

**Impurity and Social Demarcation:  
Resetting Second Temple Halakhic Traditions in New Contexts**  
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[1]

More than any other halakhic field, purity laws have been acknowledged to represent specific social settings. As the separation of pure from the impure and their clear demarcation were considered essential for implementing ritual purity, they have time and again played a central role in the portrayal of Jewish society in Palestine during the Second Temple period. Questions such as: Did the Pharisees eat their ordinary food in purity, how similar was the rabbinic *Havura* to the Qumran *Yahad*, and did Jesus and his followers break away from common purity practices, represent the ongoing attempt to integrate the variety of purity systems into a comprehensive socio-religious setting of the period.

While the inquiry into purity traditions may enrich our understanding of Second Temple Judaism, significantly, this halakhic field has undergone major changes as it was detached from its original setting within a definite social structure and placed in new contexts, outside Judaea, beyond Palestine or after the destruction. In rabbinic circles, purity continued to play a major role in religious life, both in theory and in practice (as much as we can infer from the sources in our disposal). Thus, as fragments of early legal traditions were interwoven into this rabbinic context, they were at times reinterpreted or reshaped, to better correspond to the change of community structure.

In what follows, as we re-examine some much discussed texts, I would like to put forward three contentions: First, in contrast to scholarly convention, early rabbinic-Pharisaic traditions, rooted in a sectarian social structure, set the same conditions to purity as sectarian sources, revealing their Second Temple setting. Second, the tannaitic corpus includes two sets of rulings governing the relationship between the pure associate and the impure *Am ha'aretz*. Whereas one corresponds to the early Second Temple setting, the second represents a later second century Galilean revision. Third, a parallel development may be conjectured in Paul's adaptation of a purity saying of Jesus for the community in Rome.

[II]

According to scholarly convention, Qumran halakha and rabbinic literature represent two diametrically opposed conceptions of purity. Sin in Qumran had a clear defiling force. Since all who were outside the sect and did not accept the precepts of the community were considered defiled, admittance to the sect was a prerequisite for ritual purification. This notion is most clearly expressed in these well-known statements from the Rule of the Community which deny the possibility for purity outside the sect (source no. 1). "He - who refuses to enter the covenant of God - cannot be purified by atonement, nor be cleansed by waters of purification, nor sanctify himself in streams and rivers" Furthermore, the outsider is warned of undergoing purification, which cannot remove his intrinsic impurity "For impurity is among all those who transgress his words".

It is within this conceptual framework, that we can also better understand the Essene impurity system documented by Josephus (source number 2). "They are divided into four groups, according to the period of their training; and so far are the juniors inferior to the seniors, that if by chance they touch them, they (the seniors) wash themselves, as if they had intermixed with a foreigner". The touch of a young member contaminates the senior member, as if the former was a gentile. Apparently, although the junior members have accepted the same purity regulations and are developing their skill in matters of purity, their level of impurity is always the lowest: that of a gentile. We can therefore illustrate this system as a set of concentric circles. The contact with any external circle, no matter how close, entails the most severe impurity. This is a clear expression of what I would term "foreigner impurity". Modeled after gentile impurity, this impurity is an inherent result of the mere distance - be it far or near - from the sectarian circle. Hence, both the Rule of the Community and Josephus' Essenes ascribe inherent impurity to outsiders, asserting that there is no purity outside the realm of the sect.

In contrast, according to scholarly consensus, the rabbis held an alternative view of impurity. Indeed, they too distinguished between levels of purity; however, these levels were established directly on ritual grounds. The Pharisee and associate distanced themselves from *Am ha'aretz* not due to their foreign sinful ways, but as carriers of Levitical impurity such as menstruation or corpse impurity. As Jonathan Klawans contends: "While the associates did view nonmembers as ritually defiling, the outsiders'

ritual impurity resulted not from the commission of some grave sin but simply from the fact that the outsiders did not take upon themselves the same purity obligations that the associates had". Indeed, whereas Qumran literature explicitly links impurity and sin, rabbinic legal writings lack any such notion. Thus, Ahron Shemesh claims that: "Rabbinic halakhah would undoubtedly permit an *Am haaretz* to eat with associates, provided that he was willing to undergo a ritual cleansing of his body and of his clothing. Not so for the sect".

That rabbinic purification is only a matter of personal will and skill is inferred from Mishna Hagigah. At first, the Mishna states the conditions for achieving each grade of purity: For example, **הטובל לחולין והוחזק לחולין אסור למעשר**. "If a man immersed himself to render himself fit to eat of unconsecrated produce, and his intention was confined to unconsecrated produce, he may not touch [Second] Tithe." According to this translation purity depends only on personal intention and decision. As one immerses he must decide what kind of purity he is accepting upon himself; his care for purity will be shaped accordingly. Someone who chooses to only eat unconsecrated food in purity will not be careful in regard to more severe purities. This interpretation, accepted by all since the Tosefta and both Talmuds, expresses what seems to be the rabbinic notion of purity: there may be various levels of scrupulousness; nonetheless, all levels of purity are accessible to the individual, provided that he is aware of his obligations.

However, this accepted interpretation hardly matches the wording of the mishna.; specifically the term **הוחזק**, to be held. In both Talmuds this term is replaced by the phrase **החזיק עצמו**, to hold one self, that is, to have the intention for some level of purity. However, there is no doubt what the general meaning of **הוחזק** is. Without exception, it denotes one's social status; what he is known to be publically. According to this Mishna, then, one can purify himself only to the level he is already publically associated with. If he is (**מוחזק**) known to be an eater of ordinary food in purity his immersion counts only for ordinary food and not for any kind of sacred food. Unfortunately, this Mishna does not disclose the conditions in order to be counted as a member, and these conditions obviously differ from grade to grade. Nonetheless, the Mishna clearly assumes that purity is possible only through a definite social affiliation.

In this respect, one statement is most instructive: **טבל ולא הוחזק כאילו לא טבל**. "If he immersed himself but without being affiliated, it is as though he had not immersed himself at all". If a person who is not a recognized member of any the abovementioned

pure groups (in other words, an *Am haaretz*) purifies himself, it is as though he did not do anything. Surprisingly, we are familiar with this exact same statement from Qumran. "He cannot be purified by atonement, nor be cleansed by waters of purification [...] as long as he rejects the judgments of God, so that he cannot be instructed within the community, the *yahad's*, counsel".

Indeed, there is a difference, very much amplified by conventions of genre and style, between the two texts, but both share the same legal and conceptual assumptions, and they represent a common structure of thought. Although the Mishna does not claim outsiders to be sinners, it accepts the contention that outsiders, at any level, are ineligible for purity. No matter how hard they try, they are sentenced to impurity to the greatest degree. Purity is a right granted only through membership.

This concept is manifest in the latter part of the Mishna too. The cloths of the *Am haaretz*, like the cloths of a menstruant, called *midras*, defile even through indirect contact. This ruling is usually explained as a result of *Am haaretz's* lack of concern for purity. Presumably, his wife is not careful during her menstruation not to contaminate the house and cloths. However, this practical concern is insufficient to explain our Mishna. It remains to ask, why are the cloths of the Pharisee also considered *midras*? Moreover, how can the Mishna claim that the cloths of priests eating Heave-offerings defile sacrifice eaters? After all, if this level of purity, following biblical requirements, is enough for eating holy Heave-offering, how can it be deemed as completely impure in relation to *kodesh*? Finally, how is it that the Mishna returns at each stage to the same exact definition: *midras* uncleanness?

There seems to be only one satisfactory explanation: these levels do not actually emanate from any practical divergence in the care for purity; rather, they represent the notion that at any level, anyone outside your circle of purity is considered completely defiled. For the priest, there is no difference between the Pharisee and the *Am haaretz*, and both are on the lowest level of *midras* impurity. Here too we find a clear parallel to the so called sectarian practice, as documented by Josephus. A new member of the sect, although clearly careful in matters of purity, is at the same time considered as a complete foreigner in relation to the senior fellow. Here again, both rabbinic and sectarian rulings share the same notion of impurity, as embodying one's social affiliation.

The difference then between the two systems is that of degree and not of essence. The sectarian stance, which redrew the boundaries of the people of Israel, identifies non member as gentiles. Mishna Hagigah, in contrast, sets *Am haaretz* as a model for the impurity of the outsider. Interestingly, although the terms פרוש and עם הארץ brought into opposition in the Mishna are probably coined following Ezra's demand to separate, להיבדל, of the impurity of עמי הארצות, there still a clear difference in rabbinic literature between the impurity of a gentile and that of *Am haaretz*. The gentile is like a *zab*, who defiles through his spit, urine and indirect contact. *Am haaretz*, on the other hand, is only a carrier of a severe impurity through his cloths. In accordance with Pharisaic ideology, the Mishna maintains three spheres: the pure, the impure Jews and the impure gentiles.

I would claim then that Mishna Hagigah contains this fragment of Second Temple halakhic tradition which expresses a contemporary outlook regarding purity as a social marker. Within this shared discourse the definition of the outsider's impurity, represented ideological differences. At the same time, these same halakhic traditions which were originally shaped within the social and discursive world of Second Temple, were transferred and reintegrated in new contexts.

### [III]

As aforementioned, according to Mishna Hagigah one must have publically joined a specific group in order to be entitled to purification. The Mishna does not mention what it takes to become a Pharisee, to mention one group, as this was probably a well defined party. At the same time, another Mishna does state the conditions for becoming a חבר, an associate, that is, a trustworthy person in matters of purity. The process of initiation into the Havura in comparison to the Qumran Yahad has been discussed over and again. However, it has not yet been acknowledged that the tannaitic literature in fact contains two radically different definitions of the חבר, reflecting the move away from Second Temple setting.

Mishna *Demai* sets the following conditions: "He may not sell to *Am haaretz* [foodstuff that is] wet or dry, or buy from him [foodstuff that is] wet; and he may not be the guest of an *Am haaretz* nor may he receive him as a guest in his own raiment." This source clearly assumes that the associate is already careful in matters of purity, as the standard Pharisee would be. Therefore the conditions relate only to his level of contact

with the impure *Am haaretz*. He must not sell anything to *Am haaretz* nor be his guest. Here we have another fragment of halakhic tradition which clearly parallels Second Temple sources, and again with a somewhat Pharisaic twist.

The Mishna is comprised of two sets of parallel conditions: the associate cannot sell anything, but can buy dry pure foodstuff. He cannot visit the *Am haaretz*, but he can host him without his impure cloths. In both clauses, the relationship between the associate and *Am haaretz* is one-sided: the associate can receive, he cannot give. Significantly, this same state of affairs is reflected in another fragment, dealing with marriage with *Am haaretz*. The details of this halakhah are discussed by the late second century authorities, but the accepted core of the halakhah is such: "One may marry the daughters of *Am haaretz*, but we do not give our daughters to them". Again, this halakhah has the same structure: the associate is forbidden to give, but he is allowed to bring in to his domain. Indeed, these three laws, regarding trade, hospitality and marriage are not only formulated in a similar manner: אינו מוכר, אינו מתארח, אין נותנין ליהם בנות, but they are unique in expressly limiting social contact with *Am haaretz*.

Noticeably, this triad is rooted in Second Temple literature concerning associating with foreigners. These elements constitute Abraham's instructions to Jacob in Jubilees 22 regarding gentiles, and they were further developed in the various versions of *Serekh haYahad*, regarding non-members. Here again, rabbinic literature preserves a unique version of these rulings: instead of complete separation, these rulings form a patronage-like relationship, enabling contact while maintaining the inferior status of the impure. I would therefore claim that the rulings of Mishna *Demai* can be traced back to Second Temple period. Bet Hillel and Bet Shammai in the Tosefta (not quoted here) most probably refer to this Mishna, and, more importantly, the methods of segregation correlate other Second Temple sources.

The second set of requirements directed towards the associate, in Tosefta *Demai* 2:2 (source number 5), present us with a radically different state of affairs. Here the Associate is warned not to give Heave-offerings to an *Am haaretz* (evidently a priest), not to prepare pure foods for *am haaretz*, and to eat unconsecrated food in purity. These requirements differ from the previous list on two levels. Most strikingly, there is no limitation on contact with *Am haaretz*, aside from making sure not to provide him with holy pure foods. In addition, there is an explicit demand to eat ordinary foods in purity, a practice taken for granted in the mishna. Lieberman, followed by others, attempted to

reconcile the two lists, and reconstructed a complex procedure to include all conditions. But the fact is that the Tosefta recurrently refers to the possibility that an associate would visit an *am haaretz*, and it discusses ways to distinguish ordinary and holy foodstuff given to the *Am haaretz*. Thus, the associate and *am haaretz* are assumed to be in constant contact.

Apparently, the Mishna and the Tosefta at this point not only disagree on specific halakhic issues, but they hold opposing assumptions regarding the social setting. In other words, the *חבר*, the associate, introduced in this Tosefta, is of a new creation, unknown in the halakhic discourse of Second Temple literature. Here we come across an individual, who chooses to join the *Havura*, some sort of voluntary association, without cutting his connections with other groups, only to develop his own personal skill in purity matters. As a consequence, he accepts upon himself to eat in the state of purity and to be responsible for the purity of holy foodstuff of others.

Can we offer an explanation as to what generated the creation of this second type of *חבר*, disclosing the changing status of purity? In contrast to previous sources, the personal choice of the associate here in the Tosefta is not grounded in or dependant on a declared social affiliation. Indeed, in order to apply his purity practices he needs a supporting group, the *Havura*, but this is nothing like the role of purity as we know it from earlier sources in delineating clearly marked social parties. Such a change would be the natural outcome of the transmission of the Second Temple halakhic institutions into the late second century Galilee. As the contrast pure/impure ceases to play a role in social demarcation, and is no longer a constitutive social principle, it moves into the personal realm as a matter of expertise. In this context, it seemed only natural not only to reshape the laws of separation from *am haaretz*, but to also reinterpret Mishna Hagigah. Henceforth it was to be understood as requiring only personal intention, and not an announced affiliation, in order to define one's level of purity.

[IV]

The rabbis were not the only ones to transfer Second Temple purity traditions from their initial distinctive settings to new communities. This activity could be traced, albeit to a lesser degree, in early Christian writings. Elsewhere, I have discussed the revision of Jesus' purity sayings in the gospels. Here, I wish to briefly discuss Paul's modification of one such saying closely related, so I would argue, to the above-discussed issues.

Chapter 14 of *Romans* addresses the problem of divergent practices within the community. Some members believe they can eat anything and others eat only vegetables. As commentators have shown, there is a distinct difference between the two exhortations Paul lays out in response to this situation. At first, Paul demands mutual tolerance. One cannot despise his brother for not eating, nor can the latter pass judgment upon he who eats all. However, the emphasis shifts at the second part of the chapter, starting at the end of verse 13. Paul demands 'never to put a stumbling block or hindrance (skandalon e proskoma) in a way of a brother', clearly referring to Leviticus 19:14 'You shall not put a stumbling block before the blind'. Thus, each member of the community is not only warned not to despise fellow members who abstain from eating, but to ensure these members do not stumble upon the prohibition which they have submitted themselves to. Paul therefore concludes that all should refrain from eating what is a stumbling block for some.

This same notion, associated with the verse, 'You shall not put a stumbling block before the blind', appears in rabbinic literature. According to Tosefta Demai: "you cannot feed a person something that is prohibited for him"; even if is prohibited only for him, for example, to hand a nazirite a cup of wine. Although the wine is generally permitted, I may not make the nazirite stumble. Significantly, this statement in Tosefta Demai is integrated into the laws governing the relationship between the pure *חבר* and the impure *Am haaretz*. Indeed, the danger of causing others to fail, through what is permitted for you, is most acute when varied levels of purity co-exist simultaneously. Reasonably, such a state of affairs, characteristic of Jewish society in Palestine, is also addressed by Jesus in verse 14 (if we are to believe Paul's sources). Read within this context, Jesus calls to care for that which the other considers as impurity, lest we cause him to fail. This situation would have also inspired Paul himself as he turned to the Romans, in a similar communal dilemma. It is thus illuminating to compare the so-called Jesus' saying in verse 14 to Paul's paraphrase of the same idea in verse 20. Evidently, In the process of adaptation of this original tradition, the contrast pure/impure, so central in Palestine, lost its significance.

In verse 20 Paul asserts that 'everything is pure'. Clearly, the only useful distinction, according to Paul, is between good and bad. It is bad to cause others to stumble and it is good to walk in ways of love. Whatever the reason for our brother's abstinence may be, it is unjustified to cause him sorrow. This notion is nothing like what

is attributed to Jesus in verse 14. Here there is no denial of impurity. On the contrary, the food is considered a stumbling block specifically because of its impurity. ἐκείνῳ κοιλῶν – for him it is defiled. The fact that it depends on human conviction, does not in any way eradicate the weight of this prohibition. For this reason, this food actually can destroy the one who deems it impure.

As it happens, such a statement fits quite well into the same social and conceptual framework represented in the previously discussed sources. More specifically, verse 14 could be best understood in light of the purity system described in Mishna Hagigah. There we saw that things that were completely pure on one level were deemed impure on a higher level. Inevitably, a scrupulous Pharisee (for example) who looked inwards, towards the inner circles where he, his cloths and his foods were all considered to be impure, could not but arrive at Jesus' conclusion. Indeed, he must be careful lest his food turn into a stumbling block for the priest, but as a consequence, a notion of relative impurity must develop, if he is to take seriously the complete split between the various levels of purity. Evidently, the notion of relative impurity, stated clearly by Jesus, was so strong that it has the power to completely split society into discrete groups.

In Paul's version, outside this Palestinian purity system, we are left with the mere demand to respect each of the member's intentions. Although the decision to abstain from food, believing it to be impure, has no objective standing, since all is pure, it is the intention that counts. So Paul claims. Interestingly, also in rabbinic literature we can trace the shift from a strictly social conception of purity to an individual realization of purification. We have seen that the same halakhah that initially tied purity to an acknowledged social affiliation was re-read to involve only individual intention. Through similar paths the world of purity was transmitted from Second Temple context to the developing communities in Rabbinic Galilee and Christian Rome.