

Eternal Sun vs. Renewing Moon: Greek and Hebrew Conceptions of Divine Law



1. Aristophanes, *The Clouds*, 607

CLOUDS: The Moon bumped into us accidentally and told us to firstly greet all the Athenians and her allies but then to express her anger towards you because you have treated her so badly...such as your getting all mixed up and confused about all the dates relating to the calendar. You just don't keep a good track of her paths so that the gods are always angry at her because they miss out on their festival dinners and go hungry because of your mismanagement of the calendar dates.... That was why, Hyperbolous had his wreath ripped off his head by the gods, when he was made head of the Religious Council. That should teach him how to make better use of the lunar

calendar when he wants to count the days of his life.

2. Exodus Rabbah 15, 1

THIS MONTH SHALL BE UNTO YOU (12, 1). Another explanation: The angels said before God: "Master of the Universe: When will You fix the festivals?" For so it is written: The matter is by the decree of the watchers (Daniel 4, 14).

God replied: "You and I will confirm what Israel decide (גומרין) when they intercalate the year, as it says: I will cry unto God Most High, unto God that accomplishes (גומר) it for me (Ps. 57, 3)." Hence it says: These are the appointed seasons of the Lord; even holy convocations, which *you* shall proclaim (Lev. 23, 4); There are no festivals before Me save these, whether you proclaim them in their due season or not.

God said to Israel: "In the past this was done by Me, as it says: Who appointed the moon for seasons (Ps. 104, 19), but from now and henceforth, it is handed over entirely to you. If you say 'yes' it will be 'yes,' and if you say 'no' it will be 'no.' In all cases, THIS MONTH SHALL BE UNTO YOU [i.e. yours]. Moreover, even if you wish to intercalate a year, I will confirm it."

Hence is it written: THIS MONTH SHALL BE UNTO YOU.

3. Pesikta Rabbati 15

R Hoshaya taught: When the lower court makes a decree and declares "Today is the new year" then the holy one, blessed be he, says to the ministering angels, "Set up the tribunal, install the advocate, install the clerk of the court, for the lower court has decreed and declared the day tomorrow is the new year!"

If the witnesses are delayed or the court reconsiders and puts it off to the next day, the holy one, blessed be he, says to the angels: "Take down the tribunal, and dismiss the advocate and the clerk of the court, for the lower court has decreed that the next morning should be the new year."

And what is the proof? "For a law in Israel is also an obligation for the God of Israel" (Ps 81:5) – what is not a law for Israel is also, if we may say so, no obligation for the God of Jacob.

R. Pinhas and R. Hilkiyah b. R. Simon say: When all the ministering angels assemble before God and ask, "Lord of the universe, when is the new year?" he answers them: "You're asking me? You and I should ask the lower court." And what is the proof? 'For who is so near as the Lord our God, when we make known to him' (the festivals) (Deut 4:7).

Stoic Definition of Divine Law

4. Cicero, *Republic* 3:33

(1) True law is right reason, in agreement with nature, diffused over everyone, consistent, everlasting, whose nature is to advocate duty by prescription and to deter wrongdoing by prohibition. (2) Its prescriptions and prohibitions are heeded by good men through they have no effect on the bad. (3) It is wrong to alter this law, nor is it permissible to repeal any part of it, and it is impossible to abolish it entirely. We cannot be absolved from this law by senate or people, nor need we look for any outside interpreter of it, or commentator. (4) There will not be a different law at Rome and at Athens, or a different law now and in the future, but one law, everlasting and immutable, will hold good for all peoples and all times. (5) And there will be one master and ruler for us all in common, god who is the founder of this law, its promulgator and its judge. (6) Whoever does not obey it is fleeing from himself and treating his human nature with contempt; by this very fact he will pay the heaviest penalty, even if he escapes all conventional punishments.



5. Cicero, *De Legibus* 2.11

Therefore, just as that divine mind is the highest law, so too when in a human being it is brought to maturity, it resides in the mind of wise men.

Biblical Conceptions of Divine Law

6. Exodus 24:3 – Divine Will

Moses went and repeated to the people all the commands of the LORD and all the rules; and all the people answered with one voice, saying, “All the things that the LORD has commanded we will do!”

7. Deuteronomy 4:6 – Divine Wisdom

See, I have imparted to you laws and rules, as Yahweh my God has commanded me, for you to abide by in the land that you are about to enter and occupy. Observe them faithfully, for that will be proof of your wisdom and discernment to other peoples, who on hearing of all these laws will say, “Surely, that great nation is a wise and discerning people.” For what great nation is there that has a god so close at hand as is Hashem our god whenever we call upon Him? Or what great nation has laws and rules as perfect as all this Teaching that I set before you this day?

8. Philo, *Special Laws* 2.13 – Torah = Laws of Nature

Justice and every virtue are commanded by the law of our ancestors and by a statute established of old, and what else are laws and statutes but the sacred words of Nature...?

Hellenistic Writers – Divine Law as Nature and Wisdom

9. Philo, *Life of Moses* II:44 – Universal Law for All Nations

Every nation, abandoning all their own individual customs, and utterly disregarding their national laws, will change and come over to the honor of such a people only; for their laws shining in

connection with, and simultaneously with, the prosperity of the nation, will obscure all others, just as the rising sun obscures the stars.

10. Philo, *Special Laws* 2 150, 158 – Reasons for Unleavened Bread on Passover

There are two accounts given of this festival, the one peculiar to the nation, on account of the migration already described; the other a common one, in accordance with conformity to nature and with the harmony of the whole world....

And the unleavened bread is ordained because their ancestors took unleavened bread with them when they went forth out of Egypt, under the guidance of the Deity; or else, because at that time (I mean at the spring season, during which this festival is celebrated) the crop of wheat is not yet ripe, the plains being still loaded with the corn, and it not being as yet the harvest time, and therefore lawgiver has ordained the use of unleavened food with a view to assimilating it to the state of the crops. For unleavened food is also imperfect or unripe, as a memorial of the good hope which is entertained; since nature is by this time preparing her annual gifts for the race of mankind, with an abundance and plenteous pouring forth of necessaries.

11. Book of Jubilees, 2:30

And they shall not bring in nor take out from house to house on that day; for that day is more holy and blessed than any jubilee day of the jubilees; on this we kept Sabbath in the heavens before it was made known to any flesh to keep Sabbath thereon on the earth.

Talmudic View

12. Pesikta d'Rav Kahana 4:7

A certain non-Jew (*goy*) questioned Rabban Yohanan ben Zakkai, saying, "These things that you [Jews] do appear to be a kind of sorcery. You bring a heifer, slaughter it, burn it, grind it, take its ashes; [when] one of you is defiled by contact with a corpse, you sprinkle two or three drops on him and tell him, 'you are pure!'"

Rabban Yohanan said, "Has the spirit of madness ever possessed you?"

He replied, "No."

"Have you ever seen a man whom the spirit of madness has possessed?"

He said, "Yes."

"And what do you do for such a man?"

"We bring roots and make smoke under it and we throw water on it and it [the spirit] flees."

Rabban Yohanan then said, "do your ears not hear what your mouth is saying? So too that spirit is a spirit of impurity as it is written, *"And I will also make the prophets and the unclean spirit vanish from the land"* (Zech 13:2).

When he [the non-Jew] left, his [Rabban Yohanan's] disciples said: "Our master, you put off that non-Jew with a reed, but what answer will you give us?"

Rabban Yohanan answered: "By your lives! The corpse does not defile, and the water does not purify; rather it is a decree of the holy one, blessed be he. The holy one, blessed be he said, "I have set it down as a statute, I have decreed a decree and you are not permitted to transgress my decree. *"This is the statute [huqqah] of the Torah"* (Num 19:2)"

13. Bavli Sanhedrin 71a

R. Simeon said: Because one eats a tartemar of meat and drinks half a log of Italian wine, shall his father and mother have him stoned?! But it never happened and never will happen! Why then was this law written? — That you may study it and receive reward.

R. Jonathan said: 'I saw him and sat on his grave'

14. Exodus Rabbah 15, 24

THIS MONTH SHALL BE UNTO YOU (XII, 2). Another interpretation: What blessing was to be recited by one who beholds the new moon, in the period when Israel used to sanctify the new month? Some of the Rabbis hold: "Blessed be He who renews the months, ברוך מחדש חדשים."

Some say: "Blessed be He who consecrates the months, ברוך מקדש חדשים."

Others say: "Who hallows Israel, מקדש ישראל" since unless Israel sanctify it, it is not sanctified at all. Do not be surprised at this; for the Holy One, blessed be He, sanctified Israel, as it says: And ye shall be holy unto Me; for I the Lord am holy (Lev. 20, 26), and because they are consecrated to God, therefore is all that which they sanctify consecrated.

If you desire further proof, you can derive it from the vessels dedicated to the Temple service. Moses consecrated the Tabernacle and all its vessels; yet who could consecrate its vessels in subsequent generations? Could Moses consecrate them? No, but this is what was done: the priest received therein any holy thing and the vessel became holy, just as Moses sanctified the altar with the blood; [thus the priest sanctified] with the wine of libation or the meal-offering, by pouring them into a secular vessel, whereby it became holy. If a secular vessel becomes sanctified when it became filled with anything holy, then how much more do Israel, who are themselves holy, sanctify the new moon?

God said: "I am holy. Can I then sanctify myself? But I will hallow Israel, so that they may sanctify Me." For this reason does it say: "And ye shall be holy unto Me (Lev 20:26); for I the Lord am holy, who made you holy (Lev 21:8)." David also says: Yet You are holy, O You that are enthroned upon the praises of Israel (Ps. 22:4).

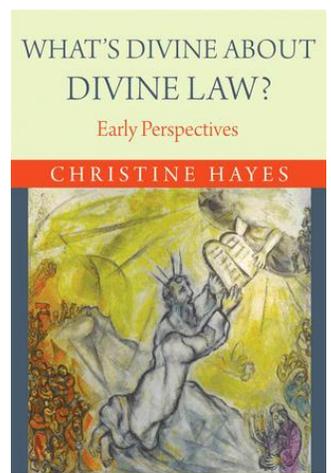
When did Israel begin to consecrate the new moon? In Egypt; hence it is written: THIS MONTH SHALL BE UNTO YOU.

15. Rabbi Joseph Soloveitchik, "Surrendering to the Almighty," 1975 address

Not only the *halakhot*, but also the *hazaqot* (established presumptions) [our Sages of blessed memory] introduced are indestructible. You must not tamper, not only with the *halakhot*, but even with the *hazaqot*. For the *hazaqot* [the Sages] spoke of rest, not upon transient psychological behavioral patterns, but on permanent ontological principles rooted in the very depths of the metaphysical human personality, which is as changeless as the heavens above.

16. Christine Hayes, *What's Divine about Divine Law?*, 327

[For the Rabbis], the divine law of Israel is not portrayed as invariable and immutable. Indeed, the very mark of its divine and perfect nature is its ability to respond to the shifting circumstances of human experience and to evolve in response to moral criticism and rhetorical suasion. GrecoRoman natural law theory envisages the critique and modification of human positive law in the light of the divine natural law. In a paradoxical reversal, the sources surveyed in this chapter depict the critique and modification of the divine law in the light of human experience and moral intuition. It is the divine law that is adjusted on the basis of human reason, not human law on the basis of a divine rational standard.



Summary Chart of Views in Hayes', What's Divine about Divine Law

Traits of Greek Divine Law	Rational, in accord with truth, reasons for commandments	Static, unchanging	Accord with nature/ realist	Universal	Inspire and educate (or coerce, theurgic)
Bible majority voice	No	No ¹	No	No	Coerce
Bible minority voice	Yes	Yes	Yes	Yes	Inspire
Qumran/Jubilees	No	Yes	Yes	No	Coerce
Philo	Yes	Yes	Yes	Yes	Educate
Paul	No	No	No	No	Not applicable anymore
Talmudic Rabbis (majority voice)	No	No (but usually concealed)	No	No	Coerce
Maimonides (unconcealed)	Yes	No	No (ex. impurity)	No	Educate
Kabbalists	No	Yes	Yes	No	Theurgic
Orthodox	No (at least we don't know them fully)	Yes	Yes (Brisk)	No	Coerce (divine and social)

¹ Eating Meat (Gen 1 and 9), Daughters of Zelophehad (Num27), Intergenerational punishment (Exod 20:5-6, Deut 7:9-10, Jer 31:27-30, Ezek 18), Golden Calf and Divine Attributes.

