Wearing the Bible: A Social and Material History of Tefillin

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August 2016

A thesis submitted to McGill University in partial fulfillment of the requirements of the degree of Master of Arts

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Abstract

The ancient Jewish ritual of tefillin (or "phylacteries") involves literally wearing the Bible. Small pieces of parchment are inscribed with biblical verses, sealed in leather containers, and strapped to the head and arm. In this study we look at the material culture surrounding tefillin, from biblical literature to the finds in the Judean Desert, proceeding to the tannaitic, amoraic, and geonic literature, and finishing in Medieval Europe. We then look at the resulting behavioural and social dynamics, which contain some surprising revelations. Finally, we see how significantly the ritual changed in the medieval period, and propose an explanation as to why.

The first three sections of this study show that before the second century BCE there is no evidence that Jews were using tefillin, although people wore other inscribed texts. We show that the ritual probably emerged in the Hasmonean era, and we look at the cultural and political circumstances which gave rise to it.

Section 4 looks at the changing physical form of tefillin, starting with the tefillin found in the Judean Desert and comparing with rabbinic literature.

Sections 5-7 explore the material and social aspects of tefillin-wearing as presented by the rabbinic literature of the Talmud and halakhic midrashim. Section 5 bridges the gap between the Judean Desert tefillin and the rabbinic literature; section 6 deals with the material culture surrounding tefillin-wearing; and section 7 looks at the social aspects of the ritual.

Section 8 shows that in the late amoraic period, tefillin-wearing became increasingly socially charged, and hints of elitism started to emerge. Section 9 follows this elitism through the culture of the geonim and into medieval Europe, where the ritual became popularised and

simultaneously transformed. The ritual of tefillin as we know it today is very different from the ritual of antiquity.

Résumé

Le rituel ancien des Juifs qui s'appelle *tefiline* (ou "phylactères") est le fait de porter la Bible. Il s'agit de petits morceaux de parchemin, sur lesquels sont inscrits certains versets bibliques, qui sont enfermés dans des petites boîtes en cuir. Ces boîtes sont attachées sur la tête et les mains avec des sangles en cuir. Dans la présente étude, nous examinerons la culture matérielle du tefiline, de la littérature biblique aux découvertes archéologiques du désert de Judée. Ensuite, nous procéderons à la littérature tannaïtique et amoraïque, et aux responsa gaoniques, et nous finirons par l'Europe médiévale. Puis, nous étudierons la dynamique sociale et comportementale, qui contient certaines révélations. Enfin, nous verrons comment le rituel a bien changé à l'époque médiévale, et nous en proposerons une explication.

Les trois premières sections de cette étude montrent qu'avant le deuxième siècle avant J-C, rien n'indique que les Juifs portaient les tefilines, bien qu'ils porterent d'autre types de textes inscrits. Nous montrerons que le rituel a emergé, probablement, à l'époque asmonéenne, et nous nous concentrerons sur les circonstances culturelles et politiques qui l'ont provoqué.

La section 4 montre l'évolution de la forme physique du tefiline, en examinant des tefilines que l'on a trouvés dans le désert de Judée en les comparants avec des tefilines qui ont été décrites dans la littérature rabbinique.

Les sections 5 à 7 explorent les aspects materiels et sociaux du port du tefiline, tel que presenté par la littérature rabbinique du Talmud et des midrashim halakhiques. La section 5 comble le

fossé entre les tefilines du désert de Judée et ceux de la littérature rabbinique; la section 6 porte sur la culture matérielle du port du tefiline, et la section 7 évoque les aspects sociaux du rituel.

La section 8 montre qu'à la fin de l'époque amoraïque, le port du tefiline a eu une reconaissance sociale de plus en plus importante, cependant des soupçons d'élitisme ont emergé progressivement. Dans la section 9, on continue cette investigation sur l'élitisme de l'époque gaonique au Moyen-Age, où le rituel s'est devenu popularisé et transformé. Le rituel du tefiline tel que nous le connaissons aujourd'hui est bien loin de celui de l'Antiquité.

Acknowledgements

I gratefully acknowledge the financial assistance provided by Mr Len Wasserman, without whom this undertaking would not have been possible.

Thanks are also due to Professor B. Barry Levy, whose ability to overcome logistical difficulties is matched only by his erudition and patience.

Thanks also to Professors Fraenkel and Hilsdale for going above and beyond; to Rabbi Yonah Lavery-Yisraëli, Hanne Blank, and Dr Gabriel Wasserman for telling it like it is; to my friends on Facebook who sent me sources to save me going to the library. Thanks to Dr Yonatan Adler, Professor Jeffrey Tigay, and Professor Judah Galinsky for commenting on their specialities. Dr Shayna Weiss gave crucial advice at timely moments. Et je remercie à Magali Bufferne pour son expertise linquistique.

Finally, thanks go to Stefka Iorgova, Erin Henson, and Mitali Das, without whom the whole department would be permanently at sea.

Introduction

When we study how people wore tefillin, we are looking at people who were consciously choosing to wear sections of the Bible. Jewish culture in antiquity insisted that the physical text was peculiarly holy, and choosing to wear the Bible—or at least, representative sections thereof, in the form of tefillin—marked a person out as embodying that holiness. A person wearing tefillin was accordingly obliged to comport himself in appropriate ways, which are discussed in the rabbinic and medieval literature. Tangentially, we also discover how rabbinic society viewed those who chose to wear the Bible. Tefillin-wearing came with attendant privileges, and for a good thousand years it was the province of a small elite of rabbinic scholars, whose status as authorities of the Bible's interpretation and application was accompanied by their practice of embodying it by wearing tefillin.

In this study, we look at the earliest evidence, literary and archaeological, for the material culture surrounding tefillin, from biblical literature to the finds in the Judean Desert, proceeding to the tannaitic, amoraic, and geonic literature, and finishing in Medieval Europe. Considering tefillin as a ritual, we look at how this ritual practice is framed in daily life, at what is done and how. We then look at the resulting behavioural and social dynamics. How do people doing the ritual behave? How are they treated by others? What are the consequences?

The Judean Desert corpus and its limitations have already been discussed in detail by Yehudah Cohn in his book *Tangled up in Text*, where a more thorough treatment may be found.[1] In light of the information now available from the Judean Desert studies, Cohn argued for a populist

[1] Yehudah Cohn, *Tangled up in Text: Tefillin and the Ancient World*, Brown Judaic Studies (Providence, R.I.: Brown Judaic Studies, 2008).

origin of tefillin, against scholars such as Schorr who saw them as exclusively the province of an elite. Schorr used amoraic evidence to suggest that wearing tefillin was only ever a practice of the most devout.[2] He thought it had its origins in the Essene community, whose extreme devotion was rather noticeable.

Cohn rightly objects to Schorr's using amoraic evidence to make deductions about Hasmonean-era practices, but he goes in the opposite direction, pushing for a grassroots interpretation as late as the tannaitic era. For Cohn, tefillin were a practice developed by ordinary people, Jews culturally influenced by Hellenistic amulet practices. According to Cohn, the Jews of the Hasmonean era had a national longing to remain on the Promised Land, and they used Hellenistic amulet rituals to articulate that.[3] As with many examples of cultural mixing from that era, the new ritual was quickly grounded in the Bible and articulated in the language of religious commandment.

I agree with Cohn that tefillin probably started as something close to a folk-religious practice, an unoffical invention not stemming from the Temple or political leadership which was later co-opted into the official religious practices of the pre-rabbinic movements. However, the amoraic evidence undeniably shows that tefillin-wearing became a practice only of the most devout. I propose that this was an element of tefillin-practice from earliest times, and section 3 discusses the political and sociological conditions and developments in Hasmonean Palestine which gave rise to the practice.

Amulets and folk-religion often come under the heading of "magic," rather than of "religion," and we are proposing an amuletic, folk-religious—that is, magical—and sociopolitical origin for

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[2] Y. H. Schorr, "Tefillin," Hehaluts (1860, in Hebrew).
[3] Cohn, *Tangled up in Text*, 99.

tefillin. This is liable to make people uneasy, as tefillin today are viewed as unequivocally religious in origin and function.[4] Scholarship today has flattened the distinction between magic and religion: religion and magic are very much the same sort of thing, but "religion" is socially acceptable, and "magic" is unacceptably foreign.[5] Rituals, including amulets, sometimes have the desired effect and sometimes not. The mechanism is unseen and unknown. Justin (Dialogue with Trypho, 85:3) is clear that all Jewish rituals are magic, including fasting, kashrut, and Shabbat, but Justin is polemicising against Jews. Jews would not call such practices magic, but religion. Similarly, Jews in antiquity did not see amulets as unacceptably foreign. Later, tefillin would be distinguished from amulets, and later still amulets would be dismissed as "magic" while tefillin would be encouraged as "religion," hence modern discomfort with the idea, but when exploring the earliest days of tefillin, an allergy to amulets is a simple anachronism.

When looking at rabbinic literature, I take the middle-ground approach of scholars such as Catherine Hezser. This approach admits that rabbinic literature as we know it today is a highly-edited product. Described events may not be historically accurate, even if they seem plausible. Sayings attributed to a particular character may not be reliable. However, we do not have to discard all historical and geographical claims made by the text. We may identify tannaitic, amoraic, and editorial layers. So it is probably generally reasonable to suppose that a statement now attributed to a Palestinian amora, for example, reflects the view of someone from amoraic Palestine. I have mostly avoided supposing that two statements in the name of Rabbi Yannai (for example) reflect the opinion of a historical character called Rabbi Yannai.

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[4] For instance, Andreas Lehnardt, "Tangled up in Text: Review," Journal for the Study of Judaism 42, no. 3 (2011).
[5] Naomi Janowitz, *Icons of Power: Ritual Practices in Late Antiquity*, Magic in History (University Park, Pa.: Pennsylvania State University Press, 2002), 1.

Regarding building a picture of historical reality, Heszer's approach is roughly that details not relevant to a story can probably be relied upon, but something which is the main point of a story may have been distorted to support the story. Accordingly, the rabbinic texts are taken with a grain of salt, and I have tried to use sources which support each other to build a cumulative picture, rather than reading an enormous amount into any one source.

A note on terminology: I use the phrase "tefillin-verses" periodically. This is a general phrase indicating the verses which rabbinic tradition would eventually understand as commanding the wearing of tefillin—Exodus 13:9 and 16, Deuteronomy 6:8 and 11:18. Rather than cite all four verses each time the subject comes up, it seems appropriate to use a shorthand term. This inevitably leads to a certain amount of anachronism, citing tefillin-verses before tefillin had demonstrably come into existence. The reader should be able to understand that when we speak of tefillin-verses in contexts where no tefillin exist, these four verses are intended, not necessarily their functioning as tefillin.

And a note on scope: in rabbinic sources, tefillin are often discussed in the same breath as mezuzot. They are both small sections of Biblical text which are used to demarcate Jewish space—bodily space in the case of tefillin, and architectural space in the case of mezuzot. Many of the same considerations apply to their placement. But mezuzot are inherently static, and they do not offer the same insights into the social function of biblical text as do tefillin, and therefore this study does not include mezuzot.

Section 1: Before the Hasmoneans

This section covers the period up until the Hasmonean revolt, in the mid-second century BCE. We look at the earliest biblical texts, and a variety of contemporary literary and archaeological sources.

Four times in the Bible there occurs a passage which apparently dictates placement of certain words upon the arm and between the eyes. Two occurences are in Exodus—13:1-10, in particular verse 9; and 13:11-16, in particular verse 16. Two are in Deuteronomy—6:4-9, particularly verse 8; and 11:13-21, particularly verse 18. Commenting on Exodus 13:10 ושמרתם את החוקה הזאת—*and observe this statute*—the midrashic source Mekhilta d'Rabbi Yishmael[6] comments "This is the mitzvah of tefillin."

Broadly speaking, the Mekhilta seems to have its roots in the tanaitic period, in the late first or early second century CE, with subsequent additions and emendations.[7] By the early tanaitic period, then, the four aforementioned verses were understood, at any rate by this part of the rabbinic tradition, to refer to the practice of tefillin. Archaeological evidence for the practice dates it even earlier, perhaps as early as the second century BCE (as we shall see in more detail in chapter 3). However, the biblical passages are much older. Scholarly consensus is that the central themes and key words of the text were stabilised in the monarchic period, before the Babylonian exile—probably during the eighth and seventh centuries BCE.[8] It seems that

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[6] Mekhilta d'Rabbi Yishmael (Horovitz-Rabin edition. Jerusalem: Bamberger and Wahrman, 1960), Bo, parasha 17.
[7] Hermann Leberecht Strack and Günter Stemberger, *Introduction to the Talmud and Midrash* (Edinburgh, Scotland: T&T Clark, 1991), 206.
[8] Moshe Weinfeld, *Deuteronomy 1-11: A New Translation with Introduction and Commentary*, 1st ed., The Anchor Bible (New York: Doubleday, 1991), 17. Jeffrey H. Tigay, *The Jps Torah Commentary, Deuteronomy* (Philadelphia: Jewish Publication Society, 1996), xx-xxi. William M. Schniedewind, *How the Bible Became a Book: The Textualization of Ancient Israel* (Cambridge, U.K.; New York: Cambridge University Press, 2004), 17.

originally, the verses were not generally understood literally, but rather figuratively. Deuteronomy 11:18's *Place these words upon your heart and your soul* is clearly at least partly metaphorical; you cannot literally place words upon your literal heart and your literal soul. A closer examination of available literary and archaeological sources will show that these verses were most likely not related to a literal interpretation during the biblical period.

Literary evidence

The tefillin-verses appear to demand, variously, the *placing* or *binding* of words; upon, variously, the *hand/arm*, *heart, soul,* or *head*; to function as, variously, an *ot*, *zikaron*, or *totafot*. Yehudah Cohn undertakes a literary analysis of the verses on a word-by-word level, exploring nuances of grammar, syntax, and etymology, from which it becomes clear that how we read the verses—as literal or figurative—depends largely on the interpretation of *ot, zikaron* and *totafot*.[9]

Ot is usually translated *sign*. It can sometimes denote an object conveying a message (the rainbow, in Gen. 9:13, for instance), but it also frequently has the connotation of an event indicative of divine activity or agency.[10] When the tefillin-verses are understood literally, it's not altogether clear what the tefillin are to be a sign *of*—divine agency, presumably, but how? A figurative understanding is also possible, suggesting something like a general numinous awareness of the divine words, as other divine signs suggest general numinous awareness of divine activity.

[9] Cohn, *Tangled up in Text*, 35-8.
[10] M. Fishbane, "The Biblical "Ot"," Shnaton: An Annual for Biblical and Ancient Near Eastern Studies 1 (1975).

Zikaron also does not necessarily signify a physical object. The term is variously translated *reminder*, *memorial*, and *remembrance*.[11] It often has connotations of something spoken, or otherwise intangible.[12] In Ex. 12:14 a special day is described as a *zikaron*, whereas in Ex. 17:14 the *zikaron* is something to be written in a book.

The word *totafot* is more curious, as it does not occur anywhere else in the biblical corpus and thus its meaning is harder to elucidate from context. A great many theories exist as to its origin, starting with the talmudic suggestion that it is composed of two African words (*tat* and *fat*), both meaning *two* (symbolically making four altogether).[13] Appeals to Semitic languages, both ancient and less-ancient, suggest all sorts of possibilities. Aramaic *typ*, "to see," would duplicate to *tptp* and render a derivation connected to visibility. Hebrew, from Ezekiel 21:2 and 7 and Micah 2:6 give תטף and יטיפו, signifying *speaking* or *relating a prophetic oracle*, an exegetically-interesting approach. According to Rothstein, "it is possible to see totapot as involving a reduplicated form of Egyptian tp ("head") + nisbeh (y)t, resulting in *tptp(y)t" and yielding "the head thing." Akkadian *tappu*, "companion," could theoretically duplicate itself to *taptappu*, "double companion," or possibly "apotropaic figurine." Sumerian *tab*, the number four, or ^{kush}*tab*, a leather container, were also proposed (by the same scholar) as a possible root meaning. There is also the Hebrew root נטף, which, suitably duplicated, would mean something which drops, such as a pendant.[14] Most of the theories have their strengths and weaknesses (more of the latter than of the former).

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[11] Cohn, *Tangled up in Text*, 36.
[12] Schniedewind, *How the Bible Became a Book*, 61.
[13] b. Men 34b.
[14] David Rothstein, "From Bible to Murabba'at: Studies in the Literary, Textual and Scribal Features of Phylacteries and Mezuzot in Ancient Israel and Early Judaism" (UCLA, 1992), 39 f. See also Kasher vol 12 277-80, and Jeffrey H Tigay, "On the Meaning of T (W) Tpt," Journal of Biblical Literature 101, no. 3 (1982).

More interesting is Tigay's theory, because it is backed up with archaeological sources. Tigay likes an etymology based on Arabic *ṭāfa*, "go around, encircle." Supposing an ancient Semitic root for the Arabic, Tigay compares root modifications from Hebrew and Ugaritic linguistics to demonstrate that *totafot* originally meant something worn around the head—not a highly-specific something like tefillin, but a general word, as one might understand the English term "headband." This is supported by artistic evidence: Egyptian illustrations from the 25th through 8th centuries BCE sometimes label certain groups of people "Syrian"—a group of people which might reasonably include Israelites—and these Syrians are often depicted as wearing a particular sort of headbands, which roughly follow the hairline and are tied in back.[15]

This kind of exploration of the tefillin-verses' key words suggests that originally they may not have been taken literally at all. There are plenty of biblical examples where ideas are presented as being as closely-held to the person as clothing, such as the Song of Songs' *Place me as a seal upon thine heart* (8:6) or Proverbs' *Let not truth and mercy forsake thee; bind them about thy neck; write them upon the tablet of thine heart* (3:3; see also 6:21 and 7:3). In the tefillin-verses too, it's quite plausible that a constant awareness is what is indicated. Further, at the time of their early composition and redaction, the Pentateuchal books did not have the authoritative status which they would later come to acquire. While they would have had some kind of elevated status, there would be no particular impetus to interpret an ambiguous verse literally if custom didn't call for that to be done.[16]

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[15] "On the Meaning of T (W) Tpt." Other Egyptian illustrations show people wearing all sorts of headdresses, including some which appear to have three-dimensional objects on them. The first port of call for such images is Pritchard's Ancient Near East in Pictures.

[16] Michael L. Satlow, *How the Bible Became Holy* (New Haven: Yale University Press, 2014), Part 1.

By contrast, there are places in the Bible where performative writing (that is, writing which does something as part of a ritual) *is* clearly described, such as the ritual initiated by the jealous husband, in Numbers chapter 5. There, the priest writes certain words out and washes them into water, which the wife drinks as part of a process which will reveal whether her husband's jealousy is justified. Of closer relevance to us is Exodus 28:36-38, which describes the engraved golden headband worn by the high priest, the *tzitz*. First the text explains how to make the *tzitz*—inscribe upon a golden forehead-plate the specific phrase 'Holy to God'—and then it explains that the priest wears it to take away the sins of the congregation and make them acceptable to God. It is very clear than an object is to be constructed, inscribed, and worn. The ceremonial fringes of Numbers 15:37-41 are also explicitly described, a tangible performance of a mnemonic device.

If we are trying to date the practice of tefillin to the biblical period, that is, to interpret the tefillin passages as referring to a late monarchic practice of writing these verses and wearing them, we should have to explain why the verses found in the tefillin passages are so much vaguer than other passages describing ceremonial writing and/or wearing. One possiblity is that it was self-evident; that written texts were commonly worn upon the person by Israelites of the period. There certainly *are* examples of written texts being used in similar ways at that period, as we shall now see. However, on the whole, it seems likely that the biblical texts are not referring to anything we might today call a tefillin practice.

Archaeological evidence

We have no archaeological evidence for inscribed items resembling tefillin until well after the monarchic period; the earliest recognisable tefillin exemplars date from the second century BCE. However, examples of inscribed amulets from various neighbouring culture date from the seventh to second centuries BCE. It is illustrative to look at some of these amulets, as they give a

sense of the cultural background behind tefillin; there are some important differences and some interesting similarities.

The first inscribed amulets we know of from the region are Egyptian. It has been proposed that Egyptian amulet culture influenced Phoenician amulet culture,[17] and that in borrowing Phoenician writing, the earliest Greeks borrowed also the uses they made of it.[18] We are not supposing that monarchic or post-monarchic Israelite society directly adapted Egyptian or other amulets, but it is reasonable to presume some degree of cultural continuity in the region, such that the concept of wearing an inscribed text might retain significance. Tefillin do not appear *ex nihilo*.

Amongst the wide variety of ancient Egyptian magical items, the oracular amuletic decrees are particularly relevant to this study. They are part of the corpus of hieratic papyri of the Late New Kingdom, texts with a religious significance, and they closely resemble tefillin in many particulars.[19] The god's words are inscribed upon papyrus, which is rolled up small, bound with a flax cord, and put into a case made from gold, wood, or leather, which is worn somewhere on the person, likely around the neck.[20]

In the oracular amuletic decrees, generally the god decrees that a named individual will be protected, by the god, from various illnesses, accidents, or malign influences. We don't know what the mechanism of the amulet was supposed to be—whether wearing it would remind the

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[17] Philip C. Schmitz, "Reconsidering a Phoenician Inscribed Amulet from the Vicinity of Tyre," Journal of the American Oriental Society 122, no. 4 (2002).
[18] Roy Kotansky, "Incantations and Prayers for Salvation on Inscribed Greek Amulets," Magika Hiera: Ancient Greek Magic and Religion (1991).
[19] Many of the oracular amuletic decrees are held in the British Museum and were published by I. E. S. Edwards, "Hieratic Papyri in the British Museum, Fourth Series: Oracular Amuletic Decrees of the Late New Kingdom, 2 Vols," London: British Museum (1960).
[20] Briant Bohleke, "An Oracular Amuletic Decree of Khonsu in the Cleveland Museum of Art," The Journal of Egyptian Archaeology 83 (1997).

god of his promise as the wearer went about her business and thus persuade him to follow through, or whether wearing it was more causal, somehow binding the god to compliance. It does not, perhaps, matter: it may be sufficient to note that the item carries cultural weight and wearing it has a symbolic function connected to the aspirations and expectations of the wearer.

Again, we are not suggesting that the amuletic decrees of the New Kingdom were the direct forerunners of tefillin. They simply illustrate the long Levantine history of wearing inscribed items in a symbolic way.

There are also examples of Phoenician and Punic inscribed amulets, and inscribed metal bands which were worn on the head. [21] Examples include a silver band discovered at Tharros Sardinia, in a case; an inscribed band from Malta; a gold band from Carthage; a bronze amulet from Tyre; and a gold band discovered in Spain but presumed to have originated in the Levant.[22] All of them are made from thin sheets of metal, apparently to be worn on the head or arm of a person, and most of them may be dated to the 6th-4th centuries BCE. Their texts have a common theme of requesting protection and blessing for a named individual, presumably the wearer.

There are also a very few examples of inscribed Hebrew amulets which feature text from the Hebrew scriptures. The most significant of these are the amulets found in a mortuary at Ketef Hinnom. They are two slips of silver, hammered very thin, and inscribed in a paleo-Hebrew script with a stylus. The larger of the two measures only 27 * 97 mm, and when it was found, it was rolled up lengthwise into a tiny pellet. Both slips first request blessing and protection for the

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[21] André Lemaire, "Amulettes Personnelles Et Domestiques En Phénicien Et En Hébreu (1er Millénaire Av. N. È) Et La Tradition Juive Des Tefillin Et Mezuzot," Croyances popularizes. Rites et representations en Méditerranée orientale (2008). Maria G Amadasi Guzzo, "Une Lamelle Magique À Inscription Phénicienne," Vicino Oriente 13 (2007). Schmitz, "Reconsidering a Phoenician Inscribed Amulet from the Vicinity of Tyre."

[22] Smoak, *The priestly blessing in inscription and scripture : the early history of Numbers 6:24-26* (New York: Oxford University Press, 2015), 44-51.

owner and conclude with lines very similar to the Priestly Blessing of Numbers 6:24-26. They were not found with any container, and there is no evidence that they were ever used anywhere outside the mortuary in which they were found, but since they were very small and portable, it seems entirely possible that they could have been worn items. They have been dated as early as the 6th-7th centuries BCE, or perhaps as late as the 2nd or 3rd.[23]

The Ketef Hinnom amulets are sometimes mentioned in studies of tefillin as perhaps having been tefillin forerunners, and in the sense of being Hebrew inscribed amulets, this is arguably so. In the specific sense of being a literal interpretation of certain biblical verses the connection is less clear. Jeremy Smoak's *The Priestly Blessing in Inscription and Scripture* explores the extra-textual life of the Priestly Blessing, Numbers 6:22-26, and he suggests that "the giving of the blessing to Israel was the verbal ritual *par excellence* of the tabernacle and the priesthood"[24]—that is, there was a blessing formula, which was part of the ritual lives of certain Israelites; accordingly the formula appears in various written forms, most obviously as the scriptural text but also here, as amulets.

Numbers 6:27, immediately after the priestly blessing formula, says "So they shall put my name on the Israelites and I will bless them," and Smoak notes that the amulets may have been a literal interpretation of that concept.[25] If so, that does bring them closer to being tefillin forerunners—taking a sacred text and understanding it to mean wearing a written version—but if that is so, we should have to explain why the later ritual of tefillin shifted its focus from these verses to an

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[23] Gabriel Barkay et al., "The Amulets from Ketef Hinnom: A New Edition and Evaluation," Bulletin of the American Schools of Oriental Research (2004). Gabriel Barkay, "The Priestly Benediction on Silver Plaques from Ketef Hinnom in Jerusalem," Tel Aviv 1992, no. 2 (1992).
[24] Jeremy Smoak, *The Priestly Blessing in Inscription and Scripture: The Early History of Numbers 6:24-26* (New York: Oxford University Press, 2015), 79.
[25] Ibid., 88.

entirely different set. As such, it seems more likely that the Ketef Hinnom amulets reflect the existence of performative writing of sacred text in the ancient Near East, a cultural phenomenon from which tefillin would be a later offshoot.

The Nash papyrus is also sometimes described as "part of a phylactery."[26] The Nash papyrus is a small folded slip (roughly 50 * 120mm[27]) from Egypt. No archaeological evidence exists to date it, but paleographic studies suggest a date in the first half of the second century BCE, close to the latest proposed date for the Ketef Hinnom texts.[28] Its text is a version of the Decalogue and Deuteronomy 6:4-5, where it breaks off—the original text may have continued. Its original function is unclear; Burkitt acknowledged that it could have been an aid for saying prayers or, equally, a phylactery. One is inevitably reminded of the miniature books of Psalms carried by some Jews today, whose text can be deciphered for recitation, but which are also perhaps somewhat amuletic in function.

If the Nash papyrus was worn, and it may not have been at all, we could note that it has the interesting characteristic of *not asking for anything*. The other inscribed texts we've seen all named an individual and invoked the deity's action on the wearer's behalf—often in the deity's own words, as with the Ketef Hinnom amulets. Neither the Nash papyrus nor the tefillin-like items from the Judean Desert request anything: they are lone sections of text with no reference to any individuals. Many of the Judean Desert tefillin also feature the Decalogue, and we shall now look at the Judean Desert tefillin corpus in more detail.

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[26] http://cudl.lib.cam.ac.uk/view/MS-OR-00233/1. Colette Sirat and Malachi Beit-Arié, *Les Papyrus En Caractères Hébraïques Trouvés En Egypte*, Manuscrits Médiévaux En Caractères Hébraïques (Paris: Editions du Centre national de la recherche scientifique, 1985). Moshe Greenberg, "Nash Papyrus," in *Encyclopedia Judaica*, ed. Skolnik et al (2007).
[27] F. C. Burkitt, "The Hebrew Papyrus of the Ten Commandments," The Jewish Quarterly Review 15, no. 3 (1903).
[28] Solomon A. Birnbaum, "The Dates of the Cave Scrolls," Bulletin of the American Schools of Oriental Research, no. 115 (1949).

Section 2: Hellenism and Hasmoneans

The Hasmonean period gives us the earliest known recognisable tefillin exemplars, dating from the mid-second century BCE into the second century CE. Taken in conjunction with the literary evidence, overall it seems likely that the practice of tefillin, as we recognise it today, originated in this era. The abiding question is *why*—why would people start interpreting the wearing of text as a biblical commandment, when by all appearances they had not previously done so? What would cause the emergence of such a custom? In this section we shall look at the archaeological and literary evidence pertaining to tefillin, and in the next section we shall contextualise that evidence against the broader backdrop of Jewish national identity and the Jews' attitude towards the Torah text. We shall see that the period was characterised by a good deal of political and national insecurity, and that simultaneously, the Torah text (as opposed merely to the ideas contained therein) assumed greater authority and significance. An increasing tendency towards literal interpretation of the text, combined with the existing culture of performative writing, resulted in some people choosing to embody their relationship with the text by wearing portions of it. By stages, this evolved into the tefillin practice we recognise today.

Literary evidence

The relevant literary evidence from this period consists of the Letter of Aristeas, Philo, the Septuagint, and Josephus. Following Yehudah Cohn, we note that none of the evidence before Josephus explicitly describes a tefillin-practice, supporting a hypothesis that tefillin first emerged in the Hasmonean period.[29]

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[29] Cohn, *Tangled up in Text*, 79 ff.

The letter ascribed to Aristeas was written for an Alexandrian audience, describing the Jews and their philosophy and morals. The following section is of note:

157-161: For he has marked out every time and place that we may continually remember the God who rules and preserves (us). For in the matter of meats and drinks he bids us first of all offer part as a sacrifice and then forthwith enjoy our meal. Moreover, upon our garments he has given us a symbol of remembrance, and in like manner he has ordered us to put the divine oracles upon our gates and doors as a remembrance of God. And upon our hands, too, he expressly orders the symbol to be fastened, clearly showing that we ought to perform every act in righteousness, remembering (our own creation), and above all the fear of God. He bids men also, when lying down to sleep and rising up again, to meditate upon the works of God, not only in word, but by observing distinctly the change and impression produced upon them, when they are going to sleep, and also their waking, how divine and incomprehensible the change from one of these states to the other is.

This text is generally understood as referring to tefillin upon the arm, and often cited as the earliest mention of tefillin—scholars place its date, variously, between 250 BCE and 100 CE.[30] Sometimes it is even taken as evidence that Alexandrian Jews practiced only the arm-tefillin and not the head-tefillin, since Aristeas talks about a symbol being fastened on the hand and makes no mention of the head.[31] However, it is not completely clear that the text is describing something we might recognise as tefillin. The divine oracles are to be placed upon the gates and doors, which calls to mind performative writing

[30] James Charlesworth, *The Old Testament Pseudepigrapha, Vol. 2* (Garden City, N.Y.: Doubleday, 1983), 8.
[31] Hermann Strack and Paul Billerbeck, *Kommentar Zum Neuen Testament Aus Talmud Und Midrasch* (München: Beck, 1922), 251.

in the form of a mezuzah, but it seems that in Aristeas' view, whatever symbol is on the hand[32] is also on the garment. The scriptural text is quite clear that garments ought to have mnemonic fringes; if one were not looking for evidence of a tefillin practice, one might reasonably read the text as meaning a fringe, like that of the garment, attached to the hand. The symbol worn on the hand apparently does not occupy quite the same conceptual space as the divine oracles which are to be attached to the doorways. However, perhaps this is simply an effect of grouping performative architecture against performative wearing; the common written aspect might not have mattered to Aristeas.

The customs of the Samaritans are also relevant to this discussion. Samaritan practice features a text upon doorways, but does not feature a tefillin practice, in the sense of performative writing explicitly connected to the tefillin-verses. This might indicate that Jewish tefillin-practice developed after the split between the two groups; Reinhard Pummer places the catalytic moment as John Hyrcanus' destruction of the Samaritan sanctuary on Mt. Gerizim.[33] However, it might also mean that a tefillin-practice existed among Samaritans before the split, and they dropped the custom as their relationship to the text developed along different lines.[34]

Philo, also in Alexandria but writing somewhat later (c. 25 BCE- c. 50 CE), causes scholars much perplexity with his interpretation of the tefillin-verses.

Book 4 of On the Special Laws, chapter 26, 137-139:

The law says, it is proper to lay up justice in one's heart, and to fasten it as a sign upon one's head, and as frontlets before one's eyes...by the third expression, he implies that justice is

[32] χειρ—Liddell and Scott indicate that the term generally means *hand* but is sometimes used synecdochally for the whole limb, just as in Hebrew.
[33] Reinhard Pummer, "The Samaritans and Their Pentateuch " in *Pentateuch as Torah : New Models for Understanding Its Promulgation and Acceptance*, ed. Gary N. Knoppers and Bernard M. Levinson (Winona Lake, IN, USA: Eisenbrauns, 2007), 251.
[34] Cohn, *Tangled up in Text*, 86-7.

discerned everywhere as being close to the eyes. Moreover he says that, these things must have a certain motion; not one that shall be light and unsteady, but such as by its agitation may rouse the sight to the spectacle manifest before it; for motion is calculated to attract the sight, inasmuch as it excites and rouses it; of, I might rather say, inasmuch as it renders the eyes awake and sleepless.[35]

Philo presents as a reasonably educated and committed rabbinic Jew, one who had visited the Temple in Jerusalem, who was able to produce multiple books outlining and justifying a solid practice of rabbinic Judaism.[36] *On the Special Laws* is a discussion of Mosaic laws to which the Jews are, in his view, subject. Yet his interpretation of the tefillin-verses is clearly figurative. Cohn cites various scholars who appear rather unhappy with this state of affairs; it seems that "educated rabbinic Jew" and "knows about tefillin" are inseparable ideas.[37] Naomi Cohen, in particular, explains that Philo's Judaism featured mobile head-tefillin. She takes exception to the suggestion that Philo was aware of a general tefillin-type practice but was somewhat hazy on the exact details.[38] As we shall see, it is actually quite likely that a Jew of Philo's time, even in Judea, could have been aware of the general concept but not have ever seen it in action.

Furthering the idea that Philo was not actually familiar with a tefillin-practice, we compare his *Questions and Answers on Exodus*, which is extant only in an Armenian version. Of Exodus 12:11, Philo asks:

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[35] Charles Yonge, *The Works of Philo Judaeus, the Contemporary of Josephus* (London: H.G. Bohn, 1854), 389.
[36] Jenny Morris, *The Jewish Philosopher Philo*, ed. Emil Schürer, Géza Vermès, and Fergus Millar, vol. 3, part 2, The History of the Jewish People in the Age of Jesus Christ (175 B.C.-A.D. 135) (Edinburgh: Clark, 1973).
[37] Cohn, *Tangled up in Text*, 85.
[38] Naomi G. Cohen, *Philo Judaeus: His Universe of Discourse* (Frankfurt am Main; New York: P. Lang, 1995).

"(Why) does He command (everyone) to eat, having a girdle and shoes and a staff? All the things mentioned are an indication of the manner of journeying of those who are in haste. For it is the custom of those who are about to travel a long way to wear shoes and to be girt with a girdle and to take a staff for their needs, because shoes protect the feet, while girding oneself makes movement easier for the legs, and a staff is useful to lean on and to drive away poisonous reptiles and other beasts. This, then, suffices for the explanation of the literal meaning. But as for the deeper meaning, this must be said. The girdles represent drawing together and the coming together of the sensual pleasures and other passions, which, being, as it were, released and let go, overtake all souls. Wherefore not ineptly does He add that one must have a girdle about the middle, for this place is considered as the manger of the many-headed beast of desire within us. And the staves seem to represent a royal, disciplinary and stable form, for the rod is a symbol of kingship and an instrument of discipline for those who are unable to act prudently without being scolded. And it is a figure of unmoving and stable souls which abandon whatever inclines to either side and in two (directions). And the shoes indicate the covering and protection of one who is engaged in hurrying not on a trackless way but on a well-travelled and worn path which leads to virtue..." and continues in similar vein.[39]

He has *nothing whatsoever* to say about either of our Exodus verses. It seems odd that an author who can wax so lyrical about the superficial and deeper meanings of girdles, staves, and shoes should wish to say nothing at all about a practice of literally binding God's words upon one's literal body. He might have gone into the matter more deeply in a now-lost Deuteronomy version—but then again, he might just not have been aware of a tefillin-practice.

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[39] From Ralph Marcus' translation in the Loeb library.

The other major Alexandrian source is the Septuagint, whose rendition of the Hebrew *totafot* is particularly illuminating. There are two versions, saying precisely opposite things. One version has *kai asaleuton pro ophthalmōn sou* for Exodus 13:16, that is, *and immovable before your eyes*.[40] However, another Septuagint variant—and it is difficult, perhaps impossible, to say which of the variants carries most authority—has *saleuton* in place of *asaleuton.*[41] Thus one translation sees *totafot* as immovable, the other continually mobile. This contradiction is helpful from a realia perspective: the sharp disagreement suggests that there wasn't a common understanding of the verse. Cohn points out that the *lectio difficilior* is *saleuton*, the continually-moving interpretation.[42] He proposes that the word was originally understood metaphorically and translated *continually moving*, but that later—perhaps following the development of a tefillin-type practice—it was amended to read *unmoving*.

Compare Philo's assertion that the things before the eyes are to be continually in motion, and it seems likely that Philo's text read *saleuton*. It is still not completely possible to say whether he was describing a particularly distracting kind of headpiece or whether he understood the verses metaphorically. If he is describing a real headpiece, why does he describe them as "justice"? Cohen would have it that *justice* here describes the righteousness inherent in doing commandments. It seems simpler, on the whole, to suppose that the literal interpretation of the tefillin-verses was not widespread in Philo's time; that educated, observant members of the Alexandrian Diaspora understood the verses metaphorically.

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[40] καὶ ἀσάλευτον πρὸ ὀφθαλμῶν σου·. Deuteronomy 6:8 has καὶ ἔσται ἀσάλευτον πρὸ ὀφθαλμῶν σου (and it shall be immovable before the eyes), and 11:18 has καὶ ἔσται ἀσάλευτον πρὸ ὀφθαλμῶν ὑμῶν (it shall be immovable before your eyes).
[41] John William Wevers and Udo Quast, *Exodus*, Septuaginta (Göttingen: Vandenhoeck & Ruprecht, 1991).
[42] Cohn, *Tangled up in Text*, 79.

We shall see shortly that even in the tanaitic period, after the various sects and groupings of the Hellenistic period had homogenised somewhat, tefillin-usage was limited to a comparatively small segment of society. This would also help to make sense of Aristeas' rather vague formulation—perhaps he had heard that those religious trend-setters in Judea fastened tangible mnemonics to their hands, but did not know very much more than that. There was certainly an amulet culture, but not perhaps a widespread tefillin-culture. 2 Maccabees 12:40 tells how Judas Maccabaeus went to collect the bodies of his fallen comrades after a battle, and "under the tunic of each of the dead they found amulets sacred to the idols of Jamnia, which the law forbids the Jews to wear. So it was clear to all that this was why these men had fallen."

Josephus, in the late first century CE, was a Jerusalemite, who moved in or near the upper echelons of power and piety[43]. He also mentions an amulet culture: "This deluge and the ark are mentioned by all who have written histories of the Barbarians, among whom is Berossus the Chaldean. For in narrating the circumstances of the flood, he describes it thus: 'It is said that there is still a portion of the vessel in Armenia near the mountain of the Cordyaei, and that persons scrape off and carry away some of the pitch. And the people use what they carry away chiefly for charms to avert misfortunes.'"[44] However, he also appears to describe tefillin explicitly, although not by name: in book IV of the Antiquities, he explains wearing inscriptions on the forehead and the arm, as a visible symbol of God's power and goodwill to the Jewish people. "They are also to inscribe the principal blessings they have received from God upon their doors, and show the same remembrance of them upon their arms; as also they are to bear on their forehead and their arm those wonders which declare the power of God, and his good-will

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[43] L. Feldman, "Josephus (Ce 37– C. 100)," in *The Cambridge History of Judaism, Vol. 3* (Cambridge University Press, 1999).
[44] *Antiquities*, I.3.6

towards them, that God's readiness to bless them may appear every where conspicuous about them."[45] This sounds more like a tefillin-practice than the previous sources—definitely inscribed, definitely worn—but what are the principal blessings he mentions? After all, the texts in rabbinic tefillin are not especially central. Happily, the archaeological evidence from the Dead Sea will elucidate.

Archaeological evidence

The tefillin from the Judean Desert sites are the earliest known recognisable tefillin. Unlike the Ketef Hinnom texts, they consist only of biblical text—they are not protection for any named individual. Further, most of them contain at least *some* of the rabbinic tefillin-verses, and some of them were found in the distinctive multi-celled leather cases associated with tefillin. However, there is a good deal of variance in the form of the casings, and the presence of the Decalogue in many of the tefillin must be accounted for.

The corpus of Judean Desert tefillin is not clearly deliminated. Sometimes, inscribed parchments were found in housings. More often, though, the parchments were loose in the caves. Milik, who originally published most of the more fragmentary ones, differentiated between tefillin and mezuzot mostly on the basis of size—very small items he presumed to be tefillin, larger ones mezuzot—but inevitably there were some which could have been either.[46]

The texts, after decipherment, cover a larger span than rabbinic prescription suggests—sometimes as expanded pericopes of the expected tefillin-passages, but sometimes entirely different biblical passages. Very often, the "rabbinic" sections—Exodus 13:1-10, say—include

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[45] *Antiquities*, IV.8.13
[46] J Milik, *Tefillin, Mezuzot Et Targums*, Djd 6 (1977), 35-7.

the preceding text—here that would be Exodus 12:43-51. Other tefillin include selections from Deuteronomy 10 (but not as prelude to the expected section from 11:13-21); one has parts of Deuteronomy 32. Most of them do not contain all four rabbinic sections, having rather just one or two. The earliest tefillin seem to have left the user considerable latitude in his choice of contents.Yehudah Cohn presents an extremely thorough summary and analysis in *Tangled Up in Text*, to which we are much indebted.[47]

Often (as with contemporary tefillin) the texts in one set of tefillin are spread out over several parchments, and it makes sense to study them as a group. In the Judean Desert corpus, there are five sets which we know were originally groups, either because they were found in cases or because they were rolled up together into a single pellet. (There are several more groups, still in cases, which have not yet been read—5Q Phyl,[48] two unclassified but published by Milik from cave 4,[49] a four-compartment case from Wadi Murabba'at,[50] at least one case from cave 1, and another closed single-cell case from an unspecified cave. Mechanical difficulties precluded their opening inthe 1950s.) Of these five deciphered groups, two (4Q Phyl D-F[51] and the Wadi Murabba'at slips[52]) contain only the pericopes which we find in tefillin today. The other three

[47] Cohn, *Tangled up in Text*.
[48] J Milik, *Discoveries in the Judean Desert, Vol. 3* (1962), 178; plate 38.
[49] Cases 2 and 4, in *Tefillin, Mezuzot Et Targums*, 35.
[50] Yonatan and Yardeni Adler, Ada, "Remains of Tefillin from Naḥal Ṣeʾelim (Wadi Seiyal): A Leather Case and Two Inscribed Fragments (34se 1 a–B)," (forthcoming).
[51] Milik, *Tefillin, Mezuzot Et Targums*, 55 ff.
[52] *Discoveries in the Judean Desert, Vol. 2* (1961), 80-85.

(XQ Phyl 1-4,[53] 1Q Phyl 1-4,[54] and 8Q Phyl 1-4[55]) have the Ten Commandments, or a version thereof,[56] and at least one pericope mentioning either totafot or zikaron.[57]

Three more sets may originally have been groups, according to Milik, who was basing this on handwriting style and content (contiguous or near-contiguous sections, no overlap). These groups are 4Q Phyl G-I, 4Q Phyl J-K, and 4Q Phyl L-N. Again, each of these groupings contains the Ten Commandments and at least one mention of totafot or zikaron.

The corpus also contains eight single pieces of parchment, which may always have been singletons or may be parts of sets now lost; we have no way to tell. Of these, three have the Ten Commandments and at least one totafot or zikaron section, and five do not have the Ten Commandments, but do have a totafot or zikaron section.

There were a few more slips which have not adequately been deciphered, and following Cohn I have left the slips identified as mezuzot or ambiguous out of this accounting. However, this data set gives us twenty sets or singletons, all of which reference totafot or zikaron at least once, and of which thirteen contain the Ten Commandments in some form or other. We shall consider the implications of this later.

Based on paleographic dating, the Judean Desert tefillin span almost four centuries, from the second century BCE to the second century CE. The dating has a sufficiently broad margin of error that it is difficult to make statements about developmental trends, but on the whole, it seems that the sets containing the Decalogue are of earlier date than the sets containing only the rabbinic pericopes—that is,

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[53] Yigael Yadin, Tefilin Shel Rosh (1969).
[54] D Barthélemy, "Minor Finds," in *Discoveries in the Judean Desert, Vol. 1* (1955), 72-76.
[55] M Baillet, Discoveries in the Judean Desert, Vol. 2 (1962), 149-57.
[56] See Esther Eshel, "4qdeut N—a Text That Has Undergone Harmonistic Editing," Hebrew Union College Annual (1991). Essentially, the two different versions of the Decalogue—one in Exodus, the other in Deuteronomy—made liturgical use slightly tricky if both versions were to be considered authoritative, and a harmonised version developed to sidestep the problem.
[57] The contents are summarised in a very useful table by Cohn, Tangled up in Text, 65-6.

the sections which would later be specified for tefillin by rabbinic literature. This is what we might expect from the rabbinic literature, which does not countenance the Decalogue in tefillin—as we shall see later.

The cases of the Judean Desert tefillin generally receive rather less attention than the texts, despite being no less interesting. Today, tefillin-cases are of two sorts, both of which have the external appearance of black cuboids. The case worn on the arm has one internal cell; the case worn on the head has four internal cells, each containing one biblical pericope. The cases from the Judean Desert are considerably more varied, though.

Only one tefilla in the whole collection was a) found *in situ* rather than purchased *and* b) had both a case and scrolls *and* c) has had its contents extracted and deciphered.[58] This is Case 1 from cave 4, which contained 4Q Phyl D-F. XQPhyl is the other instance of a case containing scrolls whose texts have been read. Case 1 had three cells, each containing a rabbinic pericope (the *Shema* was not represented);[59] XQPhyl had four cells, one of whose original slips had been lost, the other three containing five separate texts, including the Decalogue. 5QPhyl, mentioned above, had three compartments when it was photographed in 1957,[60] and Cases 2 and 4, also above, each had four compartments.

There are also twenty or so other published cases which were found without contents. We have no way of knowing, at this remove, if they were truly tefillin-cases, but they are very similar to

[58] Case 1, described on p 35 of DJD 6, and scrolls 4Q Phyl D-F, in the same volume.
[59] That is, as they would later be specified by the rabbinic literature. The term is anachronistic in the Qumran period.
[60] Najib Anton Albina, "Photograph B-281167," (Leon Levy Dead Sea Scrolls Digital Library, 1957.

the ones which did contain scrolls, so it seems a reasonable presumption. Of these, eleven were four-compartment cases and nine were one-compartment cases.[61]

Finally, the tefillin-slips found at Wadi Murabba'at, along with other items dated to the Bar Kokhba Revolt,[62] did not have a case, but were wrapped in what appears to be a piece of scrap parchment—an old list, or something of the sort.[63] This may reflect wartime conditions; manufacture of tefillin-cases may not have been the first priority of the people in the caves, although a letter found in similar conditions made arrangements for palm branches and citrons to be provided to the army so that they could celebrate the biblical festival of Sukkot.[64] In any case, it seems that by the period of the Revolt, some kind of casing was desirable, but could be improvised. One is reminded of the unfortunate soldiers of Judas Maccabeus, whose amulets failed to protect them in battle. Was divine protection also the original purpose of tefillin? We shall now investigate.

Section 3: The first known tefillin

I think tefillin emerged in Judea during the Hasmonean period as a way of asserting and embodying a particular relationship to the Torah text. The nation's relationship to the Torah text was taking on a new shape, as a result of both developing literary culture and political pressures, and the notion of fidelity to the text (as opposed to fidelity to tradition) was gaining traction. At the same time, new religious rituals were being developed as the Jewish nation addressed

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[61] Since the cases didn't contain scrolls, they were published along with miscellaneous litter, including olive and date stones, palm fibres, congealed leather, and the like. J Milik and D Barthelemy, *Minor Finds*, Djd 1 (1955), plate 5. Milik, *Tefillin, Mezuzot Et Targums*, plate 6. *Discoveries in the Judean Desert, Vol. 3*, 31, plate 8. *Discoveries in the Judean Desert, Vol. 2*, plate 14.
[62] *Discoveries in the Judean Desert, Vol. 2*, 80-85.
[63] P Benoit, *Discoveries in the Judean Desert, Vol. 2* (1962), 227, plate 78.
[64] Yigael Yadin, *Bar-Kokhba; the Rediscovery of the Legendary Hero of the Last Jewish Revolt against Imperial Rome* (London: Weidenfeld and Nicolson, 1971), 128-31.

questions of identity. There was an existing culture in Hasmonean Judea of performative writing, and more particularly, embodied text in the form of inscribed amulets; this contributed to a practice of wearing particular sections of biblical text to embody the notion of commandedness.

Judea had been under the control of Alexander the Great and his successors since 333 BCE or thereabouts, bringing a degree of Hellenistic influence to the region.[65] It was independently ruled under Jewish nationalists—the Hasmoneans—from 164-63 BCE.[66] From 63 to 37 BCE there was a complicated period of Selucid-Roman tussling. Then the area was ruled by Herod the Great as a client kingdom of Rome. After his death in 4 BCE, leadership fractured again and complicated power struggles were eventually quelled by Rome setting the area up as a Roman-governed province in 70 CE (First Jewish Revolt). [67] Around 132 CE there was a further Jewish revolt, that of Bar-Kochba, which was stamped out around 135 CE and the Jewish population of Judea largely deported.[68] All through the period, there were a lot of coexisting Jewish groups with different identities and priorities; gradually, from the mid-second century BCE through the mid-second century CE, identities became more polarised and details of practice more regimented, in some degree a response to political instability and cultural conflict.[69]

i. Authority of the Torah text

The biblical text at the beginning of this period possessed a certain gravitas, by virtue of being the history of the group and its relationship with its deity. The essential elements of the Pentateuchal text

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[65] Martin. Hengel, *The Political and Social History of Palestine from Alexander to Antiochus Iii (333–187 B.C.E.)* The Cambridge History of Judaism (Cambridge University Press, 1990).
[66] Jonathan Goldstein, "The Hasmonean Revolt and the Hasmonean Dynasty," ibid.
[67] Emilio Gabba, "The Social, Economic and Political History of Palestine 63 Bce - 70 Ce," ibid. (1999).
[68] Hanan Eshel, "The Bar Kochba Revolt, 132–135," ibid. (2006).
[69] Lee I. Levine, *Judaism and Hellenism in Antiquity: Conflict or Confluence?* (Peabody, Mass.: Hendrickson Publishers, 1998), 14, 18, 106.

were in place and had become part of the written culture.[70] However, the concept of the text being divinely authoritative had not yet really developed. The Torah of Moses carried a certain academic and prophetic importance, certainly, but only to a very small priestly and scribal elite.[71] Prophets refer to it,[72] kings nominally refer to it,[73] and Levites learned to read it,[74] but beyond this rather small group, the Bible was not particularly significant, practically or symbolically. Oral and mimetic tradition carried as much or more weight than the text when justifying temple practice or moral or political authority. During the first two centuries BCE and the first century AD, the status of the text changed enormously, to become the primary locus of authority for Jewish communities.

Synagogue architecture gives us an interesting picture of how the status of the physical text changed over the period. Synagogues, as places where Jews gather to read the Torah, are first attested in Egypt in the third century BCE; by the first century BCE they are found all over the Greek empire, but they are unattested in Judea until late in the first century BCE or early first century CE.[75] In addition, a permanent place in the building to store a Torah scroll—a niche or apse—was not a feature of any synagogue building until the Roman period, and there is no evidence of any communally-owned scrolls.[76] A Torah shrine indicates that the scroll has a certain status, like statues of gods in contemporary temples; this was simply not a feature of early synagogues anywhere, because the scroll didn't yet have that status.

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[70] Schniedewind, *How the Bible Became a Book*, 187.
[71] Satlow, *How the Bible Became Holy*, 137.
[72] Malakhi 3:22, Nehemia 8:1, amongst others.
[73] 2 Kings 22 and 2 Chronicles 34.
[74] Ivan G. Marcus, *Rituals of Childhood: Jewish Acculturation in Medieval Europe* (New Haven, Conn.: Yale University Press, 1996), 39.
[75] Satlow, *How the Bible Became Holy*, 197.
[76] Lee I. Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven, US: Yale University Press, 2005), 237. There were presumably scrolls in the Temple complex, though.

In the early Second Temple period the Jewish community looked to the old-established, well-off families of Jerusalem for religious and political authority. To be sure, there were the books of the law, which contained strong pronouncements of their own authority, but in real life, the books were not the ultimate source of authority. Reflecting this, there were not regular Torah readings—only the established Temple ritual. The reign of Antiochus IV, his interdictions against the Jewish community, and the ensuing revolt together shook up the old order.[77]

According to Josephus there were, broadly, two schools of thought in Jerusalem at the time. The one represented the establishment, the status quo, the existing power structure. These Josephus calls Pharisees, although they mayn't have had that name at that time. The other group was characterised by an insistence on the authority of writing, and an adherence to text; these are Josephus' Sadducees. [78] When the Hasmonean dynasty took up authority, they were not adequately old-established, and they eventually turned to the text for authority.[79] In so doing, they gave voice to the Sadducees' anti-establishment political current and gained their support for a new order, in which the text, and allegiance to the text, counted for more than birth, and to which the Pharisees would eventually acquiesce.[80]

This was possible because the role of text in society was changing. Written codes were not a new thing, of course, but it seems that people's attitudes to texts were altering, presumably driven somewhat by Greek attitudes towards literature and writing. We can trace this development in the law codes found at Qumran: the Damascus Document and the Community Rule are both

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[77] Reinhard G. Kratz, "Temple and Torah: Reflections on the Legal Status of the Pentateuch between Elephantine and Qumran," in *The Pentateuch as Torah: New Models for Understanding Its Promulgation and Acceptance*, ed. Gary N. Knoppers and Bernard M. Levinson (Winona Lake, Ind.: Eisenbrauns, 2007), 102-4.
[78] Satlow, *How the Bible Became Holy*, 142.
[79] Ibid., 149.
[80] Ibid., 191.

examples of these kinds of written codes. The earliest fragments date from the late 2nd-early 1st centuries BCE, and multiple versions exist of both—perhaps used simultaneously, perhaps successive iterations. They both have a heavy emphasis on the biblical text as the source of authority.[81] Jewish groups were also using writing to articulate group identity and root it in scripture, and in Judea, the literary genre of choice seems to have been law codes.[82] The Bible itself makes the point with the evolution of the concept of דרש in the Bible. *Derash* seeks the will of God, but early in the Bible (Genesis 25:22, for instance, or Exodus 18:15) it is by direct communication with God. By the time of Ezra (Ezra 7:10), Ezra is seeking answers *in the text*.[83] The locus of authority has shifted.

This shift in attitude toward the authority of scriptural text partially explains why tefillin might have emerged at this period. It is an ideal set of social conditions for looking at a verse which says "place them as a sign upon your hand" and deciding to take it literally. There was also a set of social conditions particularly conducive to the formation of new traditions, which would help "place them as a sign upon your hand" become established as a religious ritual.

ii. New religious rituals

Developing new rituals is one way in which rapidly-changing societies create stability. *Invented tradition* is a term coined by Hobsbawm and Ranger, who described thus a number of practices which were brought about in the space of a generation or less, but which deliberately implied an uninterrupted continuity with the past.[84] An invented tradition, in this sense, generally isn't *completely* new. It can

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[81] Aharon Shemesh, *Halakhah in the Making: The Development of Jewish Law from Qumran to the Rabbis* (Berkeley: University of California Press, 2009), 26.
[82] Satlow, *How the Bible Became Holy*, 151.
[83] Shai Cherry, *Torah through Time: Understanding Bible Commentary from the Rabbinic Period to Modern Times* (Philadelphia: Jewish Publication Society, 2007).
[84] E. J. Hobsbawm and T. O. Ranger, *The Invention of Tradition* (2012).

build on existing practices. But the invented tradition—however it is implemented, whether by religious leaders or political leaders or less-identifiable sources—is an official, respectable version of the existing practice. Often, invented traditions tap into the soothing power of nostalgia, and it quickly appears that things have always been that way.

This is not to say that invented traditions are cynical productions designed to manipulate. The process may be more or less unconscious, shaped as a response to external pressure. Hobsbawm and Ranger observed a pattern which is replicated across cultures, of traditions which formed swiftly but had the appearance of great antiquity. The first few generations after the Hasmonean revolt were a relatively unsettled period in which reformed power structures and national identity were still stabilising.[85] A number of new traditions formed around that time.

In an eponymous article, A. Baumgarten discussed invented traditions of the Maccabean era.[86] One such tradition was the half-shekel tax, which we know from numismatic evidence was instituted by the new Hasmonean leadership between 125 and 88 BCE. A tax to maintain the Temple was necessary now that the Temple was not administered by old, rich families, but people tend to resist being taxed.[87] So the new tax was connected to Exodus 30:13, *Each who is numbered in the census shall give this: half a shekel according to the shekel of the sanctuary...*The scriptural basis had a legitimising effect. The invented tradition of the half-shekel tax was "so successful that it became a marker of being Jewish,"as it was imposed on adult men and accepted from other types of Jews, but declined if offered by

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[85] Erich S. Gruen, *Heritage and Hellenism: The Reinvention of Jewish Tradition*, Hellenistic Culture and Society (Berkeley, Calif.: University of California Press, 1998), chapters 1 and 5, particularly.
[86] Albert I Baumgarten, "Invented Traditions of the Maccabean Era," in *Geschichte, Tradition, Reflexion: Festschrift Für Martin Hengel Zum 70. Geburtstag*, ed. Martin; Cancik Hengel, Hubert; Lichtenberger, Hermann; Schäfer, Peter (Tübingen: J.C.B. Mohr (Paul Siebeck), 1996).
[87] Josiah had instituted a building maintenance fund (2 Kings 22), but voluntary contributions are rarely as effective as taxes, particularly when the main donor families have been displaced.

Gentiles. [88] The invented tradition contributed to a new form of Jewish identity. The scriptural basis was so plausible that Philo understood the half-shekel tax of his day as being the biblically-commanded tax.[89]

The festival of Chanukah is also an invented tradition. Nobody was exactly suggesting that Chanukah was commanded in the Torah, but dedicating the sanctuary was described in the Bible, and the new festival closely resembled the existing festival of Sukkot in many respects. This gave the required resonance with tradition. It also built on existing customs, in the sense that having a festival to commemorate victory in battle is quite a Greek thing to do. Jewish culture and Greek culture were, to an extent, merging; framing Greek customs in Jewish concepts would preserve cultural stability.[90]

Baumgarten also suggests tentatively that the recitation of the Shema, that now-central liturgical element, was also an innovation of the period.[91] During the first generations of Maccabean rule, when the temple was under new management, that management represented only one amongst many competing interpretations of authentic biblical faith; Baumgarten proposes that the recitation of the Shema was absorbed into invented tradition at this point as an expression of an alternative interpretation. The parallels of the Shema passage with other Ancient Near Eastern loyalty oaths—but in this case to the God of Israel, and not to a king—are, as Weinfeld points out, unescapable.[92] The succession of religious leadership had been removed from the Temple and replaced by upstarts, forcing people to decide where their loyalties lay. Happily, there was an existing cultural concept of a loyalty oath which would be renewed by repetition (albeit yearly, not daily). A convenient passage of ancestral text, recited

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[88] Baumgarten, "Invented Traditions of the Maccabean Era," 201.
[89] Ibid.
[90] Levine, *Judaism and Hellenism in Antiquity: Conflict or Confluence?*, 16-20.
[91] Baumgarten, "Invented Traditions of the Maccabean Era," 202-7.
[92] M. Weinfeld, "The Loyalty Oath in the Ancient near East," Shnaton: An Annual for Biblical and Ancient Near Eastern Studies 1 (1975): 77.

as liturgy, would affirm loyalty to God—perhaps from the new temple leadership, as strengthening its position, or perhaps in opposition to the new temple leadership, declaring alternative fealty—or perhaps both, at different times.

So far we have seen the development, in the Hasmonean period, of two related cultural elements. One is a re-evaluation of the societal role of scriptural text, and its relationship to authority. Another is the genesis of new practices which quickly become perceived as religious customs. Next we shall see that there was a healthy contemporary culture of performative writing, continuing the idea that wearing a text expresses a desire to activate its contents.

iii. Contemporary performative writing

The Hellenistic world used inscribed tablets and amulets for all sorts of purposes, beginning from the end of the sixth century BCE. When the culture was more literary—for example, under the influence of fifth-century Athens—the archaeological evidence is more abundant.[93] There are also a quantity of Greek papyri which include instructions for making and using various protective amulets.[94] The range of different purposes they describe suggests how widespread their use may have been. There are amulets for healing flux or haemorrhoids or headaches. There are amulets for quelling anger and for making friends. There are amulets for hiding runaways and for protecting one from wild animals or from demons (the word for such a protective amulet is φυλακτήριον, *phylakterion*, from φύλαξ, *phylax,* a watcher or guard). There are amulets for success at chariots, or success in war—like the amulets described in 2 Maccabees. There is also a long tradition of using non-inscribed objects, teeth and claws

[93] Fritz Graf, *Magic in the Ancient World*, Revealing Antiquity (Cambridge, Mass.: Harvard University Press, 1997), 175.
[94] Ibid., 200.

and hair and stones and seeds and so on, for similar purposes. Another documented method of healing was singing paens to Apollo, the god of healing.[95]

The Jewish world had its parallels. No inscribed amulets per se survive from Qumran, but incantation texts against demons are found in the Qumran corpus.[96] In rabbinic culture, amulets and tefillin were worn side-by-side, suggesting that amulets were quite a legitimate part of rabbinic culture. Yadin excavated a shirt from the Bar-Kochba period equipped with various amuletic objects tied into the fabric.[97]

Of particular interest to us are the many Greek amulets which *contain Homeric verses*, since Homer had the status of a holy text. The surviving sources for this, we should note, are mostly later, contemporary with the Talmudic rabbis, but some of those sources talk about it as being a very old custom, practiced by sixth-century Pythagoras, for example.[98] However, like the Ketef Hinnom amulets, the Homeric amulets also generally contain the expressed wishes of the recipient, and the recipient's name. The Bible would also be used in this way; Collins mentions a fourth-century text about equine veterinary practice, which specifies that if a horse cannot conceive one applies Iliad 5.749, but if the horse is having difficulty in labour, the text to use is Psalm 48:1-6.[99] There are plenty of Jewish and Christian inscribed amulets from the fourth century CE and onward which use biblical texts in similar ways, against ailments and demons and so on.[100] But we get ahead of ourselves rather.

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[95] Derek Collins, "The Magic of Homeric Verses," Classical Philology 103, no. 3 (2008): 217.
[96] Russell Arnold, *The Social Role of Liturgy in the Religion of the Qumran Community* (Leiden; Boston: Brill, 2006), 165-85.
[97] Yadin, *Bar-Kokhba; the Rediscovery of the Legendary Hero of the Last Jewish Revolt against Imperial Rome*.
[98] Collins, "The Magic of Homeric Verses."
[99] Ibid., 231.
[100] Gideon Bohak, *Ancient Jewish Magic: A History* (Cambridge, UK ; New York: Cambridge University Press, 2008).

To return to the Hasmonean period, we should mention the inconvenient fact that archaeological finds for any inscribed amulets, Jewish or not, are a bit scarce in this era. There are plenty of inscribed metal texts from before and after the first couple of centuries BCE, but not so many from just that period. There could be a number of reasons for this. On the one hand, perhaps there were just as many amulets being used as before and since, but it was the fashion to use perishable materials, which have mostly since perished. On the other hand, it's possible that using inscribed amulets was somewhat out of fashion, and they have not survived because they mostly never existed. In any case, there was a rich culture of inscribed amulets both before and after this period, and sometimes traditions have dormant periods. Inscribed amulets were not unknown in our period of interest.

A difficulty arises at this point because amulets tend to come under the general heading of "magic." We are suggesting that the first tefillin and contemporary amulets are very close relatives, and there is a long scholarly tradition of insisting that tefillin are inherently religious items and religion is absolutely not magic, therefore tefillin and amulets cannot be related.[101] A more nuanced view admits that religion and magic are essentially similar in more ways than not,[102] but the risk then is in the opposite direction: of finding them so similar that it is impossible to differentiate.[103] Bohak follows the model that says the distinction is a social one: if a custom is accepted by religious leadership, it is religion (or perhaps a sort of pre-rationalist science); if not, it is magic. Such a model accommodates Deuteronomy 18:9-11[104] and explains how it is that religious Jewish communities used all manner of amulets alongside their tefillin.

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[101] A summary of the trends in scholarship is to be found in ibid., 36 ff.
[102] Marvin W. Meyer and Paul Allan Mirecki, *Ancient Magic and Ritual Power*, Religions in the Graeco-Roman World, (Leiden ; New York: E.J. Brill, 1995).
[103] Bohak, *Ancient Jewish Magic: A History*, 57.
[104] Brian B Schmidt, "Canaanite Magic Vs. Israelite Religion: Deuteronomy 18 and the Taxonomy of Taboo," in *Magic and Ritual in the Ancient World*, ed. Paul Allan Mirecki and Marvin W. Meyer (Leiden ; Boston: Brill, 2002).

On this approach, it becomes rather unremarkable that tefillin were originally a type of amulet, despite later protestations that they were no such thing.

Amulets have a purpose. What was the purpose of the first tefillin? Yehudah Cohn sees a common theme in the tefillin-texts from the Judean Desert of "a deuteronomic promise of length of days."[105] Against the background of Maccabean Judea, it makes sense to him that a Jewish group might wish for such an outcome, and would use accepted modern science—i.e. inscribed amulets, using texts which record relevant promises from the deity—to bring it about.

As noted earlier, an apparently-unique characteristic of tefillin among all the inscribed amulets[106] is that they do not contain the name of the wearer, and they do not make explicit requests. Amulets have a power to generate expecations and to articulate hopes for the wearer; wearing a text in a sense embodies its contents. Tefillin seem to have emerged as the concept of scriptural authority was becoming more central to Jewish identity, and the contents of the early tefillin-texts have themes other than length of days. In particular, the common theme I see is of loyalty to the commandments found in the text. I propose that wearing the text embodied the notions of commandedness found therein. The Greek term applied to tefillin, *phylakteria*, suggests that these amulets were protective in nature; this is the Deuteronomist's theology. Do as you are commanded, and God will protect you.

iv. Commandedness in the early tefillin

Returning to the groups of tefillin-slips from the Judean Desert, there are 17 groups of tefillin-slips in total. Nine of the groups have a Decalogue version, of which eight have at least one tefillin-verse

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[105] Cohn, *Tangled up in Text*, 91.
[106] Without having examined the entire corpus of late-antique inscribed amulets, admittedly.

section. The eight groups which do not have any Decalogue all have at least one of the rabbinic tefillin pericopes.[107] That is, just about half the early tefillin corpus contains the Decalogue in one form or another.[108]

Rabbinic tradition prescribes four paragraphs in the tefillin, none of which is the Ten Commandments. There are other identifiable differences amongst the tefillin scrolls—variations in spelling, for instance; extended introductions to paragraphs (Exodus 12:43-51 before 13:1-10, as in 4Q Phyl A, I, M); orthographical considerations[109]—which do not accord with the prescriptions found in rabbinic literature. Accordingly, Milik, followed by Tov and others, proposed a sectarian practice, which would not have been accepted by rabbinic authority.[110] "Rabbinic authority" as a concept should be applied with caution: drawing conclusions about groups contemporary with Qumran from much later sources is methodologically dubious.[111] Something like rabbinic authority probably existed at the time the early tefillin were constructed, but not in anything like its later form.[112] A simpler explanation, perhaps, is that the earliest tefillin were simply not matters of great concern to the people who were compiling the early law codes. A number of different practices existed because a standard had not yet developed. Two themes in particular prevail: the Decalogue, and the passages containing the tefillin-verses.

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[107] The groupings are in some cases rather speculative, but then again the whole data set is too small for any kind of respectable statistical calculation, so conclusions must be speculative in any case. Interestingly, only two of the no-Decalogue groups contain the Shema section.
[108] Eshel, "4qdeut N—a Text That Has Undergone Harmonistic Editing."
[109] Emanuel Tov, *Scribal Practices and Approaches Reflected in the Texts Found in the Judean Desert* (Leiden; Boston: Brill, 2004).
[110] Milik, *Tefillin, Mezuzot Et Targums*, 47, for instance. E. Tov, "Tefillin of Different Origin from Qumran?," in *A Light for Jacob: Studies in the Bible and Dead Sea Scrolls in Memory of Jacob Shalom Licht*, ed. Y. Hoffman and F. H. Polak (Jerusalem, Bialik Institute and Tel Aviv, Chaim Rosenberg School of Jewish Studies, Tel Aviv University: 1997).
[111] Shemesh, *Halakhah in the Making: The Development of Jewish Law from Qumran to the Rabbis*.
[112] Lee I. Levine, "Jewish Identities in Antiquity: An Introductory Essay," in *Jewish Identities in Antiquity*, ed. Lee I. Levine, Schwartz, Daniel R. (Tübingen, DE: Mohr Siebeck, 2009).

Incidentally, there are sources from late antiquity which seem to understand the tefillin as containing the Ten Commandments, and the Qumran discoveries showed that they may not have been mistaken. Hieronymous, in his commentary on Ezekiel 24:15(17), says "The Jews say that the Sages of Babylon, performers of commandments, surround their heads until this very day with the Ten Commandments written on hide. And these are what is commanded to be suspended before their eyes on their foreheads, so that they always see these things they are commanded." And the author of the Quaestiones on 2 Chronicles 23:11 also refers to "phylacteries, in which are written the Ten Commandments." A. M. Haberman saw in these early Christian sources an awareness of a practice attested to by the Qumran tefillin.[113] Whether or not there was any continuity between the two, this does suggest that tefillin beyond Qumran either contained the Decalogue, or were supposed to contain it, denoting a certain perceived congruence of values between tefillin-wearing and Decalogue-wearing.

Talmudic tradition (y. Ber 1.5) has it that the Decalogue was part of the daily Jewish liturgy, only dropped from daily service when sectarians (unspecified) started to assert that *only* the Decalogue was of any importance. To disprove that claim, the Decalogue was demoted from the liturgy.[114] Whatever the merits of the story, there is a longstanding tradition that the Decalogue was central to Jewish liturgical expression.[115] Following this idea, Moshe Weinfeld expresses the Decalogue as "a formulation of those conditions required for membership in the community."[116] In his article *The Loyalty Oath*, he shows the many ways the Decalogue and related deuteronomic texts resemble vassal-oaths of the ancient

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[113] A. M. Haberman, "On the Tefillin in Antiquity," Eretz Israel 3 (1954, in Hebrew).
[114] This history is analysed in depth by E. Urbach in Ben-Tsiyon Segal and Gershon Levi, *The Ten Commandments in History and Tradition*, Publications of the Perry Foundation for Biblical Research, the Hebrew University of Jerusalem (Jerusalem: Magnes Press, the Hebrew University of Jerusalem, 1990).
[115] See also Eshel, "4qdeut N—a Text That Has Undergone Harmonistic Editing." She concludes that the point of the harmonistic editing of the Decalogue versions was liturgical use.
[116] Segal and Levi, *The Ten Commandments in History and Tradition*, 4.

Near East, in structure, content, and implementation.[117] Accordingly, he says it "can be assumed that the Ten Commandments were read in sanctuaries at ceremonies of renewal of the covenant [in the biblical period]. Each time, those present undertook once again to obey everything commanded, something we can derive from the custom prevalent in the ancient Near East of renewing pacts annually."[118] Accepting the commandments, to some degree, is an entry-condition of being part of the nation of Israel. We are not suggesting a direct continuity between Weinfeld's loyalty oaths and the presence of the Decalogue in tefillin, but it is significant that the Decalogue serves—conceptually, liturgically, theologically—as a symbolic summary of the covenantal relationship between God and Israel. Recall also the tablets of the Ten Commandments. The tablets were suitable for a mountaintop presentation, but necessarily of limited size; the Ten Commandments inscribed thereon were apparently an acceptable stand-in for the whole Torah. Similarly, it's possible that if someone was considering the phrase "Therefore impress these My words upon your heart: bind them as a sign on your hand and let them serve as *totafot* between your eyes" and wished to take it literally, they might really want to have the whole Torah bound on their arm, but since this would be impractical, they might well settle for God's own stand-in, the Decalogue.

The later Judean Desert tefillin do not contain the Decalogue. Perhaps this was connected to its removal from the liturgy. It might have something to do with a shift, proposed by Urbach, to downplay the Decalogue in order to give more emphasis to the rest of the Torah,[119] and indeed the later tefillin contain all four pericopes which are understood to command the practice, and nothing else.

The literary and archaeological evidence we have seen in this section showed that the first tefillin were unusual in amulet culture in being non-precatory, not making a request on behalf of a named wearer. The earliest known tefillin often contain, in addition to the tefillin-verses and other passages, a version

[117] Weinfeld, "The Loyalty Oath in the Ancient near East."
[118] Segal and Levi, *The Ten Commandments in History and Tradition*, 29.
[119] Ibid.

of the Decalogue, which had a long cultural history of being representative of the Torah and functioning in religious Israelite society like a vassal-oath. We saw that owing to changes in political circumstances, particularly respecting the Temple leadership, certain Jewish groups developed a respect for the authority of the written Torah text, and frequently articulated their group identity with reference to written Torah and adherence to law codes. We saw that worn texts were very common, and that wearing a text somehow embodies the contents, whether in the form of fealty to the deity or desire to be free of headaches. By the tanaitic period tefillin were regarded as a commandment where amulets were not; without supposing that Hasmonean-era Jews had the same feelings as the tanaim, it does seem that the idea of commandedness was present in tefillin-culture quite early on, given the high frequency in the Judean Desert tefillin of the commanding-verses. We have seen a long culture of the Decalogue being representative for the entire Torah, that is, the written commandments. In an environment of the written commandments' having greater authority than hitherto, wearing tefillin quite naturally embodies a commitment to seeing oneself as literally commanded by the text. Finally, it is likely that only a relatively small proportion of people have this particular interpretation of circumstances[120]—if nothing else, because Jewish society is so extremely diverse at that period; not everyone by any means would have had that particular articulation. Satlow, in outlining the status of the Pentateuchal text in Judea, makes the important point that while issues of the role and authority of scripture were of paramount importance to some, they were likely not especially gripping to the whole—very much as things have ever been, really.[121] Many people may have worn amulets for headache or scorpion stings, because these are things of general concern, but expressing one's relationship to the written Torah text, and one's fidelity to its contents by wearing selections of it, is a rather more specialised concern. Through the

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[120] Cohn sees the early diversity of tefillin-contents as proof of a popular—i.e. widespread—origin. This assumes a general background of standardising fine details of new practices, which I do not think we have to assume. Variety in the specifics of a new practice seems more likely than otherwise to me.
[121] Satlow, *How the Bible Became Holy*, 149.

subsequent periods of Jewish history, up to the Middle Ages, we will see this theme again and again, that tefillin-wearing is the province of a very small elite.

Section 4: Wearing the Bible: constructing the object

This section steps aside from the historical progression we have covered thus far, to focus specifically on the form of tefillin—how they have been made, and how that has varied.

The word *tefillin* is a plural form of the biblical term *tefillah*, meaning "prayer." Accordingly, a popular understanding of the word is that tefillin are called tefillin because they are worn during morning prayers. However, the custom of wearing tefillin during morning prayers dates from the Middle Ages, not from the Second Temple period; as we shall see, the earliest literary evidence indicates that tefillin-wearing was not limited to prayer-times.

Cohn cites an Egyptian papyrus from the third century BCE which speaks of a *tefillah* of silver, suggesting a material object.[122] As we have seen, the contents of amulets frequently have a prayer-like form, requesting intervention from divine powers against earthly concerns, so this appears to be the earliest use of the singular term *tefillah* to describe an amulet. Rabbinic usage of the word differentiates between tefillin and amulets. *Tefillin* refers specifically to those objects commanded by the Torah; amulets look similar but are not the fulfilment of a commandment.[123] The word may originally have referred to any kind of amulet as embodied prayer, but by the rabbinic period it had come to mean only one particular kind of amulet object, worn in fulfilment of a commandment and having relatively little to do with prayer.

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[122] Cohn, *Tangled up in Text*, 147.
[123] M. Kelim 23:1.

This section will develop the theme of the physicality of tefillin, and at the same time make the transition between the tangible evidence from the Judean Desert and the exclusively literary and considerably later evidence of the rabbinic literature. Methodologically, we are not going to take the mid-twentieth-century route of attempting to find traces of rabbinic practice in the Judean Desert remains,[124] neither are we going to take the opposite route of pointing out all the ways the Judean Desert evidence does not comply with later halakhic literature.[125] The similarities and differences, rather, will be taken to reflect evolving tradition, whilst recognising that it is inadvisable to make broad generalisations about populations from limited evidence.[126]

Content

Text

Studying the text in tefillin tells us less about the original users than we might like to think, because when in use, the tefillin are stitched closed. We have no way of knowing whether the original users chose the texts inside their tefillin, or whether there were just a few people in the community with the necessary skills to make tefillin, who might have made and distributed tefillin already-closed. It's not impossible that the average tefillin-wearing person in the very late Second Temple period had only the vaguest notion of the contents. To this extent, it's a good deal more interesting to talk about the details of the cases. However, we shall briefly mention some existing scholarship on the contents of the texts.

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[124] An example of the genre is Yadin, *Tefilin Shel Rosh*.
[125] As undertaken, for example, by Shlomo Goren, "The Tefillin from the Judean Desert in Light of the Halakhah," in *Torat Hamo'adim: Mehkarim U-Ma'amarim 'al Mo'ade Yisrael Le-or Ha-Halakhah* (Jerusalem: Hotsa'at ha-Idra rabah u-Mesorah la-'am, 1964, in Hebrew).
[126] A methodology described by Shemesh, *Halakhah in the Making: The Development of Jewish Law from Qumran to the Rabbis*.

The Mekhilta (in Bo, section 18) says simply "In four places the text of tefillin appears: *Kadesh li, Vehaya ki yeviacha, Shema, Vehaya im shemoa*." Later, this would come to refer to Exodus 13:1-10, after which there is a paragraph-break, then Exodus 13:11-16, Deuteronomy 6:4-9, and Deuteronomy 11:13-21. It is not, however, clear where precisely the Mekhilta would have made the breaks.[127] The Judean Desert slips, though, have a much broader range of verses. Cohn has a thorough summary of the texts found in the various published Judean Desert tefillin-slips, and an equally thorough analysis of their contents.[128] In brief, some of the Judean Desert tefillin have the expected rabbinic paragraphs, or at any rate a selection thereof, but others have much longer selections of text. From Exodus, the range of cited verses is from 12:43-13:16; from Deuteronomy, 5:1-6:9 and 10:12-11:21.[129] Milik decided that the tefillin with the longer sections must have been used by a different sect than the tefillin with the shorter versions,[130] in which analysis he was followed by Tov.[131] Yonatan Adler brings subtlety to the existing discussion but also sees a sectarian agenda in the choice of tefillin-sections.[132]

The problem with looking for sectarian characteristics in the tefillin from the Dead Sea is that that assumes there was already a halakha of tefillin, which some sects agreed with and some sects disagreed with. Analysing scribal characteristics (text choice, orthography, script, various writing techniques) led Tov and Adler to draw conclusions concerning the halakhot they supposed these scribes to have been adhering to; differences in scribal practice tended to be

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[127] For an extensive discussion see Yonatan Adler, "The Content and Order of the Scriptural Passages in Tefillin: A Reexamination of the Early Rabbinic Sources in Light of the Evidence from the Judean Desert," in *Halakhah in Light of Epigraphy*, ed. Albert I. Baumgarten (Göttingen; Oakville, CT: Vandenhoeck & Ruprecht, 2011).
[128] Cohn, *Tangled up in Text*, 65 ff.
[129] Also a passage starting at Deuteronomy 32:1 and continuing for at least two chapters (4Q Phyl N).
[130] Milik, *Tefillin, Mezuzot Et Targums*, 47.
[131] Tov, "Tefillin of Different Origin from Qumran?."
[132] Yonatan Adler, "Identifying Sectarian Characteristics in the Phylacteries from Qumran," Revue de Qumran 89 (2007).

taken as indicative of halakhic differences. This would certainly be true later, as writing technique became more formalised, but we have no evidence that a halakha of writing existed at the time the Qumran tefillin were written. Many of the differences among the Judean Desert tefillin are equally explainable as differences in artisanal technique.

The distinction is perhaps rather subtle. An artisan learns what techniques will and will not work to produce the desired result, and develops a "rule-set" to follow when working. Halakha also works with rule-sets. The difference is that a different set of artisanal "rules" will produce variations in craftsmanship, some of which can be more beautiful or functional than others, but all of which serve their purpose more or less. A different set of halakhic rules produces a sect, or at any rate a communal rift. A scribe training today has to learn the difference between what is artisanship and what halakha, and a thorough scribal training shows that the scope of halakhic concern broadens over time. It is clear from the diversity in the Qumran corpus—of text choice, of layout, and of the casings alone—that many, even most, aspects of tefillin-making were not especially regulated at that point.[133] It may be premature to suppose much of a halakhic approach at all for tefillin manufacture in the late Second Temple period, and even more premature to suppose that differences attributable to artisanship indicate sectarian agendas. This is not to deny that it was an extremely sectarian period, just to say that perhaps the practice of tefillin had not yet attained such status that it was necessary to legislate the contents in such detail.[134]

In any case, in some Qumran tefillin the Ten Commandments were featured, and in rabbinic tefillin, they were not featured. The Sifrei on Deuteronomy (sec. 35) raises the concept as a

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[133] Milik attributed the variation to the practice being "private and semi-sacred," but didn't then explain why the choice of passages should have been legislated.
[134] See also Adler, "The Content and Order of the Scriptural Passages in Tefillin: A Reexamination of the Early Rabbinic Sources in Light of the Evidence from the Judean Desert," 206.

hypothetical, and then demonstrates why the Ten Commandments should not be part of tefillin, presumably by way of rabbinic polemic against an alternative practice, whether current or remembered.[135] By the tanaitic period, it *was* a matter worthy of legislating.

The presence of the Ten Commandments in the Qumran tefillin corpus rather overshadows another interesting text variation, the frequent lack of the Shema paragraph in otherwise rabbinic-seeming tefillin. 4Q Phyl D-F, for instance, contain the other rabbinic passages, and no Decalogue, but no Shema either. Milik rather often notes that a set of slips has "rabbinic passages, except Shema." Note that the Shema is Deuteronomy 6:4-9, which concludes the passage containing the Decalogue, which starts with 5:1. Perhaps for a period, or for some people, excluding the Decalogue passage entailed also excluding the Shema. However, the Shema both remained central to the liturgy and contains one of the tefillin-verses, so leaving it out altogether may have been taking principle a little too far. Interestingly, Mur 4, which is one of the later, non-Qumran, Judean Desert tefillin, consists of two pieces of parchment; one with the three other rabbinic passages, and one with just the Shema. The Shema also features in a piece with a very curious layout, 8Q Phyl 1.

Layout

Today, tefillin-paragraphs are written in strictly regulated form, always on one side of the parchment, the text-blocks fully justified. The four parchments of the head-tefilla contain one paragraph each, and the four paragraphs of the arm-tefilla are, if not written on one piece of parchment, at least joined together into one strip after writing. These elements were all fixed by the tanaitic period, but all are varied in the Judean Desert corpus.

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[135] See ibid., 225.

Many of the Qumran tefillin-slips were inscribed on both sides. Interestingly, the technique used is as for papyrus, even though none of the Qumran tefillin were written on papyrus. The writing on the verso is perpendicular to that of the recto. Eventually, the slips were written on one side only—the hair-side of the parchment, which is smoother and enables smaller writing (b. Menahot 32a).

Frequently, there were multiple paragraphs per parchment. For instance, 4Q Phyl A is written on both sides; the front side has first Deuteronomy 5:1-6:3 (with some omissions) followed by 10:12-11:17. The reverse continues with Deuteronomy 11:18-21 and finishes up with Exodus 12:43-13:7. It may once have had all the way up to verse 16, but the piece is fragmented.[136] 4Q Phyl G-I were not found together in a case, but the paragraph division across the slips suggests that they were originally a set:

	Recto	Verso
4Q Phyl G	Deut 5:1-21	Exod 13:11-12
4Q Phyl H	Deut 5:22-6:5	Exod 13:14b-16
4Q Phyl I	Deut 11:13-21; Exod 12:(43) 44-13:10	possibly Deut 6:6-7

It appears that the scribe had an order in mind—Deuteronomy, followed by Exodus—and executed it across the fronts of three slips, continuing on the back. Other slips, such as 4Q Phyl M, have an Exodus section and a Deuteronomy section (here Exod 12:(43), 44-13:10 on the front, Deut 5:33-6:5 on the back). 4Q Phyl Q has Deut 11:4-18 on the front and Exod 13:4-9 on the back.

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[136] Milik, *Tefillin, Mezuzot Et Targums*, plates VII and VIII.

The concept of "order" is more comprehensible with, for example, Mur 4, which has three paragraphs, one above the other, on a long, narrow slip. This is reminiscent of y. Meg 1.9, which states that tefillin and mezuzot are written in one column, but other texts in multiple columns.

Perhaps the most creative of the layouts is 8Q Phyl 1. The 8Q Phyl set is interesting of itself; there are four slips, published by Baillet in 1962. Baillet recorded that the four slips were found wadded together, so presumably they had functioned as a single tefilla. However, 8Q Phyl 1 has all the rabbinic pericopes on one slip, and other passages, including the Decalogue, on other slips. Thus Exodus 13:1-10 is on the first slip, and its introduction, Exodus 12:43-51, is on the third slip. Perhaps this suggests that the short passages gained traction but some people felt uncomfortable about leaving out the other sections? In any case, 8Q Phyl 1 is laid out in four distinct sections, separated by blank space. The piece has a portrait orientation. At the top, occupying the entire width of the slip, is Exodus 13:1-10. Beneath this is Exodus 13:11-16. Below this are first Deuteronomy 11:13-21, starting on the right-hand side of the slip, and, on the same level, Deuteronomy 6:4-9. The two continue in parallel columns until the Deuteronomy 6 section finishes, at which point the longer section continues across the entire width, thus forming an L-shape around the Shema section, which is effectively tucked inside its fellow.

This layout is particularly interesting in light of the talmudic discussion in b. Menahot 34b to which we shall now turn.

Order

The Mekhilta mentioned above started "In four places the text of tefillin appears: *Kadesh li, Vehaya ki yeviacha, Shema, Vehaya im shemoa*." It continues "Thus we say that the mitzvah of tefillin is four paragraphs in the hand-tefilla in one roll and four paragraphs in the head-tefilla

which are four totafot, and these are they: *Kadesh li, Vehaya ki yeviacha, Shema, Vehaya im shemoa*, written in their order, and if they are not written in their order, they are put away."

Unfortunately for later generations, the Mekhilta did not specify exactly what *their order* was to mean. The Qumran corpus shows us that originally there was very little consensus about order, either within one slip—many slips have Deuteronomy passages followed by Exodus passages—or between slips, as with 4Q Phyl G-I or 8Q Phyl 1-4, above. Even a relatively rabbinic-looking set like 4Q Phyl D-F does not have the order one might expect. 4Q Phyl D-F were found in a case, of which 4Q Phyl D would have been in the rightmost compartment, with Deuteronomy 11:13-21. 4Q Phyl E, the middle compartment, has Exodus 13:1-9 visible; that pericope ends with verse 10, so probably verse 10 used to be there as well. 4Q Phyl F, the leftmost compartment, has Exodus 13:11-16. That is certainly *an* order, but it's not the biblical order.[137] 8Q Phyl 1, which has all the rabbinic passages, clearly had some ambivalence about exactly how to lay them out, and Mur 4, which also has all the rabbinic passages, put the Shema on an entirely separate slip. The Mekhilta apparently already has ideas about biblical order being the correct way to do things, which is, compared to the Judean Desert corpus, a relatively late development.[138]

A tanaitic thread in the Talmud, (b. Men 34b), seeking clarification of the tradition, asks "What is *their order*?" and answers "*Kadesh* and *Vehaya ki* from the right, *Shema* and *Vehaya im* from the left." Another tanaitic source apparently had just the opposite. Amoraic tradition seems to understand this as the sort of problem which can be resolved by perspective—the one explains

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[137] Milik did not record which way up the case was when he was unpacking it, but for present purposes it suffices to note that it couldn't have been a biblical order, whichever way up it was.
[138] See Adler, "The Content and Order of the Scriptural Passages in Tefillin: A Reexamination of the Early Rabbinic Sources in Light of the Evidence from the Judean Desert.", extensively.

from the perspective of the wearer, the other from someone standing facing him—which suggests that amoraic tradition understood it as talking about the order in which the parchments were placed in the housing.

It is not intuitive that each compartment of a four-compartment tefilla would contain just one passage. Perhaps the most famous of the Qumran tefillin, Yadin's XQ Phyl 1-4 (now on display at the Shrine of the Book in Israel) has four very distinctive compartments, as we would expect a head-tefilla to have, but each compartment contained, on its single parchment, *multiple pericopes*. Further, this is technically compatible with the Mekhilta's direction, since the Mekhilta didn't actually say that each paragraph had to be in a separate *totafot;* it just said that they had to be written in order.[139] However, given the simpler contents of the latest tefillin and the subsequent development of the tefillin tradition, it's reasonable to assume that the tanaitic source is talking about having one paragraph per compartment in the head-tefilla.

Given this, the baraita on b. Men 34b is resoundingly unclear. Does that mean that inside the tefillin, the sections should be placed, not in their biblical order of [*Kadesh, Vehaya ki, Shema, Vehaya im*] but rather [*Kadesh, Vehaya ki, Vehaya im, Shema*]? This question is the source of the two different types of tefillin known as Rashi and Rabeinu Tam, which differ in the way they order the parchments. Rashi lived in eleventh-century France, his grandson Rabeinu Tam in the early twelfth century. Yehudah Cohn has recently shown that worrying about the order of the parchments based on this baraita was a medieval development, the result of exegesis of the Talmud.[140] Some scholars still like to think that the two types of tefillin existed in the Talmudic

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[139] XQ Phyl actually also contained the Decalogue, which would presumably not have been acceptable to the Mekhilta.

[140] Yehudah Cohn, "Rabbenu Tam's Tefillin: An Ancient Tradition or the Product of Medieval Exegesis?," Jewish Studies Quarterly (2007).

period and before, so for instance Yadin tried anachronistically to decide whether XQ Phyl was closer to Rashi-type tefillin or Rabeinu Tam-type tefillin, a comparison which was essentially irrelevant, but which unfortunately led to repeated assertions in subsequent scholarship that both Rashi and Rabeinu Tam tefillin were found at Qumran.[141]

The odd omission of the Shema paragraph in many of the tefillin-sets might be relevant here. If, as with Mur 4, there was ever ambiguity about including the Shema, it might make sense to put it in at the end. Nakman proposed that the three-celled 4Q Phyl D-F once had another compartment containing the Shema, which would also obviously have been on one end.[142] However, there is not really enough data to form a useful theory, at present.

In any case, once the parchments were enclosed in the cases, the texts were concealed, and the casings were the only thing visible, and nobody expected to read them.[143]

Casings

Approximately twenty-six tefillin-casings were recovered from the Judean Desert. Five contained parchment slips,[144] and all five of them were multi-celled compartments (two of three cells, three of four cells). Another four-cell casing is from Nahal Tze'elim.[145] Finally, the tefillin-

[141] See summary in ibid.
[142] David Nakman, "The Contents and Order of the Biblical Sections in the Tefillin from Qumran and Rabbinic Halakhah: Similarity, Difference, and Some Historical Conclusions," Cathedra 112 (2004, in Hebrew): 22 n 14, 30.
[143] b. Meg 9a.
[144] 4Q Phyl D-F; XQ Phyl; 5Q Phyl; 4Q cases 2 and 4. These last three contained scrolls which have never been deciphered.
[145] Adler, "Remains of Tefillin from Naḥal Ṣe'elim (Wadi Seiyal): A Leather Case and Two Inscribed Fragments (34se 1 a–B)."

slips known as Mur 4 were found wrapped in a piece of scrap parchment, presumably serving as a temporary case.[146]

The remaining casings were empty. Possible reasons include: A) they never had contents; B) they once contained scrolls, but the scrolls were removed by the original owners; C) they once contained scrolls, but the scrolls were removed by later generations; D) they once contained something else entirely, which again was removed either by the original owners or by later generations.

Option A is possible, if unlikely. Option D is intriguing, but would require more study of amulet-cases in surrounding culture. Options B and C are justified by the examples we've seen above, which did contain scrolls. Option C is quite likely, as most of the empty cases were purchased from dealers, and we know that collectors opened cases and removed the contents. Often, tefillin-slips were found wadded up into single pellets, which suggests that they had been thus in a casing. (As far as I know, nobody has tried to match loose scrolls with empty cases; this could be an interesting project). Option B is not impossible, if the original owners had wanted to change cases, for instance if a fastening broke and replacing the case was the simplest option. There could also be a practical concern, viz., wearing tefillin all day in a hot climate causes the leather of the case to become rather nasty; it is expedient to put the slips in new cases every so often. It seems reasonable on the whole to assume that the empty cases were tefillin-cases, and not some other kind of case.

The empty cases number 12 four-compartment cases and nine single-compartment cases. All have been made in more or less the same fashion—a rectangular piece of leather has one or

[146] Mur 4 was published by Milik in DJD 2, pp 80-85. The wrapping document was published by Benoit, also in DJD 2, p 227, item 95, plate 78.

several compartments pressed into it (presumably when wet, this being the easiest way to shape leather), and then the rectangle is folded over and stitched closed, usually leaving a channel at the folded edge for a strap to pass through. This is fundamentally how contemporary tefillin are made, but rather smaller: the single-compartment cases are, at largest, 13mm per base side.

The four-compartment cases are slightly larger, the largest measuring 30*25mm (that is, four compartments each about 7mm wide). Sometimes the compartments are just next to each other (as the first case from cave 1, for instance),[147] sometimes they are clearly separated with stitching (as 4Q Phyl D-F), and sometimes they are separated with incisions or partial incisions (as cave 4 cases 5, 6, 9). These are all more or less flattish rectangles, with the compartments ranged down the long side. The single-cell cases from the Qumran caves are more or less squarish, but the multi-cell cases do not yet have the characteristic box-shape later multi-cell tefillin would acquire.

The box-shape is best-developed in the unpublished case from Nahal Tze'elim,[148] whose occupants were not part of the Qumran community at all. In that casing, the four compartments have become elongated and flattened, and they protrude from one side of the leather only. The result is a base from which emerge four flattish, squarish compartments, which together form an approximate cube.[149] This is much closer to the box-on-a-base shapes known from medieval sources.

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[147] Barthélemy, "Minor Finds," 7, plate 1, item 5.
[148] Adler, "Remains of Tefillin from Naḥal Ṣeʾelim (Wadi Seiyal): A Leather Case and Two Inscribed Fragments (34se 1 a–B)."
[149] The relative sizes of the compartments, and the order in whch they appear, roughly correspond to the relative sizes of the rabbinic tefillin parchments, and the order in which they are placed. Sadly, the case is empty.

It would also appear to be a forerunner of the requirement found in rabbinic literature that the tefillin be square. Both Talmuds (y. Meg 1.9 and 4.9, b. Men 35a) record tanaitic opinions that the tefillin should be square and stitched and that this is law from Moses at Sinai (that is, ancient, and authoritative, but not something to be established by exegesis); the Yerushalmi also states that tefillin should be black. The Mishnah (b. Men 24b) goes so far as to say that round tefillin do not fulfil the function of tefillin, and indeed are dangerous.[150] (While it does not state a preference as to colour, it does say that tefillin overlaid with gold are outside communal standards.)

"Square" is something of a subjective term. The four-compartment rectangular casings from Qumran are squar*ish*; they are not cylindrical, for instance. It's possible that the tanaitic source calling for squareness had something like the earlier Qumran casings in mind, rather than the later, squarer casing from Nahal Tze'elim. By the amoraic period, this later shape seems to have been well-established, as various amoraic sources[151] establish that the *titura* (generally understood to be the base part) is a law from Moses at Sinai, as is the *ma'abarta*, the "bridge"—the channel for the strap, made by bending the leather to form a bridge between top and bottom. Only the late amoraic tradition clarifies that "square" means "in the stitching and the diagonal." A square of stitching is comprehensible enough; later tradition would understand "square in the diagonal" to exclude parallelogram shapes. Apparently by the amoraic period, the rectangular cases had entirely faded from use. Rabbinic tradition had committed to the cube-on-a-base shape for both hand and head tefillin.

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[150] Or perhaps "there is a danger that they do not fulfil the obligation."
[151] b. Men 35a.

Another law from Moses at Sinai concerns "the *shin* of tefillin" (b. Men 35a). From the early modern period, if not before, the "*shin* of tefillin" refers to an embossed letter *shin*-shape found on opposite sides of the head-tefilla housing. However, in antiquity, the "*shin*" seems to have referred to the characteristic placing of the compartments relative to each other.[152] Without exception, the four compartments in the Judean Desert tefillin are arranged in a single line—one might possibly expect to see four compartments in a 2 x 2 arrangement, but we never see this. b. Men 35a records an amoraic tradition: Abaye says, the *shin* of tefillin is a law from Moses at Sinai, and the division has to reach to the sewing. Rav Dimi from Nehardea says, as long as the division is discernible, it does not have to reach to the sewing. That is, the four compartments must protrude from the base, where they are stitched to the folded-over part, but the divisions between compartments need not (according to Rav Dimi) go all the way to the base—or alternatively, must go all the way to the base. This discussion suggests that the amoraim were using cube-on-a-base casings made by stretching over a toothed mould. It is relatively straightforward to make dimples (per Rav Dimi) but quite difficult to make long, thin compartments (per Abaye). Later techniques, which we do not have space for here, would give rise to the moulded *shin*-shape we know today.

The cube-on-a-base shape of tefillin seems to have been well-established by the time rabbinic Judaism encountered Byzantine Christianity. Elisabeth Revel-Naher has shown that multiple illustrations from Byzantine Christian sources show Jews with tefillin on their heads.[153] The surviving illustrations are mostly early medieval, but Revel-Naher demonstrates that the

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[152] Karen Hava Kirschenbaum, "The Shin of Tefillin," Sinai 125 (2000, in Hebrew).
[153] Elisabeth Revel-Neher, *The Image of the Jew in Byzantine Art*, 1st ed., Studies in Antisemitism (Oxford ; New York: Published for the Vidal Sassoon International Center for the Study of Antisemitism, Hebrew University of Jerusalem by Pergamon Press, 1992).

illustrators were probably not looking at real Jews wearing tefillin. Rather, the typology must have been established quite a long time before, perhaps in the sixth century, a period of innovation in Byzantine iconography. We shall return to these illustrations, the earliest-known representations of tefillin, later.

Straps and knots

Today, tefillin are bound to the wearer with leather straps. A permanent knot secures the strap to the casing; the tefillin stay on the wearer by a combination of ingenious windings and gravity. We cannot say how the very first tefillin were attached to the wearer, because no literary or artistic sources survive. One assumes that a hand or head connection was made with the verses, but as noted, amulets were very often worn around the neck; tefillin could even have started as neck-amulets and migrated to the hand and head later, as the associations with the verses became stronger.

Only one tefillin-case from Qumran was found with a strap in situ; a single-cell case from Cave 1 with a narrow leather thong.[154] A number of parchment thongs, about 2mm wide, were found in Cave 4, and Milik suggested that these too might have been tefillin-straps. One thong, 28cm in length, was acquired with the Cave 4 cases, as originally having been attached in some way. This thong was knotted at one end. Milik thought this indicated it had been the strap to a hand-tefilla, but it might also have been knotted to another thong, since 28cm is not an especially useful length. It might go around a bicep, to be sure, but it would not fit around a head, for instance.[155]

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[154] Barthélemy, "Minor Finds."
[155] Milik, *Tefillin, Mezuzot Et Targums*.

The talmudic literature mentions tefillin-straps and knots a good deal. The tanaitic discussion is concerned with the material and colour of the straps. A baraita (b. Men 35a) decrees that tefillin are to be tied "with their own kind," presumably meaning leather or parchment; it may be green, black, or white, but not red.[156] The tradition (still on b. Men 35a) records a student of the fourth-generation tana Rabbi Akiva, who tied his tefillin with blue fabric straps, and of his contemporary Hyrcanus, son of Rabbi Eliezer ben Hyrcanus, who used purple (the editorial voice of the Talmud proposes that perhaps the coloured fabric was not officially sanctioned).

By the amoraic period, the knots of tefillin seem to have acquired the status of law from Moses at Sinai (y. Meg 1.9, b. Men 35b, b. Eruv 97a, b. Shab 62a; mostly Babylonian voices), and the permitted colour is black (on the outside; the inside is allowed to be coloured as per the tanaitic source; b. Men 35a). Indeed, the form of the knot was said to have been revealed to Moses by God on Sinai (b. Ber 7a, b. Men 35b). Tying them was apparently a skill a scholar was expected to have (at any rate according to some; b. Hul 9a), and they appear to be permanent knots, since the amora Rav Hisda says (b. Eru 97a) that a knot permissible on Shabbat (i.e. a simple, impermanent one) is not appropriate for tefillin.

What if the straps break? Both Palestinian and Babylonian amoraic sources (y. Meg 1.9; b. Men 35b) want the straps to be whole and unbroken, backing their view up with a piece of exegetical wordplay. The Torah says *ukshartam*—and you shall bind them—which can be read *ukesher tam*, the knot is flawless. The late Babylonian amora Rav Papa seemed to thnk that using remnants was acceptable (b. Men 35b) but the editor of the Bavli disagreed. The amoraim had also got to the stage of developing symbolism for the knots beyond just being demonstrated by

[156] The baraita is coyly nonspecific as to why red straps are not made, giving "disgrace and another thing" as its reasons. One wonders if the use of red strings to ward off demons had anything to do with it.

God; b. Men 35b records that Rav Yehudah said the knot of the tefillin must be upwards, not downwards, symbolising Israel being up and not down; and it must face forward so that Israel will be in front and not behind. Finally, another Babylonian amora had opinions about the attractive side and the less-attractive side of the strap (leather and some types of parchment have a rougher side and a smoother side). "Rav Nachman said that the beautiful side should face outwards. Rav Ashi was sitting before Mar Zutra, and his tefillin-straps were flipped over. He said, 'Don't you agree that the beautiful side should face out?' He replied, 'I did not notice.'"

Section 5: Harmonising variant practices

This section explores some ideas about how tefillin were used in the pre-rabbinic period.

We can say reasonably confidently that the tefillin known from the Judean Desert date from the second century BCE[157] to the second century CE.[158] During this period, the rather fractured, highly sectarian Jewish society of Hasmonean rule slowly drew together into a smaller number of discrete traditions, including something describable as a rabbinic tradition.[159] As we have seen, there was a growing emphasis on the Torah and its study, as a locus of Jewish identity when the Temple—the original religious focus, more or less—was controlled by other groups: other Jewish sects, or, later, Roman rule. After the desctruction of the Temple, this trend focused

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[157] Milik's analyses in "*Tefillin, Mezuzot et Targums*," bolstered by e.g. Tov's work on dating Qumran scrolls generally.
[158] The finds from Nahal Tze'elim can be dated confidently to the Bar-Kochba revolt, see Y. Aharoni, "Expedition B," Israel Exploration Journal 11, no. 1/2 (1961).
[159] Hayim Lapin, "The Origins and Development of the Rabbinic Movement in the Land of Israel," in *The Cambridge History of Judaism*, ed. Steven T. Katz (Cambridge University Press, 2006), 214. and more broadly in *Early Rabbinic Civil Law and the Social History of Roman Galilee: A Study of Mishnah Tractate Baba' Mesi`A'* (Atlanta, Ga.: Scholars Press, 1995).

sharply; doubtless sectarian identities persisted amongst rabbinic groups, as old affiliations do not just disappear overnight, but the overall picture as presented by rabbinic literature is one of groups of scholars choosing to sink their differences and coalesce around the common interest of Torah study.[160]

It seems quite likely that the early practice of tefillin evolved in line with these developments. A study of the tanaitic literature concerned with tefillin reveals a number of fissures and inconsistencies. Early rabbinic teachings are not a consistent, homogenised body and as such will inevitably contain inconsistencies, but if we look at the tanaitic teachings on tefillin we can trace a story of different practices being developed to a more-or-less consistent, community-wide standard. A similar process has been demonstrated for early liturgical development: the earliest liturgy was scattered and non-standard, and tanaim during the first to third centuries CE were engaged in creating a rough consistency, framing existing central prayers in rabbinic benedictions. In particular, Stefan Reif describes a "drive to link up all the prayers and customs so as to reduce the tendency to opt for one or the other, as earlier groups may have done."[161] That is, Reif is suggesting that one ritual may have filled, for some groups, the religious need that another ritual filled for others, and that the tannaim linked the two ritual expressions to arrive at one harmonised prayer practice.

The basic image of tefillin presented by the rabbinic literature is that tefillin come in pairs; the biblical commandment is to wear a one-cell tefilla on the arm, and a four-cell tefilla on the head. However, a closer look at the sources shows clearly that the two tefillin can function as two

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[160] Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine* (Tübingen: Mohr Siebeck, 1997), 77.
[161] Stefan Reif, "Prayer and Liturgy," in *The Oxford Handbook of Jewish Daily Life in Roman Palestine*, ed. Catherine Hezser, Oxford Handbooks in Classics and Ancient History (New York, NY: Oxford University Press, 2010).

separate, independent mitzvot. It seems likely that in the very earliest iterations of the practice, wearing only one tefilla was sufficient. Over time, two types developed, the one-cell and the four-cell; two practices developed, of wearing on the arm or the head; and the early rabbinic tradition linked the two variant ritual expressions to render one single practice. We shall now see how the evidence supports this assertion.

The rabbinic sources describe relatively many parts of tefillin as *halakha le-Moshe mi-Sinai*, as we saw above. These fall into the broad category of extra-scriptural tradition, things which just *are*, and which are generally not contested by exegesis.[162] The square shape, the *shin* construction, being black (in the Yerushalmi only), and the folded-over nature of the case and strap-channel, and the knots, are all classed thus, and excepting the knots, we find traces of all these halakhot in the archaeological evidence. Other aspects of tefillin-practice, particularly questions of how many paragraphs should be contained in how many cells; hand- and head-wearing; where on the body exactly they are worn; and whether it is proper to wear them at night and on festivals; are all presented as the logical results of biblical exegesis. The latter three of these we cannot learn from the archaeological evidence, but the first one rather notably doesn't match up to the archaeological evidence in a consistent way.

We know from the evidence that the earlier tefillin have a mixture of paragraphs on varied numbers of slips, multiple paragraph-sections per cell, and not always even four cells to a multi-cell casing. We can tentatively deduce separate trends in a number of differentiated aspects: trends towards exclusive use of the rabbinic pericopes; four cells in multiple-compartment cases; and single pericopes per cell in a multi-cell casing, over the first and early second centuries CE.

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[162] Azzan Yadin-Israel, *Scripture and Tradition: Rabbi Akiva and the Triumph of Midrash* (Philadelphia: University of Pennsylvania Press, 2014), chapter 9.

These are later developments, and it is precisely these developments which are supported exegetically, unlike the earlier common elements, which have the character of *halakha le-moshe mi-sinai*. We might tentatively place the other exegetically-based tefillin rules in the same period.[163]

The Mekhilta d'Rabbi Yishmael presents several issues in one tightly-edited unit:

> והיה לך לאות על ידך זה כרך אחד של ארבע פרשיות והדין נותן הואיל ואמרה תורה תן תפילין ביד תן תפילין בראש מה בראש ארבע טוטפות אף ביד ארבע טוטפות תלמוד לומר והיה לך לאות על ידך כרך אחד של ארבע פרשיות יכול כשם שביד כרך אחד כך בראש כרך אחד והדין נותן הואיל ואמרה תורה תן תפילין ביד תן תפילין בראש מה ביד כרך אחד אף בראש כרך אחד ת"ל לטוטפת לטוטפת הרי ארבע טוטפות אמורות או יעשה ארבע כיסין של ארבע פרשיות ת"ל ולזכרון בין עיניך כיס אחד של ארבע פרשיות[164]:
>
> *And it shall be for you a sign on your hand*—this is one roll of four paragraphs. Hermenutical reasoning might dictate that, since the Torah says to put tefillin on your hand and to put tefillin on your head, that just as the head has four *totafot*, then so too the hand should have four *totafot*; therefore the Torah says *it shall be for you a sign on your hand*: one roll of four paragraphs. Perhaps, just as that of the hand is one roll, so too that of the head should be one roll? Hermeneutical reasoning might dictate that, since the Torah says to put tefillin on your hand and to put tefillin on your head, that just as the arm has one roll, so too the head should have one roll. Therefore the Torah says *totaft totaft totafot* [two arguably singular spellings, one arguably plural spelling]: four *totafot*

[163] A *terminus ad quem* would be provided by the date of the midrashic compilations, if any definitive date could be decided upon.
[164] Tractate Pisha, chapter 17. Lauterbach edition—Jacob Lauterbach and David Stern, *Mekilta De-Rabbi Ishmael* (Philadelphia: Jewish Publication Society of America, 1933 and 2004).

are mentioned. Perhaps one should make four cases for four paragraphs? The Torah says *a reminder* between your eyes: one case for four paragraphs.

The Mekhilta here neatly establishes that there is one proper way of accommodating all the possibilities suggested by the text: the four paragraphs are contained all together in a one-cell case on the arm, and in a four-cell subdivided case on the head. The presence of the four paragraphs is somewhat logical, as discussed; there are four related paragraphs in the Torah. The four *cells* are presumably loosely related, but as we saw, there was no particular early consensus that there should be one paragraph per cell.[165] The Judean Desert corpus also does not have an abundance of single pellets with just four passages on them. Overall, it seems that perhaps the tidy four-paragraphs-in-one-roll and four-paragraphs-on-one-klaf-each is a later development, perhaps harmonising the various ideas that were present in the larger consciousness.

Reading the Mekhilta, one would not presume to think that wearing only one of the two tefillin was even an option. But the two tefillin are recognised as two separate mitzvot; there are a number of hints that wearing just one or the other was a legitimate option.

Rabbinic tradition[166] recalls the fall of the fortress at Beitar at the end of the Bar Kochba war. Gruesome details of a horrible massacre include prodigous quantities of tefillin gathered from the heads of the dead. The original statement about tefillin from the heads of the dead is attributed to the Palestinian amora Rabbi Yohanan, and other amoraic voices supply the interesting assertion that there were three times as many hand-tefillin gathered as head-tefillin. The historicity of the account is obviously problematic for multiple reasons, but even if it were

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[165] A generous reading of the Mekhilta could even accommodate an arrangement such as in 4Q Phyl D-F, with a *total* of four paragraphs spread over a *total* of four slips in four cells, but not necessarily one paragraph per cell.
[166] b. Git 57b-58a; Lamentations Rabba 2:4.

wholly fictional, the amoraic presentation is interesting. The general tone of the passage is to emphasise how exceedingly dedicated to the Torah were the inhabitants of Beitar, and the editor of the Bavli evidently thinks that exaggerated quantities of tefillin demonstrate the point. Further, the unequal quantities do not bother the editor in the slightest. Evidently even in the later amoraic period it was still quite understandable that a person would wear only one of the two tefillin.[167]

Rabbi Yohanan also features in y. Ber 2:3, where it is recorded that in the summer, he would wear only the arm-tefilla. In the winter, when he could wear a turban, he wore also the head-tefilla.[168] A progressively more strict discussion on b. BM 105b discusses the logistics of wearing tefillin whilst carrying a load on one's head; the baraita permits it so long as the tefillin are not squashed, but the voice from the transitional generation, a much later tanaitic layer, says that if the load is something repellent, the proper thing is to take the tefilla off one's head and tie it on the arm. Masechet Tefillin (#16) also discusses wearing tefillin at work: "If his load is heavy and he is sweating, he does not need to worry about taking off his tefillin. A potter takes off his hand-tefilla and leaves on his head-tefilla; a baker takes off his head-tefilla and leaves on his hand-tefilla..." Masechet Tefillin is appallingly hard to date, but whether tanaitic, amoraic, or geonic, it is a solid reflection in its period of the validity of wearing only one tefilla if called for. Overall, we see a number of echoes throughout rabbinic tradition of people wearing only one tefilla, although two is still the ideal; wearing one seems usually to be for reasons of expediency

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[167] Or possibly that people would wear three tefillin on the arm and one on the head, but there are no other sources which suggest this.

[168] ר' יוחנן בסיתוא דהוה חזיק רישיה הוה לביש תרויהון ברם בקייטא דלא הוה חזיק רישיה לא הוה לביש אלא דאדרעיה. The phrase חזיק רישיה has been the subject of many interpretations; see Aaron Amit, "The Curious Case of Tefillin: A Study in Ritual Blessings," Jewish Studies Quarterly 15, no. 4 (2008): 278-9.

(or perhaps modesty: after all, Rabbi Yohanan apparently only wore a head-tefilla when he could hide it under his hat).

The tension between one or two tefillin is articulated explicitly in discussions about whether the two practices are interdependent. Are the two tefillin to be considered as separate commandments? Is it sufficient to wear just one, or necessary to wear two? Declaring the two tefillin to be one ritual unit, t. Menahot 6:12 rules that the shel yad and the shel rosh are interdependent unless somebody only has one of the two—possessing two but wearing only one does not fulfil any commandment at all. m. Men 4:1, conversely, rules that the two are *not* interdependent, that they are effectively two separate commandments. Interestingly, Rav Hisda, a Babylonian amora (b. Men 44a) commenting on that mishnah, suggests that the absence of a hand-tefilla *should* invalidate the wearing of the head-tefilla. He explains his rationale: it is a ruling to discourage people from indolently doing only one or the other. A society trying to merge two variants into one ritual would quite plausibly express this kind of sentiment, and try to make rules that both parts are necessary. However, Rav Hisda's ruling was rejected by his colleagues, and the Tosefta's earlier attempt was also not accepted by the rabbinic mainstream as it developed the Mishnah's rulings.

The circumstance of the blessings for tefillin is interesting here. The Tosefta (t. Ber 6:10) dictates one blessing only for tefillin, *lehaniah tefillin*, no matter how many tefillin one is putting on. The text of the Yerushalmi (y. Ber 2:3 and 9:3) is corrupt and difficult, but manuscript analysis has shown that the Yerushalmi originally mandated one blessing also, likely *'al mitzvat*

tefillin.[169] The amoraic tradition of the Bavli records two blessings: *lehaniah tefillin* on the *shel yad*, and *'al mitzvat tefillin* on the *shel rosh*.[170] This seems to have been a very late development, a Babylonian harmonisation between two divergent liturgical customs,[171] not an early development arising from a tanaitic merging of the two commandments.

Finally, we might observe that the two different tefillin seem to be accompanied by two quite different interpretations. Eliezer ben Hyrcanus, a third-generation tanna, is cited in various places expounding the verse וראו כל עמי הארץ כי שם ה' נקרא עליך, *And all the peoples of the earth shall see that the Lord's name is proclaimed over you,*[172] as signifying the head-tefilla.[173] This is a verse about visibility, about making a statement that other people are bound to see. The hand-tefilla, on the other hand, appears to be a great deal more private. Mekhilta d'Rabbi Yishmael has Rabbi Eliezer (possibly the same Rabbi Eliezer?) interpreting the words והיה לך לאות על ידכה[174], *And it shall be for you a sign on your hand* as meaning the upper part of the arm, the part normally concealed, because it shall be a sign for *you* and not for others.[175] A late Babylonian amora is temporarily wearing a sleeveless garment for medical reasons, and a colleague chides him for having his arm-tefilla visible. It is normally covered, he retorts, this is permissible. This highlights two possible social functions of tefillin. The concealed aspect accords with Milik's idea that tefillin were originally a "private and semi-sacred" ritual, a personal way of embodying one's own values or aspirations. The public aspect demonstrates one result of such a practice: if

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[169] Binyamin Katzoff, "Blessings over Mitzvot in Eretz Israel and in Babylonia: Further to David Rosenthal, 'Tefillin Blessing in Eretz Israel and in Babylonia'," Tarbiz 79, no. 3-4 (2010).
[170] b. Men 36a and b. Ber 60b.
[171] David Rosenthal, "Tefillin Blessing in Eretz Israel and in Babylonia," Tarbiz 79, no. 1 (2010).
[172] Deuteronomy 28:10, JPS translation.
[173] b. Ber 6a and 57a, Meg 16b, Men 35b.
[174] The spelling ידכה is an uncommon variant left over from an earlier period, see Francis I. Andersen and A. Dean Forbes, *Spelling in the Hebrew Bible*, Biblica Et Orientalia (Rome: Biblical Institute Press, 1986), 70.
[175] Also in b. Men 37b.

originally the practice was engaged in by pious people it would become correlated with piety. Correlation is not causation but it is frequently mistaken for such; it is natural, if not laudable, to advertise one's piety in a visible way. Compare Matthew 23:5's injunction to stop wearing oversized tefillin,[176] and Rabbi Yohanan's disinclination to wear a shel rosh without a hat. Less pessimistically, one might take example from the tzitz, whose main function was to proclaim HOLY UNTO THE LORD in an unmistakeable way. It may be no coincidence that the more distinctively-shaped tefilla has the public-facing exegetical associations and the less distinctive one has the private, personal dimension. In any case, the tanaitic sources evince a certain tension between the two poles, articulated by the associated verses. The combination of the two tefillin into one ritual effectively balances the tensions.

Section 6: How to wear the Bible

We now move into thorough examination of the rabbinic sources' attitudes towards wearing tefillin. Sections 6-8 cover different aspects of wearing tefillin, as described by Talmudic literature.

Ideal of wearing two all the time

In the rabbinic literature, wearing tefillin apparently demonstrates a certain commitment to commandments. "Rabbi Meir used to say, there is no man in Israel who is not surrounded by mitzvot: tefillin on his head, tefillin on his arm, mezuzah at his door, and four tzitzit surround him."[177] Another tannaitic source clarifies that Israel are surrounded by mitzvot as a demonstration of God's love for them; Rabbi Eliezer ben Yaakov adds "Tefillin, tzitzit and

[176] Which may reasonably be understood as tefillin; see Jeffrey H Tigay, "On the Term Phylacteries (Matt 23: 5)," Harvard Theological Review 72, no. 1-2 (1979).
[177] t. Ber 6:25, also Sifrei Devarim 36.

mezuzot are a safeguard against sinning."[178] Sifrei Devarim adduces a story comparing the worn items to the jewels with which a king adorns his queen, adding an interesting aspect of public display. Is it sufficient to be surrounded by God's love, or must it be clear to onlookers as well?

Concerning the verse שויתי ה' לנגדי תמיד, *I am ever mindful of the Lord's presence*, Rabbi Yehudah said, "A sefer Torah on his right hand and tefillin on his left hand."[179] The context there is specifically the sefer Torah the king is supposed to write, but the duo of Torah and tefillin is something certain sages apparently aspire to. Rabbi Yohanan said that the proper way to accept the yoke of the kingdom of heaven was, first thing in the morning, to make one's toilet, put on tefillin, recite the Shema, and pray.[180] Tefillin feature in accepting the yoke of the kingdom of heaven, and *not* wearing tefillin is active rejection: according to Rabbi Yohanan, it would be a desecration of the Name of God if he were to walk four *amot* (about six feet) without Torah and tefillin.[181]

Wearing tefillin all the time, even to walk trivial distances, is a recurring motif. The tanna Rabban Yohanan ben Zakkai is also remembered for never going four *amot* without Torah and tefillin, summer and winter.[182] Rabbi Zeira, another Palestinian amora, is said to have attributed the secret of long life to various factors, including not napping in the study-house, and also including never walking four *amot* without Torah and tefillin (b. Meg 28a).

However, tefillin are cut of the same cloth as the Torah, which had already at that period become a holy object to be treated with great reverence. There are certain situations into which it is, and

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[178] b. Men 43b.
[179] Ps. 16:10 (JPS translation); t. Sanh 4:7.
[180] b. Ber 15a.
[181] b. Yoma 86a. Other potential desecrations of the Name of God include being the sort of person whose friends have to say "May God forgive him" every time he comes up in conversation (ibid.).
[182] y. Ber 2:3 and b. Suc 28a.

was, not considered proper to introduce a Torah scroll. Wearing tefillin all day meant wearing Torah all day, which inevitably entailed a certain amount of removing the tefillin, for biological, ritual, and practical considerations. The related discussions illuminate the difficulties of embodying a sacred text—of wearing a sacred text whilst having a human body.

Pragmatic aspects

Where to wear the tefillin?

Where, exactly, are the tefillin to be placed? The verses say *on your hand* and *between your eyes*, but the present practice is to wear them on the bicep of the non-dominant hand and the top of the head, respectively, and this seems to have been the case from quite early on. We have no information from archaeology as to where the tefillin were placed.

As we have seen, the verses were probably originally meant metaphorically rather than literally; the literal interpretation was superimposed later. Whatever broader meanings the phrases *on your hand* and *between your eyes* had acquired by that point would then have been fair game.

בין combined with a body part can often acquire a separate identity as a phrase, either spatial or metaphorical. Thus *between the hands* can mean 'the back' (or chest), and it can also connote something being under control. These meanings are found in the Bible and also in Ugaritic and apparently Akkadian texts.[183] *Between the eyes* is found in Ugaritic poetry indicating 'the head' generally, or 'the crown of the head' in particular.[184] Thus while *between your eyes could* mean the bridge of the nose, it more likely already, in early biblical times, meant high on the head

[183] Yitzchak Avishur, "Expressions Such as בין ידיים and Their Parallels in Semitic Languages," Beit Mikra: Journal for the Study of the Bible and Its World 22, no. 2 (1977, in Hebrew).
[184] Ibid. John Gray, "Literary and Linguistic," in *The Legacy of Canaan: The Ras Shamra Texts and Their Relevance to the Old Testament* (Brill, 2016). I am indebted to Prof. B. Barry Levy for this reference.

when taken literally. Metaphorically, as we saw, at least one Septuagint rescension seems to have taken it as indicating general awareness or consciousness.

And indeed, the midrash halakhah clarifies that *between your eyes* means the highest part of the head. It uses exegesis rather than linguistics to make the point: the Mekhilta cites Deuteronomy 14:1, "you shall not make any baldness between your eyes for the dead." Just as in that verse, *between your eyes* refers to the crown of the head, says the Mekhilta, so too here, in the tefillin-verse, *between your eyes* means the highest part of the head.[185]

Concerning *on your hand,* the Hebrew יד usually means *hand*, but in quite a broad sense.[186] There is overlap with other ancillary areas, including the side of the body generally (Akkadian *idu* apparently functions in much the same way), so it is not unreasonable to interpret *yad* as "upper arm," but it is not the most intuitive interpretation.[187] The actual hand, or the wrist, would be more intuitive. However, the practice of wearing the hand-tefilla on the upper arm seems to have been a moderately early development. The Mekhilta specifies על גובה של יד, 'on the high part of the hand,' and a tannaitic quotation in the Talmud says the bicep.[188]

The Mekhilta lists several justifications for not wearing tefillin on the actual hand.[189] One is by comparison with the head-tefilla: just as the head-tefilla is worn on the highest part of the head, so too the hand-tefilla is worn on the highest part of the hand. Rabbi Eliezer has a letter-exegetical justification: Scripture says והיה לך לאות על ידכה, which is an unusual spelling. The

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[185] Mekhilta d'Rabbi Yishmael, Bo, parasha 17.
[186] William Henry Propp, *Exodus 1-18: A New Translation with Introduction and Commentary* (New York: Doubleday, 1999), on verse 13:9.
[187] G. Johannes Botterweck and Helmer Ringgren, *Theological Dictionary of the Old Testament*, vol. 5 (Grand Rapids: Eerdmans, 1973), 400.
[188] Mekhilta d'Rabbi Yishmael, Bo, parasha 17; b. Men 37a and b. Arach. 19b.
[189] Mekhilta d'Rabbi Yishmael, Bo, parasha 17.

extra letter *hey* must signify a special meaning: that "the sign is for *you*, and not for others." Rabbi Yitzhak has a more contextual justification: Scripture speaks of putting these words *on the heart*; that is literally impossible, but the high part of the arm is the part opposite the heart. With the justifications comes a prohibition: the Mishnah says that those who wear tefillin on the palm of the hand, or on the forehead, are heretics.[190]

Having established that the tefillin are to be placed on the arm, the question naturally arises as to *which* arm. The mundane factor is simply that tying straps is more easily done with the dominant hand, so it makes more sense to place the tefillin on the non-dominant arm. The Mekhilta brings a number of verses which speak of specifically the *right* hand to establish that *hand* on its own always means the left hand, but it also suggests a pragmatically-based exegesis: the tefillin-verses link *binding* and *writing*, and so just as the texts are written with the right hand, they should be bound with the right hand.

It is not proper to wear tefillin whilst sleeping.

"Rabbi Eliezer used to say: the mitzvah of tefillin is great, because the Holy One said to Israel, '*Meditate upon it day and night'* (Josh 1:8). Israel said to the Holy One, 'Master of the universe! How can we meditate upon it day and night?' The Holy One said to them, 'My children, put tefillin on your heads and your arms, and I will count it as though you are meditating upon it day and night, as it is said, *It shall be a sign upon your arm and a reminder between your eyes, in order that the Torah of God shall be in your mouth*.'"[191]

This rabbinic source expresses one of the ancient functions of wearing a text. The ideal lifestyle for a member of rabbinic society may be to devote every waking moment to philosophical

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[190] m. Meg 4:8.
[191] Mas. Tefillin #20.

contemplation, but most people have other obligations at least some of the time. The old concept that wearing a text somehow activates it serves to give the wearer a compromise—wear the text as a substitute for concentrating on it, and deal with one's duties at the same time.

Wearing alone, though, may not be sufficient. The Bavli, at any rate, appears concerned that the wearing will be automatic and the awareness be lost: Rabba bar Rav Huna, a third-generation Babylonian amora, says that one must fiddle with the tefillin whilst wearing them, so as to remain aware. Nebulous concepts are better supported with Scripture, and awareness of the tefillin is connected to awareness of the tzitz, which requirement is derived from the verse *It shall be perpetually upon his forehead* (Ex. 28:38). The tzitz, which has only *one* Divine Name, merits constant awareness; how much more so tefillin, which have *many* Divine Names.[192] This particular articulation is amoraic, but there is a tanaitic expectation that one does not go to sleep in tefillin;[193] it is hard to concentrate upon something whilst asleep.

The prohibition on sleeping in tefillin may also be connected to concerns about male bodies being unpredictable during sleep. Different tanaim discuss the question of nodding off in the study-house during the day: one tannaitic opinion does not permit even napping in tefillin; another allows *napping* (perhaps putting one's head down between one's knees) but not *sleeping*. Yet another is indifferent about leaving tefillin on if going to sleep in the daytime, but is firm that tefillin should come off before going to sleep at night. Another tanna holds that young men should *never* leave their tefillin on when going to sleep, the context makes it clear that the concern is unplanned ejaculation.[194] The problem is apparently more to do with effluvia than with ritual impurity; the editor of the Bavli makes it clear to the reader that wearing tefillin post-

[192] b. Yoma 7b.
[193] b. Suk 26a.
[194] b. Suk 26a-b.

ejaculation—whilst *baal keri*—is permitted, and another tannaitic ruling explains that if one forgot he was wearing tefillin and had sex, the proper thing is to clean his hands before touching his tefillin.[195] However, in principle sex in or near tefillin is forbidden.[196]

It is not proper to wear tefillin near effluvia.

A number of sources lay out concerns about wearing tefillin in noxious locations, usually having to do with human excreta. They mostly parallel the rules about not praying or studying Torah in such contexts. This strengthens the idea that wearing tefillin is an active process, as are praying and studying. Certain things have to cease in certain contexts.

Studying Torah, carrying holy scrolls, and reciting the Shema and other prayers were limited by similar concerns, of keeping a distance between exalted and excreted. Tefillin are not the only such aspect of Jewish life by any means, but they are perhaps the most impractical to keep on removing (no such restrictions apply for tzitzit). A story about Rabbi Yehudah haNasi mentions, as a side point, that when he was dying, he kept on having to go to the lavatory, and putting his tefillin on and off each time was causing him considerable distress.[197] Rabbi Yehudah haNasi was a late tanna; some Babylonian amoraim seem to have had a different approach, i.e. that someone afflicted by a stomach upset is exempt from wearing tefillin, presumably because taking them on and off is so much bother.[198]

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[195] This suggests, incidentally, that the tefillin could be firmly-enough attached to the person that it would be possible to have sex without remembering they were there—perhaps held in place by a hat or a sleeve, but perhaps simply small and quite firmly knotted. It also suggests that at least some modes of tefillin-wearing left the hands free—either the fortunate gentleman is only wearing a head-tefilla, or the strap of the hand-tefilla is not commonly wrapped round the hand. Compare b. Ber 25a, where they discuss what to do if one forgot and went to the lavatory whilst wearing tefillin.
[196] b. Ber 25b.
[197] b. Ket 104a.
[198] b. Hul 100a.

The Roman Empire, including Roman Palestine, was relatively well-equipped with sewers, but not everybody had sanitation by any means. Streets often had open sewers running down the middle, into which householders would empty receptacles.[199] We do not see injunctions to refrain from walking in the street, which suggests that a certain pragmatism prevailed. The concern seems more to be with not going into places where there would be an unusually high concentration of effluvia.[200]

Some sources deal with the logistical difficulties of using a lavatory whilst being a tefillin-wearer. On the one hand, one does not want to expose the tefillin to excrement. On the other hand, leaving the tefillin in the public thoroughfare is asking for trouble. Various Palestinian sources, both tannaitic and amoraic, permit one to go into a lavatory whilst wearing tefillin; or forbid it; or permit it only during the daytime, when tefillin-wearing is obligatory. On the whole, there seems to have been discomfort with the general idea of wearing tefillin into the lavatory, and as time goes on more solutions are attempted. "At first, they used to give them to their fellows, but they took them and fled," says y. Ber 2:3—asking passersby to look after one's tefillin apparently did not work very well. Leaving the tefillin in crevices in the wall had its own associated problems; crevices in the interior wall suffered theft from mice, and crevices in the outer wall suffered theft from people.[201] Both Talmuds remember an incident where tefillin stolen from outside a lavatory were apparently used to humiliate their owner to the point of suicide; the story as it reaches us is that a harlot came to the study house and claimed that the owner had left the tefillin with her.[202] The motif of tefillin being used to identify regulars of the

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[199] Daniel Sperber, *The City in Roman Palestine* (Cary, US: Oxford University Press (US), 1998), 141.
[200] b. Ber 23a-24b; it is an *extensive* discussion.
[201] b. Ber 23a.
[202] y. Ber 2:3, b. Ber 23a.

study house is a recurring one, to which we shall return later; the story may or may not have historical value, but it illustrates the degree of discomfort people apparently had with leaving their tefillin unattended. Alternatives were concealing the tefillin in one's hand or temporarily wrapping them over with a fold of clothing, both somewhat impractical, or having a bag slung around one's neck. The quoted opinions are largely amoraic, both Palestinian and Babylonian, suggesting either that customs varied synchronically and the editors of the Talmuds tried to accommodate all options, or that customs varied dichronically and there was not a good solution.

Both tanneries and laundries in the ancient Roman Empire used prodigious quantities of stale urine,[203] for its ammoniac properties; tanning also used excrement. Tanneries were notoriously malodorous, exempt even from having a mezuzah on the door, and presumably laundries were not a great deal better.[204] This explains the ruling that one does not wear tefillin into a tannery or a laundry, as they are very little better than lavatories. Even concealing the tefillin in one's hand is not adequate shielding. [205]

The baths are another location of concern. Baths were a significant part of day-to-day culture in Roman Palestine, so it is not surprising that the tanaim and Palestinian amoraim spend much time discussing the logistics of tefillin and bath-houses.[206] The bath-house, according to rabbinic and Roman sources, has three sorts of zones: a lobby, where people are dressed; a changing-room, where some people are dressed and some people are naked; and the bath rooms, where

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[203] Ann Olga Koloski-Ostrow, *The Archaeology of Sanitation in Roman Italy: Toilets, Sewers, and Water Systems* (Chapel Hill: The University of North Carolina Press, 2015), 91.
[204] Meir Lamed, "Leather Industry and Trade," in *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik (Detroit: Macmillan Reference USA, 2007).
[205] Sifrei Devarim, 258:15.
[206] Sperber, *The City in Roman Palestine*, 58 ff.

basically everyone is naked.[207] The tanaitic sources[208] allow a person to go from the lobby into the changing-room with their tefillin on, but they have to take them off before proceeding to the baths proper. In the other direction, they may not put their tefillin back on in the changing-room, but must first attain the lobby.

The Yerushalmi recalls that one of the rabbis who always wore his tefillin would take them off and give them to the attendant in the lobby, who took people's payment; when he left the bath, he would retrieve his tefillin from the attendant.[209] On one occasion, the rabbi told the attendant a homily about the Holy Ark and the coffin of Joseph being carried around by the Israelites in the desert; the person in *this* container observed the things in *this* container. The Yerushalmi offers several reasons why the rabbi might have told this story to the attendant. The attendant's name was Yaakov Thermosa, Jacob-of-the-bathhouse; perhaps he was a Jew at work who wanted to hear some Torah. But perhaps the point of the story is that Jews (or at any rate, the rabbi) are very motivated to do commandments, and would the attendant please get a move on and give the tefillin back already so that the rabbi can keep doing the commandment. Evidently Yaakov Thermosa did not have quite the same attitude towards tefillin as the rabbi.

As the baraitot present the baths, the issue is naked people, but we might also bear in mind that baths were also rather insalubrious places. Pliny mentions cockroaches, and he and other authors reference general filth and unpleasantness.[210] There was also liable to be sex.[211] The issue of wearing tefillin into a brothel comes up as a side point in a tannaitic story about judging favourably. Rabbi Yehoshua, visiting the house of a notorious harlot, takes off his tefillin four

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[207] Ibid., 64.
[208] y. Ber 2:3, b. Shab 10a.
[209] Sperber, *The City in Roman Palestine*, p 69, n. 10.
[210] Garrett G. Fagan, *Bathing in Public in the Roman World* (Ann Arbor: University of Michigan Press, 1999), 188.
[211] Ibid., 36.

amot from her door, and then enters, locking the door behind him. (Of course, as it turns out, he has a completely innocuous reason for being there.)[212] As with praying, there are places it is necessary to go, but these are not places where one engages in holy behaviour.

Having established exhaustively that tefillin are not worn into the lavatory, the Bavli raises the question of other types of amulets, including inscribed amulets.[213] Such amulets frequently contained biblical sections and divine names, and yet could be worn into the lavatory. Why, then, could tefillin not be worn into the lavatory? It cannot be that the leather pouch containing the slips shields them from the surroundings, since both tefillin and amulets live in similar pouches. The proposed solution, from Abaye, in amoraic Bavel, is that the *shin* of tefillin is part of the Name of God, and *that* may not be taken into the lavatory. This answer is somewhat unsatisfactory, being that a *shin* is not a written Name of God in any meaningful sense. It makes more sense to suppose that the passage is trying to use the language of halakha to express an important but rather hard to articulate difference between amulets and tefillin. Amulets are not proxies for holiness in the same way tefillin are. The biblical text inside an amulet is sacred, to be sure, or it would not be in the amulet, but the amulet is not associated with the kind of embodied sacredness that tefillin do, and therefore does not need to be taken off in the lavatory.

To put it another way, holiness is—in a social sense—where you create it. Rabbinic Judaism creates holiness with reference to human activity: for the Sabbath and festivals, by refraining from most activities, and for ordinary days, by surrounding mundane activity with holy rituals and interpretations. In a sense, the Torah scroll was not holy until people started to treat it as a holy thing. So too, one of the reasons tefillin become holy—certainly by the amoraic period—is

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[212] b. Shab 127b.
[213] b. Shab 61b-62a.

because they are treated as holy things. An amulet can be taken into the lavatory because it is not holy like tefillin, but one reason tefillin are holy is because they are not taken into the lavatory like amulets. Given such reasoning, Abaye's explanation involving Divine Names is perhaps preferable.

Is it proper to wear tefillin at night?

Having put tefillin on first thing in the morning and kept them on all day—except when bathing, eating, doing messy jobs, or using the lavatory—ought one to take them off as night approaches? Many mitzvot are not performed at night, such as circumcision, or Temple sacrifices, and also things like convening ritual courts, signing documents, or examining witnesses. Other mitzvot do not apply at night-time, such as tzitzit: one may wear a four-cornered garment after dark even if it is not equipped with ritual fringes. Some mitzvot *only* apply at night-time. Other mitzvot, such as placing a mezuzah, are independent of time altogether. Into which category did tefillin fall, in antiquity?

Concerning tefillin at night, a baraita[214] asks: "Until when does one wear the tefillin?" The first answer given is "until sunset." Rabbi Yaakov says "until people cease to walk abroad." The Sages say "until bedtime." These three opinions represent three different approaches to tefillin. The first suggests that tefillin are strictly a daytime activity, like court proceedings or Temple sacrifices. As night approaches, one removes the tefillin. Indeed, wearing them at night may actually be a transgression.[215] There may also be a pragmatic element, in that after dark, light is expensive, and people might tend to limit after-dark activities to eating and going to bed—compare b. Ber 2b, which talks about a poor person who eats directly upon getting home in the

[214] b. Men 36a, y. Eruv 10:1.
[215] b. Men 36a, y. Ber 2:3.

evening—but there are many more sources in which people are active after dark, so the motivation is not solely pragmatic.

The second opinion, in the name of Rabbi Yaakov, suggests that tefillin are a public activity; one wears them until the evening commute is over, essentially; until people are mostly not in the streets. The same terminology is used for Chanukah lights, which are essentially and inherently a public act. Once everybody has withdrawn to their homes, it is time to take off the tefillin.

The final approach permits one to keep the tefillin on until bedtime. On this understanding, tefillin are a personal piety, worn as part of one's normal outfit, and the advent of night is not of itself a reason to remove them; the issue is sleeping in them. If one woke up in the night, (b. Eruv 96a) one might put the tefillin on; similarly, if one got up before dawn, it would be permitted to put on tefillin, although making the blessing should wait until daylight.[216]

Another approach to the question of tefillin at night is exegetical, and shows a more binary approach. The Mekhilta records two different exegetical approaches to tefillin at night.[217] Both rely on the unusual phrase מימים ימימה in Ex. 13:10, often translated *from year to year*; Everett Fox's notoriously careful translation has *from year-day to year-day*. One approach runs: "מימים ימימה —why is this said? From והיה לך לאות I might have thought that it applied even at night, by analogy with mezuzah, which applies equally at night and day; perhaps tefillin also. So, Torah says מימים ימימה, to tell you that it applies in the day, and not at night." It is not clear here whether tefillin are *forbidden* at night, or simply irrelevant. The second approach is almost identical, except that "Shabbat and Festivals" take the place of "night;" tefillin are part of one's normal outfit at night just as in the day, but they come off on Shabbat. As we will see, there are

[216] On waking up in the night: b. Eruv. 96a. On getting up early: b. Ber 9b and b. Men 36a.
[217] Mekhilta d'Rabbi Yishmael, Bo, #17.

also views that tefillin may be worn on Shabbat; for the person who believes in night and day wearing, Sabbath and week, the phrase מימים ימימה is interpreted as meaning one should check tefillin once a year. In any case, for all three social approaches to wearing tefillin at night, there exists an exegetical support.

The Tosefta famously classes tefillin as מצות עשה שהזמן גרמא, a positive time-bound commandment.[218] What this means, beyond being somehow associated with time, is not clear; the Tosefta does not say whether the activity is forbidden or tolerated in the off-period, and it does not specify whether the timeboundedness is on a daily or seasonal scale. Elizabeth Alexander advances the interesting theory that the concept is an exegetical tool, a shorthand for describing a type of commandment. The exegetical logic is equally sound whether one views the discussion as being about night or about Shabbat, but overall, the logic seems to apply. This renders tefillin timebound, even if various understandings of the concept exist, but it does not shed any light on whether the Tosefta would tolerate tefillin-wearing after dark on weeknights.[219]

The exegetical discussion here concerns itself with the question of whether tefillin are obligatory or not at night, and the satellite question of whether wearing them in off-periods is tolerated or forbidden. This is not the same as the approaches revealed by the three options of wearing "until sunset," "until people cease to walk abroad," and "until bedtime." The amoraic period reveals attempts to harmonise the two approaches.

Mixed practice seems to have persisted through the amoraic period. From the third generation of Babylonian amoraim, as recorded on b. Men 36b, we hear that the halakha is like Rabbi Yaakov,

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[218] t. Kid 1:10, also featured, in slightly different form, on b. Kid 33b-34a and y. Kid 1:7.
[219] Elizabeth Shanks Alexander, "From Whence the Phrase "Timebound, Positive Commandments"?," The Jewish Quarterly Review 97, no. 3 (2007).

i.e. one wears tefillin while one's public persona is active, but after everybody has retired to their himes, the tefillin are removed. Contemporary rabbis Rav Hisda and Rabba bar Rav Huna were known to pray their evening prayers in them, a public activity. Apparently in their circles it was acceptable to keep wearing tefillin after dark.

Another view suggests that if one isn't entirely sure night has arrived, the tefillin can stay on—presumably, then, if one *is* certain that night has arrived, the tefillin should be removed. Both Talmuds have stories about amoraim who were sitting and teaching at night but still had their tefillin on,[220] and there seems to be a suggestion that perhaps this is not entirely proper. The editor of the Yerushalmi suggests that the amora in question was not exactly wearing his tefillin, he was just storing them on his arm—but it also recapitulates that it is permissible to leave them on after nightfall, so long as one did not *put* them on after nightfall. In the Bavli's version, the student asks the tefillin-wearing teacher if he is wearing his tefillin to guard them, and "he said yes, but it was clear he didn't mean it." The teacher is apparently fine with wearing his tefillin after dark, but he also accommodates his student's discomfort by claiming a stricter practice.

The discussion about tefillin at night reiterates the opposing functions of tefillin. On the one hand, as a private mnemonic device, a personal piety, the commandment surely ought to be observed as long as one is awake and functioning. On the other hand, to the extent that tefillin function as a social signal, an articulation of group identity, they are a public activity, and so ought only to be worn while one's public persona is active. Once at home for the night, the tefillin are no longer relevant in the same way, much as one might change out of work clothes after getting home. The broad sense in the Bavli seems to be towards harmonisation of the two

[220] y. Ber 2:3 tells of a Palestinian amora; b. Men 36b of a Babylonian.

exegetical possibilities. It is definitely proper to wear tefillin in the daytime, and on the whole the done thing to leave them on as the day extends into evening, but it is not proper to make a blessing on them whilst it is dark. Therefore, in the evening, if the tefillin are taken off for supper or other reasons, they stay off.

Is it proper to wear tefillin on Shabbat?

A similar tension exists around wearing tefillin on Shabbat and festivals. The Mishnah (m. Shab 6:2) says "A man may not go out with nail-studded sandals, nor with only one [sandal] unless he has a wound on the other foot. He may not go out with tefillin, nor with an amulet unless it was from an expert, nor with a breastplate, helmet, or greaves. If one went out with any of these, he is not required to bring a sin-offering." That is, for the Mishnah, wearing tefillin and various other accoutrements are not permitted on the Sabbath, but it is technically a less forbidden act than (for example) carrying objects in the public domain.

y. Shab 2:7 and b. Sanh 68a tell the story of the tanna Rabbi Eliezer. He was bedridden and dying, and the Sabbath was approaching; his son Hyrcanus came to his father to remove his tefillin. Rabbi Eliezer rebuked his son for prioritising removing the tefillin over arranging the Sabbath lights: dealing with the lights on Shabbat would be a grave transgression, whereas dealing with the tefillin would be a relatively minor affair.[221] Thus Rabbi Eliezer's analysis. Hyrcanus, apparently, is not familiar with the idea that removing the tefillin is less important than arranging the lights: he goes outside and weeps because he is convinced that his father is losing his reason. That is, Hyrcanus is so habituated to his father's removing tefillin before Shabbat that he cannot understand prioritising something else. Apparently, lamp-lighting and tefillin-removing generally happened at about the same time. A baraita on b. Shab 35b describes

[221] m. Shab. 3:7 deals with the lights; 7:2 with the categories of forbidden work.

the trumpet blasts that were sounded before Shabbat, to signal when work should stop in the community. The earliest was to signal far-away workers to come home; the next to tell nearby workers to come home. “The third: to light the lamp, according to Rabbi Natan. Rabbi Yehudah the Prince says, the third is for taking off tefillin.”

The Tosefta advises: “One who goes out into public domain and remembers that he has tefillin on his head should cover his head until he gets home. If in the study house, he takes them off and puts them in a discreet place.”[222] Unlike cooking, for instance, or making fire, he does not have to take precautions as dark approaches to avoid getting himself into such a situation in the first place.[223] Other tanaitic and amoraic sources permit going out in tefillin as dark approaches on Friday night, evidently because it is usual to take the tefillin off by Shabbat.[224] The late amoraim of the Bavli appear much more uncomfortable with the idea of just covering them discreetly till you get home; the opinion appears, but is amended so that one ought to take them off at the first possible moment, perhaps at a neighbour's house.[225]

As we saw, there is an exegetical basis for not wearing tefillin on Shabbat and festivals, the term מימים ימימה. The Mekhilta brings another exegetical rationale for not wearing tefilliin on Shabbat and festivals, based around tefillin's being called אות, a sign. Since the Sabbath is also called אות, one does not need both at once. Both approaches would suggest that wearing tefillin is biblically redundant on Shabbat.

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[222] t. Eruv 8:17.
[223] m. Shab chapter 3, for instance, deals extensively with precautions to avoid the bare possibility of kindling flame on Shabbat.
[224] t. Kid 1:11 permits going out in tefillin as dark approaches. y. Shab 6:2 permits going out in tefillin specifically because it is usual to remove them, unlike studded sandals, which apparently one might forget to remove. b. Shab 12a and b. Men 36b permit it because one is constantly aware of one's tefillin (so, again, one would remember to take them off).
[225] b. Beitza 15a.

Wearing the tefillin is also permitted, among tanaim, if one finds tefillin abandoned in the public domain on Shabbat. The tanaitic consensus, broadly, is that one should bring them to safety, wearing them one or perhaps two pairs at a time.[226] This makes sense if one understands tefillin on Shabbat as being in principle like wearing jewellery or armour—on Shabbat, such things are just not worn, and the prohibition is essentially descriptive. In exceptional circumstances, conventions may be flouted to bring tefillin to safety. But if wearing tefillin is biblically forbidden, as the midrash halakha suggests, bringing the tefillin to safety is not simply a matter of bending social norms, it is a severe transgression, and ought not to be permissible. As with night-time wearing, the Bavli attempts a harmonisation of the two approaches, but ultimately must acknowledge that both are equally possible.

One might say that commandments are the rabbinic way of suffusing mundane days with holiness initiated by human activity,[227] and then describe the Sabbath as a contrasting experience, inherently holy and marked by a cessation of human activity. Taking the view that tefillin serve as an embodiment of mitzvot, a worn proxy to action, it makes a certain intuitive sense that tefillin would not be worn on Shabbat. On the other hand, if tefillin are a personal reminder of holiness, worn as naturally as shoes, it does not make sense to leave them off on Shabbat. The deciding factor may be pragmatic: as we have seen, there are many situations where it is necessary to remove the tefillin. Doing so on the Sabbath would present logistical difficulties of carrying in the public domain.

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[226] m. Eruv. 10:1; t. Eruv. 8:15; b. Eruv 95a-96a; y. Eruv 10:1.
[227] Michael L. Satlow, *Creating Judaism: History, Tradition, Practice* (New York, US: Columbia University Press, 2006), 172-3.

Trading in the Bible

Tannaitic sources establish that it is not proper, on the whole, to trade in holy goods. Items dedicated to the Temple automatically fall under a broad set of restrictions concerning sale and resale.[228] Torah scrolls are similarly holy, and likewise have strict limitations on sale and resale. Tefillin, on the other hand, seem to occupy a less exalted position. Somebody short of funds may not, in general, sell his Torah scroll, but he may sell his tefillin.[229]

Pragmatism recognises that a trade in holy scrolls is, to a degree, necessary. A baraita in the Bavli suggests that a Torah scholar should be able to write and perform kosher slaughter and circumcision, to which a later voice adds the skills of performing wedding-blessings and tying the knots of tefillin and tzitzit.[230] Being able to write is a long way from being able to write very small, and these are idealised lists to begin with, so we may safely suppose that making one's own tefillin was not a skill many people had, even among Torah scholars. Accordingly, it would have been necessary, then as now, to obtain them somehow.

The Mishnah lists tefillin as one of the things which may not be made on the intermediate days of festivals (when work is restricted, but not entirely forbidden), but Rabbi Yehudah permits writing tefillin for oneself. Both Bavli and Yerushalmi develop the theme. [231] The Yerushalmi has a story about someone who lost his tefillin during the intermediate days. He went to R' Hananel, who sent him to R' Aba bar Natan—apparently simply buying a new pair was not an option—and R' Aba bar Natan told R' Hananel to give the man his own tefillin, and then write a

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[228] Menachem Elon and Isaac Levitats, "Hekdesh," in *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik (Detroit: Macmillan Reference USA, 2007).
[229] t. Bik 2:15; b. BB 151a.
[230] b. Hul 9a.
[231] m. MK 3:4, y. MK 3:4, b. MK 18a-19a.

new pair for himself. That is, R' Aba bar Natan would not give permission to write a pair of tefillin during the intermediate days for someone in need, but would only permit it for oneself.

A baraita in the Bavli clarifies that it would be permitted to make money from the transaction, and even that if someone's livelihood comes from writing tefillin, they may write them on the intermediate days. This speaks to the existence of people whose livelihood came from writing tefillin. However, "the men of the Great Assembly made 24 fasts so that those who write sefarim, tefillin and mezuzot should not get rich, because if they got rich they would not write,"[232] so it was apparently not a very *good* livelihood. Shaye Cohen's observation that tannaitic sources present a solidly middle-class-and-above viewpoint is not lost; apparently it was in society's interests to maintain a group of people sufficiently interested in the Torah to write it out repeatedly, but not so successfully that they could retire to pursue Torah study full-time.[233] M. Avot 4:7 famously dictates "Do not make the Torah into...a spade with which to dig," reflecting the idea that holiness ought not to be a saleable commodity. On the other hand, wholesale treatment of holy items is necessary if a whole population is to be provided with said items. Accordingly, we see this pious wish that makers and dealers of tefillin should not undertake it out of a desire for profit, making the best of an impossible situation.

Most things one might purchase in Roman Palestine were made by private craftsmen, who also often handled their own sales and distribution.[234] An artisan, such as a maker of tefillin, might want to sell their wares further abroad, and so they might take a bundle of tefillin to a regional

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[232] b. Pes 50b.
[233] S. J. D. Cohen, "The Rabbi in Second-Century Jewish Society " in *The Cambridge History of Judaism*, ed. Steven T. Katz (Cambridge University Press, 2006), 936.
[234] Uzi Leibner, "Arts and Crafts, Manufacture and Production," in *The Oxford Handbook of Jewish Daily Life in Roman Palestine*, ed. Catherine Hezser, Oxford Handbooks in Classics and Ancient History (New York, NY: Oxford University Press, 2010).

market or a fair.[235] The Tosefta speaks of "writers of sefarim, tefillin, and mezuzot, and their distributors, and their distributors' distributors..."[236] and "bundles of tefillin" are mentioned more than once. A person generally needs only one set of tefillin, so it is reasonable to assume that the bundles mentioned are on their way to being sold. The Mishnah in Eruvin dealt with tefillin found abandoned on Shabbat, and said it was proper to bring them to safety by wearing them.[237] The Mishnah then continued to the case of a great many pairs of tefillin, all tied up, which seems an unlikely scenario on the face of it but is not so implausible if that was routinely how tefillin were made and transported for sale. Another bundle of tefillin feature in amoraic Bavel, where they are being transported by a non-Jewish woman. Abaye offers her the outrageous price of one date per pair of tefillin; perceiving them as not worth the effort, she throws the whole bundle into the river, and Abaye regrets having so denigrated the tefillin.[238] Abaye also features in a discussion about restoring lost objects: "if one found tefillin out and about, he estimates their value and may wear them," the idea being that when the owner claims them, the owner will accept the value of the tefillin in lieu of the tefillin. Abaye explains "because tefillin are readily available."[239]

Most dealers were presumably not quite as ignorant as the one who threw the tefillin into the river, but ignorant dealers remain a concern through both tanaitic and amoraic periods. The Tosefta says one ought not to buy tefillin except from someone who knows about tefillin, but if buying from a retailer, one ought to check a representative sample of the available tefillin before

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[235] Jack Pastor, "Trade, Commerce, and Consumption," ibid.
[236] t. Bik 2:15.
[237] m. Eruv 10:1.
[238] b. Git 45b.
[239] b. BM 29b.

buying.[240] The Bavli likewise addresses the question of buying tefillin in large bundles, and how many tefillin from the bundle one needs to check to be sure of the quality.[241]

We see a certain anxiety about sefarim, tefillin, and mezuzot in the hands of non-Jews, particularly in Palestinian sources. Rabbinic Jews in tannaitic Palestine, particularly, had to contend with other biblically-based religions—most obviously Christianity, but not forgetting Samaritans and other non-rabbinic Jews. The Tosefta says "One may sell sefarim, tefillin, and mezuzot to an *am ha'aretz* [one not well-versed in the rabbinic lifestyle, more or less], but you do not buy tefillin except from an expert," but it immediately accepts reality, "if one bought from a non-expert..." and even goes so far as to say "One may buy sefarim, tefillin, and mezuzot from a non-Jew provided they are correctly written."[242] However, the Tosefta also forbids selling to non-Jews various things which might be used to harm the Jewish community: armour, weapons, execution-blocks, various chains and shackles, and *sefarim, tefillin, and mezuzot*.[243] As Richard Kalmin puts it, at this time and place "non-rabbis and outsiders pose a serious threat to rabbinic Judaism. Even, or especially, when these outsiders state opinions and offer interpretations which suit rabbinic tastes, they are to be avoided at all costs."[244] It is not completely impossible that this Tosefta perceives a threat to Jewish identity from non-Jews equipped with Jewish holy items and thus able to present as legitimate Jews. However, a more moderate interpretation would be that items valued by insiders should stay inside the community.

The statement "One may buy sefarim, tefillin, and mezuzot from a non-Jew provided they are correctly written" raises the question of whether the scrolls are simply being *sold* by the non-

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[240] t. AZ 3:8 and 3:6. The latter ruling is reflected in y. Git 4:6.
[241] t. AZ 3:8; b. Eruv. 97a.
[242] t. AZ 3:8
[243] t. AZ 2:4.
[244] Richard Lee Kalmin, *The Sage in Jewish Society of Late Antiquity* (New York: Routledge, 1999), 68.

Jew, or have also been *written* by the non-Jew. When buying from a Jewish non-expert, it is already necessary to check a representative sample to see that they are correctly written. Thus the Tosefta is either reflecting an increased anxiety that non-Jews will not know, or care, to sell proper scrolls, or it is reflecting a general admission that non-Jews may write scrolls. This last seems preposterous, but is actually supported by other tanaitic sources.

Baraitot on b. Git 45a record a variety of incompatible tannaitic opinions regarding who may write a Torah scroll (and, by extension, presumably tefillin and mezuzot). A scroll written by the same person must be burned, set aside, or used normally, depending on the tanna's point of view. Burning is reserved for seriously heretical differences—recall the Samaritan Torah, which is misleadingly similar in content to the Jewish Torah, but with certain critical variations. The choice between using normally or setting aside depends on whether one thinks items used for rituals must needs by created by those involved in the rituals. The Mishnah articulates the principle that someone who is not obligated in a commandment cannot perform the relevant activity on behalf of someone else,[245] but what about creating the equipment with which to perform the activity? Sitting in a sukkah is a ritual incumbent only upon tannaitic men, but a sukkah made by a non-Jew, a woman, a Samaritan, or an (unnaturally talented) animal is valid for use.[246] The same approach could reasonably apply to scrolls—what matters it where they are from, so long as they are made correctly?

Both Talmuds recall a (presumably tannaitic) story about a non-Jew in Tzidon, an outsider, who dealt in scrolls.[247] The Yerushalmi says that he sold tefillin and mezuzot, and the Sages permitted purchasing from him. The Bavli says that he wrote sefarim, and Rabban Shimon ben

[245] m. RH 3:8.
[246] b. Suk 8a. The issue of *who* may do *what* for other people comes up in many other places.
[247] y. Git 4:6; b. Git 45b.

Gamliel permitted purchasing from him. Amoraim in both Talmuds conclude that he was in originally a non-Jew, who had become Jewish, and reverted to his old ways; the Bavli adds that he had gone back to his old ways out of fear for his life, because for the Bavli, the issue of who may write scrolls has become even more fraught. Many types of Jews are excluded by the Bavli from writing—women, slaves, children, dubiously-observant Jews, and Jews who are explicitly uninterested in observing commandments. The justification is an exegetical one: the Bible juxtaposes *binding* and *writing* in Deuteronomy 6:8-9, and therefore only those who bind, may write.

This is an unusual interpretation. Most other items for ritual observance are not so closely-restricted. This is a level of exclusion more akin to Temple ritual, where only a very particular subclass of Jews may create the connection to the Divine by making a sacrifice out of an animal. It speaks to the scrolls being more than mere books, which we know is so from other avenues as well. Synagogue architecture points to the scroll, for the Jews, having similar ritual functions to other groups' statues of gods;[248] use of a scroll (as opposed to a codex) had also become a way Jews differentiated themselves from Christians.[249] Creating a Torah scroll, then, would have become a more than usually significant act. Tefillin, to the extent that they are tiny avatars of Torah scrolls, would follow suit. Wearing the Bible is an exercise in holiness, but apparently its creation and distribution also speak to underlying issues of Jewish identity.

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[248] Levine, *The Ancient Synagogue: The First Thousand Years*, 618.
[249] Satlow, *How the Bible Became Holy*, 256.

Section 7: Who wears tefillin

The Mishnah gives the impression that a pair of tefillin are among the bare necessities of life, along with shoes and food. In general, if a person makes a pledge to the Temple of greater value than his cash assets, his goods are sold off to cover the pledge. However, the Mishnah stipulates that the Temple debt shall not leave him entirely destitute; he must be left with the basic necessities: thirty days' worth of food, one year's worth of clothing, a bed and a cover, shoes, and tefillin.[250] Apparently tefillin, like food and shoes, are something people have a daily need of, and depriving someone of his tefillin is as unthinkable as insisting he go barefoot. This would seem to suggest that tefillin, in tannaitic society, were as ubiquitous as shoes. However, the Mishnah is a rabbinic text, created by and for and addressing the priorities of rabbis. Looking more closely at the evidence, we see that tefillin were probably not very widely-worn, considered against the whole population.

The term "rabbi" is a convenient shorthand. Here I follow Catherine Hezser in viewing the rabbinic movement as a diffuse network with fluid entry criteria, and a societal model of a more-engaged central core and a less-engaged periphery, whose defining values involve a particular set (theoretical and practical) of interpretations of the Torah. The term "rabbi" is also fluid, and describes the occupants of a social niche rather than a particular qualification—the people in the centre, rather than on the periphery. "Rabbinic" does not always, or even usually, denote a rabbi, but rather an alliance, of greater or lesser strength, with a body of teachings.[251]

We can view societies as constructed around a number of value systems, on greater and lesser scales. There is a core of people who are strongly attached to the value system, and spend very

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[250] m. Arakh. 6:3. His wife and children receive no such provision, but he gets to keep his tefillin!
[251] Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine*, Introduction; 152.

much of their energy and resources engaging with it. There is a periphery, who may or may not be aware of the value system in question, who do not really engage with it very much. And there are people in between, who engage with the value system intermittently. The value system we are interested in here is that of rabbinic Judaism, but value systems can include anything a group of people might be interested in, as money, sports, university policies, and so on, and accordingly it is possible to be a member of an elite vis-a-vis one interest but not vis-a-vis another. A member of a rabbinic elite, in the sense of spending a great deal of time engaging with behaviours prescribed by rabbinic Judaism, is not necessarily a member of a financial elite, political elite, or sporting elite.[252] However, there is a certain amount of intersection between groups on the periphery of general society—women, the enslaved, the disabled—and the periphery of rabbinic society.

The extent to which rabbis influenced Jewish society in the first few centuries CE is puzzled out by reference to Jewish and non-Jewish literary sources and, increasingly, archaeological evidence. The emerging picture is one of a population doing a number of things which are common to many—Sabbath, circumcision, diet[253]—but frequently in ways which do not show the influence of rabbinic practuce.[254] Laws important to rabbis did not necessarily reflect social norms.[255] The rabbis claimed social ownership of piety, by establishing that piety is only truly

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[252] Broadly, see Edward Shils, *Center and Periphery*, vol. 2, Selected Papers of Edward Shils (Chicago: University of Chicago Press, 1972).
[253] S. J. D. Cohen, "Common Judaism in Greek and Latin Authors," in *Redefining First-Century Jewish and Christian Identities*, ed. Fabian Udoh (Notre Dame, US: University of Notre Dame Press, 2008). Also see Eric M Meyers, "Sanders' "Common Judaism" and the Common Judaism of Material Culture," ibid.
[254] Hannah Cotton, "The Rabbis and the Documents," in *Jews in a Graeco-Roman World*, ed. Martin Goodman (Oxford; New York: Clarendon Press ; Oxford University Press, 1998).
[255] C Safrai and Z Safrai, "To What Extent Did the Rabbis Determine Public Norms? The Internal Evidence," in *Jewish Identities in Antiquity*, ed. Lee I. Levine, Schwartz, Daniel R. (Tübingen, DE: Mohr Siebeck, 2009), 176.

accessible by and through study of rabbinic texts,[256] but even synagogues—locations for public piety—seem to have been constructed without reference to rabbinic sensibilities. Various synagogues had mosaic floors with depictions of pagan gods.[257] Bowing to images of pagan gods is problematic for an observant rabbi, and the Yerushalmi records various rabbis' strategies for praying in such places—not bowing at all, awkwardly bowing sideways, bowing as normal but coming up with a convoluted justification. They apparently used the synagogue, but did not have much say in its design.

Accordingly, when the rabbinic literature appears to suggest that tefillin are as ubiquitous as shoes, it is probably sensible to take that as a theoretical construct in an idealised world. We have a few representations of tzitzit from synagogue art in antiquity, but we have no representations of tefillin—so while tzitzit were something artists chose to represent, for whatever reason, tefillin seem not to have been.[258] We know of many rude remarks from classical authors about Jews' customs vis-a-vis circumcision, Shabbat, and special diets,[259] but no rude remarks about peculiarly Jewish amulets,[260] suggesting that in the classical period, tefillin were not among the most distinctive of Jewish markers in society at large.[261]

However, an awareness of tefillin, at least in a theoretical sense, seems to have existed. We saw already the vague comments made by Aristeas and Philo concerning a performative interpretation of the tefillin-verses. Further awareness among the Jews of the subsequent

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[256] Ibid., 174.
[257] Levine, *The Ancient Synagogue: The First Thousand Years*, 218, 30.
[258] Steven Fine, "How Do You Know a Jew When You See One? Reflections on Jewish Costume in the Roman World," in *Fashioning Jews : Clothing, Culture, and Commerce*, ed. Leonard J. Greenspoon (2013), 25.
[259] Cohen, "Common Judaism in Greek and Latin Authors," 74.
[260] Menahem Stern, *Greek and Latin Authors on Jews and Judaism* (Jerusalem: Israel Academy of Sciences and Humanities, 1974).
[261] This would be true right through till the late Middle Ages.

centuries is suggested by the targum literature. Targum literature is generally understood as translating the fundamental texts of Judaism for the Aramaic-speaking masses. Targum Onkelos translates *totafot* as *tefillin*; Onkelos' roots are early Palestinian, but the text took its form in Babylonia through the fifth century.[262] Presumably the translation choice reflects a word in the general vocabulary, but the difficulty is to say when; it is possible that this specific translation choice comes from the later Babylonian-rabbinic cultural context. Neofiti, again probably taking its form through the fifth century, apparently assumes some sort of tefillin practice, as it translates *yad* as actually *arm* rather than *hand*, and *between your eyes* becomes *upon your face*. Targum Pseudo-Jonathan incorporates extensive quantities of midrashic interpretation: *It shall be for you a sign of the law, engraved and clear on the tefila of the hand, on the highest part of your left arm, and as a reminder engraved and clear on the tefila of the head, fixed facing your eye on the highest part of your head, in order that the Torah of God shall be in your mouth...*(Ex. 13:9). This all suggests that the Aramaic-speaking Bible-reading people were exposed to the concept, even if most of them may not have been doing it.

Tefillin as the province of an elite is attested from several angles, most obviously the prescribed relationship of people on the periphery of broader society with tefillin. Elisheva Baumgarten outlines the use of gender paradigms as illustrations of general relationships between societal elite and non-elite—between center and periphery—and so the relationship of women to tefillin can, to an extent, inform us about tefillin's place in rabbinic society.[263] There is also the category of slaves, who are likewise permitted to function at a certain distance from the engaged core, as they are exempted—exemption does not necessitate exclusion—from many required activities.

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[262] Paul V.M. Flesher and Bruce Chilton, "Dating the Targums of Israel," in *The Targums* (Brill, 2011).
[263] Elisheva Baumgarten, *Practicing Piety in Medieval Ashkenaz: Men, Women, and Everyday Religious Observance* (Philadelphia: University of Pennsylvania Press, 2014), introduction.

Other groups of people who are in some way separated from active society are also exempted from tefillin, as we shall see.

Children are not members of the rabbinic elite, because they are not yet full members of society, just members in training. The tannaitic advice on the whole is that when a child is old enough to care for tefillin, he should be given a set, but he is not considered obliged to wear them until reaching adulthood.[264] There are also references to orphans, whose property is administered by a responsible guardian until they are old enough to administer it themelves; the guardian is permitted to use the orphans' funds to buy them tefillin.[265] Amoraic sources seem content with this advice, not adding anything new.

The issue of women and tefillin-wearing has been discussed exhaustively of late in other venues.[266] In brief, tannaitic women are exempted from tefillin by a baraita which describes tefillin as a positive time-bound commandment and exempts women from all such commandments. Some views see this sentiment as prescriptive (women ought to be prioritising other things), and some see it as descriptive (women were not doing many of these things, for whatever reason, and the baraita formalises the state of affairs).[267] In any case, presumably the exemption reflects social reality, in that on the whole this was not something women particularly did. What we learn from the talmudic data about women and tefillin is that the tannaitic sources officially exempt women but mostly seem rather uninterested.[268] Of note is the Mekhilta's "Michal bat Shaul wore tefillin," repeated in the Bavli as "Michal bat Cushi wore tefillin." The Yerushalmi expands "Michal bat Cushi wore tefillin and no-one said her nay; R' Hizkiyah says in

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[264] m. Arakh. 2:2; t. Hag. 1:2; Sif. Zuta 15:38; b. Suk 42b.
[265] b. Git 52a.
[266] Examples of existing scholarship are found in Cohn, *Tangled up in Text*, 113-8.
[267] Catherine Hezser, *Jewish Slavery in Antiquity* (Oxford; New York: Oxford University Press, 2005), 118.
[268] Mek 17; b. Kid 34a f; b. Shab 62a; b. Eruv 95a f; y. Ber 2:3; y. Eruv 10:1.

the name of R' Abahu that Michal bat Cushi was opposed by the Sages."[269] That is, there is a single amoraic source which records that a tefillin-wearing woman was told to stop it, which may indicate a general policy or may suggest an extra-conservative viewpoint of either the historical event or the editor.

On the whole, though, there is not a great deal of interest, neither principled support nor opposition, concerning the specific idea of women wearing tefillin, and no incidental mentions at all. Doubtless some women did wear them,[270] and equally doubtlessly some people sometimes had a problem with that, but the tannaitic sources are remarkably unengaged, officially exempting women but not polemicising against their doing it or constructing barriers to engagement such as we see in medieval sources. Later, we will look at tannaitic sources which talk about less-observant Jewish men and we will see a similar attitude reflected there: on the whole open to the non-elite engaging with the practice, but not especially interested in promoting a particular practice, and likewise not constructing barriers to engagement. Amoraic sources, particularly in Babylonia, will take a different route.

Slaves are another example of a class of people in two intersecting peripheries. They exist on the margins of broader society[271] and they are exempt from a large swathe of commandments.[272] Like women, slaves are explicitly exempt from wearing tefillin. Unlike women, though, a slave has at least a theoretical prospect of transitioning into the class of free male Israelites. Both Roman and rabbinic legal systems cover a number of ways by which a slave can become a free person; at base, this transaction is about the master conceding that the slave is to be considered

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[269] Mek 17; b. Eruv 96a; y. Ber 2:3.
[270] Hezser, *Jewish Slavery in Antiquity*, 80.
[271] Although at many different levels: Heszer notes that "slaves did not form a coherent social class or status group: their roles, functions, and statuses within society were very varied" (ibid., 25.).
[272] Ibid., 22.

part of free society.[273] Tannaitic sources suggest that this concession might be expressed obliquely: if the slave is participating in all elements of free Jewish society with the full knowledge and permission of the master, and since being a slave is not fully compatible with being a Jew, perhaps the slave should actually be considered free.[274]

A baraita finds it necessary to clarify: "If a master borrowed from his slave, or made him a guardian, or the slave put on tefillin or read three verses of Torah in the synagogue, the slave does not go free."[275] That is, financial inequity is usually tipped in favour of the free person; the balance being the other way does not, despite what one might think, change the status of those involved. Likewise, fiscal responsibility is usually a characteristic of free people and not of enslaved people, but a slave may be granted fiscal responsibility and remain a slave. It was apparently also necessary to clarify that religious participation did not automatically free a slave: apparently religious participation is also powerfully characteristic of free people. *Officially-sanctioned* religious participation, however, was apparently different. The tannaitic statement is "A slave who dons tefillin in front of his master goes free;" the amoraic view qualifies that the master must himself put the tefillin on the slave—that is, refraining from interfering is no longer taken as tacit consent. Whether tefillin are mentioned as tefillin or as paradigms for active religious participation, the conclusion is the same: tefillin are the province of a *social* elite, the free person, and not simply a rabbinic elite.

Two other categories of people are temporarily exempted from tefillin (setting aside those who are exempted by virtue of eating, sleeping and other physiological processes). These are the bridegroom and the mourner. A baraita says that a bridegroom (and, perhaps, the rest of his

[273] Ibid., 308.
[274] b. Git 39b-40a.
[275] b. Git 40a, b. Ket 28b.

celebratory party) "is exempt from tefillah and tefillin, but not from reciting the Shema."[276] A mourner is also temporarily set aside from society, and exempted from Shema, tefillah, and tefillin.[277] As the mourner re-integrates into society, he puts his tefillin back on, but there is much tannaitic disagreement as to when exactly it is proper to start wearing them—perhaps it is all right to wear them during the first days of *shiva*, or perhaps it is not, or perhaps one can wear them but one should take them off when new visitors arrive.[278] On the one hand, the mourner occupies a place outside ordinary society. On the other hand, without generalising overmuch about the psychological state of mourners, if tefillin were a regular aspect of one's daily piety, it would make sense to want to return to wearing them. A recurring baraita specifies that a mourner (after the funeral, that is) is obligated in all the mitzvot of the Torah *except* for tefillin.[279] There is an exegetical reason, but there is probably a social reason. Something about the state of wearing tefillin is inherently incompatible with the state of mourning.

This all established that tefillin are, broadly, the province of free adult males unencumbered by physical considerations or especially strong emotion. Another category of exempt people is more unexpected: that of people *engaged in mitzvot*.

The principle is that someone occupied in the performance of one mitzvah is exempt from other mitzvot, which helps to keep religion from being too dysfunctional. Having to make decisions about priorities can have unfortunate results: "Who is an idiot pietist? Someone who sees a child drowning in a river, and says 'I will save him when I have taken off my tefillin,' and in the

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[276] b. Suc 26a.
[277] m. Ber 3:1.
[278] b. MK 21a.
[279] b. Ber 11a and 16b; Ket 6b; MK 23b; Suk 25a. y. MK 3:5.

meantime, the child died."[280] So a bridegroom, engaged in the mitzvah of getting married, is not expected to keep a careful eye on prayer-times in order to break off and pray. Relatedly, "Rabbi Hananiya ben Akiva says that anyone involved in the work of heaven, including writers of sefarim, tefillin, and mezuzot, their dealers, and *their* dealers, including even people who make tekhelet, are exempt from kriat shema, tefillah, and tefillin."[281]

This is a rather strange exemption. It makes a certain amount of sense to let the bridegroom be exempt from wearing tefillin, but why would a scribe, or a dealer in ritual items, need to be exempt? It may be explained as simply a logical extension of the concept, certainly. Wearing tefillin is one way of embodying commandments and *doing* commandments is another way of embodying them. However, a more intriguing explanation is that of Ginzberg, who suggests that the exemption solves a societal problem.[282] He proposed that most people were not actually wearing tefillin, including pious rabbinic figures and other worthy people engaged in the religious service of the community. However, tefillin were, increasingly, markers of piety, and it was rather jarring that apparently-pious people were not wearing tefillin. Accordingly, a rule like "anyone engaged in commandments or communal service is exempt from tefillin" would conveniently explain why a community worthy would not be wearing tefillin: he would technically be exempt.[283] This interpretation relies on a societal expectation that tefillin and piety are correlated, but we do have a number of indications to that effect, which are the subject of the next section.

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[280] y. Sot 3:4.
[281] b. Suk 26a.
[282] In his commentary to the Yerushalmi, Ber. 2:3.
[283] See also t. Ber 2:6, in which writers of sefarim, tefillin, and mezuzot are enjoined to pause work to recite the Shema, but not necessarily so enjoined for tefillah. A similar disinclination to break for prayers is attributed to Rabban Gamliel and the court in Yavneh, when they were engaged with communal needs.

Section 8: Tefillin and piety

Correlations between tefillin and piety

Various sources, tannaitic and amoraic, make it clear that there is a rabbinic in-group of Jews who do Judaism as the rabbis would approve, and an out-group, of Jews whose practice leaves something to be desired.[284] Unlike some religious groups in antiquity, the rabbinic group did not have clearly-described entry criteria, so we find many different opinions as to what sort of behaviour disqualifies someone from the in-group—"Who is an *am ha-aretz*?" Some tannaitic criteria are: failing to recite the Shema and its rabbinic blessings twice daily; not wearing tzitzit or tefillin; not having a mezuzah on the door; failing to teach one's children Torah. The criteria are not exclusively ritual, as "not wearing shoes" is also included, which seems to be more a marker of class.[285]

These criteria all come from different teachers; it is not a centrally-issued list of agreed criteria. For some, not wearing tefillin marks a person as an *am ha-aretz*, an ignoramus, a member of the out-group. But for some, the tefillin apparently don't matter as much as, for instance, having a mezuzah, or reciting the Shema. This would explain the sources which explain tefillin not as a basic criterion of Jewish acceptability, but as a source of additional merit. These sources are mostly amoraim explaining why they deserve heavenly merit, and diligent tefillin-wearing features alongside eating three meals on the Sabbath, covering the head, not walking in front of one's superiors, not napping in the study house, and not enjoying other people's misfortune. The sense here is more of going above and beyond. The amoraim also add a broader subjective

[284] And who significantly outnumber the in-group, see Hillel Newman, "The Normativity of Rabbinic Judaism: Obstacles on the Path to a New Consensus," in *Jewish Identities in Antiquity*, ed. Lee I. Levine, Schwartz, Daniel R. (Tübingen, DE: Mohr Siebeck, 2009), 166.
[285] b. Ber 47b; b. Sot 22a; b. Pes 113b.

aspect: in order not to be an ignoramus, it is necessary to know Scripture and Mishnah and to behave like the Torah scholars do.[286]

As we saw earlier, extensive tefillin-wearing is one of the ways the hyperbolic piety of Beitar is expressed, and the verse *And all the peoples of the earth shall see that the Lord's name is proclaimed over you* describes public piety and is associated with the head-tefillin.

Another story shows that tefillin were sometimes, at least, associated with particularly pious people: a man deposits a valuable item for safekeeping with a tefillin-wearing fellow, but when he returns, the item is gone and the tefillin-wearing fellow denies ever having had it. "I did not trust you," the victim says, "but that which is on your head."[287] The story is cited by a Palestinian amora as an example of a broader societal problem. Sin you expect, but sin *from someone wearing tefillin* is especially jarring. There is a similar juxtaposition in Pesikta Rabati, which talks about someone who puts on a tallit and tefillin and goes forth to sin—the combination is meant to be shocking.[288]

In Roman Palestine, the rabbinic elite was integrated into society, far more than in amoraic Bavel, interacting with non-rabbinic Jews on a regular basis.[289] In Bavel, the social model of centre and periphery was much more sharply divided: the rabbis segregated themselves into the world of the study house and they perceive a far greater distinction between themselves, at the

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[286] b. Shab 118b; b. Taan 20b; b. Yoma 86a; b. Meg 28a; b. Suk 28a.
[287] y. Ber 2:3.
[288] Pesikta Rabati is a composite work of unclear provenance (Strack 326-329); this might be amoraic or geonic. The passage is in section 22.
[289] Richard Lee Kalmin, *Jewish Babylonia between Persia and Roman Palestine* (New York: Oxford University Press, 2006), 35.

centre, and other Jews, at the periphery.[290] It is in Babylonian sources we see the greatest concern with tefillin as an indicator of status.

To take a systemic example, the procedure for taking an oath, as outlined by the Bavli, involves holding a sacred object in one's hand whilst making the oath. What counts as such a sacred object? In particular, can one make an oath on his tefillin? "Rav Pappa says that if an oath was administered on tefillin, it is invalid, and must be redone"—so in general, tefillin are not sufficiently awe-inspiring to anchor an oath. But special rules apply to Torah scholars. "One takes an oath standing up, but a Torah scholar may sit"—presumably because a Torah scholar comes with a ready understanding of the gravity of the oath, and does not need the experiential emphasis of being made to stand. Likewise, "One takes an oath with a Torah scroll, but a Torah scholar may instead take the oath on tefillin." For the Torah scholar, the tefillin are as significant as the Torah scroll, but for the ordinary person, the tefillin apparently do not inspire any particular religious respect.[291]

The Torah scholar evidently has special regard for tefillin. In the opposite direction, tefillin apparently create the regard of a Torah scholar, and serve as proof of a kosher state of mind. We saw a hint of this in the Yerushalmi, where the phenomenon was being abused by a person who put on tefillin and then stole the thing entrusted to him. The Bavli provides several explicit examples. For instance, there is a tanaitic principle that one is not supposed to cut past the back of a synagogue while prayers are in session, because it gives the impression of wilfully skipping communal prayers.[292] The Babylonian discussion expands: if someone is, for example, carrying a load, there is obviously a good reason he is not at prayers: he is clearly working. Likewise, if

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[290] *The Sage in Jewish Society of Late Antiquity*, 2.
[291] b. Shev 38b.
[292] b. Ber 8b.

someone is running, there is obviously a good reason he is not at prayers: he is clearly urgently required elsewhere. Finally, if someone is wearing tefillin, there is obviously a good reason he is not at prayers. The reason is not specified, but *clearly* someone who wears tefillin would not skip communal prayers. Tefillin are the evidence of good intentions.

Two stories about amoraim show another way tefillin function socially as evidence of a kosher state of mind. Abaye was sitting in front of Rabba and behaving frivolously, and Rava rebuked him. Abaye protested "I am wearing tefillin!" A similar story is recorded of Rabbi Yirmiyah and Rabbi Zeira; Rabbi Zeira protests the rebuke for his frivolous behaviour with "I am wearing tefillin!"[293]

In contrast to the earlier sources which needed to create a formal exemption for people engaged in holy work from wearing tefillin, these are sources which display a base expectation that a Torah scholar wears tefillin. As Richard Kalmin has shown repeatedly, the social atmosphere in rabbinic Bavel was rather different from that of Palestine: society was much more hierarchical, there was much less social mobility, and the rabbinic class was decidedly self-contained. Further, for the Babylonian rabbis, "Torah study was the *summum bonum* of human existence. For Palestinian rabbis, Torah study was only one among many important religious observances and practice..."[294] To the extent that tefillin-wearing embodies the Torah, it is understandable that an emphasis on tefillin would be more evident in Babylonian sources. An expectation develops that a Torah scholar will be wearing tefillin, and that tefillin identify a Torah scholar.

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[293] b. Ber 30b. The usual caveats apply: these might be the same story with different names, they might not be stories about real events, and so on. However, they are here in the literary corpus because they were considered to convey a useful message, by some people, at some point. The pair involved might also be the Babylonian amoraim Rav Yirmiyah and Rav Zeira; see *Dikdukei Sofrim*.
[294] Kalmin, *Jewish Babylonia between Persia and Roman Palestine*, 35.

The Bavli has a story, most likely amoraic, about a Torah scholar of practically-unimpeachable virtue who died young.[295] His distraught widow took his tefillin around to the synagogues and study-houses, asking "It says *It shall be your life and the length of your days* [the Torah; Deut. 30:20]; my husband studied much Mishnah and read much Torah and served many Torah scholars, so why did he die halfway through his life?" Here the tefillin apparently serve to identify her late husband as a Torah scholar. Without the tefillin, presumably her claim that he studied a meritorious amount of Torah would not have been so compelling.

Another story concerns rivalry between the yeshiva of Sura and the yeshiva of Pumbedita. In a virtuoso display of halakhic one-upmanship, Rami bar Tamri of Pumbedita visits Sura and behaves in various inappropriate ways, to shock Rav Hisda of Sura. All the acts, in the end, turn out to have a clever halakhic justification. One of the things Rav Hisda is shocked by is Rami bar Tamri's not wearing tefillin. "I have a stomach upset," says Rami, to explain why he isn't wearing them.[296] Again, tefillin are the expected marker of a Torah scholar.

Christian art also attests that tefillin are markers of engagement with Torah. Byzantine religious art often needs to identify particular figures in a story as Jews, for typological reasons—illustrating differences between Christian and Jew, New and Old Testaments was a major concern of this sort of art.[297] Elisabeth Revel-Neher has shown that tefillin are used to identify Jewish figures iconographically, in contexts where the difference between Jew and Christian is important. The eighth-century Codex Amiatinus (fol. 5r) depicts Ezra, engaged in scribing the

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[295] b. Shab 13a. The story is from the תנא דבי אליהו corpus, which according to Strack (p. 369) most likely has Babylonian amoraic roots. The value of serving Torah scholars is particularly Babylonian.
[296] Recall the greater efforts made by Rabbi Yehuda haNasi, whose efforts to maintain his tefillin despite his stomach upset aroused the compassion of his caregiver.
[297] Christopher G Hughes, "Art and Exegesis," in *A Companion to Medieval Art: Romanesque and Gothic in Northern Europe* (2010).

Law. A halo identifies him as holy; tefillin identify him as the embodiment of the Old Testament. Other manuscripts show tefillin on Moses, on Aaron, on priests.[298] A manuscript of the Christian Topography shows the father of John the Baptist, representing the Old tradition which the Baptist would transform, wearing tefillin.[299] Over and over again, tefillin indicate the holiest characters in an Old Testament scene, or characters who typologically embody the Old Testament.

The earliest surviving illustrations date from the eighth century, but the prototype likely evolved in the sixth century, only a little time after the latest amoraim, when Byzantine typology went through a period of innovation.[300] The typographers needed a visual marker for Jews embodying the Law, and tefillin were the marker they found among the Jews known to them. This is not to say that *all* Jews known to the Byzantine Christians were wearing tefillin. Given the evidence above, it is much more likely that only *some* Jews were wearing tefillin. The typographers needed a way to represent Jews engaged in holiness, and they chose tefillin because among Jews and non-Jews both, in the late amoraic and early geonic periods, tefillin were the marker of piety. Wearing the Bible still embodied it.

Guf naqi: standards for wearing holiness

We have seen that tefillin were apparently a practice of the rabbinic elite, in the Hezserian sense—something that the more-engaged elements of the society tended to do. As rabbinic society evolved, it made certain assumptions and conferred certain privileges on its elite, regarding trustworthiness and good intentions and so on. Privilege tends to want to guard itself,

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[298] Revel-Neher, *The Image of the Jew in Byzantine Art*.
[299] "By Means of Colors," in *Jews in Byzantium : Dialectics of Minority and Majority Cultures*, ed. Robert Bonfil (Leiden ; Boston: Brill, 2012), 509-10.
[300] *The Image of the Jew in Byzantine Art*, 58.

so we might ask: if wearing tefillin has become strongly correlated with being a member of a rabbinic elite, are there societal mechanisms in place for guarding against interlopers, people who might put on tefillin without really deserving them? It appears so.

The Bavli has a long, curious story about a tefillin-miracle granted to one Elisha.[301]

> It is taught in a baraita: Rabbi Shimon ben Elazar said, Mitzvot which Israel observed even in the face of the death penalty, like idolatry and circumcision, those ones are still strong in their hands. And all mitzvot which Israel did not observe in the face of the death penalty, like tefillin, those ones are still weak in their hands. As Rabbi Yannai said, tefillin need *guf naki*, like Elisha of the wings. What does that mean? Abaye says: one does not pass wind in them. Rava says, one does not sleep in them. And why is he called Elisha of the wings? Because one time the wicked kingdom of Rome made a decree against Israel, that anyone who wore tefillin would have a spike put in his head. And Elisha wore his tefillin and went out in public. A soldier saw him, and he ran away, and he ran after him. When he [the soldier] caught up with him, he [Elisha] took them off his head and held them in his hand. He said to him, what's that in your hand? He said to him, Dove's wings. He opened his hand and there were dove's wings. And so they called him Elisha of the wings. And why are dove's wings different from other birds? Because Israel is like a dove, and as the wings guard the dove, the mitzvot guard Israel.

A full analysis of this passage is beyond our present scope, but parts of it and its parallels in the Yerushalmi suggests some interesting things about tefillin-culture in the amoraic period. We will leave aside the questions of historicity here—which period it is set in, whether there was ever

[301] b. Shab 130a.

any such decree, whether the Elisha character is real or legendary—and look at some of the underlying ideas.

Comparison with the parallel passage in the Yerushalmi shows that the Bavli passage is stitched together from a number of disconnected ideas. The main themes in the Bavli story are: a) Israel are not strong about observing tefillin. b) Tefillin need *guf naqi* (a clean body) like Elisha of the wings. c) Clarifying section about what *guf naqi* means. d) Miracle story of Elisha and the wings.

We saw above that tefillin were probably not especially widely observed through the talmudic period, given that rabbinic influence was somewhat limited, the extent of the exemptions—there were a great many reasons concocted to excuse worthy people from wearing tefillin—and the correlation of tefillin-wearing with the more observant. In this passage we have direct evidence, in the form of a lament from within the society, that tefillin is a practice Israel are not especially vigilant about, unlike core Jewish practices like avoiding idolatry and performing circumcision. Classical authors attest that Jewish habits like circumcision were widespread; and there is very little external evidence for tefillin, as we would expect for a marginal practice.[302]

The story associates *guf naqi* and Elisha of the wings, seeming to imply that Elisha merited a miracle because he was so good at keeping a clean body. However, there is actually no indication in the story itself of how Elisha carried out *guf naqi* so exceptionally as to merit a miracle. It seems that the two elements, *guf naqi* and Elisha of the wings, were originally unrelated. The Yerushalmi says "Rabbi Yannai says, tefillin require a clean body," and somewhat later says "In the south, they say anyone who is not like Elisha of the wings should not wear tefillin."[303]

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[302] Cohen, "Common Judaism in Greek and Latin Authors."
[303] y. Ber 2:3. *In the south* means the south of Israel, according to Ginzberg.

One would think, given the enormous amount of discussion the tannaim devoted to the parameters of wearing tefillin in all conceivable circumstances, that "Tefillin require a clean body" would not need repeating by a Palestinian amora. Rabbi Yannai's full statement, as presented by the editor of the Yerushalmi, is "Tefillin require *guf naki*. Why are people not reliable about it? Because of the deceivers. There was a case of a man who left a deposit with his fellow, and he denied having it, and he said 'I did not trust you but those things on your head.'" *Guf naqi* is apparently more about internal than external cleanliness. As Ginzberg notes in his commentary to this section, a *clean* body is strongly associated in the Yerushalmi with a [ritually] *pure* body, and with a *holy* body. Tefillin-wearing should not be sullied by immoral behaviour; it should exemplify holiness. Rabbi Yannai also apparently only wore his tefillin in the three days after having been ill, because the sickness would cleanse him, in relation to the verse *He will forgive all your sins and heal all your ills* (Ps. 103.3). This is another link between tefillin-wearing and being spiritually clean, so to speak.

What, then, of Elisha of the wings? The Hebrew term is בעל כנפים, which literally means "master of wings" but, as Lieberman shows, is also a term referring to ritual purity of hands.[304] The laws of ritual purity, strictly speaking, only applied in the Temple, but as purity is a desideratum there would always be people who would try to observe it as much as possible, in the Temple or outside. The *hoi polloi* could not be assumed to be careful about transmitting ritual impurity, and so a fellowship formed of people who *could* safely be assumed to be observing the laws.[305] The fellows were the *haverim*; all others were *am ha-aretz*. The Qumran group was a similar

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[304] t. Dem 2:11, in Saul Lieberman, *Tosefta Kifshuta* (Jewish Theological Seminary of America, 1992). For instance, y. Nazir 6:9 has תורת הנזיר בין שיש לו כנפים בין שאין לו כנפים, which b. Nazir 46b restates as תורת הנזיר בין שיש לו כפים ובין שאין לו כפים.

[305] Chapter 2 of Aharon Oppenheimer, *The `Am Ha-Aretz: A Study in the Social History of the Jewish People in the Hellenistic-Roman Period* (Leiden: E.J. Brill, 1977).

fellowship, but they chose to remove to the desert. The fellowship of *haverim* remained among the ordinary people, and developed a code of behaviour expected of their members.[306] Membership was attained in stages, and the first stage was committing to maintaining purity of hands, *knafayim*.[307] In the last years of the Second Temple, and the first years after its destruction, it would have been possible to ask "Who is an *am ha-aretz*? One who is not *baal knafayim*."

"Anyone who is not like Elisha *ba'al knafayim* should not wear tefillin"—perhaps that is to say that only *haverim*, and people on the *haver* entry track, should wear tefillin. Tefillin and *haverim* are associated once by a tannaitic source, which talks about a woman who married a *haver* and used to tie tefillin on his arm; then she married a tax-collector, and helped him with his tax-collecting equipage.[308] However, this is only one source, and since the symbolism is the point of the narrative, it is more liable to narrative distortion than sources where the tefillin are incidental. Neither Mishnah nor Tosefta, when describing the entry stages for the fellowship, mention tefillin, so we should not take the Elisha *ba'al knafayim* story as indicating a formal requirement, but rather an expressed wish that people who were not at least minimally concerned with ritual purity should refrain from wearing tefillin.

The importance of ritual purity for Jews declined with temporal and geographical distance from the Temple, and Torah study came to take its place as the central defining issue of Jewish life. The *haverim* had always been defined, socially, as an in-group contrasted against the *am ha-aretz*, who did not care to engage in the level of ritual purity of the *haverim*; as Torah study

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[306] Jacob Neusner, "The Fellowship in the Second Jewish Commonwealth," The Harvard Theological Review 53, no. 2 (1960): 129.
[307] The Mishnah and Tosefta, in Demai, outline different behaviours expected at different stages of membership.
[308] t. Demai 2:17, b. Bech 30b.

became more important as a day-to-day concern than ritual purity, the nature of the in-group slowly changed.[309] Thus the literature reflects two types of *am ha-aretz*, of ignoramus: the ignorant of *mitzvot*, i.e. of ritual purity, and the ignorant of *Torah*. When rabbinic sources ask "Who is an *am ha-aretz*?" the answers, as we saw above, are mostly connected with Torah study, and describe an *am ha-aretz* of Torah. [310] However, the supplantation process was gradual, and there would have been a considerable time where the two in-groups coexisted.[311] There was a fair amount of overlap, such as when the scholar Resh Lakish comes to Rabbi Yannai and says "I am an *am ha-aretz* as regards ritual purity."[312] He was not an *am ha-aretz* regarding Torah, just of ritual purity. Likely in some places, particularly in Israel, there were groups which were concerned with *both* ritual purity *and* rabbinic interpretation of Torah; perhaps such a group would think that tefillin-wearing ought to correlate with both a commitment to ritual purity and a commitment to Torah learning, which itself comes with certain expectations, including not stealing things people give you to look after.

So the Elisha *ba'al knafayim* story in the Bavli combines several elements found separately in the Yerushalmi. There is the idea that certain people, the deceivers, ones who cannot behave decently, should not wear tefillin (and sully the good name of those who do). There is the old idea that tefillin should be kept clear of general filth, and this is extended (perhaps euphemistically) to moral filth. There is a cultural awareness that tefillin are associated with Torah scholars, and a lingering impression that perhaps Torah scholars who are not particular

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[309] Oppenheimer, *The `Am Ha-Aretz: A Study in the Social History of the Jewish People in the Hellenistic-Roman Period*, 66.
[310] Ibid., 97.
[311] Ibid., 114.
[312] y. Demai 23a.

about ritual purity are slightly second-rate; perhaps tefillin ought only to be the privilege of the very most meritoriously holy people.

This does not assume the level of a systemic prohibition, or anywhere close to one. Amoraic sources do not explicitly say that tefillin-wearing should be reserved only for rabbinic elites; as a commandment of the Torah, tefillin-wearing was nominally open to all, and Rabbi Shimon ben Elazar could lament that more people were not practising it. However, it is undeniable that tefillin-wearing, by the amoraic period, conferred systemic privilege (albeit probably quite a minor one, in the grand scheme of things), and it is not surprising that in the latest, editorial, layer of the Bavli we should find the first hints of a desire to keep it exclusive. In later centuries, such ideas would become far more explicit.

Section 9: Exclusivity and egalitarianism: the early Middle Ages

This section explores the post-rabbinic period, into the Middle Ages.

In the fullness of time, amoraic Bavel gave way to geonic Bavel. Rabbinic culture was centred in the yeshivot of Sura and Pumbedita, whence authority and authenticity were conveyed to the surrounding communities. In the world of the geonim, as for the amoraim, most Jews simply were not wearing tefillin, and those who were wearing tefillin seem to have been in the yeshivot or (presumably) part of the more engaged core.

For instance, we have a responsum in the name of the ninth-century gaon Sar Shalom which describes the practice of the two yeshivot of Sura: they would wear their tefillin all day, including during twilight, and they would generally take them off during the third paragraph of

the Shema at evening prayers.[313] However, if circumstances precluded—the prayer leader was going too fast, or it was not safe to put the tefillin down—they would leave them on throughout the Amidah.[314] The possibility of its being unsafe to put the tefillin down suggests that at least sometimes, this tefillin-wearing was happening outside the yeshiva (since presumably it would be safe to put the tefillin down inside the yeshiva), although we can't say whether this is because yeshiva people were wearing tefillin abroad or because non-yeshiva people were wearing tefillin. So the yeshiva people were wearing tefillin, all day long. What of others?

A responsum, possibly tenth-century, pieced together by Emanuel from multiple sources, looks nostalgically back on the good old days of amoraic Bavel when everyone wore tefillin (which, as we know, was not actually the case):

> In the early days in Israel, people were not able to lay tefillin because of the persecution, so they forgot about them...[but] in Bavel, many were diligent, especially our rabbis, who sat in the study halls, and there were places where they made tefillin and anyone who wanted could go and buy them...When people came from Israel to here they did not put on tefillin, and when we go from here to there we find people, even leaders and rabbis, who do not lay tefillin, becoming more and more diminished in each generation.[315]

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[313] A. Ben Amozeg, "Teshuvot Hageonim: Sha'arei Teshuvah," (1869, in Hebrew): Section 153.
[314] Robert Brody, *Teshuvot Rav Natroni Bar Hilai Gaon* (Yerushalayim: Mekhon Ofek, Sifriyat Fridberg, 1994), Section 7. Mordecai Margalioth, *Halakhot Ketsuvot Meyuhas Le-Rav Yehudai Gaon* (Yerushalayim: Hevrat le-Hotsaat sefarim `al yad ha-Universitah ha-`Ivrit, 1942), Laws of Tefillin, sec. 16.
[315] Simcha Emanuel, *Newly Discovered Geonic Responsa* (Jerusalem: Ofeq Institute, Friedberg Library, 1995), section 161. According to Emanuel, the original responsum may have been from Rav Sherira Gaon to Rav Shmuel haCohen bar Yeshiyahu in Fez.

The contrast with the sorry state of Israel probably says more about competition between the Babylonian and Palestinian academies than it does about accurate historical circumstances.[316] The point here is that, in the opinion of the gaon, nowadays even in Bavel people aren't wearing tefillin as much as previously. This responsum seems to have been in answer to a diaspora yeshiva, which had written to the yeshiva in Pumbedita because it was a simple fact that most people in the questioner's community did not wear tefillin at all, but a small number of students wanted to wear tefillin. How can we make peace with the fact that most people are not bothering to wear tefillin? asks the questioner. What of the small minority who are interested? Are they showing off, and should they be suppressed? Or should we prioritise the performance of a mitzvah over communal norms? The answer is one of official encouragement: it is a matter of concern that people are not wearing tefillin. People should be encouraged, and wanting to wear tefillin should not be counted as arrogance.

This sounds terribly egalitarian. A similar sentiment is found in Saadia Gaon. Zucker quotes Saadia Gaon's commentary to Exodus 13:9, in which Saadia apologises for going into too much detail about the mitzvah of tefillin, but he sees that people today are not very particular about doing the mitzvah.[317] He would like that to change. This commentary was innovative because it was written in Arabic, for a target audience of Arabic-speaking non-yeshivah Jews: Saadia (882-942) worked to bring the Bible, and Judaism generally, to a broader audience.[318] Taking time to explain tefillin is perhaps a manifestation of that project.

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[316] See Robert Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven: Yale University Press, 1998), 115.
[317] Moses Zucker, *Rav Saadya Gaon's Translation of the Torah* (1959), 203 n. 794.
[318] Talya Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, Jewish Culture and Contexts (Philadelphia: University of Pennsylvania Press, 2011), 54.

However, things were not so simple. The tension between outreach and elitism we saw in the previous section had not dissipated. The fact was that by and large, only people who were particularly engaged in rabbinic life wore tefillin, and so tefillin-wearing on the whole came—slowly, unconsciously—to signify someone rather special, learned and worthy; at least to those who were interested in the rabbinic perspective! It would be only human for tefillin-wearers to feel that unworthy people ought not to wear tefillin. Another responsum shows this principle being unapologetically applied in the yeshiva: less-worthy people quite simply wear less tefillin: "It was a custom in the yeshiva that the students would have small tefillin, no bigger than a finger-width, and they would lay a kerchief over them. The important rabbis would make them big, three finger-widths wide, so that their students shouldn't be equal to them..."[319] The questioner had asked: if a student doesn't have any student-size tefillin, should he wear a pair of rabbi-size tefillin, or is this unconscionable arrogance and should he simply not wear any tefillin? The answer given is that officially tefillin are a mitzvah, and therefore the student should wear the rabbi-size tefillin rather than no tefillin at all. However, that the question had to be asked at all is obviously significant. The social signals conveyed by wearing the wrong sort of tefillin plausibly outweighed, in the mind of the questioner, the obligatory nature of the ritual.[320] It was conceivable that it would be better not to wear tefillin than to appear to ape undeserved authority.

The late geonic sources also start to describe minutely how to make tefillin-casings and parchments, and reveal many fascinating issues with obtaining the approprite materials, but sadly a full examination of the material culture of tefillin in the geonic and medieval periods is beyond

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[319] Jacob Mussafia, *Teshuvot Ha-Geonim* (Lik: Hevrat "Mekitse Nirdamim", 1864), section 3.
[320] The echo of the gospel of Matthew is striking, since Matthew had railed against the idea that people should present as importantly pious by making bigger, broader tefillin.

our present scope. We shall leave this fascinating corpus aside and pursue the social narrative into Medieval Europe.

Ephraim Kanarfogel in his article *Rabbinic Attitudes toward Nonobservance in the Medieval Period* said: "Several Ashkenazic sources focused on the fact that people had stopped wearing tefillin for the entire day, which had been the preferred practice."[321] The *entire day* aspect of this is the more novel (at some point, tefilin-wearing became an aspect of morning prayers, rather than a day-long observance), but Kanarfogel's focus moves to the theme of general neglect of tefillin, in that participation in the ritual was low.[322] As Elisheva Baumgarten notes, "Most contemporary scholars have also assumed that all medieval Jewish men performed these customs, per the norms of Orthodox men today. However, medieval evidence does not support that hypothesis."[323] To bring a few examples of many, Sefer Hasidim, from the Rhineland of the late twefth or early thirteenth century, evokes a context where wearing tefillin is decidedly unusual. The pietist wishes to wear tzitzit and tefillin just as he wishes to refrain from gossip and frivolity, but he refrains out of shame; people in his community humiliate him such that "his blood turns to water from embarrassement."[324] Tosafists (working between the twelfth and fourteenth centuries, in northern France and Germany) rather defensively point out that someone engaged in Torah study is, technically, exempt from wearing tefillin;[325] and explain that it's no surprise that our communities are not punctilious about wearing tefillin, since even the Sages had

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[321] Ephraim Kanarfogel, "Rabbinic Attitudes toward Nonobservance in the Medieval Period," Jewish Tradition and the Nontraditional Jew): 7-8.
[322] He does note that geonic and talmudic sources also deal with nonobservance, but not in detail; his focus is medieval Europe.
[323] Baumgarten, *Practicing Piety*, 142.
[324] Reuben Margaliot, *Sefer Hasidim* (Jerusalem: Mosad ha-Rav Kuk, 1969), sections 10 and 40.
[325] Tosafot, Rosh haShana 17a, s.v. "*Karkafta*."

the same problem.[326] Spain and Provence had similar issues, whole regions where nobody at all wore tefillin.[327]

Baumgarten's study of piety over the course of the Middle Ages identified a general shaping of common piety towards increased ritual-halakhic observance; amongst other rituals, she shows that tefillin-wearing became popularised during the thirteenth century.[328] The default expectation for tefillin shifted from being something that only a few people were expected to do, and became much more broadly applicable. Some leadership elements constructed halakhic justifications to explain why regular people weren't putting on tefillin[329]; other leadership elements put their energies into going forth and preaching observance, on this subject and many others. Kanarfogel mentions R' Moses of Coucy (amongst others[330]), who made it his business to go about to different communities and persuade them to take up tefillin-wearing. He was apparently rather successful, convincing thousands of Jews in Spain in 1236 alone.

By the fourteenth century, participation in tefillin-wearing had extended beyond its original field of rabbinic elites, and had broadened to include a greater proportion of Jewish men, and to some extent also women. When status markers are made accessible to more people, there is inevitably pushback. Compare the expansion of talmudic learning in this period and Shmuel haNagid's

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[326] Tosafot, Shabbat 49a, s.v. "*Ke-Elisha."*
[327] Kanarfogel, "Rabbinic Attitudes," 10-11. Spanish Jews were influenced by the study of philosophy, so the tefillin-verses were often taken metaphorically, or metaphysically, rather than literally—see note 17 in Kanarfogel for extensive citations.
[328] Baumgarten, *Practicing Piety*, 149.
[329] Pesachim 113b may say that someone who does not wear tefillin is barred from heaven, but people who don't even *own* tefillin, Tosafot are particular to explain, are not sinners. Shabbat 49a says that Israelites who sin with their bodies are the ones who don't lay tefillin, but the Tosafists carefully limit this to people who don't lay tefillin specifically because of rebelliousness and from a desire to shame the mitzvot. This suggests the existence of a larger group of people who are not laying tefillin for other reasons, whom the tosafists do not wish to write off as bad Jews. A further innovation of the period was to suggest that perhaps the ritual was just too complicated and that people were not doing it more or less out of confusion.
[330] Kanarfogel, "Rabbinic Attitudes," 9-11, and particularly notes 16 and 19.

bitter reaction in the poem *Ha-yirhav ha-zeman*—the poet's characterisation of the new generation of Talmud scholars as lowing like cattle in a barn, bobbing up and down like lulavs, is memorably pointed. This is not a man who is pleased that Jews on all levels have access to some form of Talmud study; this is a man who sees democratisation gone too far.[331] In another realm of Jewish experience, increasing synagogue involvement among women was accompanied by an increasingly widespread and strict expectation that menstruating women detatch themselves from synagogue involvement.[332] Likewise, as more women engaged in rituals from which tradition considered them exempt—lulav, tefillin and the like—there was an increasingly vigorous debate about whether they should be allowed to pronounce a ritual benediction to which they were not, strictly speaking, entitled.[333]

We focus now on sources which limit particpation in tefillin-wearing specifically.[334] The earliest and most explicit is the geonic work *Shimusha Rabba:*[335] "a person is not fit to wear tefillin unless he is someone who can read Torah, Prophets and Writings." Specifically, he must be able to construe one verse each from Genesis, Prophets and Samuel, and Writings and Psalms; and eight sections of Talmud.[336]

Later sources are more general in their reservations. Sefer haHinuch, a thirteenth-century work composed by a member of the HaLevi family in Barcelona,[337] is generally in favour of

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[331] Fishman, *Becoming the People*, 78.
[332] Baumgarten, *Practicing Piety*, 29.
[333] Ibid., 15.
[334] With due acknowledgement to Judah Galinsky of Bar-Ilan University and his talk of November 24 2014, at Yeshiva University. https://www.academia.edu/9794457/Revel_Talk_Aspects_of_Thirteenth-Century_Jewish_Lay_Piety_
[335] The work is known only in quotation in the thirteenth-century work of Asher ben Yehiel, at the end of *Halakhot Ketanot, hilkhot tefillin*. It is printed in Benjamin Lewin, *Otzar Hageonim*, vol. 5: Megilah, Ta'anit, and Rosh haShanah (1928), 29 n. 21.
[336] David M. Goodblatt, *Rabbinic Instruction in Sasanian Babylonia* (Leiden: Brill, 1975), 79.
[337] Israel Ta-Shma, "The Real Author of Sefer Hahinukh," Kiryat Sefer, no. 55 (1980, in Hebrew).

encouraging people to put on tefillin, but HaLevi records encoutering a certain opposition: "there are people who are particular about the commandment and who tell the common people they should not do it, and perhaps their intention is good, but the effect is to prevent people from doing commandments and that is a grave problem."[338] Another thirteenth-century author, Isaac ben Moses of Vienna, says that it is appropriate for all fit [*kasher*] people to put on tefillin.[339] This might simply mean that non-Jews ought not to put on tefillin; on the other hand, his Catalan contemporary Menahem ben Solomon Meiri commented: "One who wears tefillin must be clean from sin and from bad thoughts, lest he thereby desecrate the name of heaven, in being a wicked person in the form of a righteous one."[340] Some went as far as to say that tefillin should be the exclusive domain of adult, married, men, since children were too frivolous and unmarried men too liable to impure thoughts.[341]

To be clear, nobody is saying explicitly "We, the members of a religious elite, are not thrilled that the proportion of the population identifying as members of our elite group is expanding, and we are seeking to find other ways of restricting membership in our elite." Broad social currents are rarely articulated thus. But there is a definite trend towards excluding children and women from various types of religious obligations, at the same time as there was increased interest amongst less-elite sections of society in participation.[342] The situation is a difficult one. Tefillin-wearing, as presented by the Talmud, is a commandment which ought to be open to all Jews, or at any rate to all non-female Jews possessed of a minimal level of self-control. On the other

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[338] Charles Wengrov, *Sefer Ha-Hinukh* (Yerushalayim; Nyu York: Feldhaim, 1978), commandment 421. He also says of women "if they want to lay [tefillin], we don't stop them."
[339] Isaac ben Moses, *Sefer Or Zaru'a*, section 531
[340] *Sefer ha-Meiri*, Shab 49a
[341] On children: Moses of Zurich, in *Semak of Zurich*, #150 comment 42 (fourteenth-century). On unmarried boys: R. Jacob b. Moses Moellin, Minhagim, Hilkhot Tefillin, #10 (early fifteenth century).
[342] Elisheva Baumgarten, *Mothers and Children: Jewish Family Life in Medieval Europe* (2004), 91.

hand, tefillin had, for several hundred years, been strongly correlated with only the most observant and the most pious, and expanding their user base was a change not everyone was comfortable with.

Ultimately, Jewish society found a resolution to this tension in the concepts of *hidur mitzvah* and *hibur mitzvah*—elevated ways of performing various rituals which indicate that one has taken more care and attention to them than usual. There had always been people who wanted to do things more perfectly than anyone else, but by the thirteenth century, "texts regularly note the heightened devotion exemplified by the most prominent and pious members of the community."[343] For the particular practice of tefillin, the tension was partly resolved with the introduction of Rabeinu Tam tefillin (and other varieties) which questioned the order of the parchments within the tefillin. The possibilities were obviously mutually exclusive, so someone who wanted to be particularly certain of doing the commandment perfectly would wear two or more sets of tefillin. Moses of Coucy, who as we saw had preached wide observance of the mitzvah, also preached its societal antidote, so to speak, suggesting that if somebody wished to be particular, he should wear both Rashi-type tefillin and Rabeinu Tam-type tefillin *simultaneously*.[344]

There are very few medieval illustrations of Jews wearing tefillin, and I found only one in a Jewish source, although many other aspects of ritual practice feature in contemporary manuscript illuminations.[345] It is in a late fifteenth-century manuscript copy of Abraham Abulafia's work *Or*

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[343] *Practicing Piety*, 148.
[344] Moses of Coucy, *Sefer Mitzvot Gadol*, positive commandments 3 and 22.
[345] Abraham Abulafia's *Or HaSekhe*l, Vat. ebr. 597 leaf 113r. With thanks to Marc Michael Epstein for the reference. Note also the tekhelet on his tzitzit, which is not usual for medieval depictions of tallitot.

haSekhel.[346] A close examination shows that the man at prayer is wearing two sets of tefillin, side-by-side.[347]

Conclusion

Tefillin started out as an invented tradition, in a culture which valued performative writing. Changing political circumstances resulted in the Bible's authority suddenly broadening, beyond a tiny circle of Temple elites, such that among religious adherents, physically embodying the text was socially and spiritually advantageous. Tefillin were quickly interpreted as an ancient custom, a commandment, although one performed by a small minority of particularly committed Jews. Among those who wore them, they were worn more or less all day long, with pragmatic exceptions. Over the following centuries, tefillin-wearing came to demonstrate embodiment of the values and practices of rabbinic culture, ostensibly the living exemplars of the biblical tradition. Eventually—by the late amoraic period—tefillin-wearing also signified expertise and authority in the Biblical text and rabbinic lifestyle, and tefillin-wearing imparted a certain social status to the wearer, at least in the eyes of those who cared for rabbinic miniutae. These aspects of tefillin culture continued through the geonic period, during which tefillin-wearing was not at all normative, but signified religious authority.

The ritual of tefillin changed significantly in the medieval period, as the main centres of Jewish life shifted away from geonic Bavel and into North Africa, Sepharad, and Ashkenaz. It was more widely practised, but a small elite developed additional forms of tefillin which were worn as an

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[346] Malachi Beit-Arié, *Hebrew Manuscripts in the Vatican Library: Catalogue* (Città del Vaticano: Biblioteca apostolica Vaticana, 2008), 493.
[347] The image may be viewed at https://upload.wikimedia.org/wikipedia/commons/6/6a/Abulafia.png.

extra by the most punctilious. Finally, tefillin were no longer worn all day, but only during morning prayers. We can now hazard an explanation as to why this might be.

Firstly, we might bear in mind that a particular perversion of medieval Western Europe was to force Jews to dress in particular ways, either by distinctive costume items or by affixing tokens of various kinds to ordinary clothes.[348] This did not generally have positive consequences for the Jews so distinguished. In the relative safety of the home or synagogue, a Jew could dress distinctively, with tzitzit and even tefillin, without suffering. But outside, wearing Jewish tokens was an externally-imposed, negative decree. Why make holy items serve the same function? Marcus also noted that in antagonistic Christian contexts, public places were polluting spaces, and there was an old aversion to wearing tefillin in polluted places.[349] Contemporary sources cited anxiety about personal purity. There was certainly an increased concern with purity around this time,[350] but as we have seen, that did not bother the tannaim unduly. The main answer for this sidelining of tefillin, I think, has to do with a broader cultural shift.

The Middle Ages saw the gradual triumph of "textualisation," to use Talya Fishman's term. Slowly and mostly unconsciously, texts in Jewish and Christian cultures "came increasingly to be regarded as bearers of cultural authority," and textualisation affected "virtually all arenas of medieval society and culture."[351] Rabbinic culture had long been heavily oral; indeed, the geonim of Bavel had strenuously resisted the earlier textualisation of the surrounding culture to keep oral culture primary.[352] The individual giving over the text was at least as important as the text: "The overarching conceptual perspective of the geonim was that no text, whether written

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[348] Revel-Neher, *The Image of the Jew in Byzantine Art*, e.g. 102-4.
[349] Marcus, *Rituals of Childhood: Jewish Acculturation in Medieval Europe*, 76.
[350] Baumgarten, *Practicing Piety*, 48.
[351] Fishman, *Becoming the People*, 9, 94, 112, respectively.
[352] Ibid., 34.

(Torah) or oral (e.g., Talmud), could adequately represent the acquired wisdom of a culture's most learned practitioners."[353] Textualisation slowly shifted authority out of the individual and into the written word. Individuals still had authority, certainly, but ultimately the individual was answerable to the text.

And so, in the cultures of the amoraim and geonim, oral performance by someone who embodied tradition constituted a valid text. Authority of a text depended on who gave it, how they presented themselves, what props they used. In the same cultures, we have seen a strong correlation between tefillin-wearing and rabbinic authority. Tefillin seem to have been an element of oral paratext, so to speak—one of the markers of being a rabbi, a necessary accessory for the most authoritative deliveries of a performative tradition.

But when authority resided primarily in the written text, and no longer in the individual and his performance, the oral paratext—cadence, intonation, gesture, and the presentation of the individual—was no longer necessary in the same way.

No ritual has only one axis of significance, and tefillin would not disappear because their function as ancillary elements of a performative culture had been axed. But the ritual adapted. If the original tefillin had been an invented tradition, the tefillin of the modern era are a re-invented tradition. The period around the twelfth century was characterised by ritual innovation (especially in Ashkenaz)[354] and an awareness of historicity, as a result of which religious and secular leadership both concerned themselves with explaining how contemporary circumstances were connected to the past.[355] As we have seen, such circumstances are ripe for the introduction

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[353] Ibid., 44.
[354] Marcus, *Rituals of Childhood: Jewish Acculturation in Medieval Europe*, 6.
[355] Fishman, *Becoming the People*, 119.

of invented traditions. Tefillin kept their essential form and use, but ceased to be day-long symbols of embodied rabbinic authority, limited mostly to the yeshiva cultures. Instead, they became part of more ordinary Jews' basic ritual routines, undertaken daily but only in Jewish space.

The original tefillin embodied fidelity to the commandments of the Bible, but in the medieval world scholars such as Rashbam and Joseph Bechor Shor were able, conceptually, to separate tefillin entirely from the tefillin-verses.[356] They viewed the tefillin-verses as wholly metaphorical yet tefillin as an important commandment. This explicit articulation of tefillin's new role did not become normative, but the modified ritual did.

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[356] Rashbam on Ex. 13:9; Bechor Shor on Num. 12:8, and see David Halivni, *Peshat and Derash: Plain and Applied Meaning in Rabbinic Exegesis* (New York: Oxford University Press, 1991), 170.

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