

**ANCESTRAL LAWS AND CUSTOMS  
IN GRAECO-ROMAN JUDAISM**

**MASTER THESIS**

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Front image:  
Antiocheian decree for foreign judges, ca 200 BCE  
(*I. Erythrai* 117)





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## INTRODUCTION

All ancient people had ancestral laws and customs. The Jews, however, were unique in the essential role these ancestral laws (πάτριοι νόμοι) assumed in the construction of their identity. At least, that is what Shaye Cohen holds to be the essence of 'being' a Jew.<sup>1</sup> The centrality of the concept of ancestral laws and customs (πάτριοι νόμοι and ἔθνη) is usually taken for granted in scholarship. Like Cohen, many scholars presuppose the unique importance of ancestral laws and customs for Jews in the Graeco-Roman period.<sup>2</sup> However, the qualification of laws and customs as πάτριος does not occur throughout the preserved Greek Jewish literature, but only in 2 Maccabees, Philo, Josephus and 4 Maccabees. τὰ πάτρια, πάτριοι νόμοι or ἔθνη are not used in the Septuagint to translate Hebrew terms or concepts. The obvious conclusion has been that τὰ πάτρια is an originally Greek concept, adopted by Jews in the Hellenistic period. What does this mean for the centrality of ancestral laws and customs in Graeco-Roman Judaism?

Specific study of the use of 'ancestral laws' (and variations with custom, tradition and worship) is rare and mostly limited to its occurrence in Josephus (§1.2). The present research intends to fill that lacuna by undertaking a broad approach to the subject, taking into consideration all relevant occurrences of the adverb πάτριος in Greek Jewish texts. The main questions posed to the material have been, 1) if the specification of laws and customs as πάτριος adds an extra meaning in general, and 2) if it is used in specific situations.

We will first discuss previous studies of ancestral laws and customs in Jewish texts and the approach to the subject adopted in this study (chapter 1). Chapter 2 is devoted to some basic ideas concerning ancestral laws and customs in Jewish and non-Jewish texts. What are they, to which past do they refer and what is their origin? The characteristics of the notion found in this chapter form the background to the analysis of the use and function of ancestral laws and customs in 2 Maccabees, Philo, Josephus and 4 Maccabees. Chapter 3 focuses on Josephus' use of πάτριος in his rewriting of biblical history and of Israel's sins against the Lord in particular. We shall see that he saves mentioning the *ancestral* laws for specific occasions. The next chapter deals with Jewish appeals to their ancestral laws and customs under foreign rule, either in Judea or in a Diaspora context. In what situations do ancestral laws surface in interaction with other people with other traditions? In chapter 5, we shall see that ancestral traditions also figured in discussions between different Jewish currents, including followers of Jesus. This line of comparison will be continued in the last chapter, which will discuss the role the concept under discussion played in interactions between Jews, pagans and Christians.

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<sup>1</sup> S.J.D. Cohen, *The Beginnings of Jewishness. Boundaries, Varieties, Uncertainties* (Berkeley, Los Angeles and London 1999) 92.

<sup>2</sup> See, for instance, J.M.G. Barclay, *Jews in the Mediterranean Diaspora. From Alexander to Trajan (323 BCE – 117 CE)* (Edinburgh 1996) 2: 'that precious heritage which represented the ethnic continuity of this distinguished people'.



All Bible translations are from the *New Revised Standard Version of the Bible* (1989). For Philo, I have used C.D. Yonge, *The Works of Philo, Completed and Unabridged* (Peabody 1993); for Josephus' works, I generally consulted the Brill edition of his works by Steve Mason (ed.), *Flavius Josephus: Translation and Commentary* (Leiden 1999- ): vol. 3 (*Antiquities* 1-4), vol. 4 (*Antiquities* 5-7), vol. 5 (*Antiquities* 8-10), vol. 9 (*Life of Josephus*), vol. 10 (*Against Apion*). Otherwise, I have used the translation by W. Whiston, *The Works of Flavius Josephus, Complete and Unabridged* (Peabody 1987). For works by non-Jewish Greek and Latin authors, I used the Loeb Classical Library series and the translations available online at [www.perseus.tufts.edu](http://www.perseus.tufts.edu). In all cases I may have made adaptations.



## 1.1 Terminology

The adjective πάτριος, derived from πατήρ ‘father’, can designate something as ‘belonging to one’s father’ (usually πατρῶος), but we are primarily interested in the meaning of πάτριος as ‘ancestral’, or ‘derived from one’s fathers’, ‘hereditary’.<sup>3</sup> Although a variety of matters can be qualified as ‘ancestral’, we will generally focus on laws (νόμος) and customs (ἔθη). The word πάτριος occurs throughout antiquity, but unfortunately, no separate study of πάτριοι νόμοι / ἔθη in Greek texts has been published and it is beyond the limits of this thesis to do so.<sup>4</sup> For convenience, I have chosen to refer to the conception under discussion as τὰ πάτρια. The substantivated adjective of πάτριος occurs frequently in all Greek sources and seems to function as a shorthand way to describe ‘ancestral ways’ or ‘ancestral things’.<sup>5</sup> In most cases, it is not possible to determine from context whether these are laws (νόμοι, νόμιμα) or customs (ἔθη). In general, there does not seem to be a clear-cut distinction between πάτριοι νόμοι and πάτριοι ἔθη. We are here not so much concerned with the distinction between νόμος and ἔθος, but rather with the connotation brought to them by πάτριος.<sup>6</sup>

πάτριοι νόμοι, πάτριοι ἔθη or τὰ πάτρια do not constitute strictly technical terms, but are part of ‘ancestral language’ in general. This language field includes ‘homeland’ or, more

<sup>3</sup> See the listings under πάτριος in LSJ s.v. The synonym πατρικός is less frequently used in the material that is the focus of our attention. G. Schrenk, in Kittel’s theological dictionary, discusses πάτριος under the lemma πατρῶος and understands it as a Hellenistic term for ‘handed down from the fathers’ in Hebrew. He does not see a conceptual difference between πατρῶος and πάτριος: G. Schrenk, ‘πατρῶος’, in: G. Kittel and G. Friedrich (eds), *Theological Dictionary of the New Testament* Vol 5, translation G.W. Bromiley (*Theologisches Wörterbuch zum Neuen Testament*, Stuttgart 1966-1973; Grand Rapids 1967) 1014-1015.

<sup>4</sup> Studies are limited to the more specific concept of ‘ancestral constitution’ (πάτριος πολιτεία) and to the πάτριος νόμος in Athenian funeral orations. For the ancestral constitution, see: M.I. Finley, *The Ancestral Constitution* (Cambridge 1971), reprinted in *The Use and Abuse of History* (London 1975) 43-95; K.R. Walters, *Ancestral laws and the Ancestral Constitution in the Oligarchic Movements of the Late Fifth-Century Athens* (Princeton 1973); A. Fuks, *The Ancestral Constitution. Four Studies in Athenian Party Politics at the End of the Fifth Century B.C.* (Westport 1953); M. Ostwald, *The Unwritten Laws and the Ancestral Constitution of Ancient Athens* (Columbia Univ. Diss. 1952). For the funeral orations, see N. Loraux, *L’invention d’Athènes: Histoire de l’oraison funèbre dans la ‘cité classique’* (Paris 1981).

<sup>5</sup> In LSJ, πάτριος s.v., τὰ πάτρια is translated with ‘ancestral customs’; Wackernagel has ‘der alte Landesbrauch’: J. Wackernagel, ‘Über einige lateinische und griechische Ableitungen aus den Verwandtschaftswörtern’, in: A. Kaegi, *Festgabe Adolf Kaegi von Schülern und Freunden dargebracht zum 30. September 1919* (Frauenfeld 1919) 40-65; P.W. van der Horst holds that Philo uses the substantivated adjective τὰ πάτρια because it had a ‘solemn ring in the ears of his contemporaries’: *Philo’s Flaccus. The First Pogrom. Introduction, Translation and Commentary by Pieter W. van der Horst* (Leiden 2003) 145; referring to G. Dellling, *Studien zum Frühjudentum: gesammelte Aufsätze 1971-1987* (Göttingen 2000) 37. I have not found support for this ‘solemn ring’ of τὰ πάτρια compared to πάτριοι νόμοι or ἔθη.

<sup>6</sup> I will generally translate νόμος with ‘law’, although it has a wide range of meanings (custom, norm, order, usage, tradition) and our understanding of law implies something more fixed and often written down. The more specialised meaning of νόμος as ‘law’ came into usage when the political order of Greece developed: H. Kleinknecht, ‘νόμος A’, in: Kittel and Friedrich, *Theological Dictionary of the New Testament* Vol 4, 1022-1035. ἔθος will be translated as ‘custom’: see LSJ s.v., ‘that which is in habitual practice, use or possession’; ‘usage’, ‘custom’, ‘statute’, ‘ordinance’, ‘law’. Josephus uses νόμος and ἔθος, and less frequently νόμιμος, more or less interchangeably: B. Schröder, *Die ‘väterlichen Gesetze’: Flavius Josephus als Vermittler von Halachah an Griechen und Röme* (Tübingen 1996) 4-5, 21-25; S. Mason, *Flavius Josephus on the Pharisees: A Composition-Critical Study* (Leiden 1991) 100-105.



properly, 'fatherland' (πατρίς), but also forms of 'father' (πατήρ, in plural and especially 'of the fathers' (τῶν πατέρων) and 'ancestors' (πρόγονοι). However, our focus on πατριοί νόμοι, πατριοί ἔθη and τὰ πάτρια as a concept is justified by the specific application to which it is put and the specific contexts in which it is used, in this way approaching a technical meaning.<sup>7</sup>

Since τὰ πάτρια, πατριοί νόμοι or ἔθη are not used in the Septuagint to translate Hebrew terms or concepts and only surface in Hellenistic Jewish literature, the obvious conclusion has been that τὰ πάτρια is an originally Greek concept, adopted by Jews in the Hellenistic period.<sup>8</sup> Of course, ancestral language and appeals to the ancestral Jewish past are abundantly present in other Greek, Hebrew and Aramaic Jewish texts: think only of the God of the fathers, the covenant of the fathers, the patriarchs in general.<sup>9</sup> We will see parallels, especially between 'covenant of the fathers' (διαθήκη τῶν πατέρων) in 1 Maccabees and τὰ πάτρια in 2 Maccabees. Yet, τὰ πάτρια is not merely a 'Hellenization' of an older Jewish concept (see below), such as 'covenant of the fathers', but another way to present the importance of ancestral heritage with a very distinctive application.

The concept of τὰ πάτρια shows clear parallels with the Latin concept of *mos maiorum*. Both entail an appeal to the ancestral past, to the ways of the forefathers from a certain position in the present. The two should not be identified: *mos maiorum* has very specific, Roman meanings and furthermore, τὰ πάτρια in Latin is often translated with *patriis institutis*, *patrius mos* and not with *mos maiorum*. Although I will occasionally point at continuities and discontinuities between the use of πατριος and *mos maiorum*, the present analysis is concentrated on Greek texts.

## 1.2 Earlier studies and approach

The first separate study of πατριοί νόμοι in Jewish texts was published in 1986 by the former Groningen professor of Religious Studies (1977-1989), Hans G. Kippenberg. In 'Die jüdischen

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<sup>7</sup> Contra Steve Mason, who argues that 'Josephus alternates freely between ὁ νόμος, οἱ νόμοι, τὰ ἔθη, οἱ ἔθισμοί, τὰ νόμιμα, τὰ πάτρια, and various combinations of these'. He does mention the possibility that Josephus makes nuances and singles out two examples in which the use of τὰ πάτρια is more restricted. Although Mason thinks that Josephus makes no specific use of πατριος, he does connect the (πατριοί) νόμοι in Josephus, an 'undifferentiated mass of original law and subsequent tradition', with its elastic use in ancient Greek politics. But basically, he sees τὰ πάτρια as a synonym for οἱ νόμοι: *Flavius Josephus on the Pharisees*, 102-105.

<sup>8</sup> πατριος only occurs in 2 Maccabees (nine hits), Philo (66), Josephus (240) and 4 Maccabees (seven). On the one hand, taken together these texts comprise a large or probably even the largest part of the extant Greek Jewish literature. On the other, it is remarkable that πατριος occurs consistently throughout these works and not at all in the others texts, neither in Greek versions of Hebrew or Aramaic works, nor in works originally written in Greek. The exception is (the originally Hebrew) Wisdom ben Sirah, which has πατριος once describing the 'Law, the prophets and the other ancestral books' (αἱ τῶν ἄλλων πατρίων βιβλίων; 0:10). It is hard to argue from silence why πατριος would not occur in the letter of Aristeas, *Joseph and Asenath*, or in the (possibly Christian) books 3 and 5 of the *Sibylline Oracles*, for instance. The question of audience could be most relevant here, but in virtually all cases it is too difficult and simplistic to opt for either a Jewish or a non-Jewish audience.

<sup>9</sup> The LXX does use πατριος in a more narrow sense to translate Hebrew status constructions with 'of the father'. For instance, 'ancestral houses' οἴκοι πατριοί = MT 'houses of their fathers' (מבתי אבות) (Ex 6:14, 25; frequently in Num); 'ancestral inheritance' τὴν κληρονομίαν τὴν πατρικὴν (Num 36:8). Cf. also *Test. Levi* 18:6: 'the father's voice' φωνῆς πατρικῆς; Eupolemos 2:9, 11, 13: 'father's friend' φίλῳ πατρικῷ. While νόμος is of course used to translate תורה, ἔθος only occurs five times in the LXX (1 Macc 10:89; 2 Macc 11:25; 13:4, 4 Macc 18:5; Sir 14:16. Except for 1 Macc, these works all have πατριος as well.



Überlieferungen als πάτριοι νόμοι', Kippenberg assigns an important role to the study of the concept 'ancestral laws' (πάτριοι νόμοι) for research into the way Judaism dealt with Hellenistic culture.<sup>10</sup> Kippenberg adopts a rather exclusive interpretation of πάτριοι νόμοι as a political concept. He traces its background to Greek political discussions about the true constitution (πάτριος πολιτεία), whereby the πάτριοι νόμοι legitimate political action and the freedom and autonomy of the citizens. As Alexander Fuks argued, πάτριοι νόμοι (or in this case rather πάτριος πολιτεία) functioned as a reconstruction of history to find a norm for the constitution in the present. In this sense, the concept of πάτριοι νόμοι has a strong normative dimension, and this norm is located in the past.<sup>11</sup> This means that πάτριοι νόμοι is not so much a descriptive term: it does not actually describe the content of traditions, but, as Kippenberg aptly puts it, 'den Gebrauch, den man von Überlieferungen machte'.<sup>12</sup> This holds for Jewish texts as well: according to Kippenberg, the adjective πάτριος adds something specific ('ein wesentlich Merkmal') to a noun. That is: 'Patrios qualifiziert eine gegenwärtige Handlung als richtig: als in Übereinstimmung mit einer Tradition', mostly the Torah.<sup>13</sup>

Kippenberg finds the same meaning of πάτριος in the Seleucid and Roman documents quoted by Josephus (*Ant* 11-19; see §4.3): when Jews were granted the right to live according to their ancestral laws, foreign rulers sanctioned an existing, approved practice. He bases this interpretation of πάτριος solely on the documents quoted by Josephus in his *Antiquities*, adopting a very historicizing approach. For Kippenberg, the Seleucid and Roman rulers truly were protectors of the ancestral laws, again only drawing on evidence in Josephus.<sup>14</sup> He locates the actual starting point of Jewish appropriation of the concept of ancestral laws in Antiochus III's authorization of the πάτριοι νόμοι after the fifth Syrian war (200 BCE; *Ant* 12.138-144). From this moment, says Kippenberg, the Jewish community was identified with an external, Hellenistic political conception and started to become 'Teil der antiken Kultur'. Jews took over the foreign concept and in this way brought their religion in relationship with the political culture of Hellenistic cities.<sup>15</sup> Kippenberg argues that the πάτριοι νόμοι belong to the Jews' political understanding of their community, originally an external Hellenistic view. In this way, the concept constitutes a political interpretation of the Jewish religion, and one that allowed political action: the ancestral laws are constituted and defended by the people of Judea, as is shown by their willingness to die for the ancestral laws.<sup>16</sup> In its strong normative dimension, it functioned 'als Legitimation der freien und autonomen Judäer'.<sup>17</sup>

As will become evident, I fully agree with Kippenberg's attention for the normative dimension and legitimizing function of πάτριοι νόμοι (see especially §2.4). Other aspects of his analysis are less convincing. For the Jewish evidence, he relies solely on Josephus' quotation of the edicts from the Seleucid and Roman empires, without seriously taking into consideration their literary-apologetic context. Furthermore, his interpretation is dependent on a verbal

<sup>10</sup> The article was published in: R. Schlesier (ed.), *Die Restauration der Götter. Antike Religion und Neopaganismus* (Würzburg 1986) 45-60.

<sup>11</sup> A. Fuks, *The Ancestral Constitution: four studies in Athenian party politics at the end of the fifth century B.C.* (London 1953); Kippenberg, 'Die jüdischen Überlieferungen als πάτριοι νόμοι', 46-47.

<sup>12</sup> Kippenberg, *Die vorderasiatischen Erlösungsreligionen in ihrem Zusammenhang mit der Antiken Stadtherrschaft* (Frankfurt 1988) 187.

<sup>13</sup> Kippenberg, 'Die jüdischen Überlieferungen', 49.

<sup>14</sup> *Ibidem*, 51.

<sup>15</sup> Kippenberg, *Die vorderasiatischen Erlösungsreligionen*, 185-186.

<sup>16</sup> Kippenberg, 'Die jüdischen Überlieferungen', 52-55; *Die vorderasiatischen Erlösungsreligionen*, 216.

<sup>17</sup> Kippenberg, 'Die jüdischen Überlieferungen', 58.



authenticity of the documents: he assumes that Josephus' terminology of *πάτριοι νόμοι* was present in the 'original' documents as well. Finally, Kippenberg's stress on the free and autonomous establishment of the ancestral laws seems to lack support in the evidence. The importance of civil autonomy may be true for Greek poleis, but cannot be demonstrated for the Jewish appropriation of the concept.<sup>18</sup>

Kippenberg's lack of literary-contextual analysis and strong 'realgeschichtlicher' approach is also noticed by Bernd Schröder, author of the only existing monograph on ancestral laws in Jewish literature, focusing on Josephus. In *Die 'väterlichen Gesetze': Flavius Josephus als Vermittler von Halachah an Griechen und Röme* (Tübingen 1996), Schröder tests the hypothesis that Josephus uses the term *πάτριοι νόμοι* to mediate between the Jewish halacha and Greek ethics. Schröder's approach is literary, analyzing the function *πάτριοι νόμοι* has in the context of each work. He concludes that this function is primarily explanatory, and, as for Kippenberg, also legitimizing, reflecting Josephus' purpose of explaining Jewish tradition to Greeks.<sup>19</sup> Although Schröder sets out to discover the import of the adverb *πάτριος*, he limits his analysis to the combination *πάτριοι νόμοι* and does not discuss all occurrences of the adverb *πάτριος*. Yet, unlike Kippenberg, Schröder does not consider *πάτριος νόμοι* a technical term: the same content can be designated by a variation of similar terms.<sup>20</sup> In this respect I tend to agree with Schröder: *πάτριος νόμοι* and *ἔθη* are rather part of a field of ancestral language. However, he limits the specific meaning of *πάτριος* when used to qualify laws to a 'qualitativen Vorsprung' in relatively important narratives in Josephus' works, where it has a 'tragende Rolle' because of its explanatory function. While this analysis remains somewhat vague, I hope to demonstrate that the application of *πάτριος* is more specific. Furthermore, to address the meaning and import of this field, the analysis should cover all occurrences of *πάτριος* and not just *πάτριος νόμοι*. By only searching for *πάτριος νόμοι*, Schröder has missed important texts.

Schröder criticizes Kippenberg's strict political understanding of the ancestral laws. Instead, he opts for another exclusive interpretation of the ancestral laws as a religious term. He grants that, for instance in the case of the right to observe ancestral laws, they are given in a political context, but they concern religious affairs. For Schröder, *πάτριος* designates mostly 'the religion as a whole or specific religious rites'.<sup>21</sup> I hope to show that *πάτριος* has a broader reach than either political or religious. Furthermore, since religion in antiquity was embedded in society, one should be careful to impose sharp distinctions between political and religious domains on the ancient material.

While Kippenberg holds that the concept *πάτριος νόμοι* was applied to the Jewish community by Hellenistic monarchs, Schröder does not see a 'nachweisbare Begriffübernahme aus griechisch-römischen sphäre' and limits the relationship to 'inspiration'.<sup>22</sup> In case of both Schröder's and Kippenberg's analysis of *πάτριος νόμοι*, a certain approach to the question of the 'Hellenization of Judaism' seems to be at work. At this point, it is important to distinguish

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<sup>18</sup> Cf. Schröder, *Die 'väterlichen Gesetze'*, 100-103. The reason Schröder disagrees with Kippenberg's stress on civil autonomy is hard to grasp. According to Schröder, ancestral laws always involve something that is given externally, that is, the Mosaic Law or traditions derived from that. He claims that this external providence cannot be coincided with the 'Selbstbestimmung' of ancestral laws. Yet, if people choose to impose certain laws and traditions on themselves, that would count as 'Selbstbestimmung' as well.

<sup>19</sup> Schröder, *Die 'väterlichen Gesetze'*, 263-265.

<sup>20</sup> Schröder, *Die 'väterlichen Gesetze'*, 98.

<sup>21</sup> Ibidem, 99-111.

<sup>22</sup> Ibidem, 267.



between the actual relationships between Jews and Greeks in the Graeco-Roman period and the literary discourse adopted in certain situations to describe this relationship. In this thesis, we will be looking at the literary use of τὰ πάτρια. What is 'ancestral' for the Jews, is part of their heritage that has been handed down for generations. So if the provenance of the words πάτριον νόμοι or ἔθη is 'outside' Jewish tradition, what does this say about the meaning of the *idea* these words express for ancient Jews? The approach taken to the 'Hellenization of Judaism' informs the conception of τὰ πάτρια in scholarly literature.

Judaism and Hellenism were not opposing, static entities, whereby the advance of Hellenism meant erosion of a 'pure' form of Judaism.<sup>23</sup> Jews could accommodate and adapt themselves to changes brought by the influence of Greek culture in Palestine or the Diaspora without giving up, or even being threatened in their Jewishness. They did not have to choose between either resisting or succumbing and thereby give up their Judaism – although it can be portrayed as such in the literary sources and especially in situations of conflict, as we shall see. As Erich Gruen and others have stressed, Jews actively engaged themselves with Greek culture and accommodated themselves to the cultural world of the Mediterranean in different ways. At the same time, they sought to express their own distinctive identity as Jews within that world.

I will argue that the use of τὰ πάτρια was one of the ways in which Jews expressed their identity in Graeco-Roman terms. This does not automatically mean that it merely served an apologetic function as a way to communicate Jewish particularities to outsiders, as Schröder argues. Josephus, for instance, was not merely 'inspired' by the Graeco-Roman sphere: he was part of that sphere. The active engagement with Hellenistic culture does not have to be a conscious decision to reach certain purposes – Jews were themselves Greek Jews, part of Graeco-Roman culture and society in their own contexts. Especially since other Jewish sources have their own ways to refer to the ancestral past, as we saw above, it is likely that Greek Jews made an existing Greek concept such as τὰ πάτρια part of their own vocabulary as an aspect of their self-definition in certain situations. The terms Jews used to express their identity were not only 'borrowed, manipulated, and refashioned from the Hellenistic cultural corpus', in Gruen's words, but also appropriated and made part of their own world.<sup>24</sup>

The evidence presented here will confirm Kippenberg's point that the qualification of laws as πάτριος has an important legitimizing function. This not only holds for πάτριον νόμοι, but

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<sup>23</sup> See especially E.S. Gruen, *Heritage and Hellenism. The Reinvention of Jewish Tradition* (Berkeley, Los Angeles and London 1998). The classic study is Martin Hengel's *Judentum und Hellenismus: Studien zu ihrer Begegnung unter besonderer Berücksichtigung Palästinas bis zur Mitte des 2. Jh. v. Chr.* (Tübingen 1969). The problems of the very terms 'Hellenism' and 'Judaism', in Hengel's approach as well, have been discussed extensively: there is no such thing as a single, 'pure' Greek / Hellenistic or Jewish culture: T. Rajak, *The Jewish Dialogue with Greece and Rome: Studies in Cultural and Social Interaction* (Leiden 2000) 7. The ancestral laws and customs are part of an essentialist discourse of a single, pure Judaism – what is ancestral is how it was in the beginning and how it should be, it is the 'original form'. In social-anthropological terms, this is an example of man's 'dual discursive competence': when people make statements about self and other, the rhetoric is often essential, but the activity is always processual: G. Baumann, *The Multicultural Riddle. Rethinking National, Ethnic, and Religious Identities* (New York and London 1999) 91-92.

<sup>24</sup> Gruen, *Heritage and Hellenism*, xix. Paul Spilsbury offers a similar, very well phrased criticism of Louis Feldman's concept of 'Hellenization', especially concerning Josephus' portrayal of biblical figures: 'Finally, we would argue that it should not be assumed that instances of Hellenization in the *Antiquities* are always to be taken as propaganda, as Feldman seems to suggest. They are just as likely to be genuine expressions of Josephus' own (Hellenized) understanding of the biblical narrative. ... Nor should we assume that Josephus only wrote what his audience wanted to hear': P. Spilsbury, *The Image of the Jew in Flavius' Josephus' Paraphrase of the Bible* (Tübingen 1998) 34.



also for *πάτριοι ἔθνη*, *νόμιμα*, *πάτριος πολιτεία* and *τὰ πάτρια*. *πάτριος* occurs in contexts in which it is necessary to defend or justify a certain position or characteristic. These situations are often political, and non-Jewish parallels show that *πάτριος* functioned especially in political contexts in the wider Greek world as well. This does not mean that *τὰ πάτρια* is a strictly political concept, nor a religious concept as Schröder claims. I will argue that *τὰ πάτρια* in Jewish texts is part of an ethnic appeal to the ancestral past used in specific rhetorical circumstances. Jews in Antiquity were by both in- and outsiders considered to constitute an *ethnos* in the classical sense of the word, a named group, often associated with a specific territory, whose member shared a sense of common origin and claimed a common and distinctive history and destiny.<sup>25</sup> In this way, *τὰ πάτρια* appears to be an important part of what Johathan Hall calls an ‘ancestralising strategy’: forging a link with distant ancestors for the purposes of legitimating territorial or sociopolitical claims.<sup>26</sup> The connection between ancestral laws and customs and expressions of ethnic identity seems clear. People speak of ethnic groups on the basis of a claimed common descent, a shared history, shared language, shared religion or shared symbols. The idea of ethnicity invokes a biological ancestry to claim, reinforce and explain present identity. People use ethnic identifications to organize social interaction by erecting boundaries between in- and outsiders.<sup>27</sup> As we shall see in the next chapter, the ideas associated with *τὰ πάτρια* are part of these ways to describe and express ethnic identities and subsequently enable the uses to which *τὰ πάτρια* is put.

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<sup>25</sup> There has been an extensive debate on the connotation of the Greek term Ἰουδαῖος in Antiquity: does it specify a geographic, national, ethnic, or a religious group? Does it incorporate all these different aspects of identity at the same time, or can we detect some development in the emphasis on one of these aspects? See especially: S. Mason, ‘Jews, Judaeans, Judaizing, Judaism: Problems of Categorization in Ancient History’, *Journal for the Study of Judaism* 38 (2007) 457-512; G. Harvey, *The True Israel: Uses of the Names Jew, Hebrew and Israel in Ancient Jewish and Early Christian Literature* (Leiden 1996); Cohen, *The Beginnings of Jewishness* 69-106; M.D. Goodman, ‘Identity and Authority in Ancient Judaism’, *Judaism* 39 (1990) 192-201; and Goodman’s articles on the consequences of the Jewish tax (*fiscus Judaicus*) for the definition of Jewish identity at the end of the first century, most recently: ‘The Meaning of FISCUS IUDAICA CALUMNIA SUBLATA’, in: Shaye J.D. Cohen and Joshua J. Schwartz, *Studies in Josephus and the Varieties of Ancient Judaism*. Louis H. Feldman Jubilee Volume (Leiden 2006) 81-90; S. Y. Amir, ‘The Term IOUDAISMOS: a Study in Jewish-Hellenistic Self-Definition’, *Immanuel* 14 (1984) 34-41. Some scholars, such as Shaye Cohen, John Barclay and Steve Mason, favour ‘Judeans’ as standard translation of Ἰουδαῖος because it brings out the geographical ‘and ethnic’ connotations, while modern English ‘Jew’ would single out religious identity. Since this translation only brings with it the equally great danger of focusing on territorial identifications and, furthermore, presupposes that a territorial connotation is more ‘ethnic’ than a religious connotation, I have chosen to speak of ‘Jews’ and not of ‘Judeans’.

<sup>26</sup> J.M. Hall, *Hellenicity: Between Ethnicity and Culture* (Chicago 2002) 23; *Ethnic Identity in Greek Antiquity* (Cambridge 1997) 138-140.

<sup>27</sup> For the classic statement, see Frederik Barth’s essay in *Ethnic Groups and Boundaries. The Social Organization of Culture Difference* (Boston 1969); for helpful discussion of ethnic identifications, see Baumann, *The Multicultural Riddle*, 57-86; T.H. Eriksen, *Ethnicity and Nationalism. Anthropological Perspectives* (London 1993).



## CHAPTER 2: TA PATRIA

### 2.1 Introduction

Since τὰ πάτρια is not so much a descriptive term, it is not easy to find ancient definitions of or reflections on the concept. Origen's *Against Celsus*, although of a much later date than most of the material discussed here (ca. 245 CE), contains a passage that is very informative about the rationality behind τὰ πάτρια.<sup>28</sup> It deserves to be quoted in full, after which I will briefly discuss some its most significant corollaries.

Describing the Jewish people, Celsus praises the Jews for adhering to the laws that have been established when their nation was founded: whatever else was peculiar about their worship, it was at least ancestral:

Now the Jews became an individual nation (ἔθνος ἴδιον), and made laws according to custom of their country (κατὰ τὸ ἐπιχώριον νόμους); and they maintain these laws among themselves at the present day, and observe a worship which may be peculiar, but is at least ancestral (θρησκείαν ὁποῖαν δὴ, πάτριον δ' οὖν; 5.25).<sup>29</sup>

No matter how distinctive the Jews may be in other respects, in their adherence to ancestral traditions, they are no different from the rest of mankind:

In this respect they behave like the rest of mankind, because each nation follows its ancestral customs, whatever kind may happen to be established (ἕκαστοι τὰ πάτρια, ὁποῖά ποτ' ἂν τύχη καθεστηκότα, περιέπουσι; 4.25).

Celsus continues to address the cause of this situation, whereby each nation has its own particular laws:

This situation seems to have come to pass not only because it came into the head of different people to think differently and because it is necessary to preserve established social conventions (φυλάττειν τὰ ἐς κοινὸν κεκυρωμένα), but also because it is probable that from the beginning the different parts of the earth were allotted to different overseers, and are governed in this way by having been divided between certain authorities. In fact, the practices done by each nation are right when they are done in the way that pleases the overseers; and it is impious to weaken the customs which have existed in each locality from the beginning (παραλύειν δὲ οὐχ ὅσιον εἶναι τὰ ἐξ ἀρχῆς κατὰ τόπους νενομισμένα; 4.25).

Thus, every nation has its own laws and customs that are part of the group's heritage and that should be preserved by that group. Celsus' analysis touches upon a number of aspects of τὰ πάτρια that will be discussed in separate paragraphs. Firstly, the normativity of the concept, to which we shall return, is very clear from this passage. Regardless of the content of these ancestral laws, they should be conserved and it is impious to weaken or disable them. Secondly, as Celsus remarks later, 'the differences between each nation are very considerable, and nevertheless each one of them appears to think its own by far the best' (5.34). Thus, τὰ πάτρια are particular. Philo mentions this particularity as well, in a discussion of the diversity of

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<sup>28</sup> In *Against Celsus*, Origen refutes the charges against Christianity put forward by the Roman philosopher Celsus in his *The True Doctrine*, written in ca. 177-180. Origen is considered to have preserved Celsus' original wording.

<sup>29</sup> Translation H. Chadwick, *Origen: Contra Celsum* (Cambridge 1953). The polemic context of this passage, Celsus' accusation of Christians who have abandoned their πάτρια, will be discussed in chapter 6.



human perceptions. As an example of this diversity, he mentions ‘the manners of life from boyhood and ancestral customs and ancient laws (ἔθη πάτρια καὶ παλαιοὶ νόμοι), of which it is admitted that not a single one of which is regarded the same for all, but they vary according to countries and people and cities, even more according to every village and house, man and woman and young child in almost every point’ (*De ebrietate* 193). We shall see that the particularity of τὰ πάτρια was also subject of critical reflection.<sup>30</sup>

As Celsus indicates, every people (ἔθνος), but also every polis, was thought to have its own particular laws and customs that could be qualified as ancestral and seen as part of their tradition and heritage as a distinctive group of people.<sup>31</sup> In this sense, τὰ πάτρια occurs in ethnographic descriptions. Describing the Egyptians, Herodotus mentions that they ‘use their ancestral laws (πατρίοισι δὲ χρεώμενοι νόμοισι) adding no others’ (*Histories* 2.79.1). The Jewish πάτρια are subject of most of the material presented here, but our Jewish sources also refer to those of other people.<sup>32</sup> The qualification of polis laws and the cities’ constitution (πολιτεία) as ancestral is attested even more frequently. The city of Athens, in the fifth century BCE, saw an intensive debate about its ancestral constitution (πάτριος πολιτεία).<sup>33</sup> In a political diplomatic context, Greek treaties often contained the phrase that a polis or people could ‘conduct their political life (πολιτεύεσθαι) according to their πάτρια’. There is much literary and epigraphic evidence that Hellenistic monarchs frequently granted peoples and poleis under their rule their own ancestral constitutions or laws, meaning the laws that were already in use.<sup>34</sup> Ancestral laws are thus basically local laws that are qualified as such in certain circumstances with an appeal to the past of an ethnic or polis group. They are part of people’s tradition: in this context, the expression πάτριός ἐστιν, ‘it is customary / traditional’ occurs very often.<sup>35</sup>

## 2.2 The origin and content of τὰ πάτρια

To which laws and what type of law does τὰ πάτρια refer, and where lies its origin? In early Greek material, τὰ πάτρια can designate the ancient traditions that existed before the written law of the poleis. The idea that τὰ πάτρια predate the written polis laws, is clearly expressed in Plato’s *Laws*. Before men had written laws, they ‘lived by following custom and what is called ancestral laws’ (ἀλλ’ ἔθεσι καὶ τοῖς λεγομένοις πατρίοις νόμοις ἐπόμενοι ζῶσιν; 3.680a). Plato locates the beginning of legislation in these patriarchal societies, in which the particular laws

<sup>30</sup> See Philo, *De ebrietate* 196–198 and further in §6.5.

<sup>31</sup> These laws could also be described as ‘own’, ‘particular’ (ἴδιος or ἰδιότης) or ‘native’ (ἐπιχώριος) but we shall see that in most cases, πάτριος brings with it its own connotation.

<sup>32</sup> For instance, Josephus refers to the πάτριαι ἔθη of the Egyptians (*Apion* 1.317; 2.10, quoting Apion about Moses’ Heliopolitan customs to which he was bound). When Joseph was vizier to the Pharaoh and held a banquet, he entertained ‘each party κατὰ τὰ πάτρια’ (Philo, *De Josepho* 202). For the πάτρια of the Romans: Dionysius of Halicarnassus 2.23.3–5; 5.74.1; Plutarch, *Cato Maior*, 16.3–4; Dio Cassius 36.31.4; 43.28.2; of the Jews: Dio Cassius 66.7.2.

<sup>33</sup> This is one of the few topics concerning Greek ancestral laws that has received considerable scholarly attention. See note 4 above.

<sup>34</sup> Some examples: Ptolemy I granted the islands of the Nesiotic League their ancestral laws (*Syll*<sup>3</sup> 390); Philip V of Macedon did the same for the island of Nisyros (*Syll*<sup>3</sup> 572); the city of Thebes lost their ancestral constitution when they were enslaved by the Spartans (Plutarch, *Pelopidas* 6.2.2); When the city of Eretria was freed from the Macedonians, the people retrieved their ‘ancestral laws and the democracy’ ([...τοὺς πατρίους νομοὺς καὶ τὴν δημοκρατίαν ἐκομίσατο; *Syll*<sup>3</sup> 323). For the grant of ancestral rights to the Jews by Seleucid and Roman rulers, see §4.2.

<sup>35</sup> Thucydides 1.123.1 (Athenians); Josephus, *Apion* 1.91 (Jews); Plutarch, *Themistocles* 27.5.4 (Persians); *Camillus* 29.2.5 (Romans).



and customs were handed down from parents to children (681b-c). The uncodified ancestral laws continued to function next to the polis laws, which were eventually written down and partly based on the ancestral law.<sup>36</sup> In this politico-philosophical context, τὰ πάτρια is associated with unwritten laws and customs in particular. There is a tension between τὰ πάτρια as local, particular laws of a people or polis, and its association with unwritten laws, which are generally seen as unchangeable and universal.<sup>37</sup> However, this association appears to be very rare outside Plato's works, although it returns in Philo (*Special Laws* 4.149-150; see below and §6.5).<sup>38</sup> Both written and unwritten laws can be qualified as πάτριος, whereby the particular context is dominant.

The origin of τὰ πάτρια can be located in the ancient past of the forefathers and part of a fixed tradition, but also more explicitly associated with certain, sometimes legendary lawgivers. Thus, Athens was ruled 'in accordance with τὰ πάτρια, in accordance with the laws of Solon ... and in accordance with the statutes of Draco, which we used aforesaid.'<sup>39</sup> Yet, it is not said that τὰ πάτρια are established by these lawgivers: qualifying laws or customs as πάτριος is rather a way to refer to those existing laws and customs that are claimed to be unchanged for a long time and enjoy legitimacy. The laws that were established by the lawgivers would be in accordance with τὰ πάτρια and perhaps based on them, but they are not identical. References to τὰ πάτρια and attributing laws to ancient lawgivers are part of the same ancestralizing strategy to provide a position with authority.<sup>40</sup> In this context, the debates about the ancestral constitution in Athens are very illustrative. The Athenian democracy was weakened by the failed expedition to Sicily of 413 BCE and the losses to Sparta and its allies in the same period. During the ensuing political conflicts of 411 and 404-403, πάτριος πολιτεία was used as a political slogan to justify political programmes by finding alleged precedents in the past. Each party claimed that their democracy was the true ancestral constitution.<sup>41</sup> A group of Athenians, 'the Four Hundred', attempted to take over and claimed that they restored the ancestral laws laid down by Cleisthenes when he established the democracy in 508 BCE (Ps-Aristotle, *Athenian Constitution* 29.3). The other party, the oligarchs, were accused of transgressing the ancestral

<sup>36</sup> James Oliver connects τὰ πάτρια with patriarchal societies before the rise of the polis: J.H. Oliver, *The Athenian Expounders of the Sacred and Ancestral Law* (Baltimore 1950) 47. At Athens, the unwritten 'sacred and ancestral law' was expounded by a commission of exegetes.

<sup>37</sup> C. Rowe and M. Schofield (eds), *The Cambridge History of Greek and Roman Political Thought* (Cambridge 2000) 15.

<sup>38</sup> In Plato: 'the unwritten ordinances are also known as ancestral laws' (τὰ καλούμενα ὑπὸ τῶν πολλῶν ἄγραφα νόμιμα καὶ οὐδὲ πατρίους νόμους ἐπονομάζουσιν; *Laws* 793a); written laws are opposed to the unwritten ancestral customs (γράμμασιν ... ἐν ἀγραμμάτοις, πατρίους δὲ ἔθεισι; *Statesman* 295a; cf. 298e). A TLG lemmatized search on 'πάτριος and ἄγραφος or ἀγράμματος', set on ten lines before and after πάτριος, achieved only a few results. Besides a fragment in the second century CE Stoic philosopher Hierocles (in Stobaeus 52.11) and a text from the Pseudo-Clementine *Recognitions* (9.19) that is only preserved by the sixth century Pseudo-Caesario, only nine post-fifth century texts were found. An interesting text is Sozomenus, *Church History* 6.38: the Ishmaelites originally shared the unwritten customs with the Hebrews, but lapsed from their ancestral religion.

<sup>39</sup> Andocides, *De Mysteriis* 83.

<sup>40</sup> The best-known example is the attribution of Sparta's constitution to Lycurgus. On archaic lawgivers, see Rowe and Schofield, *Greek and Roman Political Thought*, 42-48. We will return to the relationship between τὰ πάτρια and the first legislator below, when discussing Moses and the Jewish ancestral laws.

<sup>41</sup> The relevant sources are Thucydides 8.47-98 and *Athenian Constitution* 29-35, attributed to Aristotle. For literature, see note 4 above. For the Jewish πάτριος πολιτεία: Philo, *De confusione linguarum* 2; *De migratione Abrahami* 88; Josephus, *Ant* 4.191; 13.2, 245; 14.41. For parallels with πάτριος πολιτεία as a political argument in 2 Maccabees, see §4.4.



laws (τοὺς πατρίους νόμους καταλύσαντας). When the democracy was restored in 403 after the rule of the ‘Thirty Tyrants’, another opposition group, the decree quoted above was issued: ‘The Athenians shall be governed in accordance with τὰ πάτρια, in accordance with the laws of Solon ... and in accordance with the statutes of Draco, which we used aforesaid’ (Andocides, *De Mysteriis* 83). This decree did not intend the re-establishment of the actual constitution designed by Solon and Draco, but rather the way Athens was governed before the episode of the Thirty Tyrants, clothed with an ancestral layer to provide authority and legitimacy.<sup>42</sup> In this political rhetorical context, πάτριος does not describe the content of laws and customs, but legitimizes a specific position. τὰ πάτρια, then, appears to refer to a usually non-specified body of (political, religious, social) laws and customs that are being practiced by a group of people in the present but are said to have its origin in the group’s common past, the time of their forefathers.<sup>43</sup>

### 2.3 The content and origin of the Jewish πάτρια

In the Jewish material, the reference point of τὰ πάτρια appears to be more specific, namely the Torah, the laws of Moses.<sup>44</sup> Although we can say that τὰ πάτρια generally refer to the Torah, it is in most cases not a descriptive, but a legitimizing term. τὰ πάτρια is a way of referring to and presenting the Torah in certain contexts. By looking at the context of passages, we can determine what laws or customs are considered, or better, presented as ancestral. For instance, Josephus says that Titus did not want to attack the Jerusalem temple on Sabbath, because he did not want to force Jews to violate their ancestral customs (*War* 94.102). The prohibition to work and fight on Sabbaths is here presented as ancestral. In principle, every law can be presented as ancestral and in this sense, the context in which πάτριος occurs is more relevant than the content it describes. We shall see however, that there are laws that are more frequently described as ancestral than others and that the qualification of laws as ancestral occurs especially in contexts of (political) conflict, and in relation with non-Jews.

Because τὰ πάτρια in Jewish texts refers to laws that are contained in the Torah, Schröder considers πάτριοι νόμοι a religious term.<sup>45</sup> However, it is not so much the content that defines τὰ πάτρια, but rather the use that is made of it. Furthermore, it is reductionist to designate the Torah as religious in a modern sense. It does not only contain religious prescriptions, but deals with the right behaviour of the people towards God and each other. Schröder seems to qualify τὰ πάτρια as a term ‘referring to the religion in general’, because he considers Ἰουδαῖος a religious identity. πάτριος can be used for the observance of the Sabbath (*Ant* 14.63), festivals (Philo, *Spec leg* 2.148; *Ant* 11.109; *Apion* 1.37), sacrificial laws (*Ant* 3.247; 4.71), or the particularity of their customs in general (Philo, *De vita Moses* 1.278), but also seemingly less important laws as calling people together with a ram’s horn (*Ant* 5.194) or providing shelter

<sup>42</sup> Finley, ‘The Ancestral Constitution’, 43-59.

<sup>43</sup> Cf. P.R. Franke, ‘Die κάπηλοι-Inschrift von Samos und der στατήρ πάτριος’, *Zeitschrift für Papyrologie und Epigraphik* 54 (1984) 119-126, at 123: ‘Begriffe wie patrios politeia ..., patria hiera ..., patrioi nomoi, patrion estin.. beziehen sich stets auf die Vorväter, auf die Ahnen insgesamt, also auf viele Generationen, und umschliessen immer etwas, was von jeher zur eigenen Polis, zur eigenen Lebenswelt gehört hat’.

<sup>44</sup> Cf. the prologue to *Wisdom ben Sirach*, where Sirach talks about his grandfather who had studied the law, the prophets ‘and the other ancestral books’ (αἱ τῶν ἄλλων πατρῶν βιβλίων; l. 10). The Jewish text under discussion refer to laws of Moses in a broad sense.

<sup>45</sup> Schröder, *Die ‘väterlichen Gesetze’*, 99-111.



for refugees (*War* 4.136). In case of these last examples, the explanatory function of πάτριος is more relevant for the meaning of τὰ πάτρια than the content it refers to.

Concerning the origin of the Jewish πάτρια, there are only few texts ascribing them explicitly to God or Moses. The ancestral laws can be paraphrased as the law 'that was given to the fathers through Moses' (τοῖς πατράσιν ἡμῶν διὰ Μωυσέως; 2 Macc 7:30): the ancestral laws are those laws that were, through Moses, given to the fathers. The fathers here seem to be post-Moses, while Moses is the first receiver and mediator of the law. Then, here, the ancestral laws are the Mosaic laws of the Torah. Josephus remarks that the ancestral laws have been assented by God (*War* 3.356). 2 Maccabees 6:1 identifies the ancestral laws with the law of God, and in *Antiquities* 10.72, the 'ancient observation and ancestral customs' are used as synonyms of the Mosaic law. Philo remarks that the ancestral laws are 'divinely inspired' (*Quod omnis probus liber sit* 80). It is clear, however, that the origin of the Jewish constitution and the laws lies with God (*Ant* 3.84, 286) and that they are established by Moses (*Ant* 3.93-94; 2.213). In Josephus' description of the actual establishment of the laws at Sinai (*Ant* 4), the laws are not qualified as ancestral because the rhetorical situation does not ask for it. This confirms the non-descriptive function of τὰ πάτρια.

τὰ πάτρια can also be connected with Jewish patriarchs or sages in general. Philo identifies ancestral customs (πάτριοι ἔθη) as 'unwritten laws, being the doctrines of men of old (δόγματα παλαιῶν ἀνδρῶν), not engraved on pillars or written on paper which may be eaten by moths, but impressed in the souls of those living under the same constitution' (ψυχαῖς τῶν μετελιηφότων τῆς αὐτῆς πολιτείας; *Spec leg* 1.149-150).<sup>46</sup> In this passage, he makes a distinction between the written laws of Moses and the unwritten ancestral legislation that existed before the particular laws were written down (*De Abrahamo* 5). According to Philo, the ancestral customs are literally the customs of the ancestors. Moses and other Jewish sages are 'the founders of our *ethnos* and the unwritten laws (ἀρχηγέτας τοῦ ἡμετέρου ἔθνους καὶ νόμου ἀγράφου; *Decalogus* 1).<sup>47</sup>

The ancestral laws are not only presented as the laws of the Jewish *ethnos*, but also of the Jewish *politeia* (*Ant* 11.40; 4 Macc 8:7). Furthermore, the Jewish *politeia* itself is often qualified as ancestral (2 Macc 8:17; *Ant* 13.2, 245; 14.41, 191). Jews thought of themselves as a people or nation (ἔθνος, γένος), but could also present themselves as a πολιτεία. The next chapter will show that Josephus historiography of the Jewish *ethnos* contains a great deal of political language. The political presentation of the Jewish *ethnos* is especially prominent in the final part of *Against Apion* (2.151-2.286), where Josephus describes the Jews as a people governed by an ancient constitution (πολίτευμα 2.145, 165, 184, 257; πολιτεία 2.188, 222, 226, 287) that

<sup>46</sup> See also *Legatio ad Gaium* 115: Jews are trained by the 'sacred laws and also the unwritten customs' to worship one God (τῶν ἱερῶν νόμων καὶ ἔτι τῶν ἀγράφων ἐθῶν). There is an interesting parallel here with Plutarch's discussion of the lawgiver Lycurgus. He did not write any of his laws down, says Plutarch: if they were 'implanted in the habits and training of its citizens, they would remain unchanged and secure, having a stronger bond than compulsion in the fixed purposes imparted to the young by education ... Indeed, he assigned the function of law-making wholly and entirely to education' (*Lycurgus* 13.1-2). For the ancestral laws as communicated by education in Philo, see below. For another description of ancestral laws, see 2 Macc 7:30: the law was 'given to the fathers through Moses'.

<sup>47</sup> These passages will be further discussed in §6.5. Philo identifies the lives of the Jewish sages with the universal, unwritten law of nature. The particular written laws of Moses are presented as a copy of the lives of the ancients, and so of the universal law of nature: H. Najman, 'A Written Copy of the Law of Nature: An Unthinkable Paradox?', *Studia Philonica Annual* 15 (2003) 51-56; 'The Law of Nature and the Authority of Mosaic Law', *Studia Philonica Annual* 11 (1999) 55-73.



was established by the excellent lawgiver Moses (νομοθέτης). The term *politeia* here does not merely indicate a strictly political constitution in a modern sense, but embraces all political and social aspects of a way of life, (religious) laws and customs.<sup>48</sup> Josephus compares the Jewish constitution to that of Athens, Sparta and Plato's philosophical constitution, and Moses to their lawgivers Solon and Lycurgus.<sup>49</sup> We would expect τὰ πάτρια to occur especially frequently in this work, where Josephus describes the most important laws of the Jewish constitution and argues that the constitution itself is older than all others. Yet, πάτριος is not that frequent in *Against Apion*, because it is not a descriptive term and only used by Josephus in specific contexts.

Another way to refer to these laws and customs is as an ancestral philosophy. Josephus claims that Ptolemaeus Philadelphus, who is said to have issued the Greek translation of the Hebrew scriptures, wanted 'to know about our laws and to read the books of our holy writings', 'about the laws and our ancestral philosophy' (τοὺς νόμους καὶ τὴν πάτριον ἡμῶν φιλοσοφίαν; *Apion* 2.47). According to Philo, this ancestral philosophy was discussed in the synagogues on Sabbath (*De somniis* 2.217; *De vita Mosis* 2.216; *Legatio ad Gaium* 156). When the Essenes study moral philosophy, they 'take for their trainers the ancestral laws (ἀλείπταις χρώμενοι τοῖς πατρίοις νόμοις), which could not possibly have been conceived by the human soul without divine inspiration' (κατοκωχῆς ἐνθέου; *Quod omnis probus liber sit* 80). The Therapeutae are also said to read the sacred letters (τοῖς ἱεροῖς γράμμασι) and 'speak allegorically concerning the ancestral philosophy' (τὴν πάτριον φιλοσοφίαν ἀλληγοροῦντες). According to Philo, the ancestral philosophy is contained in the holy writings, or more precisely, hidden in the writings, and can be revealed by studying its underlying meaning (*De vita contemplativa* 28).

Finally, the Jewish πάτρια are connected with the Jewish country. Ethnic groups often occupy or claim a certain territory and are associated with a certain geographical area they identify as their homeland or fatherland (πατρίς). This connection is clearly visible in the fact that the land itself can be referred to as ancestral (πάτριος γῆ).<sup>50</sup> In this context, πάτριος can legitimize territorial claims: this is the land of our ancestors, it has been part of our *ethnos* for a long time.

#### 2.4 The normativity of τὰ πάτρια

In both Jewish and non-Jewish texts, τὰ πάτρια is not a neutral, descriptive term, but one with a

<sup>48</sup> The terms πολιτεία and πολίτευμα have a broad variety of meanings and can be used interchangeably. They denote citizenship, the body of citizens, the political life, constitution, civic right, state, government, the political life of a community in its different aspects, laws and customs (meanings given in LSJ). In the Hellenistic period, πολίτευμα was also used as a technical term for originally ethnic communities that enjoyed a certain administrative autonomy. See especially G. Lüderitz, 'What is the Politeuma?', in: J.W. van Henten and P.W. van der Horst (eds), *Studies in Early Jewish Epigraphy* (Leiden 1994) 183-225.

<sup>49</sup> The political presentation of the Jewish people does not mean it is not at the same time viewed as a ἔθνος or γένος (2.132, 222, 240, 288, 296). Josephus' presentation of Judaism also has philosophical aspects (1.28, 54; 2.47). Barclay notes that Josephus' presentation of Judaism falls within the categories of Greek and Roman ethnographies and within the politico-philosophical discussion of constitutions: 'Introduction', to *Flavius Josephus. Translation and Commentary Vol. 10 Against Apion* (Leiden 2007) lx.

<sup>50</sup> Philo, *Quis rerum divinarum heres* 287; *De somniis* 1.45; Josephus, *Ant* 5.322; 11.2, 66, 110; *War* 1.196; 4.402; *Apion* 2.157. This combination is especially frequent in Euripides' tragedies: *Medea* 653; *Hippolytus* 1148; *Electra* 1315; *Troïades* 162, 857; *Helena* 522; *Rhesus* 932. Apart from an occasional reference in other authors, it is typical for Josephus.



normative dimension and often a legitimizing function. Laws and customs that are presented as *πάτριος* have been the same for a long time and that is the way it should be. *τὰ πάτρια* should be preserved and change is a bad thing. Because of these normative connotations, the concept can be used in rhetorical situations to support a certain argument or position or to praise someone by portraying it as 'in accordance with *τὰ πάτρια*'. Conversely, the opposite position or action can be presented as a change, transgression or destruction of *τὰ πάτρια*. It is remarkable that this last, accusatory use of *πάτριος* is much more frequent, as our many examples will show. Furthermore, we shall see that this is especially the case in political contexts and political conflicts.<sup>51</sup>

Keeping the ancestral laws, says Josephus, is the way to be pious (*εὐσεβής*) and righteous (*δίκαιος*; *Ant* 7.374). Philo has the same dictum: 'righteousness and every virtue are the ancestral and ancient law (*νόμος ἐστὶ πάτριος καὶ θεσμὸς ἀρχαῖος*; *Laws* 2.13). We shall see in the next chapter that this paradigm informs Josephus' rewriting of biblical history as a way to paraphrase the deuteronomistic view of people and kings who were true or untrue to God's covenant, who were 'evil in the sight of the Lord'. Truthfulness to *τὰ πάτρια* can be used as a standard to judge both individuals and people. Josephus characterizes David as a 'just and God-fearing man by nature, and one who strictly kept the ancestral laws' (*ὄντι φύσει δικάϊω καὶ θεοσεβεῖ καὶ τοὺς πατέριους νόμους ἰσχυρῶς φυλάσσουντι*; *Ant* 7.130). Josephus himself claims that he will never 'forget *τὰ πάτρια* (*War* 6.107). This statement is part of Josephus' speech for the Jews and John of Giscala in particular, trying to convince them to give up their resistance in order to preserve Jerusalem and the Temple. Before stating his loyalty to the ancestral laws, he appeals to their common ethnic bond: 'remember that I am of the same stock (*ὁμόφυλος ὦν*) and a Jew as well (*Ἰουδαῖος ὦν*)', he will never forego his kindred, his *γένος* (6.107). Josephus' statement of loyalty to *τὰ πάτρια* is part of his attempt to show that he is a real and good Jew.

Similarly, the Jewish people are said to exemplify faithfulness to the ancestral laws. An important part of Josephus' *Against Apion* is designed to show that Jews 'remain in the ancestral ways' (*τῶν πατέριων ἐμμένειν*; 2.182) and do or think nothing 'contrary to the laws as originally promulgated' (*ἐξ ἀρχῆς νομοθετηθεῖσιν*; 2.183).<sup>52</sup> This is especially evidenced by the Jewish willingness to fight and even die for *τὰ πάτρια*, to which we will return in §4.4. Josephus considers this commitment and conservatism as a sign of the excellency of the laws laid down by Moses: apparently, there has been no need to revise it (2.183). The Jewish continuous loyalty to their laws serves as a point of comparison with the *politeia* of Sparta. This constitution, and its lawgiver Lycurgus, are greatly admired for having persisted in the laws for a long time, says Josephus. However, they forgot their laws when their fortune turned for the worse, whereas the Jews, Josephus claims, have never betrayed their laws even in extreme crises (*Apion* 2.225-228).<sup>53</sup>

Furthermore, both Josephus and Philo stress that Jews have intimate knowledge of their *πάτρια*. Discussing the Jewish education, Josephus stresses that Jews learn the laws and

<sup>51</sup> This use of *πάτριος* is fully paralleled in non-Jewish texts and we shall discuss some of them below.

<sup>52</sup> See especially *Apion* 2.220-235, 271-278, and also Philo, *Hypothetica* 6.8-9. The same point is made without qualifying these laws as ancestral. In Plato's *Statesman*, only the constitutions ruled by persons without expert knowledge should 'never do anything in contravention of the existing written laws and ancestral customs' (*παρὰ τὰ γεγραμμένα καὶ πάτρια ἔθνη*; 301a). The Jewish constitution, however, is laid down in accordance with God's will: *Apion* 2.184. For this discussion, see Rowe and Schofield, *Greek and Roman Political Thought*, 244-250.

<sup>53</sup> Note that Josephus does not use *πάτριος* here. For the same argument cf. Dionysius of Halicarnassus about the Romans, who have preserved their ancestral customs (2.23.5; 7.72.5).



deeds of the forefathers (τῶν προγόνων) from birth. This ensures that they imitate their deeds and do not transgress their laws (*Apion* 2.204). The ancestral laws can even be presented as teachers: 'the ancestral laws and the divine words have educated us' (παιδεύοντες ἡμᾶς οἱ πατέριοι καὶ θεῖοι λόγοι; *War* 7.343). According to Philo, this is one of the useful purposes of the Sabbath. In his apologetic work *Hypothetica*, he remarks that Moses deemed it necessary that the people had 'expert knowledge of their ancestral laws and customs' (τῶν πατρίων νόμων καὶ ἐθῶν ἐμπείρως ἔχειν; 7:11). Therefore he installed the reading of the law on the seventh day (7.12). As a consequence, 'any one of them whom you attack with inquiries about their πάτρια can answer you readily and easily' and, furthermore, they can transmit it to others, from father to children and from husband to wife (7.14). The transmission of τὰ πάτρια from the cradle is frequently stressed by Philo (*De ebrietate* 193; *Spec leg* 4.150). It explains their constancy and fixedness in a people's tradition: while written laws are perishable, τὰ πάτρια are 'impressed in the souls' of people under the same constitution (πολιτεία; *Spec leg* 4.149-150).<sup>54</sup>

The normative dimension of τὰ πάτρια and its application in moral judgement corresponds to the Latin *mos maiorum*. In a Roman context, however, the word *mos* in itself is already 'moral', specifies a specifically Roman way of living. According to Emma Dench, the combination of *mos* and *maiorum* emphasizes the 'peculiar importance in Roman thought of notions of heredity and tradition'.<sup>55</sup> In continuity with the use of τὰ πάτρια, Dench notes that references to Roman *mores* in general are more frequent when they are perceived to be under threat. An appeal to the *mos maiorum* often occurs in situations of innovation as a reaction to change.<sup>56</sup> Like τὰ πάτρια, *mos maiorum* entails a specific legitimation based on the way the ancestors did it. However, compared to Jewish usages of τὰ πάτρια, *mos maiorum* seems to be an ideal in the past, a way to criticize the present. Cicero does not claim that the Romans have been loyal to the *mos maiorum* from the beginning, but longs for the idealized past of the *mos maiorum* because his present society has been corrupted, for instance by wealth.<sup>57</sup>

Because of τὰ πάτρια's normative connotation, πάτριος is often used to explain laws and customs as being part of a people's ancient tradition. For instance, Josephus explains that it is ancestral (ἔστι πάτριον) for the Hebrews to 'sacrifice to God a calf and a ram and seven lambs

<sup>54</sup> Cf. Plutarch's discussion of Lycurgus, who did not write any of his laws down: if they were 'implanted in the habits and training of its citizens, they would remain unchanged and secure, having a stronger bond than compulsion in the fixed purposes imparted to the young by education' (*Lycurgus* 13.1-2).

<sup>55</sup> E. Dench, *Romulus' Asylum. Roman Identities from the Age of Alexander to the Age of Hadrian* (Oxford 2005) 66.

<sup>56</sup> Dench, *Romulus' Asylum*, 95. Another difference with τὰ πάτρια is that it is preserved for the aristocratic elite, the plebs are not bound to the *mos maiorum*. These (tentative) differences suggest that τὰ πάτρια should not be identified with *mos maiorum*.

<sup>57</sup> It would be interesting to conduct a more thorough analysis of Josephus' use of τὰ πάτρια compared to Roman *mos maiorum*. Recently, more attention has been paid to the Roman context of Josephus' work (see especially the articles in J. Edmondson, S. Mason, J. Rives (eds), *Flavius Josephus and Flavian Rome* (Oxford 2005). It has been argued that in *Against Apion* Josephus presents Jewish culture in a specifically Roman form. Goodman suggests that Josephus aligns Jewish and Roman ideals by emphasizing Jewish conservatism, sobriety, strict sexual morality, hard work, simplicity, practical wisdom and contempt for death (M. Goodman, 'Josephus as a Roman citizen', in F. Parente and J. Sievers (eds.) *Josephus and the History of the Greco-Roman Period* (Leiden 1994) 329-38). More specifically, Barclay argues that Josephus matches the Jewish constitution to the ideals of conservative Roman moralists (J.M.G. Barclay, 'Judaism in Roman Dress: Josephus' Tactics in the *Contra Apionem*', in: J.U. Kalms (ed.), *Internationales Josephus-Kolloquium Aarhus 1999* (Münster 2000) 231-245. Since these ideals often contained an appeal to the *mos maiorum*, it is possible that Josephus' use of ancestral laws shows parallels, as part of his attempt to show the compatibility of the Jewish constitution with Roman politics. Or, perhaps, its superiority: while Roman *mos maiorum* remain an ideal in the past, Jews still abide by their πάτρια.



and a goat as pardon for sins' (*Ant* 3.247). Together with this explanatory function, the qualification of laws, customs or specific measures as πάτριος is often used to legitimize them. For instance, when relating Moses' command not to let any Canaanites live after conquering them, Josephus justifies this violent order by presenting their survival as a threat to the ancestral constitution (πάτριος πολιτεία; *Ant* 4.191). When Joshua repeats the command, he adds that 'the preservation of the ancestral customs' (τὴν φυλακὴν τῶν πατρίων ἔθῶν) depended on it (5.90).<sup>58</sup>

Analysis of the legitimizing function of πάτριος reveals which laws and customs are more frequently characterized as ancestral and, apparently, more in need of justification. We shall see many examples throughout our discussion, but I will present one particular salient one now, that also serves to introduce our next chapter.

One of the classic statements of Jewish distinctiveness and separateness from other nations is expressed in the prophet Balaam's praise over Israel (*Numb* 23:7-10): they are 'a people living alone, and not reckoning itself among the nations' (LXX *Numb* 23:9 λαὸς μόνος κατοικήσει καὶ ἐν ἔθνεσιν οὐ συλλογισθήσεται).<sup>59</sup> When Philo discusses this episode, he feels the need to add an explanation for Balaam's description of the Israelites as a people that dwells alone:

And that, not because their dwelling-place is set apart and their land severed from others, but by reason of the distinction of their characteristic customs, (κατὰ τὴν τῶν ἐξαιρέτων ἔθῶν ιδιότητα), as they do not mix with others (μὴ συναναμιγνύμενος ἄλλοις) so as to depart from their ancestral ways (εἰς τὴν τῶν πατρίων ἐκδιαίτησιν; *De vita Mosis* 1.278).

Balaam's oracle is not interpreted in a geographical sense, as in Numbers, but in terms of their social distinctiveness: they are apart from the other nations because they do not mix with them. This separate behaviour of the Jews could be severely criticized by non-Jews and interpreted as anti-social and even misanthropic.<sup>60</sup> Philo, however, defends the Jewish refusal to mix with other nations by claiming that it would lead to a change (ἐκδιαίτησις) in their ancestral ways.<sup>61</sup> The ancestral ways are here synonymous with the 'characteristic customs',

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<sup>58</sup> Note the political context: Moses speeches before the assembled people (ἐκκλησίαν ... συναγαγών) and uses the familiar πάτριος πολιτεία argument. For threats to the ancestral constitution, see also for instance, Dionysius of Halicarnassus 7.23.3: the Roman aristocratic general Marcius Coriolanus presents the actions of the plebeians as attempts to destroy the ancestral constitution (διαφθορᾶ ... τῆς πατρίου πολιτείας). This is a political accusation against the opponent instead of a justification of a certain measure.

<sup>59</sup> For the reception of Balaam in later Jewish and Christian traditions, see now G.H. van Kooten (ed.), *The Prestige of the Pagan Prophet Balaam in Judaism, Early Christianity and Islam* (Leiden 2008).

<sup>60</sup> Cf. Haman in *Esther* 3:8 and especially in *Ant* 11.212: 'a nation unmixed and unsociable, neither using the same worship nor laws as others ... hostile towards all men'; Jews do not worship the same gods: Posidonius and Molon in *Apion* 2.79; Jews do not mix: Apollonius Molon in *Apion* 2.258; Hecataeus of Abdera in *Diodorus Siculus* 40.3.4; Jews abstain from intercourse with foreign women: Tacitus, *Historiae* 5.5.1-2; Juvenal, *Satires* 14.103-104. As the Jews were not the only people who could be accused of *amixia* and *misanthropia* in ethnographical debates, these charges should not be taken as anti-Judaism as such: J.M.G. Barclay, 'Hostility to Jews as Cultural Construct: Egyptian, Hellenistic, and early Christian Paradigms', in: J. Böttrich and J. Herzer (eds), *Josephus und das Neue Testament: Wechselseitige Wahrnehmungen* (Tübingen 2007) 365-387. See further §3.4 below.

<sup>61</sup> The term ἐκδιαίτησις, 'change of habits' is frequently used in this context. See Philo, *De Somniis* 2.123; *Flaccus* 50 (Gaius); *De Josepho* 254; *De vita Mosis* 2.167, 270; *De specialibus legibus* 3.126 (Golden Calf); Josephus, *War* 7.264 (John of Giscala); 4 *Macc* 4:19 (Jason); 18:5 (Antiochus IV). Cf. Dionysius of



but used in a legitimizing way. This aspect of Jewish identity, their refusal to mix with other people, is defended by explaining it as part of their *πάτρια* that would be abrogated if they gave it up.<sup>62</sup>

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Halicarnassus 5.74.1: the best Greek king was 'the most just, the most observant of the laws, and did not in any wise depart from the ancestral ways (*μηθὲν ἐκδιαιτώμενος τῶν πατρίων*'; Plutarch, *Agis* 3.9: Leonidas is described as a bad king because he increased 'a greater revolt from the ancestral ways (*τῶν πατρῶων ἐπιφανῆς ἐκδιαίτησις*) by imitating Persian courts, especially its luxury; *Cato Maior* 16.4: people depart from the ancestral way of life (*τῶν πατρίων ἐκδιαίτησιν ἔθῶν*) especially through hedonist behaviour; Dio Cassius 48.39.2: When Antony lived in Greece, he departed from his ancestral ways (*ἔξω τῶν πατρίων ἐξεδιητήθη*), 'calling himself the young Dionysus'. These are the only relevant occurrences up to the sixth century.

<sup>62</sup> Josephus seems to be aware of the unfavourable explanation of the Israelites' dwelling alone as well. He omits these words in his rendition of Balaam's oracle (*Ant* 4.106) and instead argues that Balak's fear was unfounded, since the Israelites would not interfere with other countries once they had conquered Canaan (*Ant* 4.102).



## 3.1 Introduction

Philo's explanation of Balaam's oracle is connected to the events that occurred next. In Philo's version, Balaam chose to give to give the Moabite king Balak some of his own suggestions that would destroy the Israelites (*De vita Mos* 1.294).<sup>63</sup> Balaam knew that the Hebrews could only be conquered by leading them into lawlessness (*παρανομία*). This was to be done through lust and intemperance (*διὰ λαγνείας καὶ ἀκολασίας*), 'putting lust (*ἡδονήν*) before them as a bait' (1.295). Therefore, he planned a device whereby the beautiful Midianite women inflamed the passions of the Israelite men, until lust had them in their grip and they would be ready to give up everything. Then, the women would introduce their condition: 'You must not be permitted to enjoy my favours until you have departed from the ancestral ways (*ἐκδιαιτηθῆς μὲν τὰ πάτρια*), changing to honour what I honour' (1.298). Balaam's plan succeeded, and the Israelite men, described as traitors and deserters, participated in the sacrifices for the idols (1.305). Philo's wording here is identical to the passage we saw at the end of the previous chapter, where he justified the prohibition of mixing as a departure from the ancestral ways, an *ἐκδιαίτησις* from τὰ πάτρια.<sup>64</sup> The temptation by the Midianite women confirms Philo's explanation: the Israelites mixed with foreign women and indeed committed idolatry, thereby abandoning their ancestral ways.

Josephus' version of the biblical narrative is basically the same (*Ant* 4.129-139). We are told that Balaam advised Balak to have the Midianite women cause the Israelites to lose self-control (*σωφροσύνη*) and, overwhelmed by passion (*ἐπιθυμία*), 'persuade them to give up their ancestral laws (*ἀφέντας τοὺς πατρίους νόμους*) and the God who has established them for them and to worship those of the Midianites and the Moabites' (4.130). In a speech by the Midianite women, Josephus gives the rationale behind this request: the seducers claim it is only fair for the Israelites to worship the Midianite gods, since the Israelite customs and life are 'extremely strange (*ἄλλοτριώτατα*) to everyone', specifying their peculiar foods and drinks (4.137). They should either worship the gods common to all, or live their lives in isolation according to their own laws (*βιώσονται μόνοι κατὰ τοὺς ἰδίους νόμους*; 4.138).<sup>65</sup> Led by their passion, the men transgressed their ancestral ways (*παρέβησαν τὰ πάτρια*), they sacrificed to the indigenous gods and ate foreign (*ξενικοῖς*) foods (4.139).

In accordance with Exod 34:16 and Deut 7:3-4, both Philo and Josephus hold that intermarriage or association with foreign women will lead to idolatry.<sup>66</sup> While the LXX connects intermarriage with turning away from the Lord (Deut 7:4, *ἀποστήσει ... ἀπ' ἐμοῦ*), Philo and Josephus express this in terms of transgressing (*παραβαίνω*) or even abandoning (*ἀφίημι*) τὰ

<sup>63</sup> Balaam's initiative is not found in the narrative in Numbers 25, but it is reflected in Numb 31:15, where Moses says that the women had seduced the Israelites in Peor to be unfaithful following Balaam's advice.

<sup>64</sup> See also *Spec leg* 1.56, where the same event is described as a disregard of τὰ πάτρια (*ἀλογοῦντας μὲν τῶν πατρίων*).

<sup>65</sup> 'Own laws' is mostly used synonymous with ancestral laws as stylistic variation in passages in which ancestral laws occur as well. Cf. *Ant* 11.281, 338; 12.150, 291, 385; 14.195, 264 (mostly about the right to use own laws). The same holds for 'customs': *Ant* 19.285, 290, 306, 311.

<sup>66</sup> See esp. *Ant* 8.182 below. Cf. Philo on Moses' prohibition of marriage with someone of another *ethnos* (*ἄλλοεθνῆι*), because it will lead to being 'conquered by their customs' (*μαχομένοις ἔθεσιν*; *Spec leg* 3.29).



πάτρια, here referring to food laws and the worship of one God.<sup>67</sup> Furthermore, in both versions the Israelites are lured into idolatry by lust and passion (*Mos* 1.295; *Ant* 4.130), an element that is absent in the biblical account. This is also observed by Harold Attridge, who connects sexual passion with the rejection of the authority of the ancestral tradition.<sup>68</sup> However, sexual passion in itself is not condemned as transgression of the ancestral laws, but sexual passion leading to idolatry because of intermarriage.

While Philo's version is about the illicit passion with foreign women, Josephus speaks about marriage (*Ant* 4.135), now that the Israelite men have come into their country (4.138). Because of the peculiarity of their way of life, the Midianite women say they should either give up their πάτρια or live in isolation. Scholars are quick to connect Josephus' rewriting of this narrative with his contemporary Diaspora life and the difficulty of maintaining the ancestral customs outside the land of Israel in a non-Jewish environment, where the 'danger of assimilation' is always present.<sup>69</sup> Philo seems to be aware of the difficulty of preserving τὰ πάτρια outside Israel as well. In his description of the life of Joseph, he notes Jacob's concern that Josephus had 'had departed from τὰ πάτρια' (περὶ τῆς τῶν πατρίων ἐκδιαίτησεως) in Egypt. Philo gives two reasons: in general, youth is more easily tempted and second, because it is easier to sin in foreign nations, especially in Egypt (*De Iosepho* 154).<sup>70</sup> While it is not unlikely that Josephus' and Philo's versions of the Israelite sin with Midianite women have counterparts in their contemporary social situations, we are at this point primarily concerned with the occurrence of πάτριος in a literary context. In this sense, it is most relevant for us that transgressing or abandoning τὰ πάτρια is a way to describe Israel's sin. Josephus' *Antiquities* offers a very good opportunity to analyze the function of πάτριος in his rewriting of biblical history and of Israel's sins against the Lord in particular.

In his version of biblical history, Josephus follows a Hellenistic moralizing historiography in which God's providence, rewarding virtue and punishing vice, is central.<sup>71</sup> This is clearly stated in the prologue of the *Antiquities*: the main lesson Josephus wants to convey is that those who obey God's will and not transgress the laws will be rewarded with success and happiness, while those who do not observe the laws will suffer misfortunes (*Ant* 1.14). Josephus' historiographical paradigm of sin and virtue is usually phrased in terms of keeping or transgressing the laws. We shall see that he saves mentioning the *ancestral* laws for specific occasions.

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<sup>67</sup> LXX Numb 25:1 describes the Israelites' behaviour as desecration of themselves (βεβηλόω). See also Pseudo-Philo's version in *Biblical Antiquities* 18:13: 'they will sin against their Lord'.

<sup>68</sup> H.W. Attridge, *The Interpretation of Biblical History in the Antiquitates Judaicae of Flavius Josephus* (Cambridge M. 1976) 131.

<sup>69</sup> Louis Feldman holds that Josephus includes this episode, instead of omitting it because of its bad reflection on the Jews, to warn 'assimilating Jews' for the dangers of intermarriage: *Flavius Josephus. Translation and Commentary Vol. 3: Judean Antiquities 1-4*, n392 and 393 at *Ant* 4.131 (available online at <http://pace.mcmaster.ca/York/york/index.htm>). See also Attridge, *The Interpretation of Biblical History*, 169; W.C. van Unnik, 'Josephus' Account of the Story of Israel's Sin with Alien Women in the Country of Midian (Num. 25.1ff)', in: M.S.H.G. Heerma von Voss (ed.), *Travels in the World of the Old Testament: Studies Presented to Professor M.A. Beek* (Assen 1974) 241-261 at 249-251.

<sup>70</sup> See also *De vita Mosis* 1.31: Philo complains that men in general are quick to disregard their family and friends, to 'transgress the laws (νόμους δὲ παραβαίνουσι) according to which they were born and brought up, and they overturn their ancestral customs (ἔθη δὲ πάτρια ... κινουῦσιν) to which no just blame whatever is attached, dwelling in a foreign land, and by reason of their cordial reception of the customs among which they are living, no longer remembering a single one of their ancient usages.'

<sup>71</sup> See especially Attridge, *The Interpretation of Biblical History*, 71-143.



### 3.2 The first sins of man

Not every instance of unfaithfulness to the Lord is phrased in *πάτριος* terms. Josephus describes man's first sin, that of Adam, as 'unrighteousness' (*ἀδικία*; 1.45) and a transgression of God's command (*παραβάντι τὴν τοῦ θεοῦ πρόσταξιν*; 1.46). Cain is portrayed as a murderer, his descendants as violent criminals, but they did not act against *τὰ πάτρια*. The same holds for the narrative of the Tower of Babel (Gen 13) and the destruction of Sodom (Gen 18). Josephus describes these biblical sins in terms of *ὑβρις* and even impiety (*ἀσέβεια*), but not as transgressions of *τὰ πάτρια*. (*Ant* 1.194-195). It is not until the seventh generation of Seth's descendants, the generation of the Flood, that *τὰ πάτρια* emerge in Josephus' account. The virtue of mankind before the seventh generation is described in terms of their faithfulness to the one God: they 'continued to believe that God was Lord of the universe and to look upon all things with reference to virtue' (1.72). However, in the seventh generation 'they changed from their ancestral habits for the worse (*μεταβάλλονται πρὸς τὸ χεῖρον ἐκ τῶν πατρίων ἐθισμῶν*), neither offering to God the customary honours nor taking into account justice toward humanity'.<sup>72</sup> In Genesis, the generation of the Flood is characterized by their wickedness, violence and corruption (6:5, 11-13), but there is no mention of their lack of worship to the one God. *πάτριος* here probably refers the virtuous way of life of their ancestors, discussed immediately before, but it is associated with worship. It turns out that Josephus phrases every biblical occurrence of idolatry, if he mentions it in the first place, in terms of transgressions of *τὰ πάτρια*.<sup>73</sup> Furthermore, when Josephus speaks of idolatry, it is in *πάτριος* terms.

After the affair with the Midianite women, the next occurrence of idolatry, as in the Bible, is the episode of the erection of an altar across the Jordan river by the tribes of Ruben, Gad and the half tribe Manasse (Joshua 22:9-34; *Ant* 5.101-113).<sup>74</sup> In the LXX, the delegation sent by the other Israelites accuses them of sinning (*ἐπλημμελήσατε*) and turning away (*ἀποστάτας*) from God, reminding them of the idolatry resulting from the fornication with the Midianite women (Josh 22:16-18). In Josephus' version, the Israelites take the erection of the altar as done with 'revolutionary intent (*ἐπὶ νεωτερισμῶ*) and as an introduction of strange gods' (*ξενικῶν εἰσαγωγῆ θεῶν*; 5.101). Therefore, the Transjordanians sent an army to punish their fellow Israelites for their 'deviation from the ancestral customs' (*τῆς παρατροπῆς τῶν πατρίων ἐθῶν*; 5.101). The planned armed response against their kin is justified by characterising the supposed transgression as a deviation from the ancestral customs. Furthermore, it is once more a form of idolatrous worship or accusation thereof that is considered an offence against *τὰ πάτρια*. As the Transjordanians later respond in their defence, the altar was not erected for sacrificial purposes, but rather to remind them of the necessity to 'remain in the ancestral laws' (*τοῖς*

<sup>72</sup> The combination *μεταβάλλω* – *πάτριος* does not occur elsewhere in Josephus, but does have Greek parallels in political, or even revolutionary contexts. See for instance Thucydides 2.16.1: the Attic people resided in their country and administered their own affairs until Theseus centralised Attica into one polis, Athens, which was to be their metropolis. They were not inclined to move, since it would involve a change in their ancestral way of living (*πάτρια δίαίταν ... μεταβάλλειν*) of their *politeia*; Aristotle, *Politica* 1305a: 'And revolutions also take place from the ancestral form of democracy to one of the most modern kind (*μεταβάλλουσι δὲ καὶ ἐκ τῆς πατρίας δημοκρατίας εἰς τὴν νεωτάτην*).

<sup>73</sup> For instance, Josephus omits the episode of the Golden Calf (Exod 32). Philo does present this as a departure from the ancestral ways (*Spec leg* 3.126).

<sup>74</sup> For a general discussion of Josephus' rewriting of this narrative, see C.T. Begg, 'The Transjordanian altar (Josh 22:10-34) according to Josephus (*Ant.* 5.100-114) and Pseudo-Philo (*LAB* 22.1-8)', *Journal for the Study of Judaism* 35 (1997) 5-19. Begg does not comment on the concentrated occurrence of ancestral language here. Pseudo-Philo's version does not contain references to ancestral laws or customs.







πατρίους ἐμμένειν). Nevertheless, the Cisjordansians decide to dispatch a delegation first to question their motives. When an assembly (ἐκκλησία) is convened, Phinehas, the leader of the embassy, asks the Transjordansians if they have indeed deserted the 'altar that is ancestral for us' (καταλιπόντας βωμὸν ὃς ἡμῖν πάτριος) and going over to the evils of the Canaanites, have introduced strange gods' (5.107). He admonished them to 'respect and stay mindful of the ancestral laws' (νόμων δὲ πατρίων). If they would not change their minds (μετανοήσαντες), the Transjordansians would be considered Canaanites and therefore destroyed (5.108). Phinehas' speech is framed in apostasy language: by introducing strange gods, if that would be the case, the Transjordansian tribes had abandoned the ancestral laws and consequentially could no longer be considered Jews, but Canaanites. This is confirmed by the subsequent Transjordansian denial of their intention to 'renounce their kinship' (συγγένεια; 5.113).<sup>75</sup> Josephus emphasizes that even though the Transjordansians do not inhabit the same geographical area as the other Israelites, they all belong to the race of Abraham and therefore are bound to the same ancestral customs.<sup>76</sup>

The charge of abandoning the ancestral ways is closely connected to the charge of revolution. The Cisjordansians take the erection of the altar as done with 'revolutionary intent' (ἐπὶ νεωτερισμῷ; 5.101). As the Transjordansians readily admit in their defence: 'all those belonging to the stock of Abraham (τοῦ Ἀβράμου γένους) who attempt a revolution (νεωτέροις ἐπιχειροῦσιν) by changing the customs from habitual ways, would justly be wiped out' (ἔθεισι καὶ τοῦ συνήθους τρόπου παρηλλαγμένοις; 5.113). Ancestral and political language merge: revolution or innovation is opposed to ancestral. The political language is also present in the charge that the Cisjordansians had attempted to introduce foreign gods (ξενικῶν εἰσαγωγῆ θεῶν; 5.101). In *Against Apion*, Josephus chastises other legislators for giving poets licence to introduce foreign gods and thereby corrupt the original *politeia* (2.251-254), whereas this is not permitted in the Jewish constitution (2.255-269).<sup>77</sup>

Josephus also makes the connection between transgressions of the ancestral laws and the political threat to the Jewish constitution in the context of the seduction by the Midianite women. The Israelite men who had transgressed their πάτρια are described as being involved in a στάσις, a sedition or rebellion that threatened to destroy their own habits (τῶν ἰδίων ἐθισμῶν ἀπωλείας; 4.140). By transgressing the ancestral laws, the young Israelites threatened the welfare of the Jewish constitution.<sup>78</sup> Subsequently, Josephus relates how Moses convened the people in an assembly (συναγαγὼν εἰς ἐκκλησίαν τὸν λαόν; 4.142) and lectured them about the dangers of lust (ἡδονή): bravery does not exist in violating the laws, but in resisting desires (4.143). While the people are gathered in an ἐκκλησία, Moses and Zambrias, the leader of the rebellious Israelites, engage in a debate about the laws of the Jewish constitution. Zambrias

<sup>75</sup> This text is relevant for the question whether one could stop being a Jew or no longer be considered a Jew by adopting foreign practices. Phinehas' accusations, although of course uttered in a rhetorical situation, suggest that this was indeed the case.

<sup>76</sup> For Josephus' stress on kinship in this narrative, see Spilsbury, *The Image of the Jew*, 153.

<sup>77</sup> For the charge of introducing strange gods, see also *Apion* 2.267, where Josephus, refuting the charge of misanthropy, gives the example of the Athenian capital punishment for the introduction of foreign gods. Cf. Dionysius of Halicarnassus 2.23.3-5 about the introduction of foreign gods in Rome by immigrants, who continue their ancestral cults. According to Dionysius, 'the city has never officially adopted any of those foreign practices ... but, even though she has ... introduced certain rites from abroad, she celebrates them in accordance with her own traditions'.

<sup>78</sup> The political context of this passage is also recognized by Van Unnik, 'Josephus' Account of the Story of Israel's Sin', 252.



accuses Moses of tyranny: he does not intend to live in blind obedience to the laws, but chooses a life of self-determination (αὐτεξούσια). Zambrias' rebellion is phrased in similar terms as the other large sedition in Numbers, that of Korah (*Ant* 4.14-66). In both rebellions, Moses' tyranny is opposed to the rebellious quest for liberty.<sup>79</sup> Korah's revolt is however not described as a transgression of τὰ πάτρια, because no idolatry is involved. This is probably also why Josephus characterizes Zambrias' sedition as 'far graver than the last descended upon them', because now there was a 'danger of complete ruin of their own institution' (4.140). To be precise, only the act of idolatry itself, arising from the temptation of foreign women, is described in ancestral terms. It does carry over into Josephus' subsequent description of the political revolt of Zambrias, whereby the transgressions of the ancestral laws and customs are seen as a political threat to the constitution.

### 3.3 *The time of the judges and kings*

In the book of Judges, the time after Joshua's death is described as a period of corruption and decay, in which the Israelites did what was evil in the sight of the Lord, bowed down to other gods and violated the covenant (Judg 2:11, 17, 19-20). Josephus, however, does not mention their idolatry at all, but characterizes the people's disobedience as a neglect of their constitution (πολιτεία) and the laws, caused by their wealth and their desire for comfort and pleasure (5.132). He does mention their disregard of God and even their involvement with the vices of the Canaanites (5.197, 185, 198, 200), but does not make explicit that they committed idolatry. Throughout the narrative, Josephus omits references of Israel's worship of other gods (Judg 3:7; 8:33).<sup>80</sup>

It is only when Josephus arrives at the time of Simson that τὰ πάτρια re-occur, again connected with the adoption of foreign customs and association with a non-Israelite woman. While the book of Judges only mentions Simson being in love with Delilah (Judg 15:4), Josephus elaborates on their relationship. Delilah is characterized as a prostitute, with whom Simson had a liaison (5.306). This relationship is not denounced in the Bible, but Josephus condemns it in the strongest words:

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<sup>79</sup> Josephus phrases rebellion to Moses in terms of accusations of his tyranny more often: *Ant* 4.2-6, 4.11-34. Self-determination stands in contrast to Josephus' understanding of the benefits of the Mosaic legislation: Moses 'did not leave anything, even the minutest detail, free to be determined (αὐτεξούσιον) by the wishes of those who would make use of [the laws]' (*Apion* 2.173). This prevents people from sinning (ἁμαρτάνωμεν; 174) and ensures that the Jewish people actually practice the law, contrary to other constitutions. For the political aspects of Korah's revolt, see L.H. Feldman, *Studies in Josephus' Rewritten Bible* (Leiden 1998) 101-104.

<sup>80</sup> This aspect of Josephus' rewriting of the period of the Judges is hardly commented upon. Harold Attridge assumes that abandoning of the ancestral traditions is present throughout the episode, and parallels this with moralizing political works of Greek historiography, while it in fact only occurs once (Attridge, *The Interpretation of Biblical History*, 109-143). Louis Feldman notes that Josephus focuses on Israel's political abuses instead of their defection from the Lord, which is the dominant theme in the biblical account (*The Judean Antiquities* 5-8, n350 at 5.132). Yet, for Josephus a political perspective would not exclude references to idolatry at all, since we have already seen that he phrases idolatry in πάτριος-terms in a political context. This language would fit in well with Josephus' reconstruction of the Jewish political constitution during the period of the Judges, but since he largely omits instances of idolatry, τὰ πάτρια is for the most part absent as well. Since the analysis of τὰ πάτρια so far suggests that Josephus in most cases associates idolatry with mixing with foreign women, it is possible that he omits the biblical idolatry in Judges because it does not mention association with foreign women.



He had ... transgressed the ancestral [customs] and altered his own manner of life by his imitation of foreign ways (Παρέβαινε δ' ἤδη τὰ πάτρια καὶ τὴν οἰκείαν δίαιταν παρεχάρασεν ξενικῶν μιμήσει ἔθισμῶν; 5.306).

Simson's imitation of foreign ways and his transgression of τὰ πάτρια are all Josephus' additions, probably resulting from his view on relationships with foreign women, especially outside of marriage.<sup>81</sup> This, according to Josephus, was the beginning of Simson's misfortune (ἀρχὴ κακοῦ) and the reason for his unfortunate ending (5.305).

Josephus' version of the book of Judges confirms the pattern we started to discern above. In general, wealth (τρυφή) and lust (ἡδονή) are important causes for the corruption of the Jewish constitution, but it is specifically sexual passion connected with idolatry that leads to transgressions of τὰ πάτρια. Harold Attridge observes that the specific combination of tyranny, abandonment of ancestral customs and lust is typical for the moralistic reflection on political decay in Greek historiography.<sup>82</sup> While Josephus' historiography generally fits into this wider context, he only introduces the abandonment of *ancestral* customs in cases of idolatry – which is often a result from lust.

The pattern continues in Josephus' rewriting of the books of Samuel and Kings. He often omits warnings against idolatry and only includes the actual occurrences. For instance, Josephus reports that the Israelites worshipped God diligently (6.19), but omits that they have been told to do so by Samuel, who commanded them to get rid of their foreign gods (1 Sam 7:3-4). In one of Samuel's speeches to the people, Josephus mentions their neglected devotion and piety (προδεδώκατε τὴν θρησκείαν καὶ τὴν εὐσέβειαν 6.90), but not their other gods (1 Sam 12:20). τὰ πάτρια again emerge in the context of a sexual transgression, although the transgression itself is not directly described as a transgression of τὰ πάτρια. Before Josephus continues to relate the narrative of David and Bathsheba (2 Sam 11:1-27), he pauses to characterize David as a 'just and God-fearing man by nature, and one who strictly kept the ancestral laws' (ὄντι φύσει δικαίῳ καὶ θεοσεβεῖ καὶ τοὺς πατέριους νόμους ἰσχυρῶς φυλάσσουντι; 7.130). Even David, however, made a terrible mistake. When he saw the beautiful Bathsheba, he could not restrain his desire (τῆς ἐπιθυμίας κατασχεῖν) and slept with her. It is the sexual crime of adultery that is the gravest in Josephus' version, while David's order to get her husband Uzziah killed in battle is more at the background. This holds for Bathsheba as well: as adulteress, she could be punished to death 'according to the ancestral laws' (7.131). David is accused of both adultery and murder (7.151), but only when the sexual crime is singled out, τὰ πάτρια is mentioned. Note that David is not accused of acting against τὰ πάτρια and that his sexual transgression did not lead him to worship foreign gods.

Throughout the history of Israel's monarchy, Josephus' paradigm of sin and virtue for kings is straightforward: keeping the Mosaic laws and not letting others transgress them leads to a prosperous reign (*Ant* 7.338=1 Kings 2:1-4 and 1 Chron 22:13; cf. 8.120). While τὰ πάτρια occurs predominantly in the negative expression of transgressing the ancestral laws, there are exceptions. As David warns his son Solomon: 'These things will be established and have a good outcome if, my son, you show yourself pious and just by keeping the ancestral laws (ἂν εὐσεβῆ καὶ δίκαιον αὐτὸν καὶ φύλακα τῶν πατέριων παρέχῃς νόμων); if, on the contrary, you transgress them, you may expect worse things' (*Ant* 7.374).

<sup>81</sup> Simson's previous legal marriage with a Philistine girl is not denounced in this way, probably because it was a marriage and designed by God (5.286).

<sup>82</sup> Attridge, *The Interpretation of Biblical History*, 172.



Part of this conditional nature of God's relationship with Israel is also clear from God's answer to Solomon's prayers (8.126-129). God would preserve the Temple and abide in it forever, 'if his descendants and all the people acted righteously'. If, however, Solomon would be unfaithful to God and 'switch to the worship of foreign gods' (ξενικούς θεούς θρησκεύειν μεταβαλλόμενον; 126), his descendants would lose the throne, the people would suffer and the Temple would be destroyed. The transgression of the ancestral laws (τὰς τῶν πατρίων νομίμων παραβάσεις) would be the cause of God's hatred of Israel (8.129).<sup>83</sup> Again, parallel with the biblical text of 1 Kings 9:6-9, the transgression of ancestral laws is mentioned in relation to idolatry.

The divine warning is made acute when Josephus arrives at Solomon's sins. His version corresponds to the biblical account, in which God punishes Solomon for marrying foreign wives who led him to worship their gods (1 Kings 11:1-13). Similarly, Josephus reports that Solomon came to a bad end 'because he forsook the observation of the ancestral customs (καταλιπὼν τὴν τῶν πατρίων ἔθισμῶν φυλακὴν; 8.190). His transgressions of the Mosaic laws consisted of consorting with women who did not belong to the same people (οὐχ ὁμοφύλοις; 191), caused by Solomon's excessive desire for women. At this point, Josephus feels a need to explain why Moses had forbidden this:

He [Solomon] began to worship their gods, indulging these women and his passion for them. This was the very thing the legislator had suspected would happen when he told [the Israelites] in advance not to marry those of other countries. [He did this] in order that they not become entangled in foreign ways of life (ἵνα μὴ τοῖς ξένοις ἐπιπλακέντες ἔθεσι) and apostatize from the ancestral ones (τῶν πατρίων ἀποστῶσι) and while worshipping those gods, fail to honour their own (8.192).

This statement corresponds exactly to what we have seen before. As the biblical prohibition of intermarriage says (Deut 7:3-4, cited in 1 Kings 11:2), relationships with foreign women lead to idolatry. Josephus renders this again in terms of abandoning of τὰ πάτρια, which are opposed to foreign (ξένος) customs. Once more, lust (ἡδονή) is regarded as an important cause of these lapses. As with the seduction by the Midianite women, Solomon is compelled to prove his affection for them by 'living as was ancestral for them' (βιοῦν ὡς αὐταῖς πάτριον ἦν; 193).

Our analysis is confirmed by Josephus' reconstruction of the divided kingdom.<sup>84</sup> In Paul Spilisbury's words, Jerobeam and his Northern kingdom 'become the paradigm for evil and apostasy, while the South ruled by David's line are the pattern for the opposite'.<sup>85</sup> Jerobeam's construction of the bull's images in Bethel and Dan (1 Kings 12:28-30) are condemned as an attempt to make the people 'apostatize from the ancestral worship (τῆς πατρίου θρησκείας ἀποστάντας) and to transgress their laws' (8.229; cf. 1 Kings 11:30: he brought the people to sin, εἰς ἁμαρτίαν). Ultimately, this would cause the demise of the Northern kingdom and the

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<sup>83</sup> Josephus normally only mentions actual transgressions of the ancestral laws through idolatry and omits the biblical warnings against it. *Ant* 8.129 is an exception, perhaps connected with the loss of the Temple as a result of the offences against the ancestral laws. Paul Spilisbury connects the divine warning with the actual loss of the Temple in Josephus' own days (*The Image of the Jew*, 183-184). Indeed, Josephus locates one of the causes of God's favouring the Romans to the rebel's transgression of the laws (*War* 5.399-412; 2.409, 455; 4.150, 201; 7.332 but without πάτριος).

<sup>84</sup> For this period, see C. Begg, *Josephus' Story of the Later Monarchy* (*AJ* 9,1-10,185) (Leuven 2000) and *Josephus' Account of the Early Divided Monarchy* (*AJ* 8,212-420) (Leuven 1993).

<sup>85</sup> Spilisbury, *The Image of the Jew*, 190.



people's captivity.<sup>86</sup> The Judean kings can be condemned in this way as well. Joram of Jerusalem was 'in no way differed from the kings of the people who first acted lawlessly against the ancestral customs of the Hebrews and the worship of God (οἱ πρῶτοι παρηνόμησαν εἰς τὰ πάτρια τῶν Ἑβραίων ἔθη καὶ τὴν τοῦ θεοῦ θρησκείαν; 9.95). He was taught to pay homage to foreign gods (ξενικοὺς θεοὺς προσκυνεῖν) by his wife Othlia, Ahab's daughter (9.96). By compelling his people to honour foreign gods, Joram 'completely expelled the ancestral ordinances from his mind' (τελέως ἐκβεβληκότι τῆς διανοίας τὰ πάτρια νόμιμα; 9.99). It is likely that the accusation occurs so often with the Judean king Joram, since he followed the ways of the Israelite kings, 'rather than being an imitator of his own fathers' (τῶν μὲν ἰδίων πατέρων μιμητῆς ;9.99). Similarly, Ahaz 'was impious towards God and transgressed the ancestral laws and imitated the Israelite kings (ἀσεβέστατος εἰς τὸν θεὸν γενόμενος καὶ τοὺς πατρίους παραβάς νόμους τοὺς Ἰσραηλιτῶν βασιλέας ἐμιμήσατο; 9.243).

Until this point, τὰ πάτρια only occurs in the negative evaluations of the Northern and Southern kings. While Josephus praises Asa's piety and observance of the laws (8.290), he does not add that these laws were ancestral (cf. Johoshaphat in 8.394; Jotham in 9.236). The exceptions are Hizkia and Josia, where Josephus mentions some of their actions as being in correspondence with the ancestral laws.<sup>87</sup> However, he does not give a positive evaluation of them as individuals or kings as keeping the ancestral laws in general. τὰ πάτρια mostly occurs in a negative, accusatory context because of its association with idolatry. At the same time, the negative use of τὰ πάτρια in accusatory situations is fully paralleled in non-Jewish sources, where, naturally, it is not associated with idolatry.

#### 3.4 Conclusion: τὰ πάτρια in Josephus' historiography

Our analysis of Josephus' rewriting of the Bible until the Persian period now enables us to draw some conclusions about the function of τὰ πάτρια and about the contexts in which it occurs. As we just noted above, τὰ πάτρια primarily figures in negative contexts, accusing an individual or group of transgressing the ancestral laws and customs. The laws and customs in question are connected with the worship of the one God: idolaters are accused of transgressing or even abandoning τὰ πάτρια. Although we noted exceptions as well, we are able to discern a clear pattern that when Josephus speaks of idolatry, it is in πατριος terms. Furthermore, the transgressions are strongly related to relations or marriage with foreign women, often leading to idolatry. In general, wealth (τρυφή) and lust (ἡδονή) are important causes for the corruption of the Jewish constitution. Thus, Josephus notes that in the time of the judges, the Israelites

<sup>86</sup> But now, Josephus departs from his schedule and does not mention τὰ πάτρια every time idolatry is involved: 'forsook the worship of the Lord' τῆς τοῦ θεοῦ θρησκείας κατεφρόνησε: 8.251 with 1 Kings 14:22-24 and 2 Chron 12:1-2 – no mention of foreign gods; Jerobeam 'forsook my worship' θρησκείαν καταλιπὼν: 8.270 = 1 Kings 14:8-8; Ahab worshipped Jerobeam's bulls and married a foreign wife and worshipped her gods: 8.317; Josephus does mention his transgressions of ancestral laws later, in 8.361, but this is about killing a citizen contrary to the ancestral laws.

<sup>87</sup> Hizkia restored the 'ancient and ancestral (ἀρχαίαν καὶ πατριον) honour through the customary sacrifices' (9.262; cf. the parallel 2 Chron 29:5, where 'the God of your fathers' (θεοῦ τῶν πατέρων ὑμῶν) is mentioned. Josephus' use of πατριος could be triggered by the LXX). Hizkia 'fell on his face 'in accordance with the ancestral law (τῷ πατρίῳ νόμῳ; 10.11); Josiah admonished the people to leave idols and worship the ancestral God (σέβειν τὸν πατριον θεόν; 10.50) and tells the returning Northerners not to worship foreign gods but 'the ancestral and greatest God' (πατριον καὶ μέγιστον θεὸν εὐσεβεῖν; 10.68); the Passover is then carried out 'according to the laws and the ancient observance of ancestral custom' (κατὰ τὴν ἀρχαίαν παρατήρησιν τῆς πατρίου συνθηθείας; 10.72).



lived in accordance with their own pleasure and luxury (*Ant* 5.179-180) and attacks the tribes of Gad, Ruben and Manasseh for seeking to live in luxury (4.167). The idea that a people degenerated through luxury was a common Roman view.<sup>88</sup> Yet, while Josephus gives many examples of the (political) decay caused by lust and wealth, it is specifically sexual passion for foreign women connected with idolatry that leads to transgressions of τὰ πάτρια. Finally, transgressions of τὰ πάτρια often occur in a political context (the downfall of the Jewish constitution under the judges and kings) or are phrased in political language of revolution, *stasis*, of a threat to the Jewish *politeia*.

To determine some more specifics about the concept of τὰ πάτρια, we need to place these findings in the context of Josephus' historiography in general. His moralizing historiography has been compared to that of Dionysius of Halicarnassus (60 BCE – 7 CE), who, as Josephus, wrote a twenty-volume book entitled *Roman Antiquities*. In addition to the similar titles, the convergences between both works in language and motifs have been noted. Both present the history of a people to dismiss ignorance and remove prejudices, giving examples of virtuous men. Dio stresses the morality of early Roman history and defends the Roman empire, while Josephus does something similar for the Jews.<sup>89</sup> To see if there is something 'typically Jewish' in the way τὰ πάτρια occurs in Josephus and how it functions in presentations of Jewish identity, we would need a more comprehensive comparison with more Greek texts. I will limit myself now to a number of parallels and divergences in the work of Dionysius. He is also the author who is closest to Josephus in the number of references to πάτριος: 102 in Dionysius and 240 in Josephus.<sup>90</sup> Dionysius presents and defends the Roman *politeia* and in this context discusses Roman ancestral laws and customs, and Josephus does the same for Jews.

We have seen that Josephus uses political categories to interpret the history of Israel. τὰ πάτρια often fall under the rubric of politics and political revolution and is used to give negative moral judgments of the transgressors. This political-moral interpretation has parallels in Greek political histories in which degeneration from aristocracy to tyranny is described: deviation from the ideal leads to abandonment of tradition and tyranny, whereby sensual lust is seen as a primary cause of this process.<sup>91</sup> Because Josephus describes this part of Israel's history, especially the time under the judges and kings, in terms of political degradation, it is not surprising that τὰ πάτρια occurs in a political context, as in non-Jewish works. In giving moral judgments of kings, Dionysius considers the best king he who was 'the most just, the most observant of the laws, and did not in any wise depart from the ancestral ways (μηθὲν

<sup>88</sup> For examples, see B. Isaac, *The Invention of Racism in Classical Antiquity* (Princeton and Oxford 2004) 91, 97, 188-190, 227, 239.

<sup>89</sup> There is no consensus among scholars whether or not Josephus used Dionysius' history as a model for his own work. For the arguments pro and contra, see G.E. Sterling, *Historiography and Self-Definition: Josephus, Luke-Acts, and Apologetic Historiography* (Leiden 1992) 285-290.

<sup>90</sup> Only Plutarch comes near with 119 hits. Another Greek-speaking Roman historian, Dio Cassius, also has 75 hits. These numbers are only significant when the total amount of work, that is the work that has been preserved, is involved. An indication can be given by expressing the quantity of the preserved work in the number of Loeb pages for each author (this includes prefaces, indexes etc.). Josephus has 240 hits of πάτριος in 6256 pages: πάτριος occurs on 3.8 percent of the Loeb pages. Dionysius has 102 hits in 4386 pages, 2.3 per cent of the pages. Thucydides, Josephus' great model for the *Jewish War*, has 22 hits in 1813 Loeb pages: 1.2 percent. Plutarch, with 13616 Loeb pages, on 0.87 percent; Dio Cassius, with 4656 pages, on 1.6 percent. Philo, with 5966 pages, on 1.1 percent. Perhaps surprisingly given its ethnographic context, πάτριος occurs only seven times in Herodotus. Isocrates: 15; Plato: 20; Demosthenes: 23; Aristotle and the Aristotelian corpus: 35; Polybius: 31; Diodorus Siculus: 47; Strabo: 24; Appianus: 37; Athenaeus: 53.

<sup>91</sup> Attridge, *The Interpretation of Biblical History*, 168-170.



ἐκδικαιώμενος τῶν πατρίων' (5.74.1). τὰ πάτρια also emerges in situations of civil strife (στάσις) notably between aristocrats and plebeians. The plebeians are accused of wanting to overthrow the ancestral constitution (πάτριος πολιτεία; 7.23.3), whereas the aristocrats claim to preserve the ancestral form of government (μὴ κινεῖσθαι ἐκ τοῦ πατρίου κόσμου τὴν πολιτείαν; 6.57.1). Dionysius' description of this conflict reminds of Josephus' portrayal of Zambrias' rebellion against Moses right after the episode with the Midianite women: both the plebeians (7.30; 11.60.4) and Zambrias want freedom, which results in rebellion against the ancestral constitution.<sup>92</sup>

We saw that Josephus and Philo connect transgressions of the ancestral laws and customs with desire and lust, for foreign women in particular. Plutarch (46-120), Josephus' younger contemporary, also associates transgressions of τὰ πάτρια especially with hedonism and a desire for luxury. In his biography of Cato Maior, he discusses the institution of Censors in Rome to supervise public morality, 'who were to watch, correct, and punish, if any one ran too much into voluptuousness, or transgressed the usual manner of life of his country (παρεκβαίνειν τὸν ἐπιχώριον).<sup>93</sup> These transgressors are also described as people who depart from the ancestral ways (τῶν πατρίων ἐκδικαίτησιν ἔθῳ), especially through hedonism and a luxurious lifestyle (*Cato Maior* 16.3-4).<sup>94</sup> The same opposition between hedonism and the ancestral way of life is made in the life of Agis, where Plutarch contrasts the Spartans kings Leonidas II and Agis IV, praising the latter for keeping far from indulgence in pleasures and wanting to restore 'the laws and ancestral upbringing' (τοὺς νόμους καὶ τὴν πάτριον ἀγωγήν; *Agis and Cleomenes* 4.2). Thus, the idea of indulgence for wealth and (sexual) pleasure as threat to the ancestral way of life is known from other moralizing histories and biographies as well.

A first 'typically Jewish' use of τὰ πάτρια is obvious: its connection with idolatry and the worship of the one true God. The centrality of worship is also indicated by the fact that the combination πάτριος θρησκεία up to the fourth century only occurs in Philo, Josephus and Celsus' discussion of the Jewish worship in Origen.<sup>95</sup> What about the stress on foreign influences as a threat to the ancestral laws and customs? Perhaps this aspect of the use of πάτριος could be seen as 'typically Jewish' as well, although it is always brought into connection with monolatrous worship in Josephus' rewriting of biblical history and in the Philonic texts we discussed as far. The opposition πάτριος - ξένος is nowhere as frequent as in Josephus and a constant factor in the texts discussed until now: the Israelites who associated with the Midianite women ate foreign food (4.139; the Transjordanians are accused of introducing foreign gods (5.101, 107); Simson imitated foreign ways (5.306); Solomon worshipped the

<sup>92</sup> See also *Roman Antiquities* 9.44.7; 11.60.2 (accusation of destroying the ancestral constitution); 11.7.2 (ancestral constitution weakened through civil strife).

<sup>93</sup> The magistracy of Censor, established in 443 BCE, was primarily intended to compose the official list of Roman citizens (census), but extended to supervision of the community's moral (regimum morum). Citizens who had been found to behave contrary to the mores, could be marked (censured) and disciplined: P.S. Derow, 'Censor', in: S. Hornblower and A. Spawforth (eds), *The Oxford Classical Dictionary* (Oxford 2003). Oxford Reference Online - University of Groningen, 27 August 2008 <<http://www.oxfordreference.com/views/ENTRY.html?subview=Main&entry=t111.e1463>.

<sup>94</sup> See also Cato's accusation of Scipio of corrupting the ancestral simplicity of the soldiers by paying them too much, so that they resorted to wanton pleasures (ὅτι διαφθείρει τὴν πάτριον εὐτέλειαν τῶν στρατιωτῶν, εἰς ἡδονὰς καὶ τρυφὰς; 16.9). For Plutarch's moral programme, see T. Duff, *Plutarch's Lives. Exploring Virtue and Vice* (Oxford 1999) esp. 13-72.

<sup>95</sup> However, the word θρησκεία itself is rare in non-Jewish, non-Christian texts.



foreign gods of his wives (8.192).<sup>96</sup> Philo makes a connection between preserving τὰ πάτρια and not mixing with other nations in *De vita Mosis* 1.278 and 298, and warns for the difficulty of preserving τὰ πάτρια in a foreign country (*De Iosepho* 154).

The exposition to foreign influences is mostly caused by intermarriage. Philo is opposed to marrying someone from another *ethnos* (ἄλλοεθνεῖ), because they or the children from that marriage may be overcome by foreign customs and forget the worship of the one God (*Spec leg* 3.29). Josephus describes the marriage of the Herodian princess Drusilla with the Roman procurator Felix (ca. 56 CE) as a transgression of the ancestral laws on her part (παραβῆναι τε τὰ πάτρια νόμιμα; *Ant* 20.143). Note, however, that Josephus does not condemn all instances of intermarriage as a transgression of τὰ πάτρια (*Ant* 1.338; 11.140). He relates the downfall of the Jewish brothers Asineus and Anileus, who had achieved great power in Babylonia, but who transgressed τὰ πάτρια giving over to passion and lust (παραβάσει τῶν πατρίων ὑπὸ ἐπιθυμιῶν καὶ ἡδονῆς; *Ant* 18.340). Anileus could not resist the charms of a beautiful Parthian woman and married her (18.344). She, however, continued to worship the Parthian gods 'according to her ancestral custom' (τοῦ πατρῖου ... ἔθος; 344). His friends reproached him for marrying a foreign woman (ἄλλόφυλον), contrary to the Hebrew laws (Εβραϊκὰ ... νόμοις) and warned him not to let his lust take over (345). Eventually, this intermarriage, triggered by lust, whereby the wife continued to worship her foreign gods among Jews, led to the downfall of both brothers. Apparently, in general, only if the intermarriage results in the worship of foreign gods, a transgression of τὰ πάτρια is involved.<sup>97</sup>

Despite these indications, the idea that foreigners posed a threat to the ancestral laws and customs is not specific for Jews.<sup>98</sup> It should be seen in the context of a wider concern about the purity of the polity, which could be compromised by mingling with other nations. Strangers could introduce innovations, and the presence of strangers in general with their strange languages and customs could lead to moral degeneration. Tacitus, for instance, expresses the thought that the Gauls had degenerated because they were mixed, and praises the reluctance toward mixing among the Germans.<sup>99</sup> Cicero warns that when strangers affect the polity, 'none of their ancestral institutions (*patriis institutis*) could possibly remain unchanged (*Republic* 2.6). Hecataeus of Abdera blames the corruption of the Egyptian 'ancestral honours of the gods' (τὰς πατρίους τῶν θεῶν τιμὰς) to the presence of many strangers with their different religious

<sup>96</sup> See further, *Ant* 15.267; 20.81; Philo, *De Iosepho* 230. See also: πάτριος with ἄλλόφυλος in *Ant* 8.229; 12.145; *War* 2.279; Philo, *Spec leg* 1.56; *Embassy* 200; with ἄλλοφυλέω in 4 *Macc* 18:5; with ἄλλοτριχώρος in *Ant* 8.192; with ἄλλότριος in *Ant* 10.68; *War* 1.379; *Apion* 2.237; with ἄλλοτριώω in *De Iosepho* 230; with ἄλλοεθνής in *Ant* 11.140. I have not checked the occurrence of these words in combination with πάτριος in the TLG.

<sup>97</sup> The exception is David and Bathseba – David's affair is indirectly condemned as a transgression of τὰ πάτρια, but no idolatry is involved.

<sup>98</sup> This is exactly Josephus' line of defence in *Against Apion*, responding to Apollonius Molon's charge of hostility toward foreigners: other people have the same reluctant attitude toward foreigners and strive to keep their constitution pure. Secondly he argues that Jews are very welcoming to strangers, as long as they keep the Jewish laws (2.257-270). Philo stresses the same regarding Moses' attitude to proselytes (see §4.2).

<sup>99</sup> Cf. Tacitus, *Annals* 14.44, about slaves who bring with them foreign rites (*externa sacra*) and infiltrate Rome (but not posed as a threat to ancestral customs). For positive and negative attitudes to foreigners in Rome, see D. Noy, *Foreigners at Rome. Citizens and Strangers* (London 2000) 31-35. Isaac discusses the ambiguous attitudes toward strangers in antiquity: on the one hand, unsociability of other people, such as Spartans or Jews, was criticized, on the other, admitting strangers in the polity could compromise its purity: *The Invention of Racism in Classical Antiquity*, 109-148, 239.



customs <sup>100</sup> Hecataeus also discusses the distinctiveness of Jewish customs compared to other nations and their 'unsociable and intolerant mode of life' (ἀπάνθρωπὸν τινα καὶ μισόξενον βίον), which he attributes to their own expulsion (τὴν ἰδίαν ξενηλασίαν) from Egypt. Moses succeeded in maintaining the unique character of the Jewish customs, Hecataeus says, but when they became subject to foreign rule, as a result of their mingling with other nations (τῆς τῶν ἀλλοφύλων ἐπιμιξίας) ... many of their ancestral practices were changed' (ἐκινήθη; 40.3.8). We encountered this idea already in Philo's explanation of Balaam's oracle: Jews do not mingle with others (μὴ συναναμιγνύμενος) so that they do not depart from ancestral ways (*De vita Mosis* 1.278). The use of πάτριος can be seen as one of the ways in which Jews, like other nations, erected and legitimized boundaries between themselves and other people. The most important finding of this chapter is that the boundary sign that emerges constantly in connection with τὰ πάτρια concerns the Jewish worship. Josephus mentions τὰ πάτρια specifically in cases of idolatry, a transgression of the ancestral monotheistic worship. Although the idea that foreign influences could pose a threat to τὰ πάτρια is not typically Jewish, the Jewish aniconic, monolatrous worship was a boundary sign, marking off Jews from other nations.<sup>101</sup> By presenting their worship as ancestral, Jews could stress its importance and legitimacy as part of their national, ancestral tradition. The next chapter will show that this was especially the case in conflict situations under foreign rule.

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<sup>100</sup> Apud Diodorus Siculus 40.3.1; transl. Stern no. 11.

<sup>101</sup> J.M.G. Barclay, 'Snarling Sweetly: A Study of Josephus on Idolatry', in: S.C. Barton (ed.), *Idolatry: False Worship in the Bible, Early Judaism, and Christianity* (London 2007) 73-87, at 73. For Jewish refusal to participate in the pagan cult as the major practical distinction marking off Jews from their neighbours, see Barclay, *Jews in the Mediterranean Diaspora*, 428-434.



## CHAPTER 4: JEWS UNDER FOREIGN RULE

### 4.1 Introduction

We have seen that τὰ πάτρια as a normative concept often functions to justify one's own position as being in accordance with τὰ πάτρια or to condemn the opponent's position as a destruction of τὰ πάτρια. Josephus condemns Jewish kings for their adoption of foreign practices, worship of foreign gods and marriage with foreign wives as transgressions of the ancestral laws and customs. In this chapter, we shall see that similar accusations are often levelled against non-Jewish rulers: by taking certain measures, they forced the Jews to transgress their πάτρια.

The fact that this charge can be made, supposes that Jews in some way had or thought they had the right to follow their ancestral laws and customs, either in the Jewish homeland under foreign rule, or when living in a non-Jewish city. We will first discuss Josephus' attempts to demonstrate that Asian and Roman kings indeed allowed Jews to live according to their πάτρια, focusing mainly on the literary function of πάτριος (§§4.1 and 4.2). Subsequently, we will discuss the occurrence of τὰ πάτρια in the context of Jewish resistance against Antiochus IV (§4.4) and in other political conflicts (§4.5).

### 4.2 The right to follow τὰ πάτρια

In the Hellenistic period, when poleis were being incorporated in the large central states, the local laws of poleis and people were frequently accorded official recognition by Hellenistic rulers. We already noted in §2.2 that these local laws could be qualified as ancestral, appealing to the antiquity of these laws in the communal past of the polis or *ethnos* and thereby providing them legitimation.<sup>102</sup> It was always the subjugated party that asked for the preservation of their ancestral laws, after which the authority reproduced the term in response to the request. For instance, between 306 and 301 BCE the citizens of Ios asked king Antigonos for their 'freedom and ancestral laws' (τὴν τε ἐλευθερίαν ... καὶ τοὺς νόμους τοῦς πατρίους), so they could live in harmony 'using the ancestral laws' (νόμοις χρώμενος τοῖς πατρίοις; *IG XII*, Suppl 168).

The earliest Jewish reference to a foreign ruler granting the Jewish people the right to follow their ancestral customs occurs in 2 Maccabees 11:25.<sup>103</sup> After Antiochus IV had forbidden the Jews to live according to their ancestral laws, Antiochus V Eupator (173-162 BCE) restored that right. Quoting Antiochus' letter to his general Lysias, it runs as follows:

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<sup>102</sup> Some examples: Ptolemy I granted the islands of the Nesiotic League their ancestral laws (*Syll*<sup>3</sup> 390); Philip V of Macedon did the same for the island of Nisyros (*Syll*<sup>3</sup> 572); the city of Thebes lost their ancestral constitution when they were enslaved by the Spartans (Plutarch, *Pelopidas* 6.2.2); When the city of Eretria was freed from the Macedonians, the people retrieved their 'ancestral laws and the democracy' ([...τοὺς πατρίους νομοὺς καὶ τὴν δημοκρατίαν ἐκομίσαστο; *Syll*<sup>3</sup> 323).

<sup>103</sup> Persian rulers also sanctioned local laws, including the Jewish law (Ezra 7:12-26: Ezra is given the authority to appoint magistrates and judges who can judge the people based on the 'law of your God'). According to Kippenberg, this is when foreign political language entered Jewish perceptions of their own community, in the Persian case the Aramaic *dat*. He sees the same thing happening in the Hellenistic period with the πάτριον νόμον. Kippenberg argues that while the Persian *dat* was a priestly law, Hellenistic πάτριον νόμον were based on the democratic will of the people. This view informs his conception of πάτριον νόμον in Greek-Jewish texts as well: *Die vorderasiatischen Erlösungsreligionen*, 127-131, 185-187.



We have heard that the Jews do not consent to our father's change to Greek customs (ἐπὶ τὰ Ἑλληνικά), but prefer their own upbringing (τὴν ἑαυτῶν ἀγωγήν) and ask that their own usages (τὰ νόμιμα) be allowed to them. 25 Accordingly, since we choose that this nation (ἔθνος) also should be free from disturbance, our decision is that their temple be restored to them and that they shall live according to the customs of their ancestors (πολιτεύεσθαι κατὰ τὰ ἐπὶ τῶν προγόνων αὐτῶν ἔθῃ; 2 Macc 11:24-25).<sup>104</sup>

These customs are further specified in a letter sent to the Jewish gerousia, stating that the Jews can use their own foods and laws (χρηῆσθαι τοῖς Ἰουδαίοις τοῖς ἑαυτῶν δαπανήμασιν καὶ νόμοις; 11:31).<sup>105</sup> Although the word πάτριος is not used here, the 'customs of the forefathers' appear to be synonymous with the ancestral laws and customs.<sup>106</sup> Yet, for our understanding of the concept of τὰ πάτρια, it is relevant that ancestral laws and customs can be designated in other terms as well. Most scholarly understandings of τὰ πάτρια in Jewish texts are based on about thirty documents and letters cited by Josephus in books 11, 12, 14 and 19 of his *Antiquities*.<sup>107</sup> According to Josephus, these documents prove that Seleucid and Roman rulers have been favourably disposed toward Jews, granting them the right to follow their πάτρια. At this moment, we are not so much concerned with the question whether Jews actually had the right to follow their ancestral laws and customs, but firstly, with the function of τὰ πάτρια in the documents quoted by Josephus and the question if this terminology is paralleled in the documents preserved outside Josephus; secondly, which laws and customs are characterized as πάτριος.

The relevant documents constitute a series of ad hoc measures to confirming the rights of Jewish communities in various locations, usually enacted in response to attacks on Jewish practices in the provinces.<sup>108</sup> Some of these documents represent *senatus consulta*, some

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<sup>104</sup> Cf. the same decision in Josephus, *Ant* 12.382: τοῖς πατρίοις νόμοις χρωμένους ζῆν. For the rule of Antiochus IV and the Maccabean insurrection, see below § 4.4.

<sup>105</sup> Cf. 1 Macc 6:55-61, which only has 'their usages', τοῖς νομίμοις αὐτῶν). The authenticity of the four letters concerning the Jews, sent in 164 and 163 BCE, contained in 2 Macc 11:16-38 has been generally acknowledged: Gruen, *Heritage and Hellenism*, 9, with literature references in note 34; J.A. Goldstein, *II Maccabees. A New Translation with Introduction and Commentary* (New York 1983) 414-116, does not comment on the 'customs of the forefathers' or on the question of verbal authenticity.

<sup>106</sup> In the LXX, the noun πρόγονος and adjective προγονικός occur mainly in the Maccabean books (2 Macc 8:17, 19; 11:25; 3 Macc 5:31; 6:28; 7:7; 4 Macc 3:8; 5:29; 9:2); twice in Esther (14:5; 16:16), once in Sirach (8:4).

<sup>107</sup> Josephus' documents have received an enormous amount of scholarly attention. The most comprehensive analysis is M. Pucci ben Zeev, *Jewish Rights in the Roman World. The Greek and Roman Documents Quoted by Josephus Flavius* (Tübingen 1998). See here page 7 n17 for an overview of previous research. Pucci ben Zeev argues convincingly that the documents are genuine. They show many parallels in style and terminology with Roman decrees preserved elsewhere. For an opposite view of the documents as forgeries, see H.R. Moehring, 'The *Acta Pro Judaeis* in the *Antiquities* of Flavius Josephus', in: J. Neusner (ed.), *Christianity, Judaism, and other Greco-Roman Cults* vol. 3 (Leiden 1975) 133-157. Moehring points at the corruptions in the documents, especially in the spelling of names and titles of Roman magistrates, chronological mistakes, and the lack of order among the documents themselves. While the documents appear to be genuine, reflecting actual historical events, they cannot be proven to be verbally authentic, which would be extremely relevant for our purposes.

<sup>108</sup> These documents are not evidence of a general special legal status of the Jews, a Jewish 'Magna Charta', originally granted by Julius Caesar and continued by his successors: T. Rajak, 'Was There a Roman Charter for the Jews?', *Journal of Roman Studies* 74 (1984) 107-123. Rajak argues against Jean Juster, *Les Juifs dans l'Empire romain: leur condition juridique, économique et sociale* (Paris 1914). See also A.M. Rabello,



exemptions by Julius Caesar and Augustus, and others are similar documents from Roman magistrates or governors of the late republic or early empire. The apologetic purpose of these quotations is clear from Josephus' own words: he wants to show evidence for the positive attitude of Greek and Roman kings toward the Jews (*Ant* 12.153). Josephus transports these rights back to the beginning of the Hellenistic period, to the time of Alexander the Great's alleged visit to Jerusalem, when the high priest Hyrcanus asked him 'that they might enjoy the laws of their forefathers (χρήσασθαι τοῖς πατρίοις νόμοις), and might pay no tribute on the seventh year'. The Jews in Babylon and Media are likewise allowed to use their own laws (τοῖς ἰδίοις ... νόμοις χρήσθαι; *Ant* 11.338). Furthermore, Jews who serve in his army can 'continue in their ancestral customs and live according to them' (τοῖς πατρίοις ἔθεσιν ἐμμένοντες καὶ κατὰ ταῦτα ζῶντες; 11.139).

According to Josephus, many of the Asian rulers continued to show respect for the Jews.<sup>109</sup> To support this claim, Josephus quotes a letter from Antiochus III to his governors, in which he describes the rewards to the Jews in exchange for their help in his war against the Ptolemean Scopas (*Ant* 12.138-144). In this letter, Antiochus declares that he grants all those belonging to the Jewish *ethnos* the right to 'conduct their lives according to the ancestral laws (πολιτεύεσθωσαν δὲ πάντες οἱ ἐκ τοῦ ἔθνους κατὰ τοὺς πατρίους νόμους; 12.142).<sup>110</sup> A second letter, addressed to Antiochus' governor Zeuxis, deals with instructions for a Jewish military colony in Phrygia, allowing them to 'use their own laws' (νόμοις αὐτοὺς χρήσθαι τοῖς ἰδίοις 12.150). In both letters, the content of the own or ancestral laws is not specified, but it is clear that Josephus does not qualify the granted laws and customs as *πάτριος* in all cases.<sup>111</sup> What does this mean for the concept of τὰ πάτρια? Kippenberg assigns great value to these specific letters from the Seleucid period. Antioch privileged Jerusalem by granting the city a certain amount of administrative autonomy, applying the Hellenistic political concept of *πάτριος νόμοι*

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'The Legal Condition of the Jews in the Roman Empire', *ANRW* 2.13 (1980) 662-762; E.M. Smallwood, *The Jews under Roman Rule* (Leiden 1976).

<sup>109</sup> See also Josephus' claim that Seleucus Nicanor granted the Jews citizenship of the cities he founded, giving them equal rights as the Greeks and Macedonians (*Ant* 12.119). This citizenship entailed the right to use their own laws (τοῖς αὐτῶν ἔθεσι χρήσθαι; 12.126 - without *πάτριος*). Josephus generally emphasizes that Jews are opposed by the people of the cities they live in, but are protected by the rulers (*Ant* 12.119-120). For Josephus' claim of Jewish citizenship in Asia Minor, see P. Trebilco, *Jewish Communities in Asia Minor* (Cambridge 1991) 167-173.

<sup>110</sup> Antiochus also declares that only those 'who have purified themselves as is customary according to the ancestral law' (ἔστιν ἔθιμον κατὰ τὸν πάτριον νόμον) have access to the Jerusalem temple (12.145). See also John Hyrcanus' request to Antiochus VII that the Jews be granted their 'ancestral constitution' (13.245).

<sup>111</sup> The main importance of this edict is that it secured the High Priestly rule of the Oniads over Jerusalem. The authenticity of Antiochus' letters was argued by Bickermann, but is now controversial: E. Bickermann, 'Une question d'authenticité: les privilèges juifs', *Annuaire de l'Institut de philologie et d'histoire orientales et slaves* 13 (1953) = *Studies in Jewish and Christian History* 2 (Leiden 1980) 24-43. Some attention has been paid to the content of these ancestral laws, with Bickermann limiting them to the Torah, and Tcherikover including oral traditions, since the High Priestly rule over Jerusalem is not found in the Law of Moses in a strict sense: see B. Nongbri, 'The Motivations of the Maccabees and Judean Rhetoric of Ancestral Tradition', in: C. Bakhos (ed.), *Ancient Judaism in its Hellenistic Context* (Leiden 2005) 85-111 at 93-94. Nongbri himself concludes that the content of the ancestral laws remains unknown, 'just that they seem to have upheld the status quo of a priestly aristocracy and were not coterminous with what came to be regarded as "normative" Mosaic law'. For further occurrences of τὰ πάτρια in Josephus' description of the Seleucid period, see also: *Ant* 13:54, quoting a letter from Demetrius to Jonathan: τοῖς πατρώοις χρήσθαι νόμοις; *Ant* 13.245, Hyrcanus asks Antiochus IV to restore their τὴν πάτριον πολιτείαν.



to the Jewish religious community. This, says Kippenberg, made the Jews 'teil der antiken Kultur', without giving up their own religious practices.<sup>112</sup> The Jews appropriated the concept of *πάτριοι νόμοι* as a 'political interpretation of their religion'.<sup>113</sup> However, even if the general historicity of Antiochus' letter could be demonstrated, Kippenberg's thesis regarding the concept of *πάτριοι νόμοι*, depends on the exact wording of the letter in Josephus. The terminology could vary, as Josephus' quotation of the second letter already shows, mentioning not 'ancestral' but 'own' laws. Also, the letter from Antiochus V quoted in 2 Maccabees states that the Jews can live according to the 'customs of their ancestors' (τὰ ... τῶν προγόνων αὐτῶν ἔθη; 2 Macc 11:24-25). This suggests that *πάτριοι νόμοι* should not be seen as a strictly technical term, but is rather part of a more general practice of qualifying laws and customs as ancestral to legitimize them or add to their authority and importance.<sup>114</sup> Instead of locating the occurrence of *πάτριοι νόμοι* in the literary context of Josephus' apologetic purpose with these documents, Kippenberg sees Josephus' text as the *actual* historical starting point of the Jewish appropriation of a Jewish Hellenistic political interpretation of their religion.<sup>115</sup>

Our focus on the literary context of τὰ πάτρια does not imply that Josephus' use of *πάτριοι νόμοι* in this context is his own invention. On the contrary, his use of τὰ πάτρια in the documents he quotes is paralleled in similar letters and decrees preserved elsewhere. For instance, a text on a large marble stele in Delphi testifies of the Delphian efforts to have their rights confirmed. In 189 BCE, three envoys were sent to Rome to obtain confirmation of their freedom and autonomy. A senatorial decree was passed that the Delphians rule the sacred areas and the priests, 'as was ancestral for them from the beginning' (καθὼς πάτρ [ιον αὐτοῖς ἐξ ἀρχῆς ἦν).<sup>116</sup> In 39 BCE, the Roman senate decided that the city of Aphrodisias was 'to be free in all respects and immune from taxation and are to enjoy their own ancestral laws (νόμοις τε ἰδίους π[ατρι]οῖς ... χρών[ται] and those which they pass among themselves hereafter'.<sup>117</sup> However, in many cases similar rights can be granted without qualifying the laws as ancestral and it is hard to discern a difference with the situations in which *πάτριος* does occur.<sup>118</sup>

The most interesting parallel concerns the rights of the Jews in Alexandria, since we have both a Josephan and a papyrus edict concerning the same situation. In *Ant* 19.280-285, Josephus quotes an edict issued by Claudius in 41 CE confirming the traditional rights of the Alexandrian Jews. He desired 'that the several subject peoples should abide by their own customs and not be compelled to violate the ancestral worship' (μὴ παραβαίνειν ἀναγκαζομένους τὴν πάτριον θρησκείαν). These rights are extended to all the Jews in the Roman world, who are allowed to 'observe their ancestral customs' (τὰ πάτρια ἔθη

<sup>112</sup> Kippenberg, *Die vorderasiatischen Erlösungsreligionen*, 184-186.

<sup>113</sup> Idem, 217.

<sup>114</sup> Kippenberg's conception of *πάτριοι νόμοι* as *terminus technicus* is also criticized by Schröder, *Die 'väterlichen Gesetze'*, 100-103.

<sup>115</sup> Nevertheless, Kippenberg does mention Josephus' apologetic purpose: *Die vorderasiatischen Erlösungsreligionen*, 184n7.

<sup>116</sup> R.K. Sherck, *Roman Documents from the Greek East: senatus consulta and epistulae to the age of Augustus* (Baltimore 1969) no. 1 Doc. A, l. 6. Earlier, the Roman magistrate Manius Acilius Glabrio, who had freed Delphi from Aetolian control in 191 BCE, sent a letter in which he pledged to use his influence to preserve the ancestral ways of the city and the temple (no. 37, ll. 1-10: τὰ ἐξ ἀρχῆς ὑπάρχοντα πάτρ[ια]);

<sup>117</sup> J. Reynolds, *Aphrodisias and Rome: Documents from the Excavation of the Theatre at Aphrodisias* (London 1982) no. 8, ll. 62, translation pp. 61-63.

<sup>118</sup> Pucci ben Zeev states that the expression 'according to ancestral laws' is common in official Roman documents, but the examples she mentions lack *πάτριος*: RDGE no. 35 = RGE 14 ll.10-12; RDGE no. 9 = RGE 38 ll. 50-54; RDGE no. 26 = RGE 83 ll. 28-31.



ἀνεπικωλύτως φυλάσσειν) as long as they do not ‘set at nought the beliefs about the gods held by other peoples but keep their own laws’ (παραγγέλλω μου ταύτη τῇ φιλανθρωπία ἐπιεικέστερον χρῆσθαι καὶ μὴ τὰς τῶν ἄλλων ἐθνῶν δεισιδαιμονίας ἐξουθενίζειν τοὺς ἰδίους δὲ νόμους φυλάσσειν; 290).<sup>119</sup> A similar text is preserved on papyrus, in which Claudius indicates that he will not tolerate further riots between Jews and Greeks and conjures the Alexandrines to ‘show themselves forbearing and kindly towards the Jews... and offer no outrage to them in the exercise of their worship but permit them to observe their customs (τοῖς ἔθεσιν χρῆσθαι) as in the time of Divus Augustus’. At the same time, the Jews should be satisfied with the rights they have and not strive for more.<sup>120</sup> In the papyrus version, the Jewish customs, laws or worship are nowhere characterized as πάτριος, while Josephus typically uses the word πάτριος discussing Claudius’ edicts three times.

Josephus’ use of πάτριος appears to be similar, though perhaps more frequent, to that in decrees and letters kept outside of his work. Throughout her analysis, Pucci ben Zeev demonstrates the parallels in formal structure, style and terminology between Josephus’ documents and Roman documents preserved elsewhere. Nevertheless, we will analyse the use of τὰ πάτρια here in Josephus’ literary context, and not as verbally authentic quotations of Roman decrees.<sup>121</sup>

Although Josephus’ terminology of ‘ancestral’ and ‘own’ laws varies, it may still be relevant to find out when and why he does qualify laws or customs as πάτριος. Josephus mentions the Jewish right to live by their ancestral laws and customs particularly for Roman times. The point he wants to make is that Romans respected and honoured the Jewish people and cites the Roman decrees as proof of his statements concerning the honour given to the Jewish nation. It is impossible not to give credit to these texts, Josephus says, ‘for they are kept in the public places of the cities and are still to be found engraved on bronze tablets in the Capitol (*Ant* 14.186-188).<sup>122</sup> Josephus presents the protection of local ancestral laws as a general Roman policy. In *Against Apion*, he praises the Romans for not compelling people under their control to transgress their ancestral laws (*patria iura transcendere*; 2.73). The same positive

<sup>119</sup> Such a global edict was unusual for Romans, but Pucci ben Zeev mentions epigraphic sources that attest to the existence other general edicts: *Jewish Rights under Roman Rule*, 341. Helga Botermann argues that the disturbances in Alexandria in Caligula’s days were so grave that general action for all Jews was required: *Das Judenedikt des Kaisers Claudius : römischer Staat und Christiani im 1. Jahrhundert* (Stuttgart 1996) 111.

<sup>120</sup> Given in H. Idris Bell (ed.), *Jews and Christians in Egypt. The Jewish Troubles in Alexandria and the Athanasian Controversy* (London 1912) 23-29 esp. Col. 5 ll. 85-86. These texts probably do not reflect the same document. According to Pucci ben Zeev, Claudius first sent a letter to the Alexandrian Jews in Spring 41, in which he restored the Jewish rights to abide by their own customs after Caligula had abolished them (*Ant*. 19.278-279). Apparently, this edict did not succeed and Claudius responded in a letter to the Alexandrines preserved on papyrus, in which he thanked the Alexandrian Greeks for their honours and responded to some of their requests, and again confirmed the Jewish rights. The general edict confirming the Jewish rights in all the Roman empire was probably sent shortly after the first edict. Pucci Ben Zeev, *Jewish Rights in the Roman World*, 309-311.

<sup>121</sup> While the documents appear to be genuine, they cannot be proven to be verbally authentic, which would be extremely relevant for our purposes. Josephus probably relied on copies from the archives preserved by Jews in Diaspora cities: E.S. Gruen, *Diaspora: Jews amidst Greeks and Romans* (Cambridge, MA and London 2002) 85-86.

<sup>122</sup> This strong claim is immediately cast doubt upon by Josephus’ subsequent remark that Caesar ‘made a bronze tablet for the Jews in Alexandria, declaring that they were citizens of Alexandria’ (14.188). However, Caesar was in no position to make a decision concerning Alexandrian Jews, since Egypt was not yet under Roman control: Pucci Ben Zeev, *Jewish Rights in the Roman World*, 27.



attitude to Roman rule is found in his *Jewish War*, where Josephus mentions that Titus did not want to force the Jews to transgress their ancestral customs (παραβῆναι τῶν πατρίων ἔθῶν) by attacking Jerusalem on Sabbath (4.102). In his *Embassy to Gaius*, Philo commends Augustus' positive policy toward the Jews, who knew that they abhorred worshipping images and maintained 'the ancestral ways (πατρίων) of each particular nation no less than of the Romans' (153).<sup>123</sup> Josephus' quotation of the documents could have served several purposes. Roman authorities could be reminded that the protection of Jewish rights was an old tradition, reaching back to Julius Caesar and even Alexander the Great. For Greek readers, it could convey the message that the Jews were protected by the Romans.<sup>124</sup> According to Tessa Rajak, Josephus wanted to make clear that Jews and non-Jews respected each other's laws and customs.<sup>125</sup> Given the meanings of πάτριος we have seen so far, it makes sense that it occurs so often in this part of the *Antiquities*. Every people and polis have their own ancestral laws and customs. They are part of the communal heritage and should be preserved. By qualifying laws and customs as ancestral, additional weight was given to the request to preserve them: no one could deny that people have a right to observe their πάτρια.<sup>126</sup>

#### 4.3 Which laws and customs?

The laws and customs qualified by Josephus as πάτριος cover a wide range of domains. Often, it is not specified which laws and customs are asked for in particular, and as Rajak remarks, the phrase simply constitutes a 'fine-sounding verbal gesture' that need not even lead to actual measures.<sup>127</sup> In some cases, the context of the document makes clear that laws and customs are presented as πάτριος in particular when they are perceived to be under threat, because their observance had led to tensions with non-Jews.

The first Roman document is a letter written by Julius Caesar to the magistrates, council and people of Sidon, in which Caesar conveys his decision that 'Hyrchanus, the son of Alexander, and his children, be ethnarchs of the Jews, and have the high priesthood of the Jews forever, according to their ancestral customs (κατὰ τὰ πάτρια ἔθῃ; 14.194). This decision seems to be paraphrased further on in a fragment of a *senatus consultum* confirming Caesar's decision that Hyrchanus II and his children are to be high priests of the Jews 'by the same rights by which their progenitors have held the priesthood (ἐπὶ τοῖς δικαίοις οἷς καὶ οἱ πρόγονοι αὐτῶν τὴν

<sup>123</sup> According to Pucci ben Zeev, Josephus' apologetic purposes coincided with the image Romans wanted to convey of themselves. Roman propaganda emphasized Roman readiness to recognize the rights of the peoples living under their rule, out of religious considerations and respect for the gods: Pucci ben Zeev, *Jewish Rights*, 4. However, there is a difference between tolerance and disinterest: although Romans generally let subject people continue their own way of life, this was more a laissez-faire policy than a conscious tolerant attitude: M.D. Goodman, *Rome and Jerusalem: The Clash of Ancient Civilizations* (London 2007) 156-160. Disinterest could turn into interest when customs were considered to be or accused of being anti-Roman.

<sup>124</sup> Pucci ben Zeev, *Jewish Rights*, 5.

<sup>125</sup> Rajak, 'Was there a Roman Charter for the Jews?', 121.

<sup>126</sup> For critical reflection on τὰ πάτρια, see below §6.5

<sup>127</sup> Rajak, 'Was there a Roman Charter for the Jews?', 116. For instance, the request to do everything that is in accordance with their ancestral customs (πάντα ποιῶσιν κατὰ τὰ πάτρια αὐτῶν ἔθῃ; 14.263); see also 16.163, 164; 19.280-285. For an overview of all Jewish rights according to Josephus' documents, see the table in Pucci ben Zeev, *Jewish Rights*, 374-377.



ἀρχιερωσύνην διακατέσχον)' (14.199).<sup>128</sup> The Jews are to pay the same tithes to Hyrcanus and his sons, 'which they also paid to their forefathers (ἅς ἐτέλουν καὶ τοῖς προγόνοις αὐτῶν; 14.203). Josephus is here concerned to legitimate the Hasmonean priesthood by presenting it as being ancestral for them, as if the line of priestly succession had not been broken. In what follows, the Hasmoneans will be presented as having responsibility for all the Jews as ethnarchs, also interceding on behalf of Diaspora Jews.

Many documents are concerned with Jews in military service. Josephus mentions that Hyrcanus sent an envoy to consul Publius Dolabella, who was then governor of Asia, 'requesting him to exempt the Jews from military service and permit them to maintain their ancestral customs and live in accordance with them' (τὰ πάτρια τηρεῖν ἔθνη καὶ κατὰ ταῦτα ζῆν; 14.223). The reason that military service should compromise the observance of τὰ πάτρια is stated in the following letter from Dolabella to Ephesus: Jews can't carry arms on the Sabbath and they cannot obtain their 'ancestral food' (τροφῶν τῶν πατρίων; 14.227). Dolabella therefore declares that he, like his predecessors, grants them exemption from military service and allows them 'to follow their ancestral customs and to come together for sacred and holy rites in accordance with their usage, and to make offering for their sacrifices (χρησθαι τοῖς πατρίοις ἐθισμοῖς ἱερῶν ἔνεκα καὶ ἀγίοις συναγομένοις καθὼς αὐτοῖς νόμιμον καὶ τῶν πρὸς τὰς θυσίας ἀφαιρεμάτων; 14.227). τὰ πάτρια are connected to the observance of the Sabbath, the specific food laws, the contributions to the Jerusalem temple and the Jews' sacred rites in general.<sup>129</sup>

Josephus often mentions situations in which Jews in Diaspora cities appeal to the Roman authorities because the other inhabitants of cities prevented Jews from living according to their πάτρια. The Jews of Delos had declared to 'Julius Gaius', that the Parians were 'preventing them by statute from observing their ancestral customs and sacrifices' (κωλύετε αὐτοὺς τοῖς πατρίοις ἔθεσι καὶ ἱεροῖς χρησθαι; 14.213).<sup>130</sup> In response, a Roman magistrate wrote to Paros stating his discontentment that the Jews 'are forbidden to live in accordance with their customs and to contribute money to common meals and sacrifices' (κωλύεσθαι αὐτοὺς ζῆν κατὰ τὰ αὐτῶν ἔθνη καὶ χρήματα εἰς σύνδειπνα καὶ τὰ ἱερά εισφέρειν; 14.214). The ancestral customs here involve the Jews' organization as voluntary association: the administration of their own finances and gathering money for common meals, which was a common practice in associations (see also *Ant* 14.216, 235). In other documents, the Jewish worship in general is qualified as ancestral. Sardian Jews asked for permission to perform the Jewish cult, 'their ancestral prayers and sacrifices for God' (ἐπιτελοῦσιν τὰς πατρίους εὐχὰς καὶ θυσίας τῷ θεῷ; 14.260). The observance of the Sabbath is often singled out (Laodicea: 14.239; Milete 14.245; 16.164). Besides collecting money for the local community, the collection of Temple dues, the

<sup>128</sup> Cf. 14.207 without πάτριος: 'ἐπὶ τοῖς δίκαιοις οἷς καὶ πρότερον εἶχον', and 14.208, 'the original rights': μένειν δὲ καὶ τὰ ἀπ' ἀρχῆς δίκαια. For parallels in Roman documents of pronouncements of friendship, relieved taxation and operation under the own laws, see Pucci Ben Zeev, *Jewish Rights*, 91.

<sup>129</sup> The exemption of military service is elsewhere presented as being 'in consideration of religious scruples' (δεισιδαιμονίας ἔνεκα; 14.228). The reasons why Jews cannot participate in the army are considered or presented as specifically religious. Another possibility is that δεισιδαιμονίας ἔνεκα refers to Roman piety, in which case the exemption is presented as in accordance with the traditional Roman piety. For military exemption, see also 14.230, 234, 236, 237-240.

<sup>130</sup> The identity of 'Julius Gaius' is uncertain. Pucci ben Zeev (*Jewish Rights*, 114-116) identifies him as Octavian. The letter is to be dated between 42 and 41 BCE.



annual half-shekel tax for the Jerusalem temple, is repeatedly characterized as ancestral (16.160, 164, 167, 169, 171).<sup>131</sup>

The fact that these laws and customs are designated as ancestral more often, does not mean that they were considered 'more ancestral', but rather that they were more in need of ancestral support: confirmation of these rights by Roman authorities had to be sought over and over again because of the tensions that arose about them in Diaspora cities. Jews could be harassed and attacked for being unavailable on the Sabbath, for not participating in the cities' commensal ritual but enjoying their own particular foods, for sending money away from their own polis to another and thereby expressing their loyalty to Jerusalem, and for having their own, exclusive worship and sacred rites without participating in the civic cults of the polis.<sup>132</sup> Qualifying the controversial Jewish laws as *πάτριος* is thus part of Josephus' general apologetic purpose in presenting these documents, to make a case for the acceptance and respectability of Judaism by non-Jews. This is precisely the claim Josephus makes in *Against Apion* 2.237. It is not his intention to make statements about other people's rules (*ἑτέροις νομίμων*): it is ancestral for the Jews (*πάτριόν ἐστίν*) to observe their own and not criticize other people's customs.<sup>133</sup>

#### 4.4 Antiochus IV and Jewish resistance

The earliest Jewish attestations of *τὰ πάτρια* are found in 2 Maccabees, probably composed by a Greek-speaking Jew between 125 and the first half of the first century BCE.<sup>134</sup> Many of the contexts in which *τὰ πάτρια* occurs and the functions it has in 2 Maccabees, re-occur in later first-century CE Jewish literature such as Philo, Josephus and 4 Maccabees: the accusation of opponents transgressing the ancestral laws; foreign kings forcing Jews to transgress their

<sup>131</sup> For the political difficulties concerning the collection of the Temple tax in some Asian cities, see also Cicero, *Pro Flacco* 28.66-69; Barclay, *Jews in the Mediterranean Diaspora*, 231-249; 417-418.

<sup>132</sup> In this sense, focusing on *τὰ πάτρια* implies a focus on situations of conflict. This should not distract attention from the evidence for Jewish participation in polis life. For the Jews in Asia Minor in general and their integration, see P. Trebilco, *Jewish Communities in Asia Minor* (Cambridge 1991) and especially pp. 173-182 for their involvement in city life; see also W. Ameling, 'Die jüdische Diaspora unter der "Epigraphic Habit"', in J. Frey, D.R. Schwartz and S. Grippentrog (eds), *Jewish Identity in the Greco-Roman World* (Leiden 2007) 253-282, pointing at the significance of Jewish participation in the general 'epigraphic habit' as indication of their degree of integration in the cities. For our subject, it is remarkable that some Jews in Akmonia, making a donation to the city, referred to Akmonia as their *πατρίς* (*CIJ* 771; Trebilco, *Jewish Communities in Asia Minor*, 81-82). Cf. Philo's attempt to show that one can be a good Jew, Greek and Roman at the same time: Diaspora Jews regard Jerusalem as their 'mothercity' (*μητρόπολις*), but they see the cities they live in as their 'fatherland' (*πατρίς*; *Flaccus* 46). Furthermore, Gruen emphasizes that the incidents were local and infrequent, although Josephus's collection may give the impression of widespread Greek persecution and Roman salvation: *Diaspora*, 102-105.

<sup>133</sup> Josephus continues to say that the slander of other gods was forbidden by Moses, referring to LXX Exod 22:27. There is an interesting, and probably no coincidental, parallel here with Claudius' condition that the Jews are allowed to keep their ancestral laws as long as they do not show contempt for other people's religious scruples (*Ant* 19.290).

<sup>134</sup> See §1.1 for contemporary occurrences of the adverb *πάτριος*. The provenance of 2 Maccabees is controversial. While Gruen mentions a Diaspora provenance (*Heritage and Hellenism*, 5), Van Henten locates the group responsible for the composition of 2 Maccabees, as part of the larger historical work attributed to Jason of Cyrene, in Jerusalem circles close to the Hasmonean court or temple elite: *The Maccabean Martyrs as Saviours of the Jewish People. A Study of 2 and 4 Maccabees* (Leiden 1997) 50-53. The work of Jason of Cyrene, epitomized in 2 Maccabees, is dated around 160 BC. If the composition of 2 Maccabees indeed originated in Judea, it is the only work using *τὰ πάτρια* in a non-Diaspora context. Its major source, Jason of Cyrene, is however of Diaspora origin.



ancestral laws; and the willingness of Jews to fight and die for their ancestral laws. 4 Maccabees, dated around 100 CE, is in its entirety devoted to the martyrs who died under Antiochus IV prior to the first military successes of the Maccabees.<sup>135</sup> The contexts in which ancestral language emerges are similar to 2 Maccabees, from which the author of 4 Maccabees probably derived his material.<sup>136</sup> The portrayal of Jewish resistance against Antiochus IV offers insights in the way τὰ πάτρια was used by Jews in the Hellenistic world. The revolt of Judas Maccabeus against Antiochus IV Epiphanes (175-164 BCE) is traditionally seen as a fight against Hellenism as such. It represented the resistance of Judaism against Hellenism to preserve the distinctive Jewish religion and culture, while other Jews, 'Hellenizers', were succumbing to Greek culture, and eroding their Jewish identity. In recent research, it has been increasingly realized that the Maccabean rebellion arose specifically against the policy of Antiochus IV and should not be seen as the inevitable 'Kulturkampf' between Judaism and Hellenism or as a fight against Jews who succumbed to Hellenism.<sup>137</sup> Yet, on a literary level, in the rhetoric in the Maccabean books, the conflict is presented as a struggle between Judaism and Hellenism. The use of ancestral laws in 2 and 4 Maccabees should be seen in the context of this rhetoric: some Jews bravely fought for their πάτρια, whereas others adopted foreign customs and threatened the ancestral heritage.

#### 4.4.1 'Hellenizers' as traitors of τὰ πάτρια

The ancestral rhetoric in 2 Maccabees begins when Jason, after bribing Antiochus IV for the high priesthood, leads his countrymen to a Greek way of life (πρὸς τὸν Ἑλληνικὸν χαρακτήρα), destroying the lawful way of living and introducing lawless customs (νομίμους καταλύων πολιτείας παρανόμους ἔθισμοὺς ἐκαίνιζεν; 4:10-11). Jason, causing an increase in Hellenism and the adoption of foreign ways (Ἑλληνισμοῦ καὶ πρόσβασις ἄλλοφυλισμοῦ), introduces a gymnasium and the ephebate in Jerusalem. Even the priests leave their altars behind and participate in the gymnasium, and so 'disdained ancestral honours (τὰς μὲν πατρώους τιμὰς) in favour of Greek forms of prestige (τὰς δὲ Ἑλληνικὰς δόξας; 2 Macc. 4:15).<sup>138</sup> So although Ἰουδαϊσμός is not explicitly opposed to Ἑλληνισμός in 2 Maccabees, 'ancestral' is. The martyrs

<sup>135</sup> For the discussion about the date and probable origin of 4 Maccabees in Asia Minor, see J.N. Bremmer, *Greek Religion and Culture, the Bible, and the Ancient Near East. Jerusalem Studies in Religion and Culture* 8 (Leiden 2008) 209-211 (Ch. 10: "The Scapegoat between Northern Syria, Hittites, Israelites, Greeks and Early Christians"); D.A. de Silva, *4 Maccabees* (Sheffield 1998) 14-16 with H.J. Klauck's review in *Biblica* 89 (2008) 284-288.

In this self-declared philosophical treatise, the martyrdoms are supposed to demonstrate the proposition that devout reason (ὁ εὐσεβῆς λογισμὸς) can act independently of the emotions (1:1).

<sup>136</sup> Da Silva, *4 Maccabees*, 10; Van Henten, *The Maccabean Martyrs*, 70.

<sup>137</sup> Gruen, *Heritage and Hellenism*, 4-10.

<sup>138</sup> Cf. 4 Macc: Jason changed the people's way of life and altered its form of government in complete violation of the law (καὶ ἐξεδιήτησεν τὸ ἔθνος καὶ ἐξεπολίτευσεν ἐπὶ πᾶσαν παρανομίαν; 4:19), referring to the foundation of a gymnasium and the abolition of the temple service (4:20). Josephus, who has a different portrayal of the struggle between Menelaus and Jason over the high priesthood, accuses Menelaus and the Tobiads of apostasy (see below, §6.2): they went to Antiochus and 'informed him, that they were desirous to leave the ancestral laws (τοὺς πατρίους νόμους καταλιπόντες)' and live according to a Greek way of life instead (τὴν Ἑλληνικὴν πολιτείαν ἔχειν; 12.241) and asked for permission to build a gymnasium. Josephus also opposes 'ancestral' to 'Greek'. Cf. the short version in 1 Macc 1, where the high priestly actions are described as 'making a covenant with the nations (διαθήκη μετὰ τῶν ἐθνῶν 1:11); adopting the ordinances and customs of the nations (1:13-14) and they 'abandoned the holy covenant' (ἠπέστησαν ἀπὸ διαθήκης ἁγίας; 11:15).



who remain absolutely loyal to the Jewish God and his laws form the positive antitype for the Jews in leading positions who betray the laws, Jason and Menelaus. This is confirmed by the reoccurrence of *πάτριος* in both contexts. The attitude shown towards *τὰ πάτρια* thus seems to be used as a normative standard by which to measure true Judaism, and *τὰ πάτρια* functions in the Maccabean expression of Jewish identity.

In 2 Maccabees, the *ethnos* of the Jews is presented in political language. They have their own territory *Ἰουδαία* (2 Macc 1:1; 10; 5:11), their own polis with temple (3:2; 13:23), they have political institutions and particular customs. Inhabitants of Jerusalem are called *πολίται* (4:5, 50) and the Jewish constitution or way of life a *πολιτεία*. *τὰ πάτρια* clearly functions in this national-political context. The laws are connected with the fatherland (*πατρίς*): Jason can be presented as an apostate of the laws and persecutor of his fatherland (*τῶν νόμων ἀποστάτης καὶ βδελυσσόμενος ὡς πατρίδος*; 5:8). Menelaus is also described as a traitor to the laws and his fatherland (*τὸν καὶ τῶν νόμων καὶ τῆς πατρίδος προδότην*; 5:15). Van Henten points at the geographic, political and cultural meaning of *πατρίς* in 2 Maccabees, stressing that the Jewish *ethnos* had its own territory and way of life.<sup>139</sup> The importance of the political concept of *πατρίς* in 2 Maccabees confirms the patriotic-political claim of the book. In the context of this national struggle, *πατρίς* and *νόμος* are closely connected.

In the context of the ethnic-political conception of Jews in 2 Maccabees, *πάτριος* emphasizes that Jews have their own deity, their own laws and their own way of life different from Greek customs.<sup>140</sup> The Maccabean struggle is presented as a fight on behalf of *Ἰουδαϊσμός* (8:1; 14:38). In 2 Maccabees, loyalty to the Jewish laws that are both ancestral and divine is part of a specific representation of Jewish identity. The supporters of Judas are referred to as 'the ones who had stayed within Judaism' (*ἐν τῷ Ἰουδαϊσμῷ*; 8:1). *τὰ πάτρια* is part of the expression of Jewish ethnic identity, especially in a situation of political conflict. In this rhetoric *τὰ πάτρια* is used to oppose political opponents: their measures are described as transgressions of the ancestral laws, while others fight for these same laws.<sup>141</sup>

#### 4.4.2 Antiochus IV as destroyer of the ancestral constitution

Apart from the accusation against Jews acting against the ancestral laws and destroying the Jewish way of living, the second main context in which *τὰ πάτρια* occurs is Antiochus' policy of forcing Jews to 'depart from their ancestral laws and no longer live by the laws of God (*μεταβαίνειν ἀπὸ τῶν πατρίων νόμων καὶ τοῖς τοῦ θεοῦ νόμοις μὴ πολιτεύεσθαι*; 6:1).<sup>142</sup> More

<sup>139</sup> Van Henten, *The Maccabean Martyrs*, 197. References to *πατρίς* in 2 Macc 4:1; 5:8-9; 8:21, 33; 13:3, 10, 14; 14:18; 4 Macc 1:11; 4:1, 5, 20; 17:21; 18:4.

<sup>140</sup> For *Ἰουδαῖος* as ethnic-political nomenclature, see S.J.D. Cohen, 'Religion, Ethnicity, and "Hellenism" in the Emergence of Jewish Identity in Maccabean Palestine', in: P. Bilde e.a. (eds), *Religion and Religious Practice in the Seleucid Kingdom* (Aarhus 1990) 204-223.

<sup>141</sup> The expression 'ancestral language' (*ἡ πάτριος φωνή*) also appears frequently in 2 Maccabees (7:8, 21, 27, 12:37; 15:29; cf. 4 Macc 12:7; 16:15) as the language, Hebrew or Aramaic, that the martyrs speak amongst themselves and differentiates them from the king. See J.W. van Henten, 'The Ancestral Language of the Jews in 2 Maccabees', in: W. Horbury (ed.), *Hebrew Study from Ezra to Ben-Yehuda* (Edinburgh 1999) 53-70. According to Van Henten, the occurrence of *πάτριος* is especially indicative of the patriotic dimension of 2 Maccabees.

<sup>142</sup> Ancestral language is also present in 1 Maccabees, but not using the concept of *τὰ πάτρια*: when the king's officers, who 'compelled the people to apostasy' (*οἱ καταναγκάζοντες τὴν ἀποστασίαν*) ask Mattathias to perform a sacrifice, he declares that, even if all nations 'apostatize from the worship of



specifically, in chapter 6 the departure from ancestral laws entails the 168 BCE dedication of the Jerusalem temple to Zeus Olympios and the defilement of the temple that ensued (6:2). The observation of the Sabbath and ‘ancestral festivals’ (πατρώους ἑορτάς) was prohibited (6:6) and Jews were forced to participate in idolatrous activities (6:7-8). Together, this constituted, in the words of Judas, the ‘destruction of the ancestral constitution’ (τὴν τῆς προγονικῆς πολιτείας κατάλυσιν; 8:17). We recognize the Greek political argument of presenting an opposed position or certain measures as a destruction of the πάτριος πολιτεία.<sup>143</sup> This destruction was caused by Antiochus’ defilement of the centre of the Jewish *politeia*, the Jerusalem temple and its worship.<sup>144</sup> Note, however, that Antiochus’ deeds are not described as a destruction of the πάτριος πολιτεία in a factual narration of events: they are presented as such in a rhetorical context, in a speech by his political opponent Judas Maccabee, admonishing his people to resist.

4 Maccabees has the same grim image of the Seleucid king, actually forbidding the observance of the ancestral laws. He issued a decree ‘that if any of them were found observing the ancestral law (τῷ πατρίῳ πολιτευόμενοι νόμῳ) they should die’ (4:23). This, however, did not end ‘the people’s observance of the law’ (τὴν τοῦ ἔθνους εὐνομίαν; 4:24), whereupon Antiochus murdered women and children because of circumcision and forced Jews ‘to eat defiling foods and renounce Judaism’ (ἐξόμνησθαι τὸν Ἰουδαϊσμόν; 4:26). Observing the ancestral laws is the opposite of renouncing Judaism, making it the hallmark of being a Ἰουδαῖος.

Josephus adopts this language from his Maccabean source and also reports that Antiochus IV compelled the Jews to dissolve their ancestral laws (καταλύσαντας τὰ πάτρια) by prohibiting circumcision and making them sacrifice pigs on the altar (*War* 1.34; cf. *Ant* 12.153, a sacrifice that was not πάτριος for the Jewish worship). The reason the Jewish *ethnos* made war with Antiochus, he says, is that he ‘violated the Jewish laws and the ancestral piety derived from them’ (13.243).

#### 4.4.3 Fighting and dying for τὰ πάτρια

2 Maccabees presents and legitimizes the Maccabean revolt as a fight for the Jewish ancestral laws and customs. τὰ πάτρια surfaces especially in the martyr texts in both 2 and 4 Maccabees. These martyr stories about Eleazar, the mother and her seven sons (2 Macc 6:18-31 and 7) and the death of Razis (2 Macc 14:37-46) form an important part of the Jewish response against Antiochus IV in the Maccabean literature.<sup>145</sup> The seven brothers would rather die than ‘transgress the ancestral laws’ (παραβαίνειν τοὺς πατέριους νόμους; 7:2) by eating pork; they ‘give up body and soul for the ancestral laws (σῶμα καὶ ψυχὴν προδίδωμι περὶ τῶν πατρίων νόμων; 7:37). The patriotic context is clear from the similar expression that the Maccabean army is ‘ready to die for laws and country (τῶν νόμων καὶ τῆς πατρίδος; 8:21). Antiochus IV

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their fathers’ (ἀποστῆναι ... ἀπὸ λατρείας πατέρων αὐτοῦ), he and his family will remain loyal to the ‘covenant of our fathers’ (διαθήκη πατέρων ἡμῶν; 2:19-20).

<sup>143</sup> See pp. 13-14 above. The parallels are also noted by Nongbri, ‘The Motivations of the Maccabees and Judean Rhetoric of Ancestral Tradition’, 108-111. He does not mention that πάτριος does not occur in 1 Maccabees and that not the ‘Hellenizers’, but Antioch is accused of destroying the ancestral constitution. He convincingly argues that the ‘covenant of the fathers’ in 1 Macc is a form of ancestral rhetoric as well.

<sup>144</sup> For the Jewish state as ‘theocracy’, centered around the temple given by God of a people chosen by God, see Van Henten, ‘The Ancestral Language’, 57-58.

<sup>145</sup> See especially: J.W. van Henten, *The Maccabean Martyrs as Saviours of the Jewish People. A Study of 2 and 4 Maccabees* (Leiden 1997).



tried to persuade the youngest of the seven brothers to 'turn from the ancestral ways (μεταθέμενον ἀπὸ τῶν πατρίων; 7:24). The ancestral laws are synonymous with the laws of God (6:1; 7:9, 11, 23).<sup>146</sup> In the words of the youngest son, the command of Antiochus is contrasted with the command of the Law 'that was given to the fathers through Moses' (τοῖς πατράσιν ἡμῶν διὰ Μωυσέως; 7:30). This can be seen as another description of the ancestral laws: the ancestral laws are those laws that were, through Moses, given to the fathers. The fathers here seem to be post-Moses, while Moses is the first receiver and mediator of the law.

The statements of the martyrs in 2 Maccabees are amplified and reformulated by the author of 4 Maccabees. Eleazar declares that he will not break the ancestral law (τὸν πάτριον καταλύσαι νόμον; 5:33). Antiochus tries to persuade the seven brothers to 'renounce the ancestral ordinance of your constitution (ἀρνησάμενοι τὸν πάτριον ὕμῶν τῆς πολιτείας θεσμόν; 8:7). Ancestral is again opposed to 'Greek': Antiochus wants them to 'adopt the Greek way of life and change your manner of living' (μεταλαμβάνοντες Ἑλληνικοῦ βίου καὶ μεταδιαιτηθέντες; 8:8). The youths, however, declare that they are 'ready to die rather than transgress our ancestral commandments' (παραβαίνειν τὰς πατέρας ἡμῶν ἐντολάς; 9:1). If they would not obey the Law and Moses, they would put 'their forefathers' (τοὺς προγόνους ἡμῶν; 9:2) to shame. Ancestral language is present throughout the description of the brother's torture: the oldest brother, resisting torture, is 'worthy of Abraham' (9:21); he admonishes his brothers to keep fighting, so that 'the righteous and ancestral provision' would come over the nation (πάτριος ἡμῶν πρόνοια; 9:24). The next brother likewise states the nobleness of dying for the 'ancestral piety' (τὴν πάτριον ἡμῶν εὐσέβειαν; 9:29). The youngest brother calls on 'the ancestral God' (τὸν πατρῶον θεὸν) to have mercy on the nation (12:17). In the concluding reflection on the noble death of the seven brothers, it is said that the reward for their death is a welcome by Abraham and Isaac and Jacob, 'and all the fathers (οἱ πατέρες) will praise us' (13:17). Their mother encouraged them to 'fight willingly for the ancestral law (ἐναγωνίσασθε προθύμως ὑπὲρ τοῦ πατρῶου νόμου; 16:16). She then makes an extensive appeal to the ancestral past, similar to that in 1 Macc 2:52-60. The first example is 'our father Abraham', who was zealous to sacrifice his son Isaac, the ancestor of our nation'. Isaac for his part, was willing to die, as were Daniel, Hananiah, Azariah, and Michael (16:20-21).<sup>147</sup> Having chosen a death in accordance with these ancestral examples, the seven brothers are typified as descendants of Abraham (17:6; see also 18:23, 'sons of Abraham'). As a result of their fight for the nation, Antiochus was not able to compel the Israelites to adopt foreign ways and change from the ancestral customs' (ἀλλοφυλῆσαι καὶ τῶν πατρίων ἔθῶν ἐκδιαιτηθῆναι; 18:5). The martyrs are put in the

<sup>146</sup> cf. Eleazar, who died rather than eating pork, in accordance with the 'holy and God-given law' (τῆς ἁγίας καὶ θεοκτίστου νομοθεσίας; 2 Macc 6:23) and died for the 'noble and holy laws' (τῶν σεμνῶν καὶ ἁγίων νόμων; 6:28). 1 Maccabees also used ancestral language in this context. When Mattathias addresses his sons as he is about to pass away (2:49-68), he admonishes them to 'show zeal for the law and give your lives for the 'covenant of our fathers' (ζηλώσατε τῷ νόμῳ καὶ δότε τὰς ψυχὰς ὑμῶν ὑπὲρ διαθήκης πατέρων ἡμῶν; 2:50).

<sup>147</sup> Again in the end of 4 Maccabees, where the mother reiterates what she has learnt from the law and the prophets, about the suffering of the righteous (Abel, Isaac, Joseph, Phineas, Hananiah, Azariah, and Mishael, Daniel; 18: 11-19). Cf. the appeals to the ancestral past in 1 Macc: 'Remember the deeds of the ancestors (τὰ ἔργα τῶν πατέρων), which they did in their generations; and you will receive great honour and an everlasting name' (2:51). This is followed by a wide variety of examples of this ancestral loyalty to the law, which Mattathias' sons are supposed to emulate: Abraham, Joseph, Phinehas, Joshua, Caleb, David, Elijah, Hananiah, Azariah, and Mishael, and finally Daniel were all rewarded for their faithfulness to God's commandments (2:52-60). See also 1 Macc 2:9-10). There is a form of ancestral rhetoric in 1 Maccabees, but the concept of τὰ πάτρια does not occur.



framework of the Jewish history and their actions are linked with Jewish forefathers and the long tradition of absolute loyalty to the Jewish laws, characteristic for the Jewish people. When put for the choice between the ancestral Jewish laws and a Greek way of living, they remain loyal to Jewish practices and are ready to die for them.

Jan Willem van Henten has pointed out that the portrayal of the martyrs in 2 and 4 Maccabees shows clear parallels with patriotic depictions of heroes who died a voluntary death in non-Jewish Greek and Roman texts.<sup>148</sup> He places the voluntary death of the Maccabean martyrs in line with the sacrifice of one's life for the fatherland, an ideal expressed throughout antiquity.<sup>149</sup> These heroes were buried 'using the ancestral law' (τῷ πατρίῳ νόμῳ χρώμενοί; Thucydides 2.34.1) and celebrated in Athenian funeral orations (*epitaphioi logoi*), that often contained references to examples from ancestors. The eulogy on the martyrs in 4 Maccabees, in which the martyr's actions are compared to the acts of figures from the Jewish ancestral past, has been compared to these classical funeral orations.<sup>150</sup>

The claim to defend and preserve ancestral traditions is clearly part of the Maccabean propaganda to legitimate their own political position. We have pointed at this strong rhetorical context of τὰ πάτρια before in both Jewish and non-Jewish sources. It has special relevance for the historical reconstruction of the Maccabean/Hasmonean era and attempts to reconstruct definitions of Judaism in this period with help of the concept of τὰ πάτρια.<sup>151</sup> This concern is also expressed by Bert Nongbri, pointing at the rhetorical context of ancestral language in 1 and 2 Maccabees: 'Rather than saying that the Maccabees' position was to defend whatever the ancestral traditions were, instead we should say the ancestral traditions were whatever the Maccabees' position was'.<sup>152</sup> Nongbri is perhaps too sceptical here, since the presentation of laws and customs as ancestral still reveals that they were considered ancestral and in need of being presented as such. Nevertheless, the use of τὰ πάτρια in 2 Maccabees has again demonstrated that one should be more conscious of the rhetorical dimension of τὰ πάτρια. When scholars refer to Jewish ancestral laws and customs in a casual way, they unconsciously take over the rhetoric from a specific, often political situation.

#### 4.5 Other political conflicts

As we have seen so far in discussions of Philo, Josephus and 4 Maccabees, the rhetorical use of ancestral traditions was continued by later generations. The author of 4 Maccabees, as we saw, and Josephus present the Maccabees as defenders of τὰ πάτρια. In Josephus' elaborate version of Mattathias' speech in 1 Macc 2:20, the leader encourages his children to die for the ancestral laws (ὕπερ τῶν πατρίων νόμων ἀποθανεῖν; 12.267 – the 'covenant of the fathers' in 1 Macc 2:20). He nor his sons would 'leave their ancestral worship' (τὴν πατριὸν θρησκείαν

<sup>148</sup> Van Henten, *The Maccabean Martyrs*, 210-243.

<sup>149</sup> His examples all mention death for the πατρίς, not for the πατριοὶ νόμοι: Homer, *Iliad* 15.494-497; Aristotle, *Nicomachean Ethics*, 1169a; Diogenes Laertius 7.130. For the theme of patriotic death, see the references in Van Henten, *The Maccabean Martyrs*, 214-219 notes 134, 135, 153, 156. The dialogues between Antiochus and the brothers in 4 Maccabees show resemblances with dialogues between rulers and philosophers, in which the philosopher holds on to his conviction at all costs: Van Henten, *The Maccabean Martyrs*, 106-107.

<sup>150</sup> De Silva, *4 Maccabees*, 46-47, 79-80; Van Henten, *The Maccabean Martyrs*, 213-214; Further literature on this subject: N. Loraux, *L'invention d'Athènes: Histoire de l'oraison funèbre dans la 'cité classique'* (Paris 1981).

<sup>151</sup> See for instance, Cohen, *Beginnings of Jewishness*, 133-134.

<sup>152</sup> Nongbri, 'The Motivations of the Maccabees', 110n84.



ἐγκαταλιπεῖν; 12.269).<sup>153</sup> The same rhetorical use of *πάτριος* is also found in Josephus' and Philo's presentation of conflicts with Roman rulers and the Jewish response. This does not necessarily mean that Josephus and Philo directly depend on 2 Maccabees for their use of *τὰ πάτρια*, since its use has many parallels in non-Jewish texts from the wider Greek world as well. Nevertheless, it is likely that the Maccabean rhetoric of fight and death for *τὰ πάτρια* and Antiochus IV as the ultimate destroyer of the ancestral constitution, forcing Jews to transgress their *πάτρια* had influence on future generations for interpretations of political conflicts in their own time, especially since the victory of the Maccabees was commemorated each year at the occasion of Hanukkah.<sup>154</sup>

The Maccabean self-sacrifice was generalized into a general Jewish willingness to die for their *πάτρια* in Philo and Josephus, in their portrayal of both past and contemporary events.<sup>155</sup> Josephus argues that the Jewish readiness to die for their ancestral laws is evidence that they are more loyal to their constitution than, for instance, the Spartans (*Apion* 2.225-335; note that he specifically mentions Jewish law observance under the difficult circumstances when they were ruled by the kings of Asia). Furthermore, a passionate fight for their *πάτρια* characterizes Jewish response to measures taken by foreign authorities that are presented as a threat to the observance of the law.

The possibility that Antiochus IV functioned as model of a foreign ruler who did not permit Jews to live according to their laws but rather forced them to transgress them, is supported by Josephus' contrast between Antiochus and Roman emperors. Before relating the suffering of the Jews under Antiochus IV, Josephus inserts an excursus in which he repeatedly stresses the kindness and generosity of the Romans, in that they permitted Jews to live according to their laws. He singles out Vespasian and Titus for special praise, because they did not deprive the Jews of Alexandria and Antioch of their rights, as was requested by the non-Jewish inhabitant of those cities, despite the Jewish revolt from 66-70 (*Ant* 12.122-128). As we pointed out above, Josephus claims a general Roman policy of allowing Jews to observe their *πάτρια*. There were important exceptions, however, of emperors and governors who took measures that are presented as a threat to the observance of the ancestral laws and customs.

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<sup>153</sup> See further *Ant* 12.271, 280, 281, 303; 13.2. Jews opposing the Maccabees are portrayed as transgressors of *τὰ πάτρια*. When Judas besieged the citadel, some of these Jews escaped to Antiochus V. 1 Macc 6:21 describes these men as 'impious' (ἀσεβής), Josephus as 'destroyers of the ancestral worship' (τὴν ... *πάτριον* ... καταλύσαντας θρησκείαν; 12. 364; see also 13.4). Josephus adds that Menelaus was even reproached by Antiochus V for having forced the Jews to transgress their ancestral worship (ἀναγκάσαι τὴν *πάτριον* θρησκείαν καταλιπεῖν; 12.384-385). When 1 Macc makes statements about Jews living according to their laws (usually νόμοι αὐτῶν), Josephus typically adds *πάτριος* (*Ant* 12.303, 381; 13.54).

<sup>154</sup> I owe this last observation about the possible importance of Hanukkah to Prof G.H. van Kooten. Unfortunately, the historical setting of 4 Maccabees is too uncertain to provide clues for specific historical events that occasioned the work. In general, it can be seen as an attempt to admonish first-century Diaspora Jews to remain faithful to the Jewish laws in face of opposition, while at the same time arguing that this life was compatible with Greek (philosophical) life. On the Jewish audience of 4 Macc, see De Silva, *4 Maccabees*, 21. Note the conclusion to 4 Macc, appealing to the ancestral past and common ethnic, genealogical bond of all Jews: 'Ο Israelite children, offspring of the seed of Abraham (ὡν Ἀβραμιαίων σπερμάτων ἀπόγονοι), obey this law and exercise piety in every way' (18:1).

<sup>155</sup> For past event, see for instance, *Ant* 10.214 about Daniel: Daniel's kinsmen refuse to worship the golden statue because they would not 'transgress the ancestral laws' (παραβῆναι τοὺς πατέριους νόμους). Consequently, they were cast into the fire but saved by God. For a contemporary rhetorical appeal to be ready to die for *τὰ πάτρια*, see Eleazar's speech *War* 7.343; further *War* 1.650; 2.6; 7.343.



#### 4.5.1 Flaccus and the Alexandrian Jews

The majority of the occurrences of τὰ πάτρια in Philo's work are found in his *On Flaccus* and *Embassy to Gaius*, in the context of political conflicts. After the death of Tiberius and the ascendancy of Gaius Caligula in 37 CE, the Roman prefect of Egypt, Flaccus, had turned against the Alexandrian Jews. According to Philo's eyewitness version of the events, Flaccus allowed the Alexandrian mob to mock king Agrippa I, then authorized the installation of statues of emperor Gaius in the synagogues, and finally deprived the Jews of their civic and political privileges and branded them as aliens within the city. This was the start of a persecution and abuse of Jews in Alexandria.<sup>156</sup>

In *On Flaccus*, Philo presents the Jewish community in Alexandria as a πολιτεία, which according to him entailed the right to follow ancestral customs and partnership in the political institutions (ἐθῶν τε πατρίων καὶ μετουσίας πολιτικῶν δικαίων; *Flaccus* 53).<sup>157</sup> In this way, he can portray the conflicts between Jews and Egyptians in Alexandria between 38 and 41 CE as a matter of civic rights, whereby the ancestral laws and customs of the Jews were being threatened both by the Egyptian Alexandrians and by the prefect Flaccus. The installation of images in the synagogues is taken by Philo as an attempt to 'disrupt our ancestral customs' (ἔθη πάτρια κινεῖν) with the co-operation of Flaccus who was supposed to protect the Jewish πάτρια in accordance with the general Roman policy (43).<sup>158</sup> Flaccus' measures against the Alexandrian Jews are presented by Philo as an attempt to destroy the Jewish *politeia* (τὴν τῆς ἡμετέρας πολιτείας ἀναίρεσιν; 53) by attacking the ancestral customs (43, 47, 52), reducing the status of the Jews to that of 'foreigners and aliens' (ξένους καὶ ἐπήλυδας; *Flaccus* 54). Since, according to Philo, the Jews had a right to observe their ancestral customs, it was Flaccus' duty as governor to interfere when this right was being violated. Philo indicates that this act would be taken as an attack 'against us all', not only the Alexandrian Jews but also the large group of Jews in the rest of the country (44-46). He indicates that the events in Alexandria could lead to similar attempts to 'introduce innovations regarding the synagogues and the ancestral customs' (εἰς τὰς προσευχὰς καὶ τὰ πάτρια νεωτερίζοντες) all over the world. In this way, Philo wants to stress that violence would spread, both from Jews in standing up for their ancestral customs, and other people in trying to abrogate the right of Jews to live by them (47).

By presenting the erection of statues in the synagogues as a violation of the ancestral customs, Philo stresses the illegitimacy of the act and justifies Jewish protests: 'for all men, struggles for customs (οἱ περὶ τῶν ἐθῶν ἀγῶνες) exceed those which are only for the sake of life' (48).<sup>159</sup> An attack on the Jewish πάτρια is seen as undermining the whole life of Jews in the context of the polis, not only in Alexandria but all over the Diaspora. The πάτρια in question

<sup>156</sup> *Flaccus* 25-96; *Embassy* 121-123, 132-136. For brief descriptions of the complicated conflicts in Alexandria, see Gruen, *Diaspora*, 63-72; Barclay, *Jews in the Mediterranean Diaspora*, 48-81.

<sup>157</sup> As Gruen indicates, Philo's use of the term *politeia* is probably not technical: Gruen, *Diaspora*, 65. For the question of the legal status of the Jews in Alexandria, see A. Kasher, *The Jews in Hellenistic and Roman Egypt. The Struggle for Equal Rights* (Tübingen 1985); S. Pearce, 'Belonging and Not Belonging: Local Perspectives in Philo of Alexandria', in S. Jones and S. Pearce (eds), *Jewish Local Patriotism and Self-Identification in the Graeco-Roman Period* (Sheffield 1998) 79-105. R. Alston, 'Philo's "In Flaccum": Ethnicity and Social Space in Roman Alexandria', *Greece & Rome* 44 (1997) 165-175. For citizenship in Alexandria, see especially D. Delia, *Alexandrian Citizenship During the Roman Principate* (Atlanta 1991).

<sup>158</sup> Translation by P.W. van der Horst, *Philo's Flaccus. The First Pogrom* (Leiden 2003). Cf. *Embassy* 152 for Augustus' favourable policy toward the Jewish associations in Rome.

<sup>159</sup> Cf. *Embassy* 210: 'All people are tenacious of their own customs'; 277: 'Everyone naturally loves his homeland and the laws of his own country'.



primarily involve the Jews' aniconic, monotheistic worship in their synagogues. The right to aniconic worship with exemption from the imperial cult were central issues for the embassy that was sent to Gaius in 38 or 39 (*Embassy* 118, 132-154, 191, 353-357). It is very likely that an appeal to τὰ πάτρια was used as a political argument before the emperor as well. Apion, leader of the embassy sent to Gaius on behalf of the Alexandrians, reproached the Jews for not worshipping the same gods as the Alexandrians and for not erecting imperial statues (*Apion* 2.65, 73, 79; *Ant* 18.257). This was for Apion a reason not to consider Jews Alexandrians (*Apion* 2.38).

There is more at stake here than non-Jewish issues with how the Jews worshipped their God. From the situation in Alexandria we learn that Jews could be accused of not being loyal to their polis – they observed the laws of another country and, by their refusal to participate in the imperial cult, posed a threat to the wellbeing of the city.<sup>160</sup> Probably in response to these accusations, Philo stresses the bond Jews have with the land in which they have settled: although they regard Jerusalem as their mother city, they see 'the regions they obtained from their fathers, grandfathers, great-grandfathers, and even more remote ancestors, to live in, as their fatherland (πατρίδα) where they were born and brought up' (*Embassy* 46). Thus, Philo can claim that Jews, as all other people, have a right to follow their πάτρια, while at the same time declaring his patriotism for Alexandria, his πατρίς.

As Isaiah Gafni argues, expressions of local patriotism serve apologetic purposes. Philo claims that Jews related to Alexandria in the proper way and were sufficiently loyal and devoted to the wellbeing of the city.<sup>161</sup> While Jews did not participate in the general civic cult of the city either, the conflicts erupt over imperial images (see also below §§ 4.4.2 and 4.4.3). By offending Jewish sensitivities at this point, non-Jews with malevolent intentions in conflicts could accuse the Jews of not being loyal to the Roman empire.<sup>162</sup> That is why Josephus, responding to Apion's accusations, stresses that Jews indeed did not sacrifice to the emperor, but instead on behalf of the emperor (*Apion* 2.75-76). Furthermore, Josephus turns the tables on Apion and accuses him of disowning his true fatherland and people (ἀληθῆ πατρίδα καὶ τὸ γένος; *Apion* 2.28). According to Josephus, this was Egypt: while Apion does not consider the Jews Alexandrians, Josephus argues that Apion is not a real Alexandrian himself, but an Egyptian (as the Jews were according to Apion). Apion had deserted his people, while the proper attitude was one of pride of one's πατρίς and a desire to be named after it (2.30).<sup>163</sup> The accusation of transgressing τὰ πάτρια thus functions in mutual accusations of disloyalty. By

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<sup>160</sup> For Jews as a completely separate *politeia* within the city, see Josephus' description of the Alexandrian Jews living in separate quarters, 'so that they could live a life of greater purity by mixing less with strangers' (*War* 2.488). Philo, however, mentions that synagogues were spread over the entire city and that Jews lived in all quarters (*Embassy* 132; *Flaccus* 55). For the issue of loyalty to the polis, see also §4.

<sup>161</sup> I.M. Gafni, 'At Home While Abroad: Expressions of Local Patriotism in the Jewish Diaspora of Late Antiquity', in: Idem (ed.), *Land, Center and Diaspora. Jewish Constructs in Late Antiquity* (Sheffield 1997) 41-75, at 47. Cf. *De confusione linguarum* 78: 'When men found a colony, the land which receives them becomes their fatherland instead of their mother city'.

<sup>162</sup> See also Tacitus, *Hist* 5.5.4: 'They hold it to be impious to make idols of perishable materials in the likeness of man ... For this reason they erect no images in their cities, still less in their sanctuaries. Their kings are not flattered in this way, nor are the Roman emperors honoured in this manner' (transl. Stern).

<sup>163</sup> Josephus also accuses Apion of slandering his ancestral laws by criticizing Jews for circumcision and avoidance of pork, which Josephus claims to be Egyptian customs as well (*Apion* 2.143-144).



presenting the aniconic and non-imperial worship of the Jews as ancestral, Josephus and Philo attempt to deflect charges of political disloyalty to their poleis and of subverting Roman rule.<sup>164</sup>

#### 4.5.2 Gaius

While Philo and his embassy were waiting to be received by Gaius to plea for the Jews in Alexandria, the emperor decided to erect an image of himself in the Jerusalem temple (*Embassy* 346; *Ant* 18.261). Philo, rhetorically addressing the Roman emperor, accuses him of depriving the temple of its ancestral worship' (τῆς θρησκείας τὸ πάτριον; *Embassy* 232) and declares the Jewish willingness to 'defend the laws and die for their πάτρια (τῶν πατρίων; 208; see also 215, 249). According to Philo, the Syrian legate Petronius who was to take care of Gaius' statue, realized that the Jewish response would be fierce: while all men are eager to keep their own customs (τῶν ἰδίων ἔθῶν), the Jews are more eager than others because theirs were given by God and implanted in their souls from the cradle (210-211). τὰ πάτρια now functions explicitly in a plea before the emperor: when the Jews would send an embassy to Gaius, they would try to persuade him of 'our right to be no worse treated than all the nations, even those in the uttermost regions, who have had τὰ πάτρια maintained' (242). The same argument is found in Philo's rendition of Agrippa's appeal to Gaius. All men, including the emperor himself, love their laws and their country. Furthermore, says Agrippa, the emperor has a deep respect for his own πάτρια (277). Everyone thinks their own laws are beautiful, although they do not appear to be for others. But this, says Philo, is more a matter of 'the emotion of benevolence' (τῷ τῆς εὐνοίας πάθει) than of reason (277; see below, §6.5 for critical reflection).

Josephus' description of the events confirms that τὰ πάτρια especially occurs in appeals to the Roman authorities as a political argument in defence of these laws and customs. When the Jews appeal to Petronius to guard their ancestral laws (τῶν πατρίων νόμων; *War* 2.192), the legate objects that they are the only people to refuse a statue of the emperor. In response, the Jews simply insist 'on the law and the ancestral custom' (τῶν δὲ τὸν νόμον καὶ τὸ πάτριον ἔθος) and explain that image of God is not permitted (*Ant* 18.256-309). Both in the case of the crisis in Alexandria and of Gaius' attempt to erect a statue in the temple, the Jewish law that was being defended involved the aniconic worship and the exemption from the imperial cult.<sup>165</sup>

<sup>164</sup> The list of customs that are presented as ancestral corresponds to John Barclay's enumeration of practical distinctions that separated the Jewish *ethnos* from other people in Diaspora cities: the rejection of alien, pluralist and iconic cult; separatism at meals and Sabbath observance (*Jews in the Mediterranean Diaspora*, 428-411). He also mentions circumcision, which is almost absent from our discussion. This does not mean that I suggest it was not important or ancestral for them. Indeed, circumcision is presented as πάτριος in 2 and 4 Macc in the context of its prohibition, as part of being a Jew, by Antiochus IV. Josephus and Philo do not mention circumcision very frequently in general, which is partly related to the denigrating comments it received from Romans and Greeks. Yet, it is noteworthy that they do not feel a need to present circumcision as ancestral to defend it. Perhaps this is related to the fact that circumcision itself did not cause social tensions: non-Jews could not feel offended or harmed by Jews circumcising their sons, even though it symbolized their separateness. It could not or did not, at least not in such a degree as the other laws and customs, lead to the accusation of political disloyalty, of damaging the wellbeing of the polis or the Roman empire.

<sup>165</sup> See also the placement of imperial images on military standards under Pilate, presented as an offence against the Jewish τὰ πάτρια whereby the Jewish protestors declare before Pilate their willingness to die rather than transgress their πάτρια: Josephus, *Ant* 18.55-59; *War* 2.169-174; Philo, *Embassy* 299-300. It was the presence of the standards in Jerusalem and their function in pagan imperial cult that was so offensive: H.K. Bond, 'Standards, Shields and Coins: Jewish Reactions to Aspects of the Roman Cult in the



### 5.5.3 Herod

While the previous examples concerned threats posed by foreign rulers, Josephus charges a Jewish king of the same offences. Herod introduced Roman architecture and also promoted the imperial cult by building temples for Augustus and Roman gods, mostly in non-Jewish territories.<sup>166</sup> Josephus himself, not rendering someone else's speech, accuses Herod of departing from the ancestral customs and pursuing foreign ones (τῶν πατρίων ἔθῶν καὶ ξενικοῖς ἐπιτηδεύμασιν), thereby gradually corrupting the ancient constitution (*Ant* 15.267). Josephus mentions Herod's introduction of games for Caesar and a theatre in Jerusalem, contrary to the Jewish customs because these type of buildings and games had not been handed down (παραδίδοται; 15.268). While these statements appear to belong to Josephus' own description of the events, the accusations of Herod acting against τὰ πάτρια occur especially in speeches. When Herod erected a large golden eagle over the gate to the Jerusalem temple, this caused a great uprising among the population, described by Josephus in both the *War* and the *Antiquities*. A mob of angry Jews took down the eagle, after they had been stirred by two men, Judas of Sepphoris and Matthias the son of Margalus. Josephus depicts them as 'men of learning' (σοφισταί) who had 'the reputation of being experts in the ancestral ways (δοκοῦντες ἀκριβοῦν τὰ πάτρια; *War* 1.648; see also below chapter 5). They instigated the gathered Jews to 'defend the cause of God, and to pull down what had been erected contrary to the ancestral laws' (παρὰ τοὺς πατρίους νόμους; *War* 1.649). They admonished them to tear down the eagle above the gate to the Temple, and not to worry if things got out of hand since 'it was a glorious thing to die for the ancestral law' (ὑπὲρ τοῦ πατρίου νόμου; 1.650). Thus, when brought before Herod, the arrested men presented themselves as activists for the ancestral laws (1.653).<sup>167</sup> We shall see another example of τὰ πάτρια as a slogan in a populist political context below.

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Time of Pilate', in: S.C. Barton (ed.), *Idolatry: False Worship in the Bible, Early Judaism, and Christianity* (London 2007) 88-106, at 91-93. See also the erection of an imperial altar by Greeks in Jamnia in 39/40: *Embassy* 200-202.

<sup>166</sup> P. Richardson, *Herod: King of the Jews and Friend of the Romans* (Columbia 1996) esp. 174-215.

<sup>167</sup> For the parallel account in the same terminology, *Ant* 17.149-159. See also *War* 2.6, these men had died for their ancestral laws (ὑπὲρ τῶν πατρίων νόμων) and for the temple; *War* 1.09 for accusations of Herod acting against the ancestral law by killing people before they had been condemned; *War* 2.86: when a Jewish party pleads for autonomy instead of kingship before Caesar, Herod is accused of tyranny and abrogating the ancestral laws.



Finally, we can mention Josephus' own political views on the Jewish war. Describing the violent terror of the Zealots, who killed innocent Jews trying to escape without even giving them a proper burial, Josephus accuses them of putting down both the laws of the fatherland and the laws of nature (τοῖς τῆς πατρίδος συγκαταλῦσαι καὶ τοὺς τῆς φύσεως νόμους; *War* 4.382; cf. 4.348). Another leader of the revolt, John of Giscala, is portrayed as the worst criminal of all: he had dared to be impious toward God by eating unlawful food. In this way, John 'abandoned the established rules of purity of our forefathers' (*War* 7.264). It is likely that during the Jewish war, each party claimed to act in accordance with the ancestral laws and accused others of transgressing them. Of course, all we have is Josephus' version. Thus, defending himself against accusations of treachery, Josephus says about himself that he will never forget his people or the ancestral ways (τῶν πατρίων ἐπιλάθωμαι; *Ant* 6.107).<sup>168</sup> Josephus himself, according to his own report, was also accused of disloyalty to τὰ πάτρια during the Jewish revolt. His description of this scene (*Life* 132-135) is a good illustration of how appeals to τὰ πάτρια functioned in rhetorical situations to persuade an audience of one's own position or motivate them to take action. When the rumour had spread that Josephus intended to surrender to the Romans, some of the Jewish soldiers called for a public examination of his behaviour in the hippodrome of Taricheae. Josephus relates how the crowd - he uses the denigrating term ὄχλος - was stirred up by a man named Jesus of Sapphias, a man inclined to sedition and innovation (στασιοποιός τε καὶ νεωτεριστής). He, actually taking the Laws of Moses in his hand, tried to persuade the crowd to condemn Josephus by accusing him of betraying the ancestral laws (τοὺς πατρίους ... νόμους). Out of love for their laws, he says, they should kill the disloyal general (134). It is noteworthy that Josephus mentions this accusation addressed to himself, while his whole *Life* is designed as self-praise and justification of his actions during the Jewish revolt. This increases the likelihood that Josephus' description reflects the way τὰ πάτρια was used in this form of populist rhetoric, making an emotive appeal to their ancestral heritage and actually exhibiting the Law, probably in the form of Torah scrolls. In this way, a crowd could be instigated to violent mob action (135).

Besides blaming individual leaders and the Zealots, Josephus attempts to acquit the Jewish people in general from responsibility for the Jewish revolt by blaming one group in particular, the so-called 'Fourth Philosophy'. Josephus presents this school as one of the main Jewish factions, next to Essenes, Sadducees and Pharisees. In his account of an uprising in 6 CE led by Judas the Galilean about paying tribute to the Romans, before the outbreak of the war, he already connects this school with the eventual destruction of the Temple. He describes that this school, led by Judas, generally agrees with the Pharisees except for their extreme 'passion for liberty' ... since they are convinced that God alone is their leader and master' (*Ant* 18.23). The spread of this doctrine among the people, implicating that no secular, Roman government over

<sup>168</sup> See also the speech of Agrippa II to the Jewish insurgents, persuading them to give up their resistance, because it led to them to transgress the ancestral laws for which they started their war in the first place (*War* 2.391-393). The transgression here involves fighting on the Sabbath. Because the Torah does not say anything about not fighting on Sabbath, Schröder concludes it must be an oral tradition: *Die 'väterlichen Gesetze'*, 42. This conclusion is a good example of how neglect of the rhetorical context of τὰ πάτρια leads to a too literal, descriptive interpretation: τὰ πάτρια refers to the law of Moses; not fighting on Sabbath is not in there; therefore, it must be an oral tradition.



Judea should be tolerated, eventually led to the destruction of the Temple (*Ant* 18.7-8).<sup>169</sup> The lesson that should be drawn from this, says Josephus, is that ‘an innovation and reform in the πάτρια (ἡ τῶν πατρῶν καίνισις καὶ μεταβολὴ μεγάλας) weighs heavily in the scale in leading to the destruction of the congregation of the people, because Judas and Saddok had imported a fourth philosophy among us ... and filled our *politeia* with tumults at present and laid the foundation of our future miseries, by this philosophy, with which we were before unacquainted’ (18.9-10). The anti-Roman insurgence of 6 CE is connected with the Fourth Philosophy, which is presented as an innovation in the Jewish ancestral tradition. We already encountered the connection between the charge of abandoning the ancestral ways and the charge of revolution and innovation before, in Josephus’ version of the erection of the Transjordanian altar and of Zambrias’ rebellion (§3.2). The Fourth Philosophy is presented as a political threat to the Jewish constitution as well. In this way, Josephus wants to make the point that Jews in general are not anti-Roman, inclined to revolution or opposed to Roman values.<sup>170</sup>

While the Fourth Philosophy is presented as innovating τὰ πάτρια, Josephus associates a particular form of ancestral tradition with the Pharisees, the school with which Josephus connects himself (*Life* 12). The Pharisees, says Josephus, claimed to be experts in the ancestral laws:

For there was a certain section of men that were Jews (μόριόν τι Ἰουδαϊκὸν ἀνθρώπων), who valued themselves highly upon the exact skill they had in *the ancestral and the laws* (ἐπ’ ἐξακριβώσει μέγα φρονοῦν τοῦ πατρῶν καὶ νόμων), and made men believe they were highly favoured by God (*Ant* 17.41).

The Pharisees’ reputation of being experts in the ancestral laws is found in other descriptions as well. In *War* 1.110, Josephus mentions that the Pharisees *seemed* or *thought* they were more pious than other Jews and more precise in the interpretation of the laws (τι Ἰουδαίων δοκοῦν εὐσεβέστερον εἶναι τῶν ἄλλων καὶ τοὺς νόμους ἀκριβέστερον ἀφηγεῖσθαι). They had great influence on queen Salome Alexandra (39–67 BCE), who, as the Pharisees, was popular and respected among the people, because she ‘inquired very diligently (ἠκρίβου) into τοῦ νόμου τὰ πάτρια (1.109). The translation is difficult here: does Josephus say that she inquired into the ‘ancestral things’ of the Law? A similar problem is posed by *Ant* 17.41 above, where Josephus also seems to make a distinction between τὰ πάτρια and the law.<sup>171</sup>

Josephus never qualifies laws, customs or similar nouns as ‘of the fathers’ (πατέρων), except for the words παράδοσις, ‘tradition’, and διαδοχή, ‘succession’, both designating something that has been handed down. The tradition of the fathers is uniquely associated with the Pharisees:

The Pharisees have delivered (παρέδσαν) to the people ordinances (νόμιμα) from the succession of the fathers (ἐκ πατέρων διαδοχῆς) that are not inscribed in the Mosaic laws and for that reason the Sadducees reject them, saying that those laws should

<sup>169</sup> M.D. Goodman, *The Ruling Class of Judaea: The Origins of the Jewish Revolt against Rome A.D. 66-70* (Cambridge 1987) 93-96.

<sup>170</sup> For Josephus’ attempts to avoid anti-Roman implications in his portrayal of the Jewish revolt, see Goodman, *Rome and Jerusalem*, 397-418.

<sup>171</sup> See also *War* 2.162, where Josephus again mentions the Pharisees’ reputation of being the most precise exegetes of the laws (οἱ μετὰ ἀκριβείας δοκοῦντες ἐξηγεῖσθαι τὰ νόμιμα); and *Life* 191, for their reputation in the ancestral laws; *Ant* 18.12-15, where their ἀκρίβεια and their popularity among the people re-occurs. On ἀκρίβεια as a slogan, see Mason, *Flavius Josephus on the Pharisees*, 75-81.



count that are written while those of the tradition of the fathers (τὰ δ' ἐκ παραδόσεως τῶν πατέρων) should not be kept (*Ant* 13.297).

Apparently, the Pharisees and Sadducees disagreed over what kind of laws were authoritative. The Sadducees limited themselves to those written in the Law of Moses, while the Pharisees also adhered to a tradition, described as handed down by fathers, that was apparently not written down.<sup>172</sup> The schools and their interpretation of authoritative laws were involved in Judean politics. When John Hyrcanus switched allegiance from the Pharisees to the Sadducees, he also abolished the ordinances that the Pharisees had imposed on the people, which did not make him popular (*Ant* 13.296). Salome Alexandra again restored the ordinances the Pharisees had introduced, according to the tradition of the fathers (κατὰ τὴν πατρῶν παράδοσιν; *Ant* 13.408). Josephus uses the adverb πατρῶς here, 'belonging to one's father', which should be distinguished from πάτριος. Indeed, the Pharisean 'tradition of the fathers' appears to be something else than τὰ πάτρια. Firstly, although the content of this tradition is not specified by Josephus, it seems to concern rather specific ordinances that can be introduced and abolished at times of power shifts. τὰ πάτρια is never used in such a specific way. Secondly, while the main characteristic of the 'tradition of the fathers' is that they are not written down in the Mosaic laws, no such statement is made by Josephus about τὰ πάτρια.<sup>173</sup> The tradition of the fathers is a technical term that functioned in the inner-Jewish debate between different schools.<sup>174</sup>

However, there are some points of overlap. As Josephus indicates, the Pharisees were very popular among the people because of their reputation and self-proclaimed expertise in the tradition of the fathers. That a claim of being experts in the ancestral laws could win support is confirmed by Josephus' description of the revolt against Herod's erection of a golden eagle. The men who instigated this revolt are portrayed in a way that is very similar to Josephus' description of the Pharisees: they were 'men of learning' (σοφισταὶ) who had the reputation of being experts in τὰ πάτρια (δοκοῦντες ἀκριβοῦν τὰ πάτρια; *War* 1.648), celebrated 'interpreters of the ancestral laws' (ἐξηγηταὶ τῶν πατρίων νόμων; *Ant* 17.149). Their lectures always drew a large crowd and they were very popular among the people. When they present Herod's eagle as a violation of τὰ πάτρια, the crowd takes action to protect them. This passage also suggests that Josephus chooses his words carefully when the Pharisees are concerned: their expertise is not described as being in τὰ πάτρια, but in 'τοῦ πατρῶος καὶ νόμων' (*Ant* 17.41) or 'τοῦ νόμου τὰ πάτρια' (*War* 1.109). Martin Goodman suggests that the content of the 'tradition of the fathers' was not specifically Pharisaic, but simply denoted ancestral customs that were common behaviour for all Jews. They were so popular among the people because they taught and endorsed correct behaviour in accordance with the ancestral tradition.<sup>175</sup> In other words, it is

<sup>172</sup> Contrary to common assumption, it is not said that the tradition was oral, let alone that it concerns the Oral Torah: M.D. Goodman, 'A Note on Josephus, the Pharisees and Ancestral Tradition', *Journal of Jewish Studies* 50 (1999) 17-20, at 17-18.

<sup>173</sup> See, however, Philo, *Spec leg* 4.149-150 in §§ 2.2 and 6.5

<sup>174</sup> Mason also concludes that Josephus took over this term from contemporary usage among Pharisees: *Flavius Josephus on the Pharisees*, 231-239. Schröder is not sufficiently aware of the distinction between τὰ πάτρια and the 'tradition of the fathers', and therefore devotes too much attention to the question whether ancestral laws and customs are 'oral' or 'written' Torah. There is no explicit evidence for the existence of this distinction in Second Temple Judaism to begin with. See, for instance, Schröder, *Die 'väterlichen Gesetze'*, 104, saying that Josephus comes close to a distinction between oral and written Torah.

<sup>175</sup> Goodman, 'A Note on Josephus, the Pharisees and Ancestral Tradition', 19-20.



possible that the 'tradition of the fathers', just like τὰ πάτρια, was a form of ancestral rhetoric. Still, given Josephus' exclusive use of 'tradition of the fathers' for the Pharisees and the care he seems to take in not identifying it with τὰ πάτρια, the two concepts should not be identified. While τὰ πάτρια could be used in many situations as an appeal to the ancestral past by Jews and non-Jews, the 'tradition of the fathers' was a form of ancestral rhetoric typically used by Pharisees.

A debate about ancestral traditions is found in the New Testament as well. Paul, describing his earlier life in Judaism (ἐν τῷ Ἰουδαϊσμῷ), claims to have 'progressed in Judaism beyond many of my contemporaries among my people, being exceedingly zealous for my ancestral traditions' (τῶν πατρικῶν μου παραδόσεων; Gal 1:14).<sup>176</sup> While this phrase is not identical with a form of τὰ πάτρια or the Josephan παραδόσις τῶν πατέρων, it seems to be closest to the latter. In the letter to the Philippians, Paul describes himself as a Pharisee in his attitude to the law (κατὰ νόμον Φαρισαῖος; Phil 3:4). Part of this zeal for the ancestral traditions was his persecution of the church (Gal 1:13). In this context, it is very interesting that Christians could be accused of having abandoned their πάτρια, as we shall see in the next chapter.

A comparable debate is found in the Gospels. Jesus and his disciples are accused by the Pharisees of not 'walking in accordance with the tradition of the elders' (κατὰ τὴν παράδοσιν τῶν πρεσβυτέρων) because they did not wash their hands before they eat (Mk 7:5; Mt 15:2). The παραδόσις τῶν πρεσβυτέρων is specifically associated with the Pharisees (Mk 7:3). If Jesus' reproach of the Pharisees in the Gospels indeed reflects inner-Jewish discussions of the first century, we have here a discussion about the importance of ancestral tradition. Jesus accuses the Pharisees of breaking the direct commandment of God, in the Law of Moses, for the sake of their tradition, which is founded by men (Mk 7:8-9, 13; Mt 15:3, 6). Although the παραδόσις is not again further described as τῶν πρεσβυτέρων at this point, the exclusive connection of παραδόσις with the Pharisees suggests that it is about the tradition of the elders, a form of ancestral tradition. Jesus places the command of God in the Mosaic laws above that what the Pharisees presented as ancestral tradition, stating that their conception of the tradition was actually opposed to God's command. Jesus does not deflect the charge of not abiding by the tradition of the elders by claiming that he did so, or by contesting their understanding of the tradition, but by placing a higher law above the Pharisean tradition. As we shall see in the next chapter, this line of argumentation would also be used by Origen responding to the charge that Christians had abandoned their πάτρια. In this latter context, the relevance of ancestral traditions is discredited.

While Mark and Matthew reflect accusations by Pharisees of not abiding by the tradition of the elders, Acts contains similar accusations of Christians changing the inherited customs, although these are not qualified as ancestral. When Stephen is brought before the Sanhedrin, one of the incriminating testimonies concerns Stephen's statement that Jesus would 'change the customs that Moses handed down to us' (ἀλλάξει τὰ ἔθη ἃ παρέδωκεν ἡμῖν Μωϋσῆς; Acts 6:14). When Paul and Silas are brought before the Roman praetor in Philippi, they are accused of advocating customs that are unlawful for Romans to observe (ἔθη ἃ οὐκ ἔξεστιν ἡμῖν παραδέχασθαι οὐδὲ ποιεῖν Ῥωμαίοις οὕσιν; 16:21). When Paul defends himself before Felix, he claims not to have caused any form of civil unrest and that he worships the 'God of his father' (τῷ πατρὶ ὡς θεῷ), adhering to the Law and the Prophets (Acts 24:14). Finally, defending

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<sup>176</sup> Translation J.D.G. Dunn, *The Epistle to the Galatians* (London 1993) 55.



himself before Jews in Rome, Paul states that he been captured and imprisoned in Jerusalem and brought to Rome, although he has not done anything against his people or the customs of the fathers (τοῖς ἔθεσι τοῖς πατρώοις; 28:17). Perhaps this was part of the charge brought against him by fellow Jews in Jerusalem.<sup>177</sup> It is remarkable that these accusations all occur in or refer to a legal, political context. These charges of acting against established, traditional customs should not be equated with accusations of acting against τὰ πάτρια, given the specific application of πάτριος. But together with criticism of Jesus and his followers because they do not abide by the traditions of the fathers, they all seem to belong to a wider first-century debate about Christians departing from their particular, inherited traditions.

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<sup>177</sup> In Acts 21, Paul's arrest occurs after great unrest had arisen among the Jerusalem populace, stirred up by Asian Jews who accused Paul of preaching a doctrine against the people, Law and Temple, and desecrating the Temple by bringing Greeks into it (21:27-29). When Paul is subsequently abused by the crowd, Roman soldiers intervene but are not able to discern what he is accused of (21:33-34). If Paul's fellow Jews indeed accused him before the Romans of acting against the traditional customs of the Jews, it is very interesting that Paul escapes his flogging by stating not just that he was a Roman citizen, but that he was born as a Roman citizen (22:28).



## 6.1 Introduction

While the literature on conversion to Judaism is vast, much less attention has been paid to the reverse process, deserting Judaism.<sup>178</sup> We have already seen some examples of how the accusation of the desertion of τὰ πάτρια can be phrased as an accusation of apostasy. We shall see that abandoning τὰ πάτρια is in this sense the negative description of conversion.

Apostasy is of course not a value-free term, but already implies a negative judgement of certain behaviour. In most cases, 'apostate' is not a self-designation but is used in denouncing, accusatory contexts. Just like a person can be praised for their loyalty to τὰ πάτρια, they can be charged with deserting τὰ πάτρια regardless if that person indeed adopted a new identity and stopped considering himself a Jew. This normative component is what makes abandoning τὰ πάτρια, with its moral connotation, such an appropriate description. Looking at both conversion and apostasy through the lens of τὰ πάτρια provides a new perspective on ancient views on both phenomena (§§6.2 and 6.3) and on the position of Jews and Christians in the Graeco-Roman period (§6.4 and 6.5).

To be sure, it is hard to determine when actual 'apostasy' is meant. Disloyalty to the Jewish God and community can be described in many different ways and there is often a blurry line between the accusation of transgressing or neglecting τὰ πάτρια and deserting τὰ πάτρια in the sense of apostatizing from Judaism altogether.<sup>179</sup> A few examples from the texts we discussed before clearly illustrate this unclear boundary. The Israelite men who were seduced by the Midianite women were persuaded to give up their ancestral laws (ἀφέντας τοὺς πατρίους νόμους) and worshipped the Midianite gods (*Ant* 4.130). In Philo's version, this involved a

<sup>178</sup> The most important issues concerning conversion to Judaism in Antiquity are raised in S.J.D. Cohen, *The Beginnings of Jewishness. Boundaries, Varieties, Uncertainties* (Berkeley, Los Angeles and London 1999) and L.J. Feldman, *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian* (Princeton 1993). On the difficulty of estimating the number of converts to Judaism, see B. McGing, 'Population and Proselytism. How Many Jews Were There in the Ancient World?', in: J.R. Bartlett (ed.), *Jews in the Hellenistic and Roman Cities* (London and New York 2002) 88-106. For apostasy, see J.M.G. Barclay, 'Who was Considered an Apostate in the Jewish Diaspora?', in: G.N. Stanton and G.G. Stroumsa (eds), *Tolerance and Intolerance in Early Judaism and Christianity* (Cambridge 1998); idem, 'Deviance and Apostasy: Some Applications of Deviance Theory to First Century Judaism and Christianity', in: P.F. Esler (ed.), *Modelling Early Christianity* (London 1995). The frequent occurrence of τὰ πάτρια is not noticed in one of the few monographs on apostasy: S.G. Wilson, *Leaving the Fold. Apostates and Defectors in Antiquity* (Augsburg 2004).

<sup>179</sup> In Greek literature, ἀπόστασις and the related forms ἀποστασία, ἀποστάτης, ἀποστατέω and ἀφίστημι are often used in a political sense referring to 'desertion' or 'revolt': Barclay, 'Who was considered an apostate in the Jewish Diaspora', 82. The nouns ἀποστασία, ἀπόστασις and ἀποστάτης are used in Josephus to describe political rebellions and revolts and do not occur in combination with πάτριος. The verb ἀποστατέω occurs only once, describing dissent from the ἐκκλησία (*War* 2.55). It is the related verb ἀφίστημι, mostly used for political revolt, that is also used in connection with leaving laws (*Ant* 1.14; *Apion* 2.123: some people adopt Jewish laws and depart from them again); forsaking God (*Ant* 8.313) or gods (*Ant* 10.50) and τὰ πάτρια (*Ant* 8.192; 229; 13.4). The occurrence of these words in combination with τὰ πάτρια as a description of disloyalty to Judaism, confirms the ethno-political context of τὰ πάτρια. A good example of the parallel terminology for conversion and a political change of position is *War* 7.235: 'they revolted and went over to the Romans' (ἀπέστησαν καὶ πρὸς τοὺς Ῥωμαίους μετεβάλλοντο). The terminology is far less frequent in Philo, but in general similar. In the LXX, ἀποστασία, ἀπόστασις and ἀποστάτης in most cases describe rebellion from the Lord (*Josh* 22:22; *2 Chron* 28:19; 29:19; 33:19; *1 Macc* 2:15; *Jer* 2:19; except for *Ezra* 4:19; cf *2 Macc* 5:8 τῶν νόμων ἀποστάτης).



departure from the ancestral way of life, an ἐκδιαίτησις from τὰ πάτρια and adoption of the life of another nation (*Mos* 1.298). This can reasonably be regarded as a case of apostasy, involving the conversion from one *ethnos* to another, triggered by lust and exemplified by the worship of the other people's gods and eating their foods (*Ant* 4.139; *Mos* 1.305). However, king Solomon's sins are described in similar terms: he 'forsook the observation of the ancestral customs (καταλιπὼν τὴν τῶν πατρίων ἔθισμῶν φυλακὴν; 8.190) when he consorted with women who did not belong to the same people (οὐχ ὁμοφύλοις; 191). It is rather problematic to describe Solomon as an apostate.<sup>180</sup> Perhaps a more clear-cut case of apostasy recorded by Josephus is that of Philo's nephew Tiberius Julius Alexander, who 'did not remain in the ancestral customs' (τοῖς γὰρ πατρίοις οὐκ ἐνέμεινεν οὗτος ἔθει; *Ant* 20.100). His career in the Roman administration, culminating in his governorship of Egypt (66-69 CE) required him to participate in Egyptian and Roman cults. Tacitus even describes him as an Egyptian (*Hist* 1.11).<sup>181</sup> At any rate, we should reckon with the unclear boundaries in literature between transgressing ancestral laws and abandoning them and with their accusatory function in rhetorical contexts.

### 6.2 Conversion and apostasy in Philo and Josephus

Traditional conceptions of conversion, influenced by Arthur Darby Nock's more psychological understanding of conversion, stress the change of (religious) belief it involves.<sup>182</sup> When we look at the terminology with which ancient Jewish sources describe conversion to Judaism, we see that it is often presented in a very matter-of-fact way as the adoption of Jewish laws and customs. Josephus reports in *Against Apion* that many Greeks 'have agreed to come over to our laws' (εἰς τοὺς ἡμετέρους νόμους συνέβησαν εἰσελθεῖν; 2.123).<sup>183</sup> The Roman woman Fulvia had 'come to the Jewish ordinances (νομίμοις προσεληλυθυῖαν τοῖς Ἰουδαϊκοῖς; *Ant* 18.82); the royal family of Adiabene 'turned their life to the Jewish customs (εἰς τὰ Ἰουδαίων ἔθη τὸν βίον μετέβαλον; *Ant* 20.17) and 'changed' (μεταθέσθαι) to these customs (20.38). Since laws and customs are the possession of *ethnoi* and *poleis*, conversion can also be described as the shift

<sup>180</sup> A further example is Jerobeam, who made the people 'apostatize from the ancestral worship (τῆς πατρίου θρησκείας ἀποστάντας; *Ant* 8.229).

<sup>181</sup> See also Juvenal, *Satires* 1.130. Another Alexandrian case of apostasy is offered in 3 Macc 1:3: Dositheos, the courtier of Ptolemy IV Philopator in the third century BCE was of the Jewish race (τὸ γένος Ἰουδαῖος) but 'changed from the laws and the ancestral decrees (μεταβαλὼν τὰ νόμιμα καὶ τῶν πατρίων δογμάτων). It is possible that apostasy was a more pressing issue in Alexandria than elsewhere, given the long history of Egyptian anti-Judaism and the political struggles surrounding the Jewish community in the first century CE. Furthermore, Jews were integrated in the social, economical and cultural life of Alexandria. David Runia remarks that the preservation of ethnic and cultural identity was not self-evident in the Alexandrian context and that 'apostasy and assimilation were ever-present dangers': D.T. Runia, 'How to read Philo', in: Idem, *Exegesis and Philosophy: Studies on Philo of Alexandria* (Aldershot 1990) 185-198, at 186.

<sup>182</sup> Nock describes conversion as 'the reorientation of the soul of an individual, his deliberate turning from indifference or from an earlier form of piety to another, a turning which implies a consciousness that great change is involved, that the old was wrong and the new was right': A.D. Nock, *Conversion: the old and the new in religion from Alexander the Great to Augustine of Hippo* (Oxford 1933) 6-7.

<sup>183</sup> I leave aside the question if Josephus actually speaks of converts or proselytes, or of people who were merely interested in or sympathizing with Jews and Judaism, following particular Jewish customs. It is uncertain whether this distinction was recognized in antiquity, let alone applied consistently. Most likely, the line between converts and interested persons on the fringes of the community was blurry.



from one *ethnos* or polis to another.<sup>184</sup>

That apostasy can be presented as a (political) shift from the way of life of one *ethnos* to that of another is confirmed by Josephus' depiction of Menelaus and the sons of Tobias. Opposed by Jason and the majority of the people, they went to king Antiochus and declared to him that they desired to 'leave the ancestral laws and the *politeia* established according to them, and to follow the king's laws, and the Greek *politeia* (τοὺς πατρίους νόμους καταλιπόντες καὶ τὴν κατ' αὐτοὺς πολιτείαν ἔπεσθαι τοῖς βασιλικοῖς καὶ τὴν Ἑλληνικὴν πολιτείαν ἔχειν). The intersection of ethnic and religious identity markers in their political decision to stop belonging to the Jewish *politeia* is illustrated by their subsequent attempt to conceal their circumcision, so that 'even when they were naked they might appear to be Greeks' (*Ant* 12.241). They also left 'all the other ancestral ways and imitated the practices of other nations' (τά τε ἅλλα πάνθ' ὅσα ἦν αὐτοῖς πάτρια παρέντες ἐμιμοῦντο τὰ τῶν ἄλλων ἔθνων ἔργα; 241).

Philo's description of proselytes supports this political perception on conversion. In an explanation of what Moses meant by proselytes (προσήλυτοι), he describes them as people who 'have come to a new and God-loving constitution (προσεληλυθέναί καινῇ καὶ φιλοθέῳ πολιτείᾳ), learning to disregard the fabulous invention, and clinging to unalloyed truth' (*Special Laws* 1.51). Even if Philo's use of the term *politeia* is figurative, he still uses political language to describe conversion to Judaism.<sup>185</sup> Proselytes are welcomed in the Jewish nation and receive *ισονομία*, equal rights, and equal tax, *ισοτέλεια* (1.53). In addition to the political perspective on conversion, Philo's description of proselytes beautifully shows that the other side of conversion to Judaism was desertion from their ancestral nation. Proselytes, says Philo, 'have left their fatherland (πατρίδα), their friends, and their relations', they have 'forsaken the pride of their fathers and forefathers' (1.52-53), they have 'forsaken their πάτρια' (1.309). For Philo, the central content of conversion is the change from the worship of many gods, 'fabulous myths' as Philo describes them, to the worship of the one true God (*Laws* 1.52; *Virtues* 102).<sup>186</sup> One of the ways to describe this religious change is as an exchange of one *politeia* for another.

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<sup>184</sup> Cf. the incorporation of the Idumaeans and Ituraeans into the Jewish nation by the Hasmoneans. Josephus reports that if the Idumaeans wanted to stay in their ancestral country, they had to circumcise and adopt the Jewish laws. After this, they were 'as the other Jews' (ὥστε εἶναι τὸ λοιπὸν Ἰουδαίους; 13.258). Strabo reports that the Idumaeans chose to join the Judaeans and share in the Jewish customs when they had to leave Nabataea (*Geography* 16.2.34). Similarly, Aristobulos compelled the inhabitants of Iturea, which he had conquered, to be circumcised and to live according to the Jewish laws (*Ant.* 13.318-319). These 'conversions' in the first place constitute a change of citizenship connected to the expansion of the Hasmonaean state.

<sup>185</sup> It is tempting to relate Philo's description to the political situation of the Jews in Alexandria, in which he was actively involved as leader of the embassy to emperor Gaius. His description of conversion as the desertion of one nation for the laws of another suggests that one cannot abide by the Jewish national laws and the laws of another nation at the same time. This view does not fit in well with Philo's apologetic efforts in *On Flaccus* and *Embassy to Gaius*, where he is concerned to prove that one can be a good Jew, Greek, Alexandrian and Roman at the same time. It is most likely that Philo's discussion of proselytes is rather theoretical, contrasting the Jews' good treatment of strangers with Egyptian hostility towards them, instead of a direct reflection of the social reality in Alexandria.

<sup>186</sup> In Philo's descriptions of conversion, the shift from polytheism to monotheism is always central: *Questions and Answers on Exodus* 2.2; *Rewards* 1.52. Undoubtedly for apologetic reasons, Josephus never mentions that adopting these Jewish laws would entail rejection of the gods and exclusive worship of the one God of the Jews.



Josephus never uses *πάτριος* in positive descriptions of conversion, as a taking on of the ancestral laws and customs of the Jews.<sup>187</sup> This makes sense, since the newly adopted laws and customs are not ancestral for the convert. At the same time, this corroborates our earlier observation that *πάτριος* is not a descriptive, neutral term. *πάτριος*, as we have seen, often occurs in situations of antagonism, in which it legitimizes and provides the grounds for the opposition by presenting certain behaviour as a violation of the ancestral heritage. The occurrence of *πάτριος* in situations of apostasy, or accusations thereof, fits in with this general use. What greater offence is there than to completely abandon the ancestral laws and customs of one's own nation to join another?

The accusatory function of *τὰ πάτρια* in situations of conversion is exemplified by Josephus' story of the conversion of the royal family of Adiabene. During Izates' rule, the Jewish merchant Ananias taught the women at his court to worship God 'as was ancestral for the Jews' (*ὡς Ἰουδαίοις πάτριον ἦν*; *Ant* 20.34). At the same time, Izates' mother Helena had also been brought to the same laws (*εἰς τοὺς ἐκείνων μετακεκομίσθαι νόμους*; 20.35). The king himself now wanted to change to the Jewish laws as well. Some time later, Izates' brother Monobazus also desired to 'forsake the ancestral ways and use the Jewish ones (*τὰ πάτρια καταλιπόντες ἔθουσι χρῆσθαι τοῖς Ἰουδαίων*, 20.67). This is not appreciated by his subjects and nobles, who set up a conspiracy against their king. Their hatred is now directed against Izates, whom they accuse of 'forsaking his ancestral ways and becoming a lover of foreign customs (*καταλύσαντα μὲν τὰ πάτρια ξένων δ' ἔραστην ἔθων γενόμενον*, 20.82). Thus, only in second instance, when Izates' conversion is faced with opposition, does Josephus describe his conversion in terms of a desertion of *τὰ πάτρια*. Without commenting on the historicity of this narrative, it is very imaginable that a ruler's abandonment of the ancestral laws and customs was adduced as the ground and justification for political opposition.

### 6.3 Converts to Judaism in non-Jewish authors

Philo and Tacitus had the same opinion about what conversion to Judaism entailed. We saw that Philo emphasized the great sacrifice proselytes had made: they had left their *πατρίς*, their friends and family and had renounced their *πάτρια* (*Spec Leg* 1.52-53, 309). This is exactly what Tacitus (55-120 CE) blames them. He strongly opposes conversion to Judaism: the people who 'go over to their customs' (*transgressi in morem eorum*) ... 'renounce their ancestral religion' (*spretis religionibus patris*). This abandonment of ancestral religion entails that they 'despise the gods' (*contemnere deos*), 'disown their country (*exuere patriam*) and regard their parents, children, and brothers as of little account' (*parentes liberos fratres vilia habere*; *Hist* 5.5.1-2).<sup>188</sup> Tacitus blames converts especially for sending tribute to the Jerusalem temple. For Jews, this

<sup>187</sup> When Josephus does refer to the adoption of *τὰ πάτρια* of another nation, it is accompanied by a refusal: the citizens of Pella refused 'to change over to the ancestral customs of the Jews' (*ἐς πάτρια τῶν Ἰουδαίων ἔθου μεταβαλεῖσθαι*; *Ant* 13.397).

<sup>188</sup> Translation Stern no. 281, with adaptations. Cf. Celsus in Origin about what is reproachable about converts to Judaism: they have 'abandoned their own laws and professed those of the Jews' (*τῶν καταλιπόντων τὰ σφέτερα καὶ τὰ Ἰουδαίων προσποιουμένων*; 5.41). It is possible that the phrase *spretis religionibus patris* in Tacitus refers to Jewish apostates who had dropped their ancestral religion. The subsequent description of people who 'go over to their customs', which definitely refers to pagan converts to Judaism, as deserting their family and *patria* is however highly parallel to the accusation of 'despising ancestral religion', suggesting that both refer to the same group of people.



was an expression of attachment to their homeland and national cult.<sup>189</sup> Tacitus could describe the tribute as scorning the ancestral religion and abandoning of the fatherland, since it entailed a statement of loyalty to another country. Of course, this was especially reproachable when that other nation had a history of rebellion against the original fatherland.

Juvenal (60-130 CE) also mentions the incompatibility between Jewish law and Roman law. Those who adopt the Jewish customs, he says, are 'accustomed to flout the laws of Rome (*Romanas autem soliti contemnere leges*; *Satires* 14.100). In general, Juvenal criticizes Jewish separatism, their hostility towards outsiders and the incompatibility between Roman and Jewish customs.<sup>190</sup> In his satires, Juvenal shows contempt for practically all foreigners and thinks many of their customs do not conform to Roman customs. But he appears to reserve the claim of incompatibility with the Roman way of life for Jews.<sup>191</sup> In becoming Jewish, Romans are perceived to cut themselves off from Roman society. Tacitus' accusation of Roman converts abandoning the ancestral laws should be seen in the context of his sharp opposition of Jewish *superstitio* to Roman *religio* (5.5.2, 4, 5): 'The Jews regard as profane all that we hold sacred (*profana illic omnia quae apud nos sacra*); on the other hand, they permit all that we abhor (*rursum concessa apud illos quae nobis incesta*)'. Moses is even accused of introducing new rites (*novos ritos .. indidit*), 'quite opposed to all other people' (*contrariosque ceteris mortalibus*; 5.4.1). Foreign cults in general could be presented as a threat to the stability of the state, as potential sources for political subversion.<sup>192</sup> This would apply especially to Roman converts to Judaism, not so much because they now worshipped the Jewish god, but because they no longer participated in the civic Roman cult, an important part of being Roman. Since there was no other cult, besides the Christian, that required a 'convert' to stop participating in the traditional honours paid to the god by the state, other 'conversions' would not evoke the accusation of abandoning the ancestral laws and customs.<sup>193</sup>

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<sup>189</sup> Gruen, *Diaspora*, 243-245. Note, however, that the Temple had already fallen and the temple tax had been replaced by the *fiscus Judaicus* when Tacitus wrote these words.

<sup>190</sup> P. Schäfer, *Judeophobia: Attitudes toward the Jews in the Ancient World* (Cambridge and London 1997) 183-185.

<sup>191</sup> Schäfer, *Judeophobia*, 185.

<sup>192</sup> M. Beard, J. North and S. Price, *Religions of Rome vol. 1: A History* (Cambridge 1998) 221-222

<sup>193</sup> For the political aspect of the charge of unsociability (and joining an unsociable group), see also Aristotle, *Politeia* 1253a: the man who is isolated – who is unable to share in the benefits of political association ... – is no part of the polis and must therefore be either a beast or a god (cited in Isaac, *The Invention of Racism*, 451) Another interesting parallel is offered by Cassius Dio. Maecenas, advisor to Augustus, admonishes the emperor to worship 'in accordance with the traditions of our fathers (*κατὰ τὰ πάτρια*) and, furthermore, all others should be compelled to do the same ... Those who attempt to distort our religion with strange rites you should abhor and punish' (*δὲ δὴ ξενίζοντάς τι περὶ αὐτὸ καὶ μίσει καὶ κόλαζε*). Maecenas refers in particular to men who despise the gods and 'bring in new divinities in place of the old, persuading many to adopt foreign practices (*πολλοὺς ἀναπείθουσιν ἀλλοτρινομεῖν*) from which spring up conspiracies, factions, and cabals' (52.36). This speech is taken to be a political pamphlet, written with a view to being applicable for the writer's own time (F. Millar, *A Study of Cassius Dio* (Oxford 1964) 107). Dio does not claim that these foreign cults are a rejection of *τὰ πάτρια*, but does imply that participating in foreign cults is not *κατὰ τὰ πάτρια*. He rejects them not only because they corrupt Roman religion, but also because they are a focus of political danger. This speech is likely to be an allusion to the policy of *Elegabalus* (218-222), emperor in Dio's days and famous for his disregard for Roman religious traditions. This emperor was born in Syria and served as a priest in the cult of one of the Syrian gods. He is supposed to have introduced many Eastern gods in Rome and even replaced Jupiter with his own *Deus Sol Invictus*: Anthony R. Birley, 'Aurelius Antoninus (2), Marcus', in: S. Hornblower and A. Spawforth (eds), *The Oxford Classical Dictionary* (Oxford 2003). Oxford Reference Online. Oxford



The image of the Jews as enemies of the Roman state during and after the Flavians fit in with the charge of misanthropy in Juvenal and Tacitus, who wrote during the reigns of Trajan and Hadrian. Except for Seneca, all Roman sources commenting on conversion or attraction to Judaism are from a period in which joining Judaism would not seem to be particularly attractive. The temple in Jerusalem had been destroyed and the Flavian emperors employed a strong anti-Jewish propaganda to legitimize their rule.<sup>194</sup> The hostile remarks of Tacitus and Juvenal fit in with the anti-Jewish atmosphere in post-70 Rome. Perhaps it was partly due to the reigning view of the Jews as enemies of Rome that proselytes were noticed and used as an instrument in the denunciation of Judaism, opposing Jewish *superstitio* with Roman *religio*.<sup>195</sup>

At the same time, Romans did not need actual converts to Judaism to fear or warn for damaging the Roman ancestral customs. In his defence of Flaccus who had forbidden the export of gold from Asia (*Pro Flacco* 66-69; 59 BCE), Cicero presents the Jews as a 'barbaric superstition' (*barbarae superstitioni*) that is opposed to the Roman *religio* (67, 69). 'Every city has its own religion', he says, 'and we have ours'. That of the Jews has always been 'incompatible with the majesty of our Empire, the dignity of our name and the institutions of our ancestors' (*maiores institutis*; 69). Cicero defends Flaccus' prohibition of sending gold to the Jerusalem temple by juxtaposing Judaism in itself to the Roman ancestral customs.

These accusations of violating Roman religion are all made in a propagandistic context. This supports the rhetorical function of ancestral appeals we saw in the Greek sources, in which *πάτριος* often occurs in situations of antagonism, in which it legitimizes and provides the grounds for the opposition by presenting certain behaviour as a violation of the ancestral heritage.

Was it indeed reserved for conversion to Judaism to be described as a desertion from Roman ancestral customs?<sup>196</sup> There are no close terminological parallels in Tacitus' works for his description of conversion to Judaism, or apostasy from Roman religion, as *spernere religionibus patris, contemnere deos* or *exuere patriam*.<sup>197</sup> The terminology does resemble his accusations of political degeneracy in Rome, often pictured as an abandonment of the *maiorum instituta*. Political events, such as the murder on Piso (*Hist* 1.43) could be described as a violation of Roman tradition and belief.<sup>198</sup> This again points at the political language of the charge of converts abandoning the ancestral religion.

The fact that conversion to Judaism could be described in such stark terms, undoubtedly has to do with differences in adherence between Jewish and pagan cults. Since Arthur Darby Nock's famous study of conversion, it has been accepted that only Judaism and

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University Press. University of Groningen. 20 August 2008, <http://www.oxfordreference.com/views/ENTRY.html?subview=Main&entry=t111.e987>.

<sup>194</sup> See especially M.D. Goodman, *Rome and Jerusalem: The Clash of Ancient Civilizations* (London 2007).

<sup>195</sup> Furthermore, it is possible that attention to converts was raised by Nerva's reform of the *fiscus Judaicus* 96, resulting in a greater concern to determine who was a Jew or a proselyte: M.D. Goodman, 'Nerva, the *Fiscus Judaicus* and Jewish Identity', *Journal of Roman Studies* 79 (1989) 42. The anti-Jewish context of the period after 70 offers a more probable context for Tacitus' and Juvenal's remarks on converts than the reverse argument that opposition to Judaism was caused by a supposed actual threat that proselytes posed to Roman values: Schäfer, *Judeophobia*, 183.

<sup>196</sup> The words frequently used by Josephus and Philo to describe desertion from τὰ πάτρια, the combination of καταλείπω or ἀφίημι with πάτριος, do not occur in this sense outside Philo, Josephus, Clemens of Rome and Origen's *Against Celsus*. After Origen, it occurs more frequently in Christian authors. This search does not cover expressions such as 'not remain in τὰ πάτρια'.

<sup>197</sup> Based on D. R. Blackman and G. G. Betts, *Concordantia Tacitea: A Concordance to Tacitus* (Hildesheim 1986).

<sup>198</sup> R.T. Scott, *Religion and Philosophy in the Histories of Tacitus* (Rome 1968) 58-59



Christianity, and to some extent philosophical schools, knew actual conversion.<sup>199</sup> Acceptance of a new pagan cult did not involve conversion, but rather adhesion, since pagan cults did not require exclusive devotion. If Romans adopted the ancestral customs of other conquered nations, say Gauls or Germans, it would not require them to give up their previous cult and is therefore not described as an abandonment of their ancestral laws and customs.<sup>200</sup> Yet, this does not mean that the accusation could not be made. This is illustrated by Octavian's criticism of Mark Anthony, as described by Cassius Dio:

He has abandoned all his ancestor's habits of life, has emulated all alien and barbaric customs ... Therefore, let no one count him a Roman, but rather a rank Egyptian (50.25.3, 27.1).<sup>201</sup>

Despite the propagandistic nature of this passage, it shows that the way of thinking was available. When Romans were thought to adopt foreign customs in an excessive or undesirable manner, they could be accused of desertion from their ancestral customs, just like converts to Judaism. At the same time, this passage should make us even more sensitive to the possible propagandistic nature of similar accusations concerning converts to Judaism, as well as apostates from Judaism in 2 Maccabees, Philo, Josephus and 4 Maccabees.

#### 6.4 Christians as apostates from τὰ πάτρια

Origen's *Against Celsus* is a testimony to the fact that Christians could be blamed for having abandoned their ancestral laws and customs. Celsus has a Jew reproach fellow-Jews, who believed in Christ and 'deluded by Jesus, have left the ancestral law (καταλιπόντας τὸν πάτριον νόμον) ... and have deserted to another name and another life' (2.1). While this passage concerns a Jewish apostate, Celsus also appears to accuse Christians in general, including ex-pagans, of forsaking their ancestral ways (Χριστιανούς δὲ τὰ πάτρια καταλιπόντας; 5.35). Celsus' derogatory description is even appropriated by Origen as a self-description in a non-accusatory context, as simply a way to designate ex-pagan Christians who had abandoned their πάτρια (3.11: τῶν τὰ πάτρια καταλιπόντων).<sup>202</sup>

<sup>199</sup> A.D. Nock, *Conversion: The Old and the New in Religion from Alexander the Great to Augustine of Hippo* (Oxford 1933).

<sup>200</sup> This does not mean that there was no sense of defection. Political arguments in Rome consisted in large part of accusations that the other had neglected his religious duties or divine law (Beard e.a., *Religions of Rome*, 139). Conversion to some philosophical groups could also be followed by exclusion from the community because the converts no longer fulfilled their polis and family obligations: Wilson, *Leaving the Fold*, 100-101. For the accusation of atheism, see J.N. Bremmer, 'Atheism in Greek Antiquity, in: M. Martin (ed.), *The Cambridge Companion to Atheism* (Cambridge 2007) 11-26. Noteworthy, in this respect, are Flavius Clemens and his wife Domitilla, who were accused of both 'atheism' and 'drifting into Jewish ways' (Dio Cassius 67.14.1-3).

<sup>201</sup> See also Dio Cassius 48.39.2: When Antony lived in Greece, he departed from his ancestral ways (ἔξω τῶν πατρίων ἐξεδιητήθη), 'calling himself the young Dionysus'. My preliminary analysis suggests that these types of charges are especially present in Cassius Dio. As noted in n191 above, this could be a reflection of political debates about Elagabalus' introduction of foreign gods in Rome. Another possibility could be Dio's familiarity with these debates concerning conversions to Christianity. Dio does not refer to Christians at all in the work that is extant. But it is not unthinkable that he was aware of contemporary pagan criticism of converts abandoning their ancestral ways, evidenced by Tertullian (ca. 160-220) and voiced by Celsus in *The True Doctrine* (ca. 178-180). See §6.4 below.

<sup>202</sup> Note the parallel with the title 'Christian', originally a derogatory term for followers of Jesus. Christians did not leave their πάτρια spontaneously, but were actively admonished to do so. In the beginning, says Origen, referring to the first apostles, there were 'words of exhortation to abandon their



This accusation is also found in Latin sources. Tertullian, for instance, discusses the 'charge of divorcing ourselves from the institutions of our forefathers' (*divortium ab institutis maiorum*; *Ad Nationes* 1.10). Lactantius (240-320) quotes Galerius' edict of toleration (311), that in order to bring the *res publica* back into conformity with the ancient laws of the Romans, 'Christians, who have abandoned the ways of their forefathers, should return to right opinions' (*De mortibus persecutorum* 34: *Christiani, qui parentum suorum reliquerant sectam*).<sup>203</sup> The edict ordained the Christians 'to betake themselves to the observance of the ancient institutions'. However, the result was that Christians neither worshipped the gods, nor, out of fear, their own God. Thus, Galerius decided to tolerate Christianity so that they did not 'offend against good order' (*contra disciplinam*).

For Celsus, the Christian offence is augmented by the fact that they are not 'one individual *ethnos* like the Jews' (οὐχ ἓν τι τυγχάνοντας ἔθνος ὡς Ἰουδαῖοι; 5.35). This seems to imply that they are not entitled to their own specific laws, for instance concerning Jesus, because they did not count as an *ethnos*. What Christians did constitute in pagan eyes, is perhaps suggested by Lactantius' quotation of the Galerian edict:

Instead of observing those ancient institutions, which possibly their own forefathers had established, they, according to their own judgment, through caprice, made laws to themselves, and drew together a wide variety of people (*De mortibus persecutorum* 34).<sup>204</sup>

The emperor finds fault with the Christians for distracting themselves from the known organisational principle of the *ethnos*, turning away from ancestral traditions and forming a separate, alternative organization that consists of people with different (ethnic) backgrounds. By breaking ancestral traditions, they place themselves outside the organisation principle of Roman society.<sup>205</sup> As Origen indicates, ethnic Jews could not adopt the Christian way of life while remaining under the old Jewish constitution, and ex-pagans could not join the constitution under the literal interpretation of the Mosaic law (κατὰ τὸν Μωϋσέως ὡς ... πολιτεύεσθαι νόμον), because they were subject to the Romans (ὑπὸ Ῥωμαίοις τεταγμένων; 7.26).<sup>206</sup> What else is left than to form a third *politeia*, according to the law of Jesus and, as

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traditional ways and to choose ways foreign to those of their ancestors' καταλιπεῖν μὲν τὰ πάτρια αἰρεῖσθαι δὲ τὰ τῶν πατρῶν ἀλλότρια; 8.47). Origen claims they were not so much led by these words, but more by miracles. The fact that these people 'changed from their ancestral customs of long standing' (μετατεθεῖσθαι ἐκ πατρῶν πολυχρονίων ἔθῶν, ll. 25-26) only signifies the divine force behind it. A strong force, evidenced by miracles, would be needed to 'change to doctrines so strange and foreign to those in which they had been brought up' (μετακινήσαντων ἐπὶ τὰ οὕτως ξένα καὶ ἀλλότρια τῶν συντρόφων αὐτοῖς δογμάτων).

<sup>203</sup> Translation Ph. Schaff, *Ante-Nicene Fathers vol. 7: Fathers of the Third and Fourth Centuries*, with adaptations; translation and Latin available online at [www.documentacatholicaomnia.eu](http://www.documentacatholicaomnia.eu). Eusebius has a Greek translation of this edict in his *Church History* 8.17.6-8, in which πάτριος does not occur: Christians, οἵτινες τῶν γονέων τῶν ἑαυτῶν καταλελοίπασιν τὴν αἴρεσιν.

<sup>204</sup> The Latin reads: *sed pro arbitrio suo, atque ut hisdem erat libitum, ita sibimet leges facerent, quas observarent, et per diversa varios populos congregarent*. I have adapted the translation by Ph.Schaff: 'they, through caprice, made laws to themselves, and drew together into different societies many men of widely different persuasions.'

<sup>205</sup> A similar point is made by Hans Kippenberg. Based on the material in Josephus, he assumes that the Roman state saw itself as protector of the πάτριος νόμοι. Christians offended against the imperial order by departing from ancestral laws, which was the ground for their persecution: Kippenberg, 'Die jüdischen Überlieferungen', 51.

<sup>206</sup> This implies either that the Mosaic and Roman constitutions are mutually exclusive, or that it was forbidden for Romans to join the Jewish one. The discussion cannot be about citizenship, since by the



Origen argues, according to the divine law of nature that transcends the particular ancestral laws (see below). The last chapters of Origen's *Against Celsus* are an attempt to show that although they had left their ancestral customs, Christians were still good citizens. This illustrates again that the charge of forsaking τὰ πάτρια was connected with political loyalty to one's country or polis.

When Apion accused Alexandrian Jews of causing harm to the well being of the city by not participating in the imperial cult, Josephus and Philo defended their worship by presenting it as ancestral. Origen attempts to deflect the charge of forsaking τὰ πάτρια and political subversion in another way, that is, by reflecting critically on the validity of τὰ πάτρια.

#### 6.5 Critical reflection on τὰ πάτρια

Origen compares the position of Christians to that of philosophers – who did not constitute a separate *ethnos* either. They oppose superstition and the worship of images, but still, contrary to reason, abide by their ancestral customs. They hold on to even the most trivial ancestral customs and in this way, according to Celsus, act unphilosophically (ἀφιλόσοφα πράττων; 5.35). Instead of an *ethnos*, Christianity is presented as similar to a philosophy, but unlike pagan philosophers, they do not abide by their πάτρια in a hypocritical manner.

Origen then draws on the Stoic distinction of two kinds of law: the law of nature (τῆς φύσεως νόμου), 'which is probably derived from God', and the 'written code of cities' (τοῦ ἐν ταῖς πόλεσι γραπτοῦ; 5.37). The divine law of nature is placed above the particular polis laws. The introduction of strange laws (ξένων νόμων) is not necessary when the written law agrees with the law of nature, says Origen. Otherwise, it is more rational to 'dismiss the written code' and live according to the divine law of nature alone. Especially concerning the worship of God it is more rational to prefer God's law above a law written by men (5.37).<sup>207</sup> The discussion about the particularity of the written polis laws runs parallel with the discussion about the ancestral laws. In the next paragraph, Origen applies the particularity of polis laws contrasted with the universal law of nature to the charge of forsaking τὰ πάτρια. Are the ancestral laws then that important, should a man die rather than breaking his ancestral customs, for example if he goes to another country where another god is worshipped, where other ancestral laws are considered valid (5.38)?

For Celsus, the Christian departure from τὰ πάτρια meant that they could not be good citizens, loyal to their country. Origen admits that Christians indeed ultimately belong to another country, the heavenly city of God.<sup>208</sup> The Church forms a separate *politeia* with its own governmental structure (bishops): it is God's country (πατρις; 8.72-74). However, the fact that Christians are citizens of this country does not mean that they defy the earthly civic laws. They are citizens of both God's heavenly country and their own earthly one, for which they do good

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time of Origen, all Jews had Roman citizenship. Origen does not say that (Jewish) Christians want to depart from the Mosaic constitution – they remain to live according to it, but in a corrected form.

<sup>207</sup> Cf. Jesus' answer to the Pharisees when they accuse him of not acting according to the tradition of the elders: they place human tradition above God's direct command (Mk 7:8-9; Mt 15:2; see chapter 5 above).

<sup>208</sup> Paul's letter to the Romans, especially chapter 13, also suggests the possible tension of the Christian community with the Roman state. In this chapter, Paul admonishes the Roman church to accept the authority of the state, because it has been installed by God, to pay taxes, in other words, to be a good citizen. At the same time, Christians are citizens of the heavenly *politeuma* (Phil 3:20).



in other ways than participating in the public political life (8.75).<sup>209</sup>

Origen relativizes the importance of τὰ πάτρια by pointing at their particularity and juxtaposing them with the divine law of nature. We have seen that Philo also made notice of the particularity of τὰ πάτρια. As an example of the diversity of human perception, he mentions 'the manners of life from boyhood and ancestral customs and ancient laws (ἔθη πάτρια καὶ παλαιοὶ νόμοι), of which it is admitted that not a single one of which is regarded the same for all, but they vary according to countries and people and cities, even more according to every village and house, man and woman and young child in almost every point' (*De ebrietate* 193). It turns out that Philo too was concerned about the particularity of the ancestral laws and the implications it had for the position of the laws of Moses.<sup>210</sup> This concern is absent in Josephus.

In §2.3 we mentioned that Philo identifies the ancestral customs (πάτριαι ἔθη) as 'unwritten laws (ἄγραφοι νόμοι), being the doctrines of men of old, not engraved on pillars or written on paper which may be eaten by moths, but impressed in the souls of those living under the same constitution' (ψυχαῖς τῶν μετεληφότων τῆς αὐτῆς πολιτείας; *Spec leg* 1.149-150). Philo continues to speak about τὰ πάτρια in the next passage, differentiating the unwritten ancestral customs from the written laws:

For the children ought to inherit from the father of their being the ancestral customs (ἔθη πάτρια) in which they have been brought up, and in which they have lived from their cradle, and not to despise their tradition (ἡ παράδοσις) in so far as it is not written (ἄγραφος). For the man who obeys the written laws is not justly entitled to any praise, inasmuch as he is influenced by compulsion and the fear of punishment. But he who abides by the unwritten [customs] (ὁ δὲ τοῖς ἀγράφοις ἐμμένων) is worthy of praise, as exhibiting a spontaneous and unconstrained virtue (*Spec Leg* 1.150)

Philo seems to be critical of those who merely obey the written laws, because they are accustomed to it or because they are afraid of sanctions. The true virtuous man also abides by the ancestral, unwritten tradition. If true virtue consists in abiding by the unwritten ancestral laws, not merely the written laws, does this not compromise the status of the written laws? In *Spec leg* 1.149, Philo identifies the ancestral customs with the ἄγραφοι νόμοι, a standard term to refer to the law of nature. As Hindy Najman indicates, Philo's distinction between written laws and unwritten customs should be seen against a Hellenistic depreciation of written laws.<sup>211</sup> Philo explicitly equates the ancestral law with the law of nature in *Spec leg* 2.13. We saw that Origen relativized the importance of the particular πάτρια by placing the universal laws above them. But is this same relativation of τὰ πάτρια present in Philo, who is aware of their particularity? And what then, is the relationship between the written and the unwritten laws and how do they relate to the Law of Moses?

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<sup>209</sup> Origen responds to Celsus' charges by drawing on the ideal of dual citizenship, distinguishing between the polity of the own city and the cosmopolis. As Seneca already argued, political participation in the particular city was not necessary if one led a contemplative life according to nature since that was beneficial for the greater good: Rowe and Schofield, *Greek and Roman Political Thought*, 556-557.

<sup>210</sup> Philo also expresses the ideal of dual citizenship: the wise man is citizen of the cosmos before being citizen of a particular polis with its different laws and customs (*De Josepho* 30-32, 69; *De vita Mosis* 1.157). See the discussion of his political thought in Rowe and Schofield, *Greek and Roman Political Thought*, 561-567. Philo himself preferred the contemplative life over the practical political life, and it is noteworthy that the majority of his references to τὰ πάτρια occurs in the works about his political activity, the *Embassy to Gaius* and *On Flaccus*.

<sup>211</sup> Najman, 'The Law of Nature and the Authority of Mosaic Law', 56.



Philo is very outspoken at this point. Before the particular laws were written down, he says, there existed already unwritten legislation (ἀγράφω τῆ νομοθεσίᾳ). This legislation was followed naturally by the noble and virtuous men, whose lives are written down as an example and who themselves became living and rational laws (οἱ γὰρ ἔμψυχοι καὶ λογικοὶ νόμοι ἄνδρες; *De Abrahamo* 5). Those who lived after the time of Moses only needed to obey the laws that had been written down. But in the pre-Sinaitic period, there were a few exemplary figures who managed to live according to the unwritten law of nature (*De Abrahamo* 16). Philo presents the lives of these sages, the 'men of old' (*Spec leg* 1.149) as 'ensouled laws' (ἔμψυχοι ... νόμοι) and in that way as an embodiment of the law of nature.<sup>212</sup> The Law of Moses is a copy, a record of the life of the ancients (ὑπομνήματα εἶναι βίου τῶν παλαιῶν), who considered nature itself the most ancient ordinance (πρεσβύτατον θεσμὸν; *Abr* 5). Thus, Philo's ancestral customs are the actual customs of the ancestral sages who lived according to the universal law of nature. Their lives, that embody the law of nature, are contained in the Law of Moses. In this way, Philo gives universal validity to the (particular, ancestral) laws of Moses, and universal significance to Judaism. As Najman argues, by claiming a special relation between the Mosaic Law and the law of nature, Philo could transcend the particularism of the Law as a law that was binding for one particular people and give it universal significance. The Law of Moses is 'stamped with the seal of nature itself' (*De vita Mosis* 2.14).

#### 6.6 Particularistic Judaism and universalistic Christianity?

Hindy Najman argues that Philo's attempt to authorize the Mosaic Law by showing its universal significance was directed against competing non-Jewish traditions in Alexandria. For Philo's non-Jewish fellow philosophers, the law of nature was a universal, unwritten law, in contrast with the particular written laws of poleis.<sup>213</sup> This is exactly the line of argumentation adopted by Origen in answer to Celsus' charge of forsaking τὰ πάτρια: Christians follow the divine law of nature that transcends the particular πάτρια. According to Philo, however, the Jewish πάτρια are identical with the divine law of nature, and in this sense have universal value as well. Origen and Philo figure in a wider debate concerning the validity of traditions that are particular for a people.

The Jewish usages of τὰ πάτρια we have seen fit in with the wider ethnic particularistic discourse in Antiquity according to which every nation has its own distinctive traditional laws and customs that ought to be preserved. τὰ πάτρια was used to legitimate those Jewish laws that caused tensions with and distinguished them from non-Jews – mainly Sabbath, food laws, Temple tax and especially monotheistic, aniconic worship. In this sense, the present analysis of the function of τὰ πάτρια in Jewish texts confirms James Dunn's stress on the importance of ethnic boundary markers in Second Temple Judaism. According to the New Perspective on Paul, Paul reacted against an understanding of the Law that stressed the boundaries between the Jews and other nations. He distances himself from an understanding of Judaism (Ἰουδαϊσμός) that zealously guarded the ancestral tradition (τῶν πατρικῶν μου παραδόσεων; *Gal* 1:14) by making ethnic boundary markers such as circumcision and food laws obligatory for all Jews in

<sup>212</sup> Najman, 'The Law of Nature', 59, 66-67.

<sup>213</sup> Najman, 'A Written Copy of the Law of Nature: An Unthinkable Paradox?', 51-56. Although Middle Platonic philosophers could point at the universal significance of the law of nature to criticize the particular polis laws, I am not aware of explicit attempts to criticize *ancestral* laws in this way (which is probably due to the specific use of πάτριος). Origen responds to charges of Celsus, who uses the word πάτριος.



order to remain within the covenant.<sup>214</sup> He relativizes ethnic distinctions between Jews and Greeks by placing faith in Christ as the only relevant criterion above these distinctions (for instance, Gal 3:26, Rom 1:14). While the term *πάτριος* does not occur, ancestral arguments play an important role in this discussion. Paul argues that Abraham is not only father of those who descend from him in a physical sense, ethnic Jews, but of all who believe. He attempts to transcend ethnic, particular distinctions by pointing at the more universal significance of Abraham. In this sense, his line of argumentation is comparable to that of Philo, who identified the customs of the ancestors with the universal law of nature. At the same time, Philo's general use of *τὰ πάτρια* remains within an ethnic particularistic context. In this debate, Paul did not, as Origen, disqualify *τὰ πάτρια* by pointing at their particularity, but he made the Jewish ancestral tradition of Abraham non-exclusive and non-particularistic, universal for all who believe.

Dunn's stress on the importance of ethnic boundary markers has been criticized for implying that Judaism was particularistic, while Christianity was universalistic (and therefore, better) because it transcended ethnic restrictions.<sup>215</sup> The present analysis of the *πάτριος* texts contributes to this discussion in two ways. Firstly, *τὰ πάτρια* clearly figures in an ethnic particularistic discourse: the Jews have their own distinctive ancestral traditions that should be preserved. At the same time, we have stressed that this discourse was common to all people in Antiquity. Jews guarded their ethnic particularity and was particularistic in this sense, but just as particularistic as other people in Antiquity. Secondly, our analysis confirms that Christians departed from this widespread ideology by explicitly criticizing the importance of *τὰ πάτρια*. They were accused of abandoning their Jewish and non-Jewish *πάτρια*, forming their own constitution with their own, non-ethnically based laws. Although not phrased in *πάτριος* terms, similar debates appear to have been conducted from the time of Jesus. As we saw in chapter 5, Jesus and his followers were subject to comparable accusations of not acting in accordance with the tradition of the elders or with established customs. Paul, our earliest Christian source, clearly evidences universalizing attempts to transcend ethnic particularities of Jews and non-Jews.<sup>216</sup>

<sup>214</sup> Dunn's 'The New Perspective on Paul', *Bulletin of the John Ryland's Library* 65 (1983) 95-122; his comments on Gal 1:14 in *The Epistle to the Galatians*, 126-131. Paul's concept of a logical worship, a *λογικὴ θρησκεία* (Rom 12:1) can be seen as a universalistic alternative for the particular, *πάτριος θρησκεία* of Jews and other nations: see G.H. van Kooten, *Paul's Anthropology in Context: The Image of God, Assimilation to God, and Tripartite Man in Ancient Judaism, Ancient Philosophy and Early Christianity* (forthcoming, Tübingen 2008), chapter 7: 'The Renewal of the 'Discredited Mind' Through Metamorphosis: Paul's Universalist Anthropology in Romans'.

<sup>215</sup> For criticism of Dunn, see for instance W.S. Green, 'Judaism and Particularism: A Reply to James Dunn', in: J. Neusner and A.J. Avery-Peck (eds), *Judaism in Late Antiquity Pt. 3: Where We Stand: Issues and Debates in Ancient Judaism* (Leiden 1995) 71-76; for criticism of the terminology of universalism and particularism, see A. Runesson, 'Particularistic Judaism and Universalistic Christianity? Some Critical Remarks on Terminology and Theology', *Studia Theologica* 53 (1999) 55-75; for a recent attempt to show that Judaism was 'in its own ways just as "universalistic" as Christianity', see T.L. Donaldson, *Judaism and the Gentiles. Jewish Patterns of Universalism (to 135 CE)* (Waco 2007).

<sup>216</sup> It is likely that the criticism of Christians abandoning their Jewish or non-Jewish ancestral customs also lies behind Paul's remark about the persecution of Christian converts in Thessalonica, who 'suffered the same things from your own compatriots as they did from the Jews' (1 Thess 2:14). This was argued by G.H. van Kooten in a recent paper, 'Paul and the Ethnographical Debate of his Time: The Criticism of Jewish and Pagan Ancestral Customs (1 Thess 2.13-16)', at the *Themes in Biblical Narrative Conference*, Groningen, 11-12 September 2008.



## CONCLUSIONS

The importance of the ancestral heritage for Jews in the Graeco-Roman period is beyond doubt. Just like other ethnic groups, Jews had a strong sense of the importance of traditional, ancestral laws and customs and these were an important element in expressions of Jewish identity vis-à-vis other people. Nevertheless, the present research has complicated this picture by analysing the concept of τὰ πάτρια, one of the ways to refer to the ancestral heritage, and pointing at its rhetorical application.

Discussion of the basic ideas concerning τὰ πάτρια confirmed the role of appeals to the ancestral past in expressions of ethnic identifications. Every *ethnos* and polis has its own laws and customs that are part of the group's heritage and should be preserved. This normative dimension of τὰ πάτρια enables the explanatory and especially legitimating uses to which the concept is put. Laws and customs that are πάτριος have been the same for a long time and that is the way it should be. While τὰ πάτρια is not a neutral, descriptive term, our analysis of Josephus' rewriting of biblical history already suggested that πάτριος has a very specific application: Josephus primarily uses τὰ πάτρια in negative contexts, accusing an individual or group of transgressing the ancestral laws and customs. The laws and customs in question are connected with the worship of the one God: idolaters are accused of transgressing or even abandoning τὰ πάτρια. The frequent connection with the influence of non-Jews, especially foreign women, pointed at the importance of boundaries: what is πάτριος belongs to us and can be compromised by others that do not belong to us.

These observations were confirmed in the subsequent chapters. When foreign rulers intervened in the Jewish cult or when tensions arose with non-Jews in Diaspora cities, Jews could defend their resistance by presenting it as a violation of their πάτρια. Ancestral rhetoric, notably in 2 and 4 Maccabees, served to motivate people to action, admonishing them to fight or even die for their πάτριος. The contexts of the documents presented by Josephus made clear that laws and customs are presented as πάτριος in particular when they are perceived to be under threat, because their observance had led to tensions with non-Jews. Our analysis fits in with Frederik Barth's perspective on ethnicity, discussed in the first chapter, as a way to organize social interaction by erecting boundaries between in- and outsiders. These boundaries could be contested, a source of tension, and legitimized by claiming them as part of the group's ancestral, eternal past. This does not mean that these practices were considered 'more ancestral', but rather that they were more in need of ancestral support.

We also noted the political contexts in which accusations of transgressing or abandoning τὰ πάτρια occur in both Jewish and non-Jewish texts, often connected with charges of political disloyalty or subversion. We paid attention to the political dimension of conversion and apostasy, phrased in terms of abandoning τὰ πάτρια. This brought us at descriptions of Christians as people who have forsaken their πάτρια, thereby posing a threat to the stability of the state, and Origen's criticism of the particularity of τὰ πάτρια. In this respect, Christians departed from the general ideology of ethnic particularism.

Throughout our analysis, we have placed the use of τὰ πάτρια in its rhetorical contexts. When a statement is described as rhetorical, there is always a danger of making it sound less sincere. Therefore, it is important to stress again that the Jewish authors we have discussed ascribed great value to their ancestral traditions. It is likely that all laws and customs contained in the Torah were considered ancestral. My point is that they were explicitly qualified as πάτριος in specific circumstances.



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