomia: Dionysius on Rome and Josephus on the Jews," *Journal for the Study of Judaism* 13 (1982) 102–122; Mason, "Flavius Josephus in Flavian Rome"; Louis H. Feldman, "Parallel Lives of Two Lawgivers: Josephus' Moses and Plutarch's Lycurgus," in Edmondson, *Flavius Josephus and Flavian Rome*, 209–242, at 232–234; J. Andrew Cowan, "A Tale of Two Antiquities: A Fresh Evaluation of the Relationship between the Ancient Histories of T. Flavius Josephus and Dionysius of Halicarnassus," *Journal for the Study of Judaism* 49 (2018) 475–497 (with additional bibliography in nn. 5–7).

<sup>83</sup> Thus Niehoff, for example, does not mention Dionysius at all in her intellectual biography of Philo.

<sup>84</sup> As Cowan aptly writes, "Josephus' argument that the Jewish people have the best constitution (and thereby the greatest tradition of virtue) inherently implies that the Romans do not. Whereas Dionysius asserts that Romulus devised a constitution and others added improvements later on, Josephus depicts the constitution of the Jewish people as revealed by God, based on a superior conception of God, and in no need of supplementation" ("Tale of Two Antiquities," 494).

Twelve Tables” were inspired by Greek models but also describes them as “so venerable and so far superior to the codes of the Greeks.”<sup>85</sup> This discourse resembles that of Cicero in *On the Making of an Orator*. Moreover, this passage is a perfect illustration of Dionysius’ tendency to ascribe Greek origins to Roman institutions while also presenting the Romans as having surpassed the Greeks.

According to Dionysius, however, the very first laws of Rome went back to its founder, Romulus. After referring to the banqueting halls of the curia, which in his view derived from the Spartan *sysitia* and promoted frugality and temperance, he says:

And not alone for his wisdom in these matters does Romulus deserve praise, but also for the frugality of the sacrifices that he appointed for the honouring of the gods, the greatest part of which, if not all, remained to my day, being still performed in the ancient manner .... And I have greatly admired these men [the Romans] for adhering to the customs of their ancestors and not degenerating from their ancient rites into a boastful magnificence.<sup>86</sup>

After praising the Romans for their faithfulness to ancestral customs, Dionysius explains that the founder of Rome “established many good and useful laws” and that he cannot dwell on all of them but will limit himself to mentioning

those which I have admired most of all and which I have regarded as suitable to illustrate the character of the rest of this man’s legislation, showing how austere it was, how averse to vice, and how closely it resembled the life of the heroic age.<sup>87</sup>

Before expounding on specific laws, Dionysius starts with the general observation

that all who have established constitutions, barbarian as well as Greek, seem to me to have recognized correctly the general principle that every State (*polis*), since it consists of many families, is most likely to enjoy tranquillity when the lives of the individual citizens are untroubled, and to have a very tempestuous time when the private affairs of the citizens are in a bad way, and that every prudent statesman, whether he be a lawgiver or a king, ought to introduce such laws as will make the citizens just and temperate in their lives. Yet by what practices and by what laws this result may be accomplished, they do not all seem to me to have understood equally well, but some of them seem to have gone widely and almost completely astray in the principal and fundamental parts of their legislation.<sup>88</sup>

<sup>85</sup> *Rom. Ant.* 11.45.6; Earnest Cary (LCL), 149.

<sup>86</sup> *Rom. Ant.* 2.23.4–5 (Cary, 375, 377).

<sup>87</sup> *Rom. Ant.* 2.24.1 (Cary, 377).

<sup>88</sup> *Rom. Ant.* 2.24.2–3 (Cary, 377, 379).

Dionysius then gives the example of laws regulating the interactions between men and women. He criticizes different types of rules on this subject among barbarians and Greeks and contrasts them with Romulus' legislation, which proved very effective at ensuring women's modesty (*Rom. Ant.* 2.24.6–25.1).<sup>89</sup> Next he praises Romulus' wisdom for his laws "with respect to reverence and dutifulness of children toward their parents," arguing that they are "more august and of greater dignity and vastly superior to our [the Greeks'] laws."<sup>90</sup> Dionysius approves of the harshness in the legal notion of *patria potestas* (especially concerning the penalties that a father is allowed to inflict on his children), which from his perspective makes the permissiveness of Greek legislation all the more blameworthy (2.26.2–27.1).<sup>91</sup> Among those that he criticizes in this respect are "the laws of Solon, Pittacus and Charondas, men celebrated for their great wisdom."<sup>92</sup> Romulus, "the lawgiver of the Romans" (2.26.4), thus appears as the best and wisest of all lawgivers, even when put alongside the most famous Greeks. Although the emphasis is clearly on the comparison with Greek legislators, Dionysius' rhetorical strategy is to contrast Roman laws with those of both Greeks and barbarians, which makes the Roman legislation's superiority truly universal.

### 3.2. Parallels in Philo and Josephus

Philo similarly claims that the Mosaic laws surpass those of the Greeks and the barbarians. Even their vocabulary overlaps: Philo describes the Torah as "venerable" (*semnos*) and "beautiful" (*kalos*), words used by Dionysius in his account of Roman law (see *Mos.* 2.15 and *Rom. Ant.* 2.26.1, 11.45.6; *Mos.* 2.12 and *Rom. Ant.* 2.24.1, respectively). Elsewhere (*Spec.* 4.179), Philo presents the Mosaic laws as "austere," a characterization also found in Dionysius' description of Romulus' legislation (*Rom. Ant.* 2.24.1). The Jewish laws thus compete with the Roman ones for preeminence, even though this claim of Philo's remains implicit. Furthermore, the tradition according to which the laws of the Twelve Tables were somehow related to the laws of Solon (or the Greeks more generally) makes Philo's statement in *Spec.* 4.61 that Greek lawgivers copied Moses' legislation all the more significant: the laws of the Jews could be considered to have influenced and

<sup>89</sup> See also Gabba, *Dionysius*, 148–151.

<sup>90</sup> *Rom. Ant.* 2.26.1 (Cary, 387).

<sup>91</sup> Philo refers to the Roman notion of *patria potestas* in *Legat.* 28, but he does not praise its harshness. See n. 45 above.

<sup>92</sup> *Rom. Ant.* 2.26.2 (Cary, 387).

inspired the laws of Rome, via the Greeks. This argument is not formulated openly – the Roman elites would probably have rejected it with contempt – but from a Jewish perspective it was certainly relevant to the debate about who had produced the best legislation.

Another parallel between Dionysius' and Philo's discourses lies in the assertion that the laws (or at least some of them, in Rome's case) had remained unaltered up to the writer's time and continued to be diligently observed. Philo's first argument to demonstrate the superiority of the Mosaic law is that it had never been modified but always kept with the greatest deference (*Mos.* 2.14–15; cf. Josephus, *C. Ap.* 2.279–280). Similarly, Josephus emphasizes the antiquity of the Jews' constitution and their extraordinary faithfulness to it (*C. Ap.* 2.220–226). The importance of this affirmation is all the more striking when it is put side by side with Dionysius' account of the Romans' continuous observance of some of the rules established by Romulus.

Dionysius also emphasizes the simplicity of Romulus' rulings, which promoted frugality and temperance. This idea is present in Philo's description of the fast (the Day of Atonement) in *Mos.* 2.24 and to an even greater extent in Josephus' *Against Apion*. As John Barclay notes of the latter, "Frugality, simplicity, and commitment to work (2.204, 234, 281, 291, etc.) are all themes that mirror Roman ideals."<sup>93</sup>

Other aspects of Dionysius' presentation of the laws promulgated by Romulus lack a parallel in Philo's *Life of Moses* but are echoed in Josephus' *Against Apion*. In particular, Josephus praises the Mosaic laws concerning sexual and family matters, which he deems highly moral (*C. Ap.* 2.199–203), and the harshness of the punishments reserved to those who do not respect their parents (2.206, 217) – two themes that figure prominently in Dionysius' account and reflect the conservative ethos of the Roman elite.<sup>94</sup> Josephus' claim that the Mosaic law is the only legal code that unites theoretical and practical teachings (2.171–173) also has a parallel in Dionysius, who praises Romulus for having combined oral instruction and practical training in agriculture and warfare, two occupations that in his eyes make people virtuous (*Rom. Ant.* 2.28.1–2).

Conversely, the theme of the universal adoption of the Mosaic law by Greeks and barbarians has no parallel in Dionysius' narrative of the early formation of Roman legal traditions. The reason for this absence is self-evident,

<sup>93</sup> Barclay, *Flavius Josephus, Against Apion*, 244.

<sup>94</sup> See Mason, "Flavius Josephus in Flavian Rome," 575–576. Comparable statements are found elsewhere in Philo's work; see, e. g., *Spec.* 2.231–233 (on parental authority).

since he is describing the very beginnings of Roman history, when Rome's influence barely extended beyond its borders. However, Philo's emphasis on the Mosaic law's spread throughout the *oikoumene*, to the ends of the earth (*Mos.* 1.2, 2.20), recalls the grandiloquent description of Roman rule's universality at the beginning of Dionysius' *Roman Antiquities*:

But Rome rules every country that is not inaccessible or uninhabited, and she is mistress of every sea, not only of that which lies inside the Pillars of Hercules but also of the Ocean, except that part of it which is not navigable; she is the first and the only State recorded in all time that ever made the risings and the settings of the sun the boundaries of her dominion.<sup>95</sup>

In *Mos.* 2.19–20, Philo writes:

We may fairly say that mankind from the rising to the setting of the sun, every country and people and city, shows aversion to foreign customs (or: laws), and thinks that they will enhance the respect for their own by showing disrespect for those of other countries. 20 It is not so with ours. They attract and win the attention of all, of barbarians, of Greeks, of dwellers on the mainland and islands, of nations of the east and the west, of Europe and Asia, of the whole inhabited world from end to end.<sup>96</sup>

This passage echoes Dionysius' emphasis on the unique geographical extension of the empire from east to west (which is actually a *topos*) by using the image of the rising and the setting of the sun (not in Dionysius' exact formulation, but the meaning is equivalent), as well as the adjectives *heoos* and *hesperios*, which also refer to the sun's path.<sup>97</sup> While Dionysius celebrates the breadth of Roman domination, Philo boasts of the Mosaic law's universal spread. Neither Philo nor Josephus could brag about a universal Jewish empire, even by using examples from the biblical past.<sup>98</sup> However, given the parallels between *On the Life of Moses, Against Apion* and Dionysius' *Roman Antiquities*, it does not seem farfetched to suggest that

95 *Rom. Ant.* 1.3.3 (Cary, 11). In his *Embassy to Gaius*, Philo describes the Roman empire as "a dominion extending, as some have already said from the rising to the setting sun both within the ocean and beyond it" (*Legat.* 10, trans. Colson, LCL, 7, 9, slightly modified), indicating that he is echoing a common discourse. See also Horace, *Odes* 4.14.41–52.

96 Colson, 459, slightly modified.

97 The Assyrian king Esarhaddon had already defined his realm as extending "from the rising of the sun to the setting of the sun," and so did Persian kings. See Donald J. Wiseman, "The Vassal-Treaties of Esarhaddon," *Iraq* 20 (1958) 1–99, at 30 (col. i, line 8); John Pairman Brown, *Israel and Hellas, Vol. 3: The Legacy of Iranian Imperialism and the Individual* (Berlin: De Gruyter, 2001) 75.

98 Sifre Numbers 131 recalls the conquest of the biblical kingdoms of Sihon and Og by Israel and reflects a sense of rivalry between Israel and Rome over military power and the extension of their respective territories.

their proud statements concerning the universal diffusion of the Mosaic legislation throughout the *oikoumene* were responses to the challenge of Rome's universal hegemony and that of its jurisdiction.<sup>99</sup>

## Conclusion

This article has shown that a new discourse about the Jewish law emerged in Philo's *Life of Moses* 2.12–24 and Josephus' *Against Apion* 2.145–295. In particular, these texts claim a universal character for the Mosaic law by describing it as having been adopted by people from all over the *oikoumene*, Greeks and barbarians alike. This innovation is probably to be understood in the light of two phenomena: the growing number of proselytes and Judaizers in the early Roman period on the one hand, and the impact on provincials of Roman imperial law and legal power on the other.

The way that both Philo's *Life of Moses* and Josephus' *Against Apion* exalt the Jewish law's superiority to Greek and barbarian legislation, especially that of the Athenians and that of the Lacedaemonians, clearly differs from previous Jewish discourses about the Mosaic law, which emphasized its rationality, superior wisdom and conformity with the law of nature, but did not compare it to other legal codes. It recalls both Cicero's stance in *On the Making of an Orator* and Dionysius of Halicarnassus' praise of early Roman laws and points to a Roman cultural background. Just as Cicero and Dionysius criticize Greek laws and legislators to cast a favorable light on Roman laws, Philo and Josephus pass negative judgments on Greek legislation and lawgivers to enhance the superiority of the Mosaic laws. By doing so, they put the Jews in a position vis-à-vis other legal systems that is similar to the position of the Romans. This parallel may have conveyed the message that Moses was no less worthy than Romulus or other Roman lawgivers, and that his law code was as wise and venerable as theirs.

Yet Philo's and Josephus' statements imply more than a parallel between Romans and Jews. The similarities between Dionysius' description of the

<sup>99</sup> It is also possible to see Philo's twofold reference to the law's universal diffusion and its immutability/eternity (*Mos.* 2.14) as a response to Roman or pro-Roman discourses about "an empire without end" (Virgil, *Aeneid* 1.278–279) understood in both geographical and chronological terms. As far as the Roman empire's geographical extension was concerned, it seems that Philo and Josephus responded to this ideological claim both by pointing to the nations' universal attraction to the Mosaic law and by emphasizing the universal presence of the Jews themselves, who were dispersed not only throughout the empire but also beyond its boundaries, for example in Mesopotamia.

Romans' first lawgiver and his achievements, on the one hand, and Philo's and Josephus' accounts of Moses and his legislation, on the other, point to a sense of competition with Rome on the parts of Philo and Josephus. Dionysius, though himself a Greek, acknowledges the superiority of Roman laws to those of the Greeks, therefore embracing the perspective of the dominant imperial power. By contrast, Philo and Josephus assert the superiority of Jewish laws to those of all other nations, a group that logically includes Rome. Hence, they do not suggest merely that Jewish laws are on a par with Roman ones. Ultimately, even though they refrain from comparing Jewish and Roman laws in a specific and explicit way, both of them affirm the superiority of the laws of Israel not only to those of the Greeks, but also to those of Rome.

**Katell Berthelot** ([orcid.org/0000-0003-4114-1056](https://orcid.org/0000-0003-4114-1056))