

# Heresy Without Orthodoxy: Josephus and the Rabbis on the Dangers of Illegitimate Jewish Beliefs

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## Introduction

This paper presents two related arguments regarding the Jewish origins of later Christian heresiology.<sup>1</sup> First, I suggest that an “incipient heresiology,”<sup>2</sup> justifiably comparable to what we find in early Christian sources, can be discerned in Josephus’s works. Second, I put forward evidence—from Josephus and early rabbinic literature—suggesting that earliest Jewish instances of targeted theological condemnation appear independently of any drive toward theological orthodoxy. If either of these arguments proves to be at all compelling, the history of Jewish heresiology—only recently rewritten with an eye toward arguing for Christian influence on Judaism in this respect—may need to be re-written.<sup>3</sup>

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<sup>1</sup> Earlier versions of this paper were presented at the World Congress of Jewish Studies, Jerusalem (August 2013); the Ancient Judaism Workshop, Yale University (November 2013); and the Religion Department Faculty Colloquium, Boston University (March 2014). I benefited from helpful questions, comments, and suggestions raised by those in attendance at each of these readings. I am also thankful for helpful and provocative feedback offered by an anonymous reviewer for this journal. The journal’s editors offered additional helpful advice.

<sup>2</sup> This phrase is used in conscious dialogue with Daniel Boyarin, who speaks of an “incipient” form of orthodoxy among the rabbis: “Rethinking Jewish Christianity: An Argument for Dismantling a Dubious Category (to which is Appended a Correction of my *Border Lines*),” *JQR* 99.1 (2009): 7–36 (esp. 20). Boyarin is at this point of his article offering a brief summary of the thesis of his earlier book, *Border Lines: The Partition of Judaeo-Christianity* (Philadelphia: University of Pennsylvania Press, 2004).

<sup>3</sup> It is Boyarin who has argued most forcefully for Christian influence on Judaism in this respect, especially in *Border Lines*. More recently, Boyarin took one significant step back from his earlier, bolder claim, acknowledging the difficulties of supposing that the influence of Christian heresiology could be felt already in the Mishnah (“Rethinking Jewish Christianity,” esp. 33–36).

As we will see below, Josephus's understanding of ancient Jewish theological diversity was bounded by his fears—not all unfounded—that certain religious beliefs could motivate or justify behavior he considered dangerous. This dynamic emerges already in *Jewish War*, with Josephus's recognition that dangerous behavior could be motivated by certain afterlife beliefs. In *Antiquities*, Josephus also expresses concerns about the Epicurean denial of divine providence. But the dynamic appears most pointedly in Josephus's condemnatory description of Judas the Galilean's rebellious "Fourth Philosophy" (*Ant.* 18.4–10, 23–25; cf. *War* 2.117).<sup>4</sup>

Without a doubt, Josephus's account of the Fourth Philosophy has been unduly overlooked, particularly by those who are interested in the development of Jewish (and Christian) heresiology.<sup>5</sup> For the present purposes, the following definition of "heresiology"<sup>6</sup> is offered: the rhetorical/literary construction of a religious sub-group's identity in order to isolate, condemn, and even demonize.<sup>7</sup>

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<sup>4</sup> Though problematic in many respects, the fullest general treatment of the "Fourth Philosophy" remains Martin Hengel, *The Zealots: Investigations into the Jewish Freedom Movement in the Period from Herod I until 70 A.D.* (trans. David Smith; Edinburgh: T&T Clark, 1989). For an early classic critique, see Morton Smith, "Zealots and Sicarii: Their Origins and Relations," *HTR* 64.1 (1971): 1–19. One recent work provides an important (but only partial) reconsideration: Mark Andrew Brighton, *The Sicarii in Josephus's Judean War: Rhetorical Analysis and Historical Observations* (EJL 27; Atlanta: Society of Biblical Literature, 2009). Further literature cited below.

<sup>5</sup> There are exceptions: Martin Goodman, "The Function of Minim in Early Rabbinic Judaism," in *Geschichte—Tradition—Reflexion: Festschrift für Martin Hengel zum 70* (ed. H. Cancik, H. Lichtenberger, and P. Schäfer; 2 vols.; Tübingen: Mohr Siebeck, 1996), 1:501–10; reprinted in Goodman, *Judaism in the Roman World: Collected Essays* (Leiden: Brill, 2006), 163–73; quote from 164–65: "The closest [Josephus] comes to condemning one type of Judaism as heresy was in his description of the so-called 'Fourth Philosophy.'" See also Robert M. Royalty, Jr., *The Origin of Heresy: A History of Discourse in Second Temple Judaism and Early Christianity* (New York: Routledge, 2013), esp. 86.

<sup>6</sup> To be clear, the interest here is in the phenomenon of heresiology, not usages of the term αἵρεσις (whether in Josephus or elsewhere). For an analysis attuned to both concept and term, see Michel Desjardins, "Bauer and Beyond: On Recent Scholarly Discussions of αἵρεσις in the Early Christian Era," *The Second Century: A Journal of Early Christian Studies* 8.2 (1991): 65–82, esp. 73–79. See also Marcel Simon's classic (and oft-cited) study, "From Greek Hairesis to Christian Heresy," in *Early Christian Literature and the Classical Intellectual Tradition: In Honorem Robert M. Grant* (ed. William R. Schoedel and Robert L. Wilken; Paris: Éditions Bauchesne, 1979), 101–16.

<sup>7</sup> Admittedly, this definition may be broader or looser than that used by others. Some definitions of heresiology are distinctly Christian, though most speak of isolation,

As we will see, by this definition, the earliest ancient Jewish evidence for this phenomenon is not to be found in the rabbinic condemnations of *minim*<sup>8</sup> (or those who believe “two powers in heaven”<sup>9</sup>) nor even in *m. Sanhedrin* 10:1.<sup>10</sup> The earliest verifiable *Jewish* instance of a heresiological impulse directed against a named sub-group is Josephus’ account of the Fourth Philosophy in *Antiquities* 18.4–10, 23–25.<sup>11</sup>

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condemnation, and demonization. See, for example, Royalty, *Origin of Heresy*, esp. 3–4, and J. Rebecca Lyman, “Heresiology: The Invention of ‘Heresy’ and ‘Schism,’” in *The Cambridge History of Christianity, Volume 2: Constantine to C. 600* (ed. Augustine Casiday and Frederick W. Norris; Cambridge: Cambridge University Press, 2007), 296–313, esp. 296–97. Compare Boyarin, *Border Lines*, 66: “Both Justin and the Mishnah were engaged in the construction of the borders of orthodoxy via the production of others who are outside them.” I am aware that the word “theology” is absent from this brief working definition. Most discussions of heresy assume the significance of theology, and I do not disagree. But Christian heresiological discourse is also, albeit not equally, concerned with condemning illicit practices and transgressions (see, e.g., Epiphanius, *Panarion*, Proem, 1.2, 3; 2.3, etc.).

<sup>8</sup> For a recent rethinking of *minut* in Judaism, see Adiel Schremer, *Brothers Estranged: Heresy, Christianity, and Jewish Identity in Late Antiquity* (New York: Oxford, 2010), and also “Wayward Jews: *Minim* in Early Rabbinic Literature,” *JJS* 64.2 (2013): 242–63. For a helpful general survey of some key sources, bibliography and issues, see Philip S. Alexander, “Jewish Believers in Early Rabbinic Literature (2d to 5th Centuries),” in *Jewish Believers in Jesus: The Early Centuries* (ed. Oskar Skarsaune and Reidar Hvalvik; Peabody, Mass.: Hendrickson, 2007), 659–709.

<sup>9</sup> The rabbinic condemnation of the belief in “Two Powers” has long been viewed as an early rabbinic heresiological discourse, though there is little agreement on what precisely is being condemned. A classic treatment remains Alan F. Segal, *Two Powers in Heaven: Early Rabbinic Reports about Christianity and Gnosticism* (Leiden: Brill, 1977). For more recent discussions, see Boyarin, *Border Lines*, 134–39, and “Beyond Judaisms: Metatron and the Divine Polymorphy of Ancient Judaism,” *JSJ* 41.3 (2010): 323–65, esp. 324–29; and Schremer, “Midrash, Theology, and History: Two Powers in Heaven Revisited,” *JSJ* 39.2 (2007): 1–25.

<sup>10</sup> On *m. Sanh.* 10 in light of heresiology, see Boyarin, *Border Lines*, 58–63, and see further below.

<sup>11</sup> I am not yet prepared to trace the full construct as defined here back any further, whether to earlier Second Temple Jewish literature (which I know rather well) or to Greco-Roman historiographic or philosophical literature (which I know less well). For one attempt to trace the ingredients of heresiology—but not the full construct—to earlier Jewish sources, see Royalty, *Origin of Heresy*, esp. 30–52. For an attempt to root Christian heresiology within Hellenistic philosophical discourse in a second century Roman setting, see Lyman, “2002 NAPS Presidential Address: Hellenism and Heresy,” *J ECS* 11.2 (2003):

Once we identify and clarify these heresiological aspects of Josephus's concerns, we will begin to see a number of ways in which Josephus's approach can be compared with, and seen as a prefiguration of, the approaches taken by later Tannaim.<sup>12</sup> These similarities include a general concern with the dangerous nature of certain afterlife beliefs (or disbeliefs), as well as the targeted effort to utilize heresiology (as understood above), in the absence of orthodoxy, for the purpose of establishing a looser, vaguer theological consensus.

At the same time, this comparison between Josephus and the Tannaim allows us, in turn, to sharpen the comparison (and contrast) between Josephus and the later Christian heresiologists. It will not be argued here that Josephus is comparable to, say, Hippolytus in any general sense. The suggestion, rather, is narrower: what we find full-blown in (and central to) Hippolytus can be found,

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209–22. For an attempt to root Jewish and Christian heresiological discourse in earlier Greco-Roman philosophical discourse see Shaye J. D. Cohen, "A Virgin Defiled: Some Rabbinic and Christian Views on the Origin of Heresy," *USQR* 36.1 (1980): 1–11 (esp. 6–8). Scholars will continue to debate which of Josephus's backgrounds and contexts (Greco-Roman or Jewish, Diaspora or Jerusalem) were more influential on him. It is safest to allow that Josephus (just like later Christian writers) was likely influenced by both Jewish and Greco-Roman discourses. Be this as it may, for the present purposes, what matters more is the fact that Josephus's works (or at least portions of them) influenced various patristic writers (arch-heresiologist Hippolytus among them). For a survey, see Heinz Schreckenberg and Kurt Schubert, *Jewish Historiography and Iconography in Early and Medieval Christianity* (CRINT III.1; Assen: Van Gorcum 1992), esp. 1–85 (by Schreckenberg). On Hippolytus's use of Josephus, see Klawans, *Josephus and the Theologies of Ancient Judaism* (New York: Oxford, 2012), 223–28, and the additional literature cited there. This verifiable stream of influence underscores the significance of grappling with whatever heresiological impulses and concerns we may find within Josephus's works.

<sup>12</sup> While I compare the approaches of Josephus and the Tannaim, I do not believe there is any discernible trace of direct influence of Josephus on the Mishnah or other early rabbinic sources. This is not to suggest that the comparisons are random; the similarities attest to the cultural contiguity between Josephus's Jewish (and, quite possibly, Pharisaic) milieu and the rabbinic worldview that began to flourish a short while later. Even so, the possibility of Josephan influence (direct or indirect) on later rabbinic literature cannot be completely precluded; see Richard Kalmin, *Jewish Babylonia between Persia and Roman Palestine* (New York: Oxford, 2006), esp. 43–60, 75–80, 149–72. Vered Noam, on the other hand, argues that the discernible parallel traditions attest to common sources shared by both Josephus and the rabbis; see "Did the Rabbis Know Josephus' Works?" [Hebrew], *Tarbiz* 81 (2013): 367–95 (English abstract p. xviii). For arguments concerning Josephus's (possibly Pharisaic) prefigurations of later rabbinic approaches, see Klawans, *Josephus and the Theologies*, esp. 137–209.

here and there, and in a partial, targeted form in Josephus. But this argument for significance and influence ought not be misconstrued as direct, full-fledged comparison. The comparison being suggested here is between Josephus and the rabbis, for whom (it is here argued) heresiological concerns are present in incipient form, even if minimally (in relative comparison to Josephus's overall historical and the rabbis' overall legal concerns), and without orthodoxy (in contrast to, again for example, Hippolytus).

### Josephus's Concerns with Dangerous Doctrines

#### *The Afterlife: A Possibly Hazardous Hope*

We begin with what may be Josephus's earliest quasi-heresiological foray: the recognition of a correlation between social behavior and afterlife beliefs that peppers *Jewish War*.<sup>13</sup> Josephus leaves readers of the entire work with little doubt regarding the persuasive power of such beliefs. Early in *War* (in the golden eagle episode), the two teachers encourage revolt with the assertion that those who die for the sake of the ancestral laws will attain immortality (1.648–650).<sup>14</sup> Ostensibly recalling the commitment of Essenes martyred during the revolt, Josephus describes these heroes smiling in their agony, certain of their immortality (2.152–153).<sup>15</sup> And later in *War*, Titus too charges his soldiers to fight to the death with such hopes of a guaranteed afterlife (6.46–49).<sup>16</sup> And, perhaps most memorably, the leader of the Sicarii at Masada encourages his followers to kill their wives, children, and themselves by speaking of the afterlife (7.320–388).<sup>17</sup> Clearly, Josephus is well aware of the motivating power of such beliefs, and is sensitive to the possibility that leaders could encourage—or even manipulate—their followers by speaking of such beliefs.<sup>18</sup>

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<sup>13</sup> For a recent thorough review, see C. D. Elledge, *Life after Death in Early Judaism: The Evidence of Josephus* (Tübingen: Mohr Siebeck, 2006).

<sup>14</sup> *Ibid.*, 64–67.

<sup>15</sup> *Ibid.*, 57–59; see also Steve Mason (with Honora Chapman), *Judean War 2: Translation and Commentary* (BJP 1b; Leiden: Brill, 2008), 121–23.

<sup>16</sup> Elledge, *Life After Death*, 73–75.

<sup>17</sup> *Ibid.*, 69–73; see also Brighton, *The Sicarii*, 105–31.

<sup>18</sup> This theme is developed with regard to these texts and some others in Klawans, *Josephus and the Theologies*, 92–136. To be sure, none of the speeches here (the two teachers', Titus's or Eleazar's) are historical facts, and we need not posit even kernels of historical truth here and there. It makes no difference whether or not Josephus is recording actual instances of such motivation or manipulation. What matters is that Josephus clearly believed such motivation and manipulation were possible.

Josephus, in his Jotapata speech *against* suicide (*War* 3.364–375), suggests that those who take their own lives will go to hell and calls on such fears to motivate his listeners to turn away from suicidal action:<sup>19</sup>

(3.374) Do you not know that they who depart this life in accordance with the law of nature and repay the loan which they received from God, when He who lent is pleased to reclaim it, win eternal renown? That their houses and families are secure; that their souls, remaining spotless and obedient are allotted the most holy place in heaven, whence, in the revolution of the ages [ἐκ περιτροπῆς αἰώνων] they return to find in sanctified bodies a new habitation [ἀγνοῖς πάλιν ἀντενοικίζονται σώμασιν]? (375) But as for those who have laid mad hands upon themselves, the darker regions of the nether world receive their souls, and God, their father, visits upon their posterity the outrageous acts of the parents.

Now in most respects, the views Josephus articulates in this passage are comparable to those he attributes to the Pharisees in *War* (2.163; cf. *Ant.* 18.16) or to the Jews in general in *Apion* (2.218): this is a beatific afterlife, reserved for the righteous, that involves a re-embodiment at the end of days.<sup>20</sup> Yet in one important respect, Josephus's speech at Jotapata also recalls what he has said about the Essene belief in immortality and post-mortem punishment: Just as the hope for immortality should encourage righteous behavior, so too the fear of hell should discourage evil behavior (e.g., *War* 2.156–157).<sup>21</sup>

(156) . . . their aim was first to establish the doctrine of immortality of the soul, and secondarily to promote virtue and to deter from vice; (157) for the good are made better in their lifetime by the hope of a reward after death, and the passions of the wicked are restrained by the fear that, even though they

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<sup>19</sup> Translations of Josephus here and below follow LCL (ed. H. St. J. Thackeray et al.), with modifications for style and content. The available volumes of the BJP translation and commentary (ed. Steve Mason) have been consulted both in print form and via the PACE website.

<sup>20</sup> On these passages, see Klawans, *Josephus and the Theologies*, esp. 106–11; cf. Elledge, *Life after Death*, 59–63, 67–69.

<sup>21</sup> Trans. LCL (Thackeray). On Josephus's recognition of the utilitarian nature of these beliefs, see also Mason, *Judean War* 2, 127–128 nn. 972–973 ad loc., to *War* 2.156–157.

escape detection while alive, they will undergo never-ending punishment after their decease.

It may be tempting to dismiss such statements as pithy pieties; but we do so at the peril of our own analysis. The beliefs in heaven and hell matter for Josephus—just as for the later rabbis (see below)—and for this very reason: in a general sense, these beliefs encourage righteousness and discourage transgression. But dangers arise especially when demagogues manipulate these hopes and fears.

Now as noted already above, Eleazar, in *his* speech at Masada *advocating* suicide, similarly motivates his followers by an appeal to immortality (*War* 7.320–388; esp. 341–357). But there is an important, infrequently noted variable here: Eleazar presumes in his speech that the gifts of immortality are available to one and all who break bodily bonds. The award of immortality comes, apparently, irrespective of sins, for the group’s many transgressions have already been catalogued for us by Josephus (7.254–258), with the guilt being admitted by Eleazar himself (7.332–333).<sup>22</sup>

Of the various detailed descriptions of Jewish immortality beliefs that Josephus presents in *War*—regarding Essenes (*War* 2.154–157), Pharisees (2.163), or even Josephus himself (3.374–375)—Eleazar’s is striking in failing to balance the hope of heaven with a fear of hell. His is a vision of unconditional immortality.<sup>23</sup> Josephus, of course, leaves us with no doubt of his evaluation of the Sicarii: they were the first to adopt kin-killing practices in pursuit of their rebellious ideology (7.254–258). In other words, the most pioneering and dangerous rebels are those without fear of post-mortem divine retribution.

So already in *War*, Josephus is keenly aware that afterlife beliefs can be manipulated to dangerous ends. Moreover, he fears that those who—like Eleazar—believe that death is better than life and who live without any fear of hell will be too quick to kill others and themselves. Quite possibly, Jewish readers<sup>24</sup> are meant to understand that the sinful, murderous, and suicidal rebels

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<sup>22</sup> See the fuller treatment in Klawans, *Josephus and the Theologies*, 117–19, 129–36.

<sup>23</sup> See Elledge, *Life after Death*, 64–67 for his discussion of what he terms “conditional immortality” (p. 66). Tellingly, Titus’s speech (*War* 6.46–49) also fails to balance a belief in immortality with a fear of hell.

<sup>24</sup> I believe, along with what I perceive to be the current consensus position, that a Jewish readership is included in Josephus’s intended audience. See Klawans, *Josephus and the Theologies*, 4–5 and the literature cited there.

from Masada will end up suffering the hellish punishment they refuse to acknowledge; we will return to this notion later.

*The Epicureans: A Dangerous Denial*

We turn next to the very end of *Antiquities* 10, which brings us closer to heresiology properly speaking. Toward the end of his discussion of the prophet Daniel, Josephus takes a moment to condemn the erroneous beliefs of the Epicureans (10.277–281):<sup>25</sup>

(277) All these things, as God revealed them to him [Daniel], he left behind in his writings, so that those who read them and observe how they have come to pass must wonder at Daniel's having been so honored by God, and learn from these facts how mistaken are the Epicureans, (278) who exclude providence [πρόνοια] from human life and refuse to believe that God governs its affairs or that the universe is directed by a blessed and immortal being, to the end that the whole of it may endure, but they say that the world runs by its own movement [αὐτομάτως] without a knowing guide or another's care. (279) If it were leaderless in this fashion, it would be shattered through taking a blind course {or: by unforeseen destruction} and so end in destruction, just as we see ships go down when they lose their helmsmen or chariots overturn when they have no drivers. (280) It therefore seems to me, in view of the things foretold by Daniel, that they are very far from holding a true opinion who declare that God takes no thought for human affairs. For if it were the case that the world goes on by some automatism, we should not have seen all these things happen in accordance with his prophecy. (281) Now I have written about these matters as I have found them in my reading; if, however, anyone wishes to judge otherwise of them, I shall not object to his holding a different opinion.

Josephus here puts forward the claim that Daniel's ability to predict precisely when certain events would occur disproves the contentions of the Epicureans.

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<sup>25</sup> Trans. LCL (Ralph Marcus). On this passage, see, esp. Christopher T. Begg and Paul Spilsbury, *Judean Antiquities 8–10* (ed. Steve Mason; BJP 5; Leiden: Brill, 2005), 265–66, 313–17; see also Klawans, *Josephus and the Theologies*, esp. 81–89.



They maintain: “the world runs by its own movement without knowing a guide or another’s care” (278). But such a world, like a pilotless ship, would inevitably end in destruction. God’s ability, however, to bring about Daniel’s prophecy at the proper time proves that the world is rightly guided, in real time, by a providential pilot.

We have here the explicit identification of an illegitimate belief, along with the implication that such a belief could be dangerous. The Epicureans, Josephus is suggesting, are not just wrong, but dead wrong. They fail to understand how the world really works, and therefore are likely to badly misjudge their surroundings—and even mislead those who would follow their guidance.

Even though Josephus continues in this passage to allow for disagreement on this key issue (*Ant.* 10.281), Josephus’s present politeness is mitigated elsewhere. Indeed, the introduction of *Antiquities* suggests (though without using the term “providence”) that belief in God’s caring justice is the main lesson of the book, and that such a belief should motivate proper behavior (1.14–15, 20):<sup>26</sup>

(14) Speaking generally, the main lesson to be learned from this history by any who care to peruse it is that people who conform to the will of God, and do not venture to transgress laws that have been excellently laid down, prosper in all things beyond belief, and for their reward are offered, by God, felicity; while, in proportion as they depart from the strict observance of these laws, things (otherwise) practicable become impracticable, and whatever imaginary good thing they strive to do ends in irretrievable disasters. (15) At the outset, then, I entreat those who will read these volumes to fix their thoughts on God. . . .

(20) . . . God, as the universal Father and Lord who beholds all things, grants to such as follow Him a life of bliss, but involves in dire calamities those who step outside the path of virtue.

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<sup>26</sup> Trans. LCL (Thackeray). On providence in Josephus, see Harold W. Attridge, *The Interpretation of Biblical History in the Antiquitates Judaicae of Flavius Josephus* (Harvard Dissertations in Religion 7; Missoula, Mont.: Scholars Press, 1976); on the prologue to *Antiquities* in particular, see 41–42, 51–54, 67–70.

Three general themes emerge here: divine guidance, personal responsibility, and divine justice (cf. 4.180–183; 8.125–129). These themes appear in various guises throughout *Antiquities*, and the correlation between providence and earthly punishment for the wicked is emphasized at various points (e.g., 8.314; 17.170; 17.354; 18.127; 19.16; cf. *War* 1.82; 1.593; 7.451–453). But what matters here in particular is the special connection between prophecy and providence. Toward the end of book 8, commenting in the doubly predicted, duly deserved death of Ahab, Josephus notes that “nothing is more beneficial than prophecy and the foreknowledge [πρόγνωσις] that it gives, for in this way God enables us to know what to guard against” (*Ant.* 8.419). In other words, prophecy and providence point in the direction of righteousness and reward.<sup>27</sup> These are clues for reading beyond Josephus’s politeness in *Antiquities* 10.281: the proverbial (and pilotless) Epicurean boat is sailing in the wrong direction, risking destruction. Heresiology this is not, but some of its ingredients are present: an identifiable belief is condemned as wrong and aligned with danger.

Be this as it may, the passage is less heresiological in other respects than some assume. Several scholars believe that Josephus’s “Epicureans” are a cipher for the Sadducees.<sup>28</sup> This understanding rests on interpreting *Antiquities* 10 in light of *Apion* 2.179–181, which speaks of a broad Jewish consensus to the effect that God guides the world providentially:<sup>29</sup>

(179) To this cause above all we owe our admirable harmony [ὁμόνοιαν]. Unity and identity of religious belief, perfect uniformity [συμφωνίαν] in habits and customs, produce a very beautiful concord in human character. (180) Among us alone will be heard no contradictory statements about God, such as are common among other nations, not only on the lips of ordinary individuals under the impulse of some passing mood, but even boldly propounded by philosophers; some putting

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<sup>27</sup> See Klawans, *Josephus and the Theologies*, 83–85.

<sup>28</sup> So, e.g., Lawrence H. Schiffman, *Who Was a Jew: Rabbinic and Halakhic Perspectives on the Jewish-Christian Schism* (Hoboken, N.J.: Ktav, 1985), 44. See discussion in Klawans, *Josephus and the Theologies*, 53, and n. 76, where the following examples are cited: Begg and Spilsbury, *Judean Antiquities 8–10*, 315 nn. 1181–1182; Feldman, *Josephus’s Interpretation of the Bible* (Berkeley: University of California Press, 1998), 192; Mason, *Judean War 2*, 134 nn. 1014–1015; Mason, *Life of Josephus: Translation and Commentary* (BJP 9; Leiden: Brill, 2001), 16–17 n. 72; Mason, *Josephus, Judea, and Christian Origins: Methods and Categories* (Peabody, Mass.: Hendrickson, 2009), 225–26, 230.

<sup>29</sup> Trans. LCL (Thackeray).

forward crushing arguments against the very existence of God; others depriving Him of His providential care [πρόνοια] for humankind. (181) Among us alone will be seen no difference in the conduct of our lives. With us all act alike, all profess the same doctrine about God, one which is in harmony with our Law and affirms that all things are under His eye. . . .

Knowing that the Sadducees deny fate (*Ant.* 13.173), are we meant to read *Antiquities* 10.277–281 as an oblique exclusion of the Sadducean view?

We will get nowhere if we refuse to follow Josephus's hints. Josephus, however, does not equate fate and providence (like the Stoics) but carefully distinguishes between them (like middle-Platonists and Gnostics).<sup>30</sup> Therefore, the Sadducean denial of fate is not equivalent to the Epicurean denial of providence. To deny providence is to deny the fundamental point of Jewish scriptures, which Josephus's Sadducees do uphold.<sup>31</sup> So the Epicureans in Josephus are not Sadducees in disguise; the Epicureans are, simply enough, those who deny providence and fear no divine punishment whatsoever, whether earthly or other-worldly. And as we have seen, Josephus has already expressed his concern that those who are fearless of divine punishment may be wont to commit evil.

#### *The Fourth Philosophy: An Early Jewish "Heresy"*

Heretofore we have established that concerns about dangers arising from certain theological tenets recur in Josephus's writings. In *Jewish War*, Josephus is particularly concerned with the motivational powers of afterlife hopes. Those whose priorities are in the right place (such as the Essenes) can be properly motivated by such hopes. But others (such as the Sicarii) risk being led astray by motivational demagoguery. In *Antiquities*, Josephus is particularly concerned with the belief in divine providence. Here too the historian hopes his readers will believe in God and fear divine wrath (be it in this world or the next). The Epicureans stand out for condemnation for their refusal to accept this message. With these observations behind us, we can now more clearly appreciate a

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<sup>30</sup> See Klawans, *Josephus and the Theologies*, 63–64.

<sup>31</sup> When Josephus claims, in *Ant.* 16.398, that human responsibility has been discussed "philosophically" in the Law, this is likely referring to his general belief (as articulated in *Ant.* 1.14–15, 20–23) that biblical history proves that God is watching, and will reward the righteous and punish the wicked. Josephus's Sadducees would have believed in this sort of providence and justice, by virtue of their acceptance of the Torah (*Ant.* 13.297).

number of the distinctively heresiological features of Josephus's condemnatory description of the Fourth Philosophy in *Antiquities* 18.4–10, 23–25.

Heresiology, by our understanding, extends beyond any general concern with particular dangerous beliefs by (1) constructing a given subgroup's identity around said dangerous beliefs; and (2) doing so in ways that facilitate isolation, condemnation, and even demonization. As we will see, these general characteristics are in evidence here, often in ways that surprisingly presage the rhetorical and even terminological features of later Christian heresiological discourse.

Josephus's description of the Fourth Philosophy falls into two parts. In *Antiquities* 18.4–10, Josephus introduces the group's founder, Judas,<sup>32</sup> and his Pharisaic supporter Zadok (18.4). After describing their rebelliousness and the movement's growth among the populace in generally unfavorable terms (18.5–8), Josephus proceeds to lay the nation's ruin at the feet of their "intrusive [ἐπεισάκτων] fourth philosophy" (18.9). This group, or course, stands in contrast to the three schools that have characterized Jewish thought from ancient times (18.11): the Pharisees (18.12–15), Sadducees (18.16–17), and Essenes (18.18–22).<sup>33</sup> Following this review, Josephus returns to the Fourth Philosophy once again, and presents a cumulative description of this group's beliefs (18.23–25):<sup>34</sup>

(23) As for the fourth of the philosophies, Judas the Galilean set himself up as leader of it. This school agrees in all other respects with the opinions of the Pharisees, except that they have a passion for liberty that is almost unconquerable, since they are convinced that God alone is their leader and master. They think little of submitting to death in unusual forms and permitting vengeance to fall on kinsmen and friends if only they may avoid calling any man master. (24) Inasmuch as most people have seen the steadfastness of their resolution amid such circumstances, I may forgo any further account. For I have no fear that anything reported of them will be

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<sup>32</sup> In *Antiquities* 18.4 this Judas is identified as a Gaulanite; in *Ant.* 18.23, *War* 2.118 (and also Acts 5:37) this Judas is identified as a Galilean; the latter epithet is more commonly used to identify him.

<sup>33</sup> On Josephus's accounts of the three schools in *Antiquities* (and their parallels in *War* 2.111–166), see Klawans, *Josephus and the Theologies*.

<sup>34</sup> Translation follows LCL (Feldman); edited in light of the translation and analysis in Hengel, *The Zealots*, 77–78.

considered incredible. The danger is, rather, that report may minimize the indifference to the misery of suffering they have accepted. (25) By this folly [ἀνοίᾳ] the nation began to be afflicted [ὑποεῖν] after Gessius Florus, who was governor, had by his overbearing and lawless actions provoked a rebellion against the Romans.

Here too Josephus leaves no doubt that the group was dangerously innovative, breaking with tradition in such a way as to sow the seeds of the nation's destruction.

But what are this group's dangerous innovations? In most matters, we are told, the Fourth Philosophy agrees with the Pharisees.<sup>35</sup> But Josephus explicitly identifies two important ways in which their views are distinctive. First, they believe that "God alone is their leader and master" (18.23).<sup>36</sup> Second, their fearlessness of death leads to not only risking their own lives (this would be comparable to the Essenes and others, as we have seen), but permitting vengeful bloodshed on their own countrymen (18.23).<sup>37</sup> But there is a third important difference relating to these: while the properly named three schools (Pharisees, Sadducees, and Essenes) have characterized Jewish religious thought from time immemorial (18.11), Josephus deems the Fourth Philosophy to be novel and innovative. Alone among the sects, this group has a single named founder, situated in the recent past, whose rebellious ways stem from neither scripture nor tradition. It is precisely this characteristic—dangerous innovation—that puts this group (but not the others) outside of the national/traditional consensus Josephus speaks of in *Apion*. It is not the Sadducean denial of fate that is excluded from the national consensus. What's excluded is the Fourth Philosophers' proclivity for innovation and their penchant for internecine strife.<sup>38</sup>

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<sup>35</sup> Contrast *War* 2.118, which suggests (implausibly) that the school was utterly unlike the others in all or most respects; this passage proceeds to briefly explain the group's key distinctions: rebelliousness and a refusal to accept human masters.

<sup>36</sup> On this aspect of their beliefs, see the exhaustive treatment in Hengel, *Zealots*, 90–110, as well as the more recent review in David Goodblatt, *Elements of Ancient Jewish Nationalism* (Cambridge: Cambridge University Press, 2006), 88–99.

<sup>37</sup> See Hengel, *Zealots*, 85–86.

<sup>38</sup> Notably, in *Apion*, Josephus follows his celebration of Jewish unity with the assertion that Jews lack innovators—stability and continuity being celebrated as virtues (*Apion* 2.182–183).

Scholars are rightly skeptical of Josephus's construction: only he uses the term "Fourth Philosophy." And it is difficult even to find clear external verifications for the independent existence of coherent named sub-groups such as the Zealots or the Sicarii, let alone a singular "Fourth Philosophy."<sup>39</sup> What is more, Josephus's own narrative of the revolt—which gives roles to Pharisaic and even (possibly) Essene leaders—militates against the veracity of Josephus's claim that there was a distinct rebellious philosophy so easily separable from the others. As is widely suspected, the isolation of this group likely reflects Josephus's effort to direct blame away from many and onto a few.<sup>40</sup>

But perhaps Josephus's greatest prevarication involves his effort to establish the group's distinctive novelty by denying their characteristic ideas any basis in scripture or tradition.<sup>41</sup> Although we cannot be certain, it stands to reason that any historical fourth philosopher would have appealed to scripture for justification, citing passages such as Judg 8:22 and 1 Sam 12:12, which oppose monarchy on theological grounds: only God is rightly the king. Josephus, of course, does not allow for any such understanding of the group—both of these passages being elided in Josephus's own biblical paraphrase (*Ant.* 5.232; 6.91).<sup>42</sup> And as Hengel and Feldman both have noted already, Josephus carefully rewrites the Phinehas episode (Num 25:1–19) so as to downplay the role of zeal (*Ant.* 4.150–164) in his violent actions.<sup>43</sup> Josephus also carefully revises 1 Maccabees' account of the rise of Mattathias (*Ant.* 12.265–285 // 1 Macc. 2:1–70) so as to elide the references to Phinehas's zeal, thereby once again undermining

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<sup>39</sup> See Smith, "Zealots." It is in this important respect that Josephus's account of the Fourth Philosophy is truly distinct from his descriptions of Pharisees, Sadducees, and Essenes. We can easily confirm these other groups' existence; and the accuracy of Josephus's descriptions of these groups can be tested (and, I believe, confirmed) by comparison with this other evidence. By these standards, Josephus's account of the Fourth Philosophy compares poorly.

<sup>40</sup> Smith, "Zealots," 5; Cohen, *Josephus in Galilee and Rome* (Leiden: Brill, 1979), 181–83; cf. Cohen, *From the Maccabees to the Mishnah* (Philadelphia: Westminster Press, 1987), 157–59; Israel Ben-Shalom, *The School of Shammai and the Zealots' Struggle against Rome* [Hebrew] (Jerusalem: Yad Ben-Zvi, 1993), 19–20, 130–31; Goodblatt, *Elements*, 89.

<sup>41</sup> In this respect, Hengel's classic remains particularly useful, in so far as he collects various evidence for rooting these perspectives within the Jewish tradition; see *The Zealots*, esp. 90–110; Goodblatt also assembles evidence in favor of biblical (and Hasmonean) justifications for priestly rule and zeal (*Elements*, 87–107).

<sup>42</sup> See Klawans, *Josephus and the Theologies*, 164.

<sup>43</sup> Hengel, *Zealots*, 154–55; Louis H. Feldman, "The Portrayal of Phinehas by Philo, Pseudo-Philo, and Josephus," *JQR* 92.3/4 (2002): 315–45, esp. 332–33.

the likely claims of religiously motivated rebels to root their kin-killing vengeance in scripture and history.<sup>44</sup> Josephus thereby furthers his own goals, which are to (mis-) characterize this group's views and behavior as dangerously novel. Because they are the very enemies of the national/traditional consensus that Josephus holds dear, he therefore carefully denies them any scriptural or traditional legitimacy. The Fourth Philosophy, rather, remains an illegitimate actualization of the self-serving sophistry of its founder, Judas the Galilean.

Some will no doubt remain interested, first and foremost, in the task of figuring out how we can read behind Josephus's elisions to reconstruct the views of the historical Fourth Philosophers.<sup>45</sup> But such efforts are hampered by the case we are building here, to the effect that Josephus's account displays a consistent desire to delegitimize the group by characterizing it as recent, innovative, and well-defined. On the other hand, and for all the same reasons, Josephus's creatively hostile account of the Fourth Philosophers should be playing a greater role in discussions of Jewish heresiology. After all, Josephus appears to be following—or, as far as we can tell, establishing—the heresiology rule-book. Josephus is constructing an identifiable group, characterized by distinct, erroneous theological positions; he is providing a label for it, identifying a “Johnny come lately” putative founder, and carefully denying the group legitimate roots in scripture or tradition.<sup>46</sup> Indeed, anticipating Epiphanius and Irenaeus, Josephus depicts the fourth philosophy as a contagious illness of folly.<sup>47</sup> And while the group is not deemed “satanic” as some Christian heretics will be, Josephus nevertheless depicts the Fourth Philosophy as having brought

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<sup>44</sup> Hengel, *Zealots*, 154–55; Feldman, “The Portrayal of Phinehas,” 318–19, 327–28.

<sup>45</sup> In addition to Hengel, *Zealots*, those interested in these questions can consult Goodblatt, *Elements*, and Ben-Shalom, *School of Shammai*.

<sup>46</sup> It is in this respect that we can clarify the difference between a claim of supersession and the charge of heresy. Supersession asserts for one's own group legitimate novelty (in the form of fulfillment), and criticizes the rejector(s) as old and outmoded. The charge of heresy, by contrast, attributes to other(s) illegitimate and incorrect innovation, reserving legitimate antiquity for one's own group.

<sup>47</sup> I do not want to push terminological or metaphorical coincidences too far, but it remains interesting to note that Irenaeus speaks of heresy as “madness” or “folly” (ἀνοία; *Against Heresies*, preface 2), just what Josephus says of the Fourth Philosophy (*Ant.* 18.25). And Epiphanius's conception of the “medicine chest” (πανάρτιον) is presaged by Josephus's speaking of the Fourth Philosophy as a contagious illness (18.6: ἀνεπλήσθη; 18.25: νοσεῖν).

the nation to ruin, which is about as demoniacal as things can get in Josephus.<sup>48</sup> Those who view constructing and characterizing groups in order to deny legitimacy and highlight danger as having developed in Christian contexts and coming to Judaism only later will need to reconsider.<sup>49</sup>

### *Heresy and Consensus in Josephus*

Here we come to the other side of the coin. Having established that Josephus's presentation of the Fourth Philosophy exhibits certain characteristic traits of later Christian heresiology, we now must grant that Josephus's full description of ancient Jewish theological discourse—when we include all four groups—presents to us a vision of inclusion and exclusion that is different from the “orthodoxy/heresy” model that characterizes early Christian discourse on these matters. But the difference is not black-and-white: what we find in Josephus, importantly, is neither liberal nor pluralistic. Josephus's Judaism is not an unbounded “tolerant” “polymorphy” of “multiform” sectarian options.<sup>50</sup> What we find, rather, is a developed conception of heresy, but without a developed orthodoxy.<sup>51</sup> There is a single condemned Jewish group, excluded for threatening the integrity of the people as a whole. But this threat is not purely social; the threat is, for Josephus, perceived to be theologically-driven. Yet not all theological diversity is seen as this dangerous. The Sadducees are treated differently: they are distinct, sorely mistaken, and disliked, but they pose no danger and so remain within the theological bounds. Other theological discretions (such as denying providence or post-mortem punishments for the wicked) are also singled out for condemnation, without attributing them to a

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<sup>48</sup> According to Royalty, the rhetoric of demonization is integral to the discourse of heresy (*Origin of Heresy*, 111–12; cf. 26, 174).

<sup>49</sup> E.g., Boyarin, *Border Lines*, 49–54; see also Schremer, *Brothers Estranged*, 49–68. Despite their various disagreements, Boyarin and Schremer agree, at least, that the pre-rabbinic Jewish evidence is largely devoid of heresiological discourse. As far as the rabbis are concerned, Boyarin finds more early evidence than Schremer allows, and argues for a stronger influence of Christianity on what is found.

<sup>50</sup> For “tolerance” (and “liberal”) see Goodman, “Function of Minim,” 164–65; for “polymorphy,” “polyform,” and “multiform,” see Boyarin, “Beyond Judaisms,” 323, 325, 326 (etc.); for “pluralism” see Alexander, “Jewish Believers,” 666 (and esp. n. 15).

<sup>51</sup> So Goodman (“Function of Minim,” 164–65) is partially correct: Josephus is somewhat accepting of difference, but there's greater evidence of heresiology in Josephus than he allows, and therefore less tolerance or liberalism than he asserts. And therefore there is more to compare (and less contrast) between Josephus and the rabbis, as I have argued elsewhere (principally in *Josephus and the Theologies*), and will continue to suggest below.



single well-defined group of Jews. So not all identified subgroups merit targeting; not all theological discretions can be tied to distinct sub-groups. Therefore, what we find with regard to Josephus's critique of the Fourth Philosophy is heresy without orthodoxy. The condemnatory construct appears essentially in full, but without any clear "drive towards a single voice" that is, too often, believed to be the *sine qua non* for the appearance of heresy.<sup>52</sup>

To understand and appreciate this, we must return, again, to *Apion* 2.180–181 and Josephus's celebration of Jewish consensus. While some scholars have endeavored to separate (and find contradictions between) *Apion* and *Antiquities*,<sup>53</sup> a better approach is that taken by *Apion*'s recent commentator, John Barclay: there is more commonality than difference, and both passages can be understood to exclude the Fourth Philosophy, and it alone, from the larger Jewish consensus on those matters that are of supreme importance.<sup>54</sup>

To be clear: I do not believe Josephus's description of the Jewish consensus is free of problems. Certainly, tensions remain: in *Apion* 2.217–219, Josephus writes of afterlife beliefs in terms that surely Sadducees would reject. In *Apion* 2.182–183, Josephus speaks of an innovator-free Jewish society, as if legal change had never taken place (this in apparent contradiction with the details provided throughout *Antiquities*).<sup>55</sup> Nor do I believe that the consensus presumed in *Apion* 2 is historically accurate—it cannot be any more historically accurate than the historian's problematic isolation of the Fourth Philosophy as

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<sup>52</sup> See Boyarin, "One Church; One Voice: The Drive Towards *Homonoia* in Orthodoxy," *Religion & Literature* 33.2 (2001): 1–22, quoted favorably in Schremer, "Thinking about Belonging in Early Rabbinic Literature: Proselytes, Apostates, and 'Children of Israel,' or: Does It Make Sense to Speak of Early Rabbinic Orthodoxy?" *JSJ* 43.2 (2012): 249–75, esp. 274.

<sup>53</sup> In addition to works cited above with regard to *Antiquities* 10 and the Sadducees, see also Boyarin, *Border Lines*, 53.

<sup>54</sup> See Klawans, *Josephus and the Theologies*, 292–93 nn. 154–155; John M. G. Barclay, *Against Apion: Translation and Commentary* (ed. Steve Mason; BJP 10; Leiden: Brill, 2007), 270–71 nn. 704, 707, 711; cf. also Goodman, "Function of Minim," 164.

<sup>55</sup> On legal change in Josephus, see Klawans, *Josephus and the Theologies*, 137–79; on *Apion* in relation to this, see 173–77. The apparent contradiction can be resolved (as I argue there) by understanding the difference between illegitimate, individual legal innovation (rejected in *Apion*) and legitimate legal change put forward by rightful leaders and adopted by consensus (as accepted in *Antiquities*). For example, when the Maccabees decide to fight on the Sabbath, this new, reasonable ruling is accepted by the people; see *Ant.* 12.272–277 (cf. 1 Macc. 2:29–38); *Josephus and the Theologies*, 153–58.

the lone, singular, group outside of this consensus.<sup>56</sup> Neither of these Josephan constructs—the Fourth Philosophy in *Antiquities* and the consensus in *Apion*—withstands the kind of scrutiny that relies on external verification. Indeed, just as we should continue to wonder if the Fourth Philosophy existed as such, so too we should not assume that there was necessarily any such common denominator consensus, however construed, whether recognized as such (as Josephus suggests) or waiting to be discerned by scholars, along the lines of Sanders’ “covenantal nomism.”<sup>57</sup> But all of these concessions do not free us from the obligation to grapple with Josephus’s *claim* that there was—or, better, ought to have been—such a consensus. Even if the claim is historically invalid, we still need to appreciate the fact that Josephus was a firm believer in the *idea* of the fundamental unity of the Jewish people, which was manifest, in his view, by the consensus he describes in *Apion*.

For Josephus, Jewish unity could tolerate a limited range of diversity—and so he does spend a relatively small amount of his time explaining the important differences between the Pharisees, Sadducees, and Essenes. But the consensus could only stretch so far. And it certainly cannot extend to include those who reject the legitimacy of broadly accepted leaders or exhibit a willingness to kill their own in the service of their distinctive ideology. These views are, Josephus believes, threatening to the integrity and security of the Jewish people. So the Fourth Philosophy is described in such a way as to suggest clear, coherent boundaries, internal cohesion, late origins, and illegitimate—indeed dangerous—beliefs. It stands alone, the one amalgamated Jewish “heresy” excluded from a somewhat vague—and equally constructed—Jewish consensus.

### **Heresy and Consensus in Rabbinic Literature**

Even if not historical, Josephus’s accounts are historically significant. The overall dynamic in evidence here—a targeted assault on a catch-all constructed subgroup, set apart from a loosely constructed broad “consensus”—is, I suggest, pretty much what we find among the Tannaim. Space will not permit listing, developing, and evaluating all of the possible parallels, but a few pertinent points can be raised to demonstrate the value of comparing Josephus with the later rabbis with respect to the emergence of “heresy” in the absence of “orthodoxy.”

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<sup>56</sup> Just as the “heresy” Josephus constructs is, it becomes clear, a “catch-all” category for all the rebels, so too the “consensus” he constructs is a “miss-much” construct for characterizing ancient Judaism.

<sup>57</sup> E. P. Sanders, *Paul and Palestinian Judaism: A Comparison of Patterns of Religion* (Minneapolis: Fortress, 1977).

*The Heretics of M. Sanhedrin*

Perhaps the most important Tannaitic text concerning rejected beliefs is *m. Sanhedrin* 10:1. While the significance of this source for these questions has always been appreciated, the similarities with Josephus have not been fully (or accurately) recognized. This text too (especially when we consider the fuller content of *m. Sanhedrin* 10:1–3) can be understood as one that hovers between a theologically “pluriform” “orthopraxy” (on the one hand) and “incipient orthodoxy” (on the other).<sup>58</sup> What we have in *m. Sanhedrin* 10:1 is a text that asserts general points of consensus, targeting as dangerous a few select (and, once again, falsely amalgamated) opponents of said consensus:<sup>59</sup>

(10:1) {All Israelites have a share in the world to come, for it is written, “Thy people also shall be all righteous, they shall inherit the land forever . . .” (Isa 60:21).}<sup>60</sup> And these are they that have no share in the world to come: he that says that there is no resurrection of the dead {prescribed in the Law,}<sup>61</sup> and

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<sup>58</sup> For the text as representative of “orthopraxy” see David M. Grossberg, “Orthopraxy in Tannaitic Literature,” *JSJ* 41.4/5 (2010): 517–61; as for “incipient orthodoxy,” see Boyarin, *Border Lines*, 58–63; cf. “Rethinking,” 20–21 (“incipient” used there). Though Grossberg disagrees with Boyarin in so far as the heresiological implications of *m. Sanh.* 10:1 are concerned, both agree that there is some rabbinic evidence of such concerns: what Grossberg does not find in *m. Sanh.* 10:1 he finds in other texts, preserved in the *Tosefta* and *Seder Olam*, which he claims were the more heresiological precursors of the rather “orthoprax” Mishnah. “Multiformity” and “polymorphy” are, according to Boyarin, what we are supposed to find when we don’t find heresiology (“Beyond Judaisms,” 325–26; 359–60).

<sup>59</sup> Translations here and below based on Herbert Danby, *The Mishnah: Translated from the Hebrew with Introduction and Brief Explanatory Notes* (Oxford: Oxford University Press, 1933). I have used the Hebrew edition of Chanoch Albeck: *Shishah Sidre Mishnah* (6 vols.; Jerusalem: Bialik Institute, 1952–1958). This has been compared against extant manuscripts (esp. MS Kaufmann) via the Online Treasury of Talmudic Manuscripts, <http://jnul.huji.ac.il/dl/talmud/index.htm> [accessed August 20, 2014].

<sup>60</sup> For a brief discussion of the text-critical problems see Grossberg, “Orthopraxy,” 520 n. 7. Almost all agree that the statement (included in all printed editions) “All Israel . . .” is a late addition to *m. Sanh.* 10:1, as it is lacking in MS Kaufmann and other early versions. Louis Finkelstein nevertheless defended the Pharisaic antiquity of the tradition, speculating that it originally stemmed from an earlier recension of *Avot*; see *Introduction to the Treatises Abot and Abot of Rabbi Nathan* [Hebrew] (New York: Jewish Theological Seminary, 1950), 104–7, 212–26 (esp. n. 2).

<sup>61</sup> This phrase too is lacking in MS Kaufmann; see previous note, and, again, Grossberg, “Orthopraxy,” 520 n. 7.

[he that says] that the Law is not from Heaven, and an Epicurean. . . .

Granting the text-critical problems, we will for our purposes set aside the opening assertion that “all Israel has a place in the world to come.”<sup>62</sup>

As for what surely comes from *m. Sanhedrin* 10:1: by one reading, the concerns with resurrection, Torah from heaven, and Epicureanism are three prongs of a single effort to label Sadducees as schismatic heretics who currently are, and therefore eternally will remain, outside the bounds of the Jewish people.<sup>63</sup> But doing so pushes this text further than it goes.

First, there is nothing distinctively Sadducean about denying resurrection.<sup>64</sup> Second, Epicureans (who deny providence) are not Sadducees, whether for Josephus (as we have seen above) or for the rabbis.<sup>65</sup> And as for those who deny that “Torah is from Heaven”—this too seems phrased in such a way as to exclude something other than the Sadducean position. What scripture-supporting Sadducee would deny the position as phrased?<sup>66</sup>

At the same time, the weakness of the stated threat for Sadducean (and other) resurrection-deniers in particular must be acknowledged:<sup>67</sup> those who do not believe in this reward, the rabbis warn, will not get it. From the perspective of the resurrection-denier, this threat is pretty empty. There’s absolutely no

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<sup>62</sup> Even so, it is worth noting that this statement is, above all else, an assertion of the essential, eternal unity of the Jewish people. And even after we disregard the opening statement as a post-Tannaitic gloss, the overall effect of *m. Sanh.* 10:1 remains much the same: if the exclusions from the World to Come are so named (and so limited), then presumably, the rest are included.

<sup>63</sup> E.g., Boyarin, *Border Lines*, 58–63; cf. Grossberg, “Orthopraxy,” esp. 549. The influential treatment by Schiffman is also pertinent: *Who Was a Jew*, 41–46. Operating on a different plane, Aharon Shemesh has discerned an anti-Sadducean polemic in other portions of Mishnah Sanhedrin: “The Dispute Between the Pharisees and the Sadducees on the Death Penalty” [Hebrew], *Tarbiz* 70.1 (2000): 17–33 [English abstract, p. v].

<sup>64</sup> In fact, elsewhere, *minim* deny resurrection: e.g. *Gen. R.* 14.7; see Stuart Miller, “The Minim of Sephoris Reconsidered,” *HTR* 86.4 (1993): 377–402, esp. 386–92.

<sup>65</sup> See, e.g., *Sifre Numbers* § 112, on Numbers 15.30 (ed. Horovitz, 121).

<sup>66</sup> See Abraham Joshua Heschel, *Heavenly Torah: As Refracted through the Generations* (ed., trans. Gordon Tucker; New York: Continuum, 2007), 369–70, 376, cf. 403 (and cf. Schiffman, *Who Was a Jew*, 43, who grants that in this case something other than the Sadducean view is countered); *contra* Boyarin, *Border Lines*, 58–60.

<sup>67</sup> Cf. Schremer, “Thinking about Belonging,” 269–70, 274–75, and Grossberg, “Orthopraxy,” esp. 518–19 (who suggests that the concern here is not with belief, per se, but with the public statements they make).

impact on the immediate social level, for no one is excommunicated in this world. And one can safely wonder what impact declaring other-worldly excommunication would have on those who deny the afterlife.<sup>68</sup> So not only is *m. Sanhedrin* 10 not focused on Sadducees—who aren't mentioned—the one exclusion that does pertain to them constitutes a very weak tool for condemning them, from their perspective. The exclusion is really more of a smug internal reassurance. Believers themselves are reassured not to worry, for those deniers of resurrection will, in the end, suffer the logical consequences of their non-belief.

So just like Josephus, *m. Sanhedrin* 10 is focused more on countering Epicureans than Sadducees. In both we find criticisms of the Sadducees, but these criticisms stop short of full exclusion. At the risk of stretching things too far, Josephus's insinuations regarding the Sicarii strike me as prefiguring the rabbis' insinuations regarding the Sadducees: Josephus suggests that Eleazar and his minions at Masada will suffer the hell they fail to fear; *m. Sanhedrin* warns that the Sadducees will not merit the reward they fail to anticipate. If this comparison seems forced, we can retreat to a clearer parallel: Tannaitic sources assert repeatedly that the belief in providence and the fear of retribution (earthly and post-mortem) will help motivate the performance of proper behaviors (e.g., *m. Avot* 1:3; 1:7; 2:1; 2:14–16; 3:1; etc.), just as Josephus too suggested (*War* 2.156–157; *Ant.* 10.277–281).

The parallels between Josephus and early Tannaitic material extend beyond their afterlife hopes and their similarly ambivalent non-exclusionary criticism of the Sadducees. Analyses that remain focused on *m. Sanhedrin* 10:1 miss the opportunity to recognize how Josephus's excoriation of kin-killers is echoed in the very next passage (*m. Sanh.* 10:2):

(2) Three kings and four commoners have no share in the world to come. The three kings are Jeroboam, Ahab and Manasseh. R. Judah says: Manasseh has a share in the world to come, for it is written, "And he prayed unto him . . ." (2 Chron 33:13). They said to him: He brought him again to his kingdom, but he did not bring him to the life of the world to come. The four commoners are Balaam, Doeg, Ahitophel and Gehazi.

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<sup>68</sup> According to Alan Segal, the empty threat here is "private ironic humor": see *Life After Death: A History of the Afterlife in the Religions of the West* (New York: Doubleday, 2004), 606, 613.

Josephus was focused on the recent past, while the rabbis purport to be concerned with the distant past. Even so, it is notable that the three kings singled out for exclusion were monarchs who not only “caused Israel to sin” (1 Kgs 14:16; 15:30; 21:22; 2 Kgs 21:11) but also engaged in warfare and bloodshed against other Israelites: Jeroboam took Israel into rebellion (1 Kgs 12:2–33); Ahab’s queen Jezebel slaughtered prophets and Naboth (1 Kgs 18:4; 21:7–14); and Manasseh filled Jerusalem with blood (2 Kgs 21:16) and, according to later tradition, murdered the prophet Isaiah as well.<sup>69</sup> Granted, this particular criterion cannot apply across the board in *m. Sanhedrin*, especially to the various commoners, like Balaam and Gehazi, doomed to perdition.<sup>70</sup> Yet the three kings’ behaviors are quite like those of Josephus’s kin-killing “Fourth Philosophy”: leaders of civil strife, who threatened to bring the nation to ruin.

And we do well to look further as well (*m. Sanh.* 10:3):

(3) The generation of the Flood have no share in the world to come, nor shall they stand in the judgment. . . . The generation of the Dispersion have no share in the world to come. . . . The men of Sodom have no share in the world to come. . . . The spies have no share in the world to come. . . . The generation of the wilderness have no share in the world to come. . . . The company of Korah shall not rise up again. . . . The Ten Tribes shall not return again. . . .

Again, no single behavioral or theological common denominator pertains throughout. Yet the concern to condemn consensus-breakers applies perhaps to the spies, certainly to the company of Korah, and perhaps also to the Ten Tribes (who followed the sinful rebellious Jeroboam excluded earlier). To be sure, by this point, the exegetical interests of the passage have shifted, and the exclusions mentioned are no longer focused on afterlife *per se*. For what it is worth, the theme of consensus breakers applies without a doubt to the group receiving sustained legal analysis through the remainder of the chapter: the people of the

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<sup>69</sup> On rabbinic traditions concerning these kings’ murderous (and other) transgressions, see *b. Sanh.* 102a–103b; cf. *m. Avot* 5:18 (on Jeroboam, citing 1 Kgs 15:30). On Isaiah’s martyrdom, see, e.g., *b. Sanh.* 103b, 2 *Baruch* 64:1–10, and *Ascension of Isaiah*.

<sup>70</sup> I remain intrigued by R. Travers Herford’s suggestion that the named individuals in this chapter—Balaam, Doeg, Ahitophel, and Gehazi—are understood as ciphers for, respectively, Jesus, Judas, Peter, and Paul; see Herford, *Christianity in the Talmud and Midrash* (London: Williams & Norgate, 1903), 48, 61, 63–71, 97–103.

rebellious city (*m. Sanh.* 10:4–6; Deut 13:14–19)—though by this point, the discussion has transitioned back to issues raised in *m. Sanhedrin* 9:1.<sup>71</sup> Still, we find in *m. Sanhedrin* 10:1–3, as in Josephus, a focus on condemning those who have fostered or participated in rebellious behavior threatening the integrity of the people. And with regard to the kings and some others, crimes include internecine bloodshed as well.

So the Sadducees are disliked, but not fully condemned, by both Josephus and the Mishnaic sages. And both Josephus and the Tannaim direct their targeted exclusionary efforts elsewhere, on internecine warriors (within the Jewish ranks) and Epicureans (wherever they may be).

Of course the rabbis exhibited some interest in other targets as well. Above all, we must acknowledge the evidence (which appears outside of *m. Sanhedrin* 10:1–3) regarding the rabbinic effort to exclude the rather elusive category of *minim*.<sup>72</sup> Efforts to narrowly identify the *minim* in general or the “Two-Powers” *minim* in particular have failed to take hold. Certainly, no group of people called themselves *minim* or professed faith in “Two Powers in Heaven” in so many words. Rather, it is clear that both the general category and the sub-grouping are constructed catch-all referents, which may have included, at one time or another, varieties of (Jewish-) Christians, (Jewish-) Gnostics, Samaritans, Jewish skeptics—even Gentiles.<sup>73</sup> Moreover, the rabbinic category appears to have shifted or developed over time,<sup>74</sup> and the rabbis’ concerns include not just beliefs but practices as well.<sup>75</sup> These difficulties regarding the rabbis’ *minim* highlight the fact that the category is rather analogous *in this one important respect* to Josephus’s “Fourth Philosophy”: these two rhetorically constructed groups are identifiable only in so far as they are excluded from the vaguely

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<sup>71</sup> The reference to “world to come” in the printed editions of 10:4 is widely recognized as an erroneous gloss (and does not appear in MS Kaufmann or other important early versions).

<sup>72</sup> The literature on *minim* (and related terms) is vast. Many of the key sources are collected and analyzed in Segal, *Two Powers*, and (before that) Herford, *Christianity*. The key texts and academic debates are covered economically in Alexander, “Jewish Believers.” For a recent survey and reconsideration, see Schremer, “Wayward Jews.”

<sup>73</sup> On the ambiguities/imprecisions in rabbinic usages of *minim* (and “Epicureans”) see (e.g.) Miller, “The Minim,” esp. 377–78, 386–92; and Goodman, “Function of Minim,” 166–71. Schremer, *Brothers Estranged* (esp. 49–86) associates the category with Jews who have lost faith in God altogether; Schremer, “Wayward Jews,” associates the term with Jews who have placed themselves outside of the rabbinic community.

<sup>74</sup> See Richard Kalmin, “Christians and Heretics in Rabbinic Literature of Late Antiquity,” *HTR* 87.2 (1994): 155–69.

<sup>75</sup> See Schremer, “Wayward Jews,” esp. 252–55.

defined consensus that is supposed, otherwise, to exist. Again, whatever is excluded, it's heresy—meaning a de-legitimated excluded group characterized by suspicious and dangerous beliefs and practices. This heresy is constructed on the constructors' terms, and named accordingly. And in both cases, the construction of a catch-all category of heresy does not go hand-in-hand with the definition of a narrow, unified orthodoxy.

*The Consensus of m. Avot*

It remains now to suggest that there are also important similarities between Josephus and the later rabbis regarding consensus (as opposed to orthodoxy). To that effect, we can compare the vague, hopeful, and unhistorical assertion of unity in *Apion* with the rabbis' curiously selective perusal of history in tractate *Avot*.<sup>76</sup>

The plain text of *Avot* presents the history of the Jewish tradition as one continuous consensus.<sup>77</sup> Continuity over time is not interrupted by crisis (the two destructions go unmentioned) nor diluted by divergence (no sects or sub-groups are mentioned). Contrary to popular opinion, *Avot* is neither anti-priestly nor anti-Sadducean. For all that is often said about the alleged exclusion of priests from the transmission of Torah from Sinai to the sages,<sup>78</sup> any such exclusion is both incomplete and potentially to the priesthood's benefit. In fact, named priests *are* included in the complete chain of succession: Simeon the Righteous (*Avot* 1:2) is usually understood to have been a (high) priest. Yosi ben

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<sup>76</sup> On *Avot* in general, and in light of its third-century Greco-Roman and Christian contexts in particular, see especially Amram Tropper, *Wisdom, Politics, and Historiography: Tractate Avot in the Context of the Graeco-Roman Near East* (Oxford: Oxford University Press, 2004). Versifications of this tractate vary; references here follow Albeck.

<sup>77</sup> Both Boyarin (*Border Lines*, 74–86) and Tropper (*Wisdom, Politics*, 208–40) compare *Avot* to Christian constructions of apostolic succession; Boyarin attributes to *Avot* a greater heresiological power than Tropper grants. The following analysis aligns more with Tropper's. See also Cohen, "A Virgin Defiled," 3–4.

<sup>78</sup> E.g., Boyarin, *Border Lines*, 76–77; Moshe David Herr, "Continuum in the Chain of Torah Transmission" [Hebrew], *Zion* 44 (1979): 43–56 (esp. 48); Finkelstein, *Introduction*, 9–13; and Peter Schäfer, "Rabbis and Priests, or: How to Do Away with the Glorious Past of the Sons of Aaron," in *Antiquity in Antiquity: Jewish and Christian Pasts in the Greco-Roman World* (ed. Gregg Gardner and Kevin Osterloh; Tübingen: Mohr Siebeck, 2008), 155–72 (esp. 166–68). For a more moderate view, see Tropper, *Wisdom, Politics*, 213–14 n. 11. Curiously (and ambiguously) Boyarin asserts in this regard that "pre-rabbinic texts do include priests" (*Border Lines*, 77). Tropper (*Wisdom, Politics*, 225 n. 55) more precisely notes: "no pre-rabbinic source preserves a succession list or a concept of succession as found in *Avot*."



Yoezer (*Avot* 1:4) is elsewhere referred to as one of the “pious of the priesthood” (*m. Hagigah* 2:7), and Joshua ben Perahiah (*Avot* 1:6) is later remembered as having burned a red heifer (*Sifre Zutta* 19:3 [ed. Horovitz, 302]). In addition, the exclusion of priests as a class from the earlier part of the list is actually to later priests’ benefit: To be sure, by virtue of their inclusion, prophets, elders, and the men of the great assembly are given an important historical role in the transmission of “Torah.” But that same inclusion that bestows historical significance confers, at one and the same time, contemporary irrelevance. The judges, elders, prophets, and men of the great assembly are of the past, as deceased as the individual named sages who follow. The exclusion of priests from the first part of the list opens the possibility for inclusion in transmission later, and in the future. And all this is to say nothing of what is perhaps even more important: the content of the traditions themselves. From the world resting on temple service (*Avot* 1:1), to Hillel’s emphatic admonition to “be disciples of Aaron” (1:12), through R. Simeon’s reference to the “crown of the priesthood” (4:13), to the ten miracles that occurred in the temple (5:5), *Avot* is as priestly as Simeon the Righteous.

And as for the Sadducees: It is “Torah” (not Oral and Written Torah) that comes to Moses from Sinai and is passed on—so there is nothing affirmed in *m. Avot* 1:1 regarding Torah that a Sadducee would deny. Yes, there is a single tradition attributed to Eleazar ha-Moda’i excluding some (though not Sadducees) from the world to come (3:11)—but, as we have already asked, what effect would that exclusion have on those who deny this doctrine? We can better appreciate the stance of *Avot* by drawing a contrast with the fuller targeted condemnation of the Sadducees that appears in *Avot de Rabbi Natan A 5* (ed. Schechter, 13a–b). In the later text we find the Sadducees depicted as a recent group with a nameable, creative, and sorely mistaken founder who lived in the late Second Temple period (Antigonus of Socho’s disciple, Zadok). In all these respects, this construction of Sadducean origins employs the same heresiological strategies Josephus employed in his construction of the Fourth Philosophy.<sup>79</sup> But a reader of *Avot* would hardly know that the Sadducees even exist, let alone be able to identify them as schismatics traceable to any given founder or datable to any particularly late period in history.

Without denying the tractate’s polemic for patriarchal power (particularly in *Avot* 1:1–2:4),<sup>80</sup> it must be said that *Avot* as a whole is striking for

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<sup>79</sup> *Avot de Rabbi Natan A 5* differs from Christian heresiological parallels as it does not demonize the Sadducees; see Cohen, “A Virgin Defiled,” esp. 4.

<sup>80</sup> See, Tropper, *Wisdom, Politics*, esp. 117–35.

the sages who are included: right off the bat, we have not just Hillel, but Shammai (1:15). And looking further, we find traditions attributed to figures who are elsewhere banned, deposed, or otherwise anathematized, including Eliezer ben Hyrcanus (2:10), Akavia ben Mehalalel (3:1), Ben Zoma (4:1), Ben Azzai (4:2–3) and even, perhaps most surprisingly, Elisha ben Abuyah (4:20).<sup>81</sup> And even after the patriarchal line of Judah the Prince (1:16–2:4) usurped the place of Ben Zakkai and his disciples in the line of transmission (2:8), the latter remain within the text (2:8–2:14). In a nod toward *m. Sanhedrin*, *m. Avot* 5:17–19 does speak disparagingly (and vaguely) of Korah, Balaam, and Jeroboam. But *Avot* overall remains decidedly focused on continuity and consensus. *Avot* does this not by demonizing difference<sup>82</sup> but by innocuously overlooking a great deal of it. Sects and subgroups may be important to mention elsewhere for a fuller understanding this or that. But in *Avot* (as in *Apion*) it is as if major disagreement never arose.

So the rabbis, like Josephus before them, operate in two different modes simultaneously: there's an exclusionary tendency exhibited in *Antiquities* 10 and 18 and *m. Sanhedrin* 10; and there's the consensus-constructing tendency (or mood) exhibited in *Avot* and *Apion*. And neither offers an unbounded multiformity or a clear drive toward a univocal orthodoxy.

## Conclusion

Just as Josephus is important for understanding ancient Jewish theology, so too are his writings critical for understanding the development of ancient Jewish heresiology. Already in *War*, Josephus seems keenly aware of potential dangers associated with certain illegitimate beliefs. And in *Antiquities*, an incipient heresiology is evident in the construction of the Fourth Philosophy as an isolated group that is characterized—and de-legitimated—as dangerous, novel, having a nameable founder, and lacking any justification in scripture or tradition. Even when scholars recognize the importance of Josephus's evidence in a general sense, few have recognized the value of Josephus's condemnation of the Fourth Philosophy for the understanding of early Jewish heresiology. Ironically, its significance lies precisely in its ahistorical nature, as an early verifiable instance of a group constructed rhetorically for the purpose of isolation and

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<sup>81</sup> Eliezer ben Hyrcanus is said to have been charged with *minut*: *t. Hull.* 2:24; Akavia ben Mehalalel is said to have been excommunicated: *m. Ed.* 5:6–7; Ben Zoma and Ben Azzai famously fell short in their mystical quests: *t. Hag.* 2:3; Elisha's apostasy became legendary (*b. Hag.* 15a–b; *y. Hag.* 2:1, 77b–c).

<sup>82</sup> Cohen, "Virgin Defiled," 4, 8.

condemnation—a century before the rabbis would construct their equally vague *minim*. Josephus's constructed Fourth Philosophy also prefigures the patristic constructions of multifarious and ever-more precise heresies, assorted Gnostic sects among them.<sup>83</sup>

And yet, it is equally important to appreciate that Josephus's heresiological efforts operate in the absence of a notion of orthodoxy. What we find, rather, is an equally constructed consensus, which for Josephus concerns God, providence, and Torah, though all is vaguely stated. And those few explicitly excluded from the consensus—primarily the Fourth Philosophy—are those who oppose the very idea of consensus by condoning internecine conflict.

In these respects, as in many others as well, Josephus can be understood as prefiguring the rabbis. For both the rabbis and Josephus, divine providence, hope of heaven, and fear of hell are meant to motivate and deter. They both presume that those who lack these beliefs, hopes, or fears will, ineluctably, fall into transgression. These fears highlight both the importance of theology as well as its interdependence with practice.

The rabbinic heresiological tendencies cohabit, as in Josephus, with neither an open "orthopraxy" nor an incipient orthodoxy, but with a vague yet bounded conception of consensus. In both cases, the constructed categories of the condemned (Epicureans, the Fourth Philosophy, *minim*) are excluded from a larger—and equally constructed—people of Israel, vaguely characterized for this purpose by an imagined continuous consensus (depicted in *Avot* by the rabbis, in *Apion* by Josephus).

While we can productively compare Josephus and the rabbis in terms of the overall significance of heresiology to their efforts, we must also grant some significant contrasts between Josephus's (and the rabbis') relatively meager efforts in this area and the sustained, systematic heresiological works of Irenaeus, Hippolytus, and Epiphanius. The general contrasts between the rabbis' legal works and the patristic works of theology remain clear—though we ought not forget that the rabbis were interested in theology too (as discussed above) and that the patristic writers were not uninterested in regulating Christian ritual practices (or countering disapproved behaviors). Josephus's relation to later

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<sup>83</sup> Scholars will continue to wonder whether "Gnosticism" (for instance) is a modern construct, an ancient construct, or a verifiably historical ancient phenomenon; see, e.g., Karen King, *What is Gnosticism?* (Cambridge: Belknap Press, 2003). Josephus's account of the Fourth Philosophy may prove relevant to such debates, for here too we encounter an ancient, hostile construction of a group whose coherent independent existence proves difficult to confirm.

patristic writers is more complicated. On the one hand, the contrasts here may be even greater, given Josephus's broad political and historiographic interests, which for some readers overshadow his religious concerns. Yet even while the contrasts are greater, the connections between Josephus and the later patristic writers are strong nevertheless—even stronger. After all, we need not wonder whether the fathers read (at least parts of) Josephus; we know they did. We need not speculate on whether they were influenced by Josephus's accounts of Pharisees, Sadducees, Essenes, and Zealots; we know they were. So it matters indeed that the heresiological crescendo that climaxes with Epiphanius and Hippolytus opens quietly, hesitantly—but audibly—with Josephus. The fact that the rabbis' tune was so similar to Josephus's suggests that this melody may have been an originally Jewish one.

In short, we find incipient Jewish heresiology in Josephus and in the Mishnah, without an impulse toward orthodoxy and without the influence of Christianity.<sup>84</sup> Therefore, this point bears repeating: theology matters to ancient Jews too.

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<sup>84</sup> Not only does Jewish heresiology develop independently of Christianity, it also cannot be seen only as prefiguring Christianity, since Jewish heresiology develops a condemnatory tendency without moving toward identifiable orthodoxy. In this respect, it may be helpful to view Josephus and the later rabbis as prefiguring not Christianity but Islam. In Sunni Islam, we also find that the claimed power of consensus (*ijma*) leads not necessarily to an eradication of difference but to a denial of a great deal of it (and the targeted condemnation of select sects, such as *kharijis* early on, and Shiites after that). For a recent survey of the current discussions on these questions, see Robert Langer and Udo Simonete, "The Dynamics of Orthodoxy and Heterodoxy: Dealing with Divergence in Muslim Discourses and Islamic Studies," *Die Welt des Islams* 48.3/4 (2008): 273–88; on consensus in particular, see esp. 275–78 and the works cited there, including, esp., Devin J. Stewart, *Islamic Legal Orthodoxy: Twelve Shiite Responses to the Sunni Legal System* (Salt Lake City: University of Utah Press, 1998), 20–59. For a more introductory overview, see Jonathan P. Berkey, *The Formation of Islam: Religion and Society in the Near East, 600–1800* (Cambridge: Cambridge University Press, 2003), esp. 128, 136, 141–51, 190, 248–49.