

# Controlling Impurity: The Natures of Impurity in Second Temple Debates

Yair Furstenberg

## I. Introduction

The lenient attitude of the Pharisees towards purity was severely denounced by their contemporaries.<sup>1</sup> Their opponents—the Sadducees, Qumran sectarians, and followers of Jesus—repeatedly objected to one major feature of Pharisaic purity laws: their tendency to preserve the purity of an object in dangerously close proximity to impurity. Such accusations represent quite accurately the characteristic concerns of Pharisaic law as they are preserved in early rabbinic sources.<sup>2</sup> These laws are dedicated largely to maintaining

- 1 In general, both rabbinic and Second Temple sources testify to a one sided attack against the Pharisees and their halakhah. Besides the sources discussed herewith, see, e.g., *m. Mak.* 1:6; *t. Hag.* 3:35; Mark 7:1–15; Josephus, *Ant.* 13.297; 4QMMT. In early sources, we never find the Pharisees objecting to the halakhic systems of other groups, and this seems to reflect the peculiar nature of Pharisaic halakhah in the eyes of their contemporaries. However, according to some of the traditions in the later Scholion on *Megillat Ta'anit* the Pharisees win out against their opponents by proving the inability of the latter to sustain their views. See Vered Noam, *Megillat Ta'anit: Versions, Interpretation, History* (Jerusalem: Yad Ben-Zvi, 2003), 174–79; 206–16 (Hebrew).
- 2 The rabbis see themselves as followers of the Pharisees, although not identical with them, as we will see below in *m. Yad.* 4:8. Thus one cannot assume that the mishnaic system directly reflects Pharisaic rulings. However, the affinity between the claims against the Pharisees and the earliest layers of tannaitic sources proves their common source. See Yaacov Sussman, “The History of the Halakha and the Dead Sea Scrolls: Preliminary Talmudic Observations on *Miqṣat Ma’ase Ha-Torah* (4QMMT),” *Tarbiz* 59 (1989–90): 11–76 (Hebrew).

the purity of objects that had come into physical contact with impurity. Both internal and external sources bear witness to their lenient policy of artificially isolating pure objects from their impure surroundings.

How should we understand the Pharisaic position and why did it engender such opposition? Should we assume, as has been suggested, that while other groups perceived impurity to be a real threatening substance, the Pharisees deprived impurity of any real nature, as they perceived it only as a legal category prone to artificial restrictions? After all, were impurity to pose a real threat, how could the Pharisees tolerate its presence? Scholars of Second Temple halakhah have indeed identified in both Pharisaic and rabbinic purity laws a non-realist tendency.<sup>3</sup> Specifically, the rabbinic practice of breaking down the objects that surround them into discrete legal entities seems to counter any substantive perception of impurity.<sup>4</sup> However, a closer examination of the sources challenges the use of realism as a relevant category for analyzing these early purity debates.

In this paper, I will argue that contrary to the common portrayal of the Pharisees as non-realists, they too shared a realistic conception of impurity, but at the same time, they disputed its specific nature. The Pharisees shared the aspiration for purity and were one of its most vigorous proponents.<sup>5</sup>

- 3 See for example Eyal Regev, "Reconstructing Qumranic and Rabbinic Worldviews: Dynamic Holiness vs. Static Holiness," in *Rabbinic Perspectives: Rabbinic Literature and the Dead Sea Scrolls, Proceedings of the Eighth International Symposium of the Orion Center*, ed. Steven D. Fraade, Aharon Shemesh and Ruth A. Clements (Leiden: Brill, 2006), 87–112. Although his basic model refers to holiness rather than purity, Regev assumes both were intended "to fulfill God's commands and to attain reward" (p. 103). Regev further quotes the statement of Rabban Yoḥanan b. Zakkai, discussed below, as proof for this nominalistic position. It is highly questionable, however, whether the Pharisees actually associated purity with holiness. For example, their unique purity practice of hand-washing was essentially unrelated to the realm of the holy. See Yair Furstenberg, "Defilement Penetrating the Body: A New Understanding of Contamination in Mark 7:15," *NTS* 54 (2008): 176–200.
- 4 See below section III.
- 5 Scholars have debated whether the Pharisees ate their ordinary food in purity. See, e.g., Ed P. Sanders, *Jewish Law from Jesus to the Mishnah: Five Studies* (Philadelphia: SCM Press, 1990), 131–254; Hannah K. Harrington, "Did the Pharisees Eat Ordinary Food in a State of Purity?" *JSJ* 26 (1995): 42–54. It is clear, however, that early tannaitic sources assume the rabbis or the Pharisees to be pure, in contrast to the *am ha-areṣ*. See, e.g., *m. Ed.* 1:14.

They invested much energy in avoiding impurity, attempted to retain a pure environment, and even created a new practice of hand-washing to prevent defilement from violating the entire body.<sup>6</sup> In this sense, impurity posed a very real threat for both the Pharisees and their opponents.<sup>7</sup> All agreed that something labeled impure must be avoided, and not merely because the law requires distancing oneself from impurity. Rather, impurity was considered a (real) dangerous substance, corrupt or distorted. At the same time, the Pharisees and their contemporaries understood the label of impurity and explained its effect in very different ways within radically different world-views. According to the prevailing view, held by the Pharisees' opponents, an object's definition as pure or impure reflects its ontological status. Such a classification might even assign the object to the control of a cosmic force. In some sense, then, impurity controls those possessed by it. The Pharisees, on the other hand, sought to neutralize the powerful independence that their opponents assigned to impurity, while still acknowledging the actual effect of impurity on the human realm.

The first two sections of this article will examine the major rabbinic sources which supposedly reflect the non-realist approach of the rabbis towards impurity laws. Section II will examine the famous dialogue of Rabban Yoḥanan b. Zakkai with the gentile concerning the purification of the red heifer, which presumably includes the boldest expression of non-realism in rabbinic literature. Specific rabbinic purity laws understood to represent the non-realist approach are discussed in section III. In both sections, we will question the appropriateness of the distinction between realism and non-realism for understanding the rabbinic view. As an alternative, we will suggest that the Pharisaic policy toward separation from impurity depicts impurity as a real occurrence that invades human reality. At the same time,

- 6 For a detailed analysis, see Furstenberg, "Defilement Penetrating the Body." As I show there, the concern to distance defiled foods from the body is not based on the levitical system, and in fact stands in contrast to it, as Jesus points out; rather, it reflects more popular notions of contamination and danger.
- 7 Mira Balberg, "Recomposed Corporalities: Purity, Body, and Self in the Mishnah" (PhD diss., Stanford University, 2011), 48, argues for the reality of impurity in rabbinic eyes, following Plato: "Anything which possesses any sort of power to affect another ... has real existence" (*Sophist* 247E). As she shows, in ancient philosophical systems such forces were deemed "real," irrespective of their materiality. Thus Balberg too rejects the dichotomy between realism and nominalism as a useful analytic tool. See also eadem, *Purity, Body, and Self in Early Rabbinic Literature* (Berkeley: University of California Press, 2014), 201 n. 128.

the Pharisees deprive impurity of an independent role within the order of things (section IV).

## II. The Nature of Impurity in the *Pesiqta de-Rav Kahana*

The story of Rabban Yoḥanan b. Zakkai's exchange with a gentile concerning corpse impurity, which appears in the post-amoraic *Pesiqta de-Rav Kahana*, has frequently been invoked as the boldest expression of rabbinic non-realism, specifically with regards to purity. However, a close reading of the story within its homiletical context and in light of non-rabbinic parallels points to a different issue. The theological problem raised in the story is not whether impurity is real but rather how independent it is.

גוי אחד שאל את רבן יוחנן בן זכיי. אמר ליה, אילין מיליא דאתון עבדין נראין כמן כשפים, מביאין פרה ושוחטין אותה ושורפין אותה וכותשין אותה ונוטלין את אפרה ואחד מכם מטמא למת ומזין עליו שמים שלש טיפים ואומרין לו טהרתה.

אמר לו, לא כנסה רוח תזוית באותו האיש מימיו? אמר לו לאו. אמר לו, ולא ראיתיה אחר שנכנסה בו רוח תזוית? אמר לו הין. אמר לו, ומה אתם עושין? אמר לו מביאין עיקרין ומעשנין תחתיו ומרבצים עליה מים והיא בורחת. אמר לו, ולא ישמעו אונגך מה שפיך מדבר, כך הרוח הזה רוח טומאה היא, דכת' "וגם את הנביאים ואת רוח הטומאה אעביר מן הארץ" (זכ' יג 2).

וכיון שיצא אמרו לו תלמידיו, רבי, לזה דחיתה בקנה לנו מה אתה משיב? אמר להם, חייכם לא המת מטמא ולא המים מטהרים אלא גזירתו של הקב"ה הוא. אמר הקב"ה חוקה חקקתי גזירה גזרתי ואין אתה רשאי לעבור על גזרתי. "זאת חוקת התורה" (במד' יט 2).

A gentile questioned Rabban Yoḥanan b. Zakkai, saying: "The things you Jews do appear to be a kind of sorcery. A heifer is brought, it is burned, is pounded into ash, and its ash is gathered up. Then when one of you gets defiled by contact with a corpse, two or three drops of the ash mixed with water are sprinkled upon him and he is told, 'You are pure!'"

Rabban Yoḥanan replied: "Has the spirit of madness ever possessed you?" He replied: "No." "Haven't you ever seen a man whom the spirit of madness possessed?" The gentile replied: "Yes." "And what do you do for such a man?" "Roots are brought, the smoke of their burning is made to rise about

him, and water is sprinkled upon him until the spirit of madness flees.”

Rabban Yoḥanan then said: “Do not your ears hear what your mouth is saying? He too is possessed by a spirit, the spirit of uncleanness, and Scripture says, *I will cause [false] prophets as well as the spirit of uncleanness to flee from the land* (Zech 13:2).

Now when the gentile left, Rabban Yoḥanan’s disciples said: “Our master, you put off that gentile with a mere reed of an answer, but what answer will you give us?” Rabban Yoḥanan answered: “By your lives, I swear: the corpse does not defile, nor does the water purify. It is a decree of the Holy One. The Holy One said: ‘I have set it down as a statute; I have issued it as a decree. You are not permitted to transgress My decree. *This is the statute of the Torah* (Num 19:1).’”<sup>8</sup>

The story seems to contrast the gentile’s understanding of impurity to that of Rabban Yoḥanan b. Zakkai. The gentile explains corpse impurity as a sort of possession similar to the spirit of madness, and Rabban Yoḥanan b. Zakkai in response expresses an unequivocally nominalist view. Seemingly, for the rabbinic protagonist of the story, the change of an object’s legal status from impure to pure or vice-versa does not represent any real transformation; there is nothing intrinsically impure in the corpse. No spirit, no real form of impurity afflicts the impure person, and the purifying water does not effect any substantial change in the object. Rather, Rabban Yoḥanan b. Zakkai argues, while the purification process presents itself to be a causal mechanism for effectuating substantial change—be it magical or medical in nature—it is in fact a (possibly arbitrary)<sup>9</sup> legal classification of certain circumstances. This story thus seems to contrast two opposite conceptions of impurity.

8 *Pesiqta de-Rav Kahana, pisqa 4, parah adummah*, ed. Mandelbaum (New York: Jewish Theological Seminary, 1987), 74. Translation (with modifications): William G. Braude, *Pesiqta de-Rab Kahana* (Philadelphia: Jewish Publishing Society, 2002), 111. Parallels: *Pesiq. Rab.* 14; *Num. Rab.* 19:8, *Tanḥ.*, *Ḥuqqat* 8, 26, ed. Buber.

9 The use of the term גזירה, “decree,” does not imply that it is devoid of a rationale or purpose and that it is only anchored in God’s absolute binding will. It may evoke His transcendent wisdom or His authority irrespective of its underlying rationale. For a useful mapping of the different senses of *gezerat ha-katuv* see Yair Lorberbaum, “Two Concepts of *Gezerat ha-Katuv*: A Chapter in Maimonides’s Legal and Halakhic Thought, Part I,” *Diné Israel* 28 (2011): 123\*–61\*.

The gentile erroneously believes impurity to be a real substance or quality active in the world, but Rabban Yoḥanan implies that the adjective ‘impure’ merely indicates the normative implications of certain specific circumstances. Scholars found this sharp dichotomy useful for understanding much of the rabbinic project.<sup>10</sup> Ephraim Urbach emphasized the rabbinic tendency to remove expressions of magic from their conception of impurity and pollution, and to transform them into neutral legal definitions.<sup>11</sup> Not surprisingly, this story also served Yoḥanan Silman as a starting point for his influential discussion of the tension between nominalist and realist tendencies within halakhic literature.<sup>12</sup>

However, this interpretation of the *Pesiqta* story fails to take into account its literary complexity, and thus overlooks its underlying concern. In his two dialogues, Rabban Yoḥanan b. Zakkai responds to two distinct viewpoints, those of the gentile and of his disciples. According to the gentile, the process of purification from corpse impurity is comparable to exorcism applied against some demonic force. Each demon requires a unique set of practices; smoke and water for a spirit of madness, and ashes and water for spirits of impurity. The gentile’s view of impurity is reminiscent of Jesus’ exorcist traditions, associated in the Gospels with the removal of impurity. Jesus employs his powers to heal leprosy and blood discharges and drive away scores of spirits of impurity.<sup>13</sup>

10 At the same time, scholars have been careful to stress the lateness of this midrashic source, and to question the attribution to Rabban Yoḥanan b. Zakkai and its relevance for the understanding of earlier halakhic sources. See, for example, Jacob Neusner, *The Idea of Purity in Ancient Judaism* (Leiden: Brill, 1973), 105–7.

11 Ephraim E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. Israel Abrahams (Jerusalem: Magnes Press, 1975), 98–99.

12 Yoḥanan Silman, “Halakhic Determinations of a Nominalistic and Realistic Nature: Legal and Philosophical Considerations,” *Diné Israel* 12 (1984–85): 249–66 (Hebrew).

13 The demons Jesus drives away are regarded as impure spirits in the following sources: Mark 1:21–28 // Luke 4:31–37; Mark 3:20–30 (Matt 12:43–45 // Luke 11:24–26) // Mark 5:1–20 // Luke 8:26–39; Mark 6:7 // Matt 10:1; Mark 7:24–30; Mark 9:14–29 // Luke 9:37–43. Significantly, Matthew consistently omits the reference to impure spirits, and he only refers to them as demons. Taking into consideration Matthew’s Jewish audience, this omission may parallel the midrashic assumption that the term “impure spirit” is appropriate only for a gentile audience, and not for Jews who hold a more nuanced vocabulary of impurity. For a survey of references to the impure spirit and their possible ritual significance in light

At the same time, the more learned disciples of Rabban Yoḥanan, who possess a more intimate knowledge of scripture, reject the suggested identification of corpse impurity with some 'spirit of impurity.' The term 'spirit of impurity' (Zech 13:2) is never associated in rabbinic literature with the levitical sources of impurity but rather with the conjuration of demonic spirits to communicate with the dead.<sup>14</sup> Levitical impurity in no case implies possession by a demonic force.

Nonetheless, the disciples are also bewildered by the peculiar method of purification from corpse impurity, performed by sprinkling the drops of purification water. Although they do not say much, we may reasonably construct the disciples' conception of impurity from their master's expressed rejection: "The corpse does not defile, nor does the water purify." This statement is clearly not directed against the gentile to whom Rabban Yoḥanan already responded; rather it confronts the disciples' implied image of impurity as a sort of unwanted physical substance transferred and disposed mechanically through contact, similar to the way one could consider "filth" and "cleansing." This image of defilement is indeed sufficient for understanding most cases of contamination by touch and purification by wash. Nevertheless, how is one to account for purification through sprinkling, which does not achieve a thorough physical cleanse? How can such action remove the severe pollution clinging to the impure person?<sup>15</sup>

of Second Temple parallel usages see Clinton Wahlen, *Jesus and the Impurity of Spirits in the Synoptic Gospels* (Tübingen: Mohr Siebeck, 2004). On the purifying force of Jesus' exorcism, see Thomas Kazen, *Jesus and Purity Halakhah: Was Jesus Indifferent to Impurity?* Coniectanea Biblica, New Testament Series 38 (Winona Lake, Ind.: Eisenbrauns, 2010), 300–41.

- 14 Concerning Deut 18:10–12, "There shall not be found among you ... or a charmer or a medium of a necromancer or one who inquires the dead; for whoever does these things is an abomination to the Lord," *Sifre Deut.* 173 (ed. Finkelstein, p. 220) comments: "When R. Eliezer would arrive at this verse he would say, 'And what if he who clings to impurity the spirit of impurity dwells upon him, he who clings to the *Shekhinah*, clearly the holy spirit will dwell upon him.'" The midrash thus identifies the practices mentioned in the verse as means of acquiring the spirit of impurity. See also *b. Sanh.* 65b.
- 15 According to Jacob Milgrom, the many anomalies of the purification from corpse impurity are indeed rooted in their pre-Israelite exorcistic origin. The fundamental revision of the ritual by the priestly authors could not conceal its original nature. The victims were in mortal fear that evil will bring upon them lethal impurity, and they applied all possible mechanisms to drive the spirit

To solve this peculiarity Rabban Yoḥanan must refine his disciples' mechanical image of pollution and purification as immanent products of specific physical occurrences. His solution lies in the addition of divine intervention: "The corpse does not defile nor does the water purify; rather, it is a decree of the Holy One." Divine intervention in the processes of pollution and purification does not imply a non-realist approach.<sup>16</sup> Rabban Yoḥanan does not argue against the reality of purity and impurity and its appropriateness in describing the real state of affairs; he says nothing about it. His point is rather that in contrast to the automatic image assumed by the disciples, a divine decree must facilitate the process of defilement and purification. The creator of impurity determines how to dispose of it, and he ensures the purifying effect of the waters.

Although Rabban Yoḥanan's statement refers specifically to the issue of corpse impurity, it in fact points to a major feature of biblical purity language as a whole. A survey of the relevant passages reveals that the Torah never portrays a source of impurity as an active force of defilement; rather, objects exposed to it are deemed impure. In other words, the Torah refers to the changing status of those objects or people exposed to impurity, without alluding to a process of physical causality.<sup>17</sup> Likewise, an impure person or his utensils are considered pure subsequent to the purifying act, but this result is not intrinsic to the power of the purifying water.<sup>18</sup> This is evidenced by the fact that the roots טמא and טהר are never employed in their transitive *pi'el* form in such contexts, as denoting direct agency. They appear only in intransitive forms, denoting the subsequent status of the object or person as pure or impure. Thus, for example, concerning corpse impurity we read: "He who touches the corpse of any human being shall be unclean (יטמא) for seven days" (Num 19:11); "The pure person shall sprinkle it upon the unclean person on the third day and on the seventh day, thus purging (יתהקטא) him by the seventh day. He shall then wash his clothes and bathe in water, and

away, including incantations. See Jacob Milgrom, *Leviticus 1–16*, Anchor Bible (New York: Doubleday, 1991), 270–78.

- 16 Noticeably, the term decree, גזר, expands beyond the realm of law and applies to God's government of the physical world as well. See, for example, the quotation from Ephrem below, concerning Jesus' command.
- 17 For example, Lev 15:4: "Any bedding on which the one with the discharge lies shall be unclean, and every object on which he sits shall be unclean."
- 18 Lev 15:13: "He shall count off seven days for his cleansing, wash his clothes, and bathe his body in fresh water; then he shall be clean."



at nightfall he shall be pure (יטהר)" (v. 19).<sup>19</sup> Thus, the statement that "the corpse does not defile nor does the water purify" directly corresponds to the consistent verbal usage in the biblical passages concerning the spread of impurity.<sup>20</sup> The state of purity or impurity is therefore not intrinsic to any physical process. While from a narrow human perspective the spread of impurity may seem to be a direct result of physical circumstances, this is mere illusion. Rather, Rabban Yoḥanan insists, in some mysterious way these physical circumstances transform the status of people and things by virtue of God's decree. Rabban Yoḥanan stresses that the process is in no way automatic or mechanical, but it is nonetheless quite real. God set the mysterious rules of nature, not merely the laws to which humans must adhere.

Our analysis of Rabban Yoḥanan's double response to both the gentile and the disciples allows us to reconstruct the underlying concern prompting the different understandings of the nature of impurity. Thus, whereas scholars previously read this story along the realistic/non-realistic divide—the gentile's crude realistic image of impurity against the rabbinic non-realistic outlook—and subsequently sought to find traces of this approach in rabbinic laws of purity, this story seems in fact to revolve around a completely different issue. The different voices address one major question: to what degree does the label 'impure' reflect the existence of an independent force, whether demonic or natural, which threatens God's sovereignty. The gentile adopts an image of impurity as a malevolent spirit, the disciples imagine a self-sufficient system of pollution and disposal, and in response Rabban Yoḥanan emphasizes the role of divine intervention, which is directly responsible for the changes taking place.

A non-rabbinic parallel further substantiates this interpretation of the *Pesiqta* story and may suggest a possible background for the development of this theme. According to the Gospel of John (9:1–7), Jesus heals a blind person by smearing mud on his eyes and then having him wash in the pool of

19 As this verse demonstrates, an alternative verb, "to purge" (טמא), is employed for describing the active purifying force.

20 The transitive *pi'el* form is employed in two cases: when one is declared by the priest to be pure or impure (Lev 13:8, 23), or when the land, sanctuary, or people are polluted by misdeed (Lev 16:19, 30; Num 35:34). Note that in all these cases a conscious human agency is involved. See below section IV.

Siloam.<sup>21</sup> Jesus' actions raise the question as to the true cause of this healing; was it merely a medical procedure featuring the medicinal treatments of his time, a magical process, or divine intervention? In his commentary on the story, Ephrem argues the following:

It was not [the pool of] Siloam that opened [the eyes of] the blind man, just as it was not the waters of the Jordan that purified (דכיו) Naaman. It was [the Lord's] command (פוקרנא), which effected it (סער). So too, it is not the waters of our atonement (מיא דחוסיק) that purify (מרכי) us. Rather, it is the names pronounced over it, which give us atonement.<sup>22</sup>

The resemblance between Ephrem's claim that "It was not the waters of the Jordan that purified Naaman, it was [the Lord's] command, which effected it" and Rabban Yoḥanan's statement, "Nor does the water purify. It is a decree of the Holy One," is unmistakable. At the same time, one cannot mistake Ephrem's core argument. Jesus (as well as Elisha) did not employ any sort of medical skill, but exhibited his authority as Son of the Creator of life.<sup>23</sup> The healing was quite real, but the process was a divine miracle.<sup>24</sup> Following his discussion of these cases of healing and purification, Ephrem proceeds to examine the nature of baptism, the ultimate purification.<sup>25</sup> Purification in baptismal waters, he argues, does not take effect through a mere physical act but depends upon the evocation of God's names over the waters. Ephrem's argument thus further highlights the conceptual movement which underlies the *Pesiqta* story. He first attributes any healing from impurities to God's direct intervention, dismissing the significance of the physical act of purification. He further claims that baptism takes its mysterious effect upon Christian converts, as the standard means of purification, only through God's direct

21 In contrast, according to the Synoptic Gospels Jesus heals the blind people with his words alone or by mere touch (Mark 10:46–52; Matt 20:29–34; Luke 18:35–43).

22 Ephrem, *CDia XVI*, 29. See Carmel McCarthy, *Saint Ephrem's Commentary on Tatian's Diatessaron*, JSS Supplement 2 (Oxford: Oxford University on behalf of the University of Manchester, 1993), 259.

23 *CDia XVI*, 31.

24 John 9:33: "If he were not from God, he could do nothing."

25 Church fathers frequently associate Naaman's purification in the Jordan with the mystery of baptism. See Everett Ferguson, *Baptism in the Early Church: History, Theology and Liturgy in the First Five Centuries* (Grand Rapids, MI: Eerdmans, 2009).

command. Both elements appear in the *Pesiqta* story,<sup>26</sup> and both sources contrast purification under God's auspices against medical or magical processes.

Returning to the *Pesiqta*, God's exclusive control over the spread of impurity stands at the heart of the *Pesiqta* homily as a whole, to which Rabban Yoḥanan's statement serves as a literary closure. Much of the homily is concerned with the biblical definition of the red heifer ritual as a חוקה, a statute beyond human understanding. The opening section offers an array of paradoxes regarding the reality of purity, last of which concerns the red heifer itself:

”מי יתן טהור מטמא לא אחר” (איוב יד:ד)

כגון אברהם מתרח, חזקיה מאחז, ומרדכי משמעיה, ישראל מאומות, העולם הבא מהעולם הזה.

מה עשה כן, מי ציווה כן, מי גזר כן, לא יחידו של עולם?

[...]

המת בבית טהור יצא מתוכו הרי הוא טמא

מי עשה כן? מי צוה כן? מי גזר כן? לא אחר? לא יחידו של עולם?

ותנינן תמן כל העסוקין בפרה מתחילה ועד סוף מטמאים בבגדים, היא עצמה מטהרת טמאים.

אלא אמר הקב”ה חוקה חקקתי וגזירה גזרתי ואין את רשעי לעבור על גזירתי.

”זאת חוקת התורה אשר צוה ה' לאמר”

*Who can bring forth a clean thing out of an unclean thing? Is it not the One? (Job 14:4).*

He who brought forth Abraham out of Terah, Hezekiah out of Ahaz, Mordechai out of Shimei, Israel out of the nations, the world to come out of this world.

Who prescribed such things? Who ordained them? Who decreed them?

Is it not the One? Is it not the Unique One of the world?

26 The affinity between the two texts may illuminate further points in the *Pesiqta*. Ephrem refers to “waters of atonement,” which is reminiscent of the rabbinic terminology for the “waters of purification” prepared from the red heifer, מי חטאת. In addition, the *Pesiqta* adds at the end of the purification process, “And he is told, ‘You are pure!’” possibly as an incantation. This speech act is not part of the halakhic purification process, but may be understood as a necessary element in light of the parallel evocation of God's name in the baptism.

[...]

(Another example): As long as the dead (embryo) is in the house (i.e., the womb), the house is clean, but as soon as the dead comes out of the house it is unclean.

Who prescribed such things? Who ordained them? Who decreed them?

Is it not the One? Is it not the Unique One of the world?

And in another Mishnah we learn: "All that have the care of a red heifer makes their garments ritually unclean, but the red heifer itself makes clean the unclean" (*m. Parah* 4:4). There is but one explanation. The Holy One says: Whatever statute I set down or whatever decree I issue, you are not permitted to disobey my bidding. *This is the statute of the Torah which the Lord hath commanded.* (Num 19:2)<sup>27</sup>

Impurity has a paradoxical nature. It occasionally generates its opposite and results in purity. This is the case not only in halakhic matters, such as the red heifer,<sup>28</sup> but it has also been reflected in the course of history (e.g., Terah begat Abraham) and sets the ground for the mysterious unfolding of the world to come. Such is the nature of the divine decree.<sup>29</sup> Consequently, one is also compelled to obey and practice the divine statutes cast in this pattern. Their puzzling nature mirrors the mysteries of divine wisdom and rule.<sup>30</sup> Thus,

27 *Pesikta de-Rav Kahana, Parah* (ed. Mandelbaum, 54–55); translation from Braude, 80–81.

28 Scholars have suggested various ways to solve this crux, most prominent of which is Jacob Milgrom, "The Paradox of the Red Cow (Num. 19)," *VT* 31 (1981): 62–72. See also Albert I. Baumgarten, "The Paradox of the Red Heifer," *VT* 43 (1993): 442–51.

29 To follow Lorberbaum's taxonomy ("Two Concepts of *Gezerat ha-Katuv*," 128\*), this is an example of the "hidden wisdom" version of the theological sense of *gezerat ha-katuv*. All His actions are done for the sake of a purpose—and they conform to the nature of things—but they are beyond the apprehension of humans. Therefore, they require absolute obedience.

30 A parallel notion is the Qumran concept of *raz nihyeh*, "the mystery of becoming." This term refers to God's mysterious plan for creation and history, whose knowledge is indispensable for understanding the divine laws emanating from it. See Torleif Elgvin, "Wisdom and Apocalypticism in the Early Second Century BCE: The Evidence of 4QInstruction," in *The Dead Sea Scrolls Fifty Years After their Discovery, Proceedings of the Jerusalem Congress July 1997*, ed. Lawrence H.

following the opening homily comes a long series of interpretations on the verse “Who is like the wise? Who knows the explanation of things?” (Eccl 8:1). These address the limits of human understanding and the role of Torah in the revelation of divine mysteries and law (sections 3–8).<sup>31</sup> Finally, as a conclusion, the homilist introduces the story involving Rabban Yoḥanan b. Zakkai, concluding with the same warning against transgressing the divine statute. Seen from within this larger context, all the specific difficulties in the laws of the red heifer, its paradoxes and its puzzling procedures, condemned heavily by the *yeṣer ha-ra*,<sup>32</sup> are resolved as part of the divine plan of creation and history, which is mysterious and accessible only to a select few Torah scholars.

As the midrash stresses, that which seems impossible in human eyes is possible for God, who produces pure from impure.<sup>33</sup> Thus, the fact that many details of purity laws are difficult to comprehend should not lead to a non-realist understanding of impurity. Just because purity/impurity does not conform to an ordering of reality that is comprehensible to humans does not mean that it is not ordered by God, and that the laws of the Torah are imposed upon reality for external considerations. As made quite clear in the homily, the distinction between creator and lawgiver collapses and the laws of purity reveal His divine control over the order of things, which in human eyes must remain a mystery. Contrary to the standard interpretation, Rabban Yoḥanan’s solution does not evoke nominalism. The *Pesiqta* as a whole presents purity laws as an adequate, although not necessarily comprehensible, description of the divine order of things.

Schiffman, Emanuel Tov, and James C. VanderKam (Jerusalem: Israel Exploration Society, 2000), 226–47.

- 31 For other examples of assimilation of wisdom themes in rabbinic literature see Yair Furstenberg, “The Rabbinic Ban on *Ma’aseh Bereshit*: Sources, Contexts and Concerns,” in *Jewish and Christian Cosmogony in Late Antiquity*, ed. Lance Jenott and Sarit Kattan Gribetz (Tübingen: Mohr Siebeck, 2013), 39–63.
- 32 Section 6 (ed. Mandelbaum, 71; ed. Braude, 105–6). R. Joshua of Sikhnin lists the statutes refuted by *yeṣer ha-ra*. Interestingly, this list is basically equivalent to the list in *Mekhilta de-Arayot (Sifra, Aḥarei Mot, 11:10)*, except for the red heifer, which does not appear in the earlier source.
- 33 The possible Christian background of the homily, alluded to above with respect to Ephrem, may also reflect the homily’s occupation with the mystery of purity, which is closely associated with the mystery of baptism in the early Church.

According to the *Pesiqta*, the rabbinic conception of impurity is distinct from other positions not in the denial of the reality of impurity but in its rejection of impurity's independent status. As presented here, this issue has no direct halakhic implications, and is only a matter of interpretation. However, this perspective can further shed light on the differences between competing developments of the biblical purity system in movements of Second Temple Judaism. The different conceptions of impurity in the *Pesiqta* represent different levels of autonomy, and this issue, I claim, is an essential component of Second Temple purity disputes.

### III. Are Rabbinic Purity Laws Non-Realist?

In search of non-realist elements in rabbinic purity laws, under the influence of the standard interpretation of the *Pesiqta* story, scholars have suggested three principles of any nature-based system, which seem to stand in contrast to rabbinic purity rulings. According to Daniel Schwartz, incoherence is a sign of intervention of subjective determinations or at least the employment of additional considerations and objectives, foreign to the natural order.<sup>34</sup> In addition, a realist legal system is also prone to correspond to some degree to other, non-legal dimensions of the human experience of world order.<sup>35</sup> This is what Christine Hayes refers to as "epistemological certainty."<sup>36</sup> In comparison to other systems, rabbinic purity laws do not easily fit into the

34 Daniel R. Schwartz, "Law and Truth: On Qumran-Sadducean and Rabbinic Views of Law," in *The Dead Sea Scrolls: Forty Years of Research*, STDJ 10, ed. Devorah Dimant and Uriel Rappaport (Leiden: Brill, 1992), 229–40. Obviously, non-realist systems may also be coherent. See below.

35 Yair Lorberbaum, "Halakhic Realism," section 6, distinguished between inner-halakhic and outer-halakhic realism. Both options view the halakhic activity as actually reflecting a real occurrence, but only in the latter the halakhic actions find expression in other, non-legal dimensions.

36 Christine Hayes, "Legal Realism and the Fashioning of Sectarians in Jewish Antiquity," in *Sects and Sectarianism in Jewish History*, ed. Sacha Stern (Leiden: Brill, 2011), 119–46. By softening our perspective from "epistemological certainty" to "correlation" with the experience of world order, I wish to avoid Lorberbaum's justified critique. As he demonstrates, precisely those who require epistemic certainty, such as Maimonides, would prefer a nominalistic view of the law, so as not to be deceived by falsified imaginations concerning the way things work. At the same time, bracketing the requirement for certainty, it is nonetheless clear that a legal system incommensurable with other principles of world order

non-legal experience of reality. Third, Vered Noam stresses that nature-based systems are independent of human subjectivity.<sup>37</sup> According to rabbinic purity laws, however, people not only manipulate impurity, but they control its very existence. These scholars contend that rabbinic purity laws do not comply with such principles and therefore reflect a non-realist tendency. In contrast, I suggest understanding the distinctive characteristics of rabbinic purity as a response to the strengthened status of impurity within the natural order, according to the prevailing worldview.

### Impurity and Human Subjectivity

In her recent attempt to characterize rabbinic purity laws along the realist/non-realist divide, Vered Noam offered a systematic analysis of corpse impurity laws. Noam claims that the rabbis conceived of the dissemination of corpse impurity in hyperrealist terms, as a real substance traveling through space, much more than implied by scripture and in contrast to Qumran interpretation. Consequently, the rabbis transformed the narrow biblical notion of tent impurity into a coherent system of “natural laws of impurity,” as Noam formulates it. This approach views impurity as a natural entity following quasi-physical principles.<sup>38</sup> Thus, the main thrust of rabbinic activity in this field of purity laws was to flesh out systematically the implications of such a natural phenomenon.

At the same time, Noam identifies one strand of non-realism in these laws, which is diametrically opposed to the very physical image of impurity previously described. Some laws attribute an active role to human consciousness, and they supposedly reflect a nominalist conception of corpse impurity. As Noam demonstrates, human decision and planning have a decisive role in determining how and where contamination spreads. The minimal size required for impurity to pass through an opening in the wall depends not only on objective physical considerations but also on human use and intention. Similarly, impurity extends toward the entrance through which one plans to

is non-realist. A realist tendency would thus attempt to adjust the various dimensions.

37 Vered Noam, “Ritual Impurity in Tannaitic Literature: Two Opposing Perspectives,” *JAJ* 1 (2010): 65–103; eadem, *From Qumran to the Rabbinic Revolution: Conceptions of Impurity* (Jerusalem: Yad Ben Zvi, 2010) (Hebrew).

38 Noam, “Ritual Impurity,” 74.

carry the corpse out.<sup>39</sup> In all these cases, the movement of impurity depends on human subjective consciousness and not on rigid physical laws. Thus, Noam concludes that tannaitic halakhah fuses two contradictory positions on impurity, which is at the same time “natural” and nominalist.

Noam contends, then, that while a physical description of the forces of impurity confirms a realist approach, the submission of these forces to human intentionality discloses their fictitiousness, as legal constructs, determined by subjective determinations. However, her assumption that the role of human intention is comprehensible only within a non-realist framework is quite questionable.<sup>40</sup> In fact, one may easily comprehend the possibility that thoughts might have a real influence upon impurity, and this consideration is completely consistent with a realistic image of impurity. After all, if we assume that impurity is a real, active force, albeit not always physically palpable, and that other surrounding forces influence it, it is quite reasonable to include among these forces any form of human agency. Thoughts and decisions operate in the world as much as actions do, surely according to the pre-Cartesian worldview of the ancients,<sup>41</sup> and there is no obvious reason to distinguish the two with regard to their impact upon the spread of impurity as a real entity. One can easily imagine real pollution subjected to human control and intention, and it is not necessarily a sign of fictitiousness.<sup>42</sup>

It is only within Noam’s own scientific image of the physical laws of impurity that human intention and subjectivity are incommensurable with a nature-based system. Throughout her work she refers to the realist notion of

39 Ibid., 86–89.

40 Rashi (*b. Erub.* 86a) expresses his astonishment at these laws: “And [this law] is without reason; rather the laws of impurity are thus taught.” This statement echoes a supposedly nominalistic view of these laws, which are conceived here as arbitrary decrees.

41 Dale B. Martin, *The Corinthian Body* (New Haven: Yale University Press, 1995), 6–11. Of special significance is his quote from Galen concerning Stoic doctrine: “The breathing substance is what sustains, and the material substance is what is sustained. And so they say that air and fire sustain, while earth and water are sustained.”

42 To take one familiar example, mentioned by Lorberbaum (“Halakhic Realism,” section 9): whereas the non-realist Maimonides famously rejects the influence of intentions beyond the boundaries of the human subject, such “realism of intentions” as Lorberbaum calls it, occupies a major role in kabbalistic literature.



impurity in quasi-scientific physical terms, and she speaks of “natural laws of impurity” comparable to the laws of gravity or thermodynamics. According to Noam, such a scientific frame of thought is required for establishing the purity system upon objective, concrete, and steady elements while eliminating any mysterious, intangible, and subjective factors, including human thoughts and intentions. Any expression of human subjectivity would undermine the underlying purpose of the rabbinic project: “The tannaitic sources paint a picture of an inorganic, disinterested impurity that functions by virtue of mechanical-physical ‘laws of nature.’ This impurity is free of any trace of threat or malice, just as these are absent from the laws of gravity, for example ... In the case in point, it is actually the manifestations of impurity, which define it as a force of nature subject to fixed laws that are the most sophisticated means of cleansing it of all threat or mystery.”<sup>43</sup>

Significantly, these two realistic notions of impurity, demonic on the one hand and mechanical-physical on the other, are roughly equivalent to the two approaches adopted by Rabban Yoḥanan’s interlocutors in the *Pesiqta*. The gentile holds a demonic view of impurity as some independent spirit possessing the person. This is the view the rabbis sought to eliminate, according to Noam. In contrast, the disciples in all probability hold to a mechanistic view of contamination, as a product of specific physical occurrences: “The corpse defiles and the water purifies.” The homilist however rejects both conceptions of impurity, since they present impurity as self-sufficient, and he subsequently subjects impurity directly to God’s decree. According to the *Pesiqta*, only such a conception explains the peculiarities and paradoxes of biblical purity laws. In the same vein, the mechanical image of impurity suggested by Noam fails to explain the peculiarities of the rabbinic system of contamination, which presumes human awareness and intention. Despite the attempt to marginalize the role of human subjectivity, the tension between this element and the mechanical-physical nature of impurity is left unresolved in Noam’s account of rabbinic impurity.

Alternatively, following Rabban Yoḥanan b. Zakkai, I suggest discarding the narrow mechanical image of impurity, including its modern scientific formulation, and instead describing impurity as a controllable element, defined through human action. Although it diverges from the *Pesiqta*’s conclusion, as we shall further see, this proposed image concurs with its core theological concern. The following sources uncover the rabbinic effort

43 Noam, “Ritual Impurity,” 102–3.

to deprive impurity of any shade of autonomy and to discard its role as a constituent element of world order.

### Impurity in *m. Yadayim* 4:6–7: Between the Sadducees and Pharisees

The last section of *m. Yadayim* (4:6–8) records an array of complaints against Pharisaic halakhah. Of the four complaints, the first two concern purity matters.<sup>44</sup> The Sadducean arguments, according to Daniel Schwartz<sup>45</sup> and Christine Hayes,<sup>46</sup> substantiate the non-realistic nature of Pharisaic purity laws from two complementary perspectives: these laws are incoherent (Schwartz) and not liable to “empirical validation” (Hayes). In other words, the Pharisaic laws mentioned in this unit are incongruent with human experience of the world order, and this supposedly reflects a non-realist conception of impurity.

דן, וְאִמְרִין צְדוּקִין קוֹבְלִין אֲנֹה עֲלֵיכֶם פְּרוּשִׁין שְׂאתֶם אֹמְרִין כְּתָבִי הַקּוֹדֵשׁ מִטְּמֵאִין  
 אֶת הַיָּדִים וּסְפָרֵי הַמְּרִיס אֵינָן מִטְּמֵאִין אֶת הַיָּדִים.  
 אָמַר רַבֵּן יוֹחָנָן בֶּן זְכַאִי וְכִי אֵין לָנוּ עַל הַפְּרוּשִׁים אֵלָא זֶה בְּלִבְדּוֹ וְהָיָה הֵן אֹמְרִין  
 עֲצֻמוֹת חֲמוּר טְהוּרִין וְעֲצֻמוֹת יוֹחָנָן כֶּהֵן גְּדוּל טְמֵאִים.  
 אָמְרוּ לוֹ לְפִי חִיבְתָן הִיא טוֹמְאָתָן שְׁלֵא יַעֲשֶׂה אָדָם עֲצֻמוֹת אֲבִיו וְאִמּוֹ תְּרוּדוֹת.  
 אָמַ' לְהֵן אֵף כְּתָבִי הַקֹּדֵשׁ לְפִי חִיבְתָן הִיא טוֹמְאָתָן וּסְפָרֵי הַמְּרִיס שְׂאִינָן חֲבִיבִין אֵינָן  
 מִטְּמֵאִין אֶת הַיָּדִים.

44 This unit receives full treatment in my article, Yair Furstenberg, “‘We Cry Against you, Pharisees’: Fashioning Pharisaic World-View in the Mishnah,” in *Halakhah: Explicit and Implied Theoretical and Ideological Aspects*, ed. A. Rosenak and D. Schreiber (Jerusalem: Magnes and Van Leer, 2012), 283–310. In this article, I claim that the second pair of disputes that do not deal with purity are nonetheless shaped by the same purity discourse. In other words, purity is constitutive to the shaping of the overall halakhic ideology.

45 Schwartz, “Law and Truth.” Following the response of Jeffrey Rubenstein, “Nominalism and Realism in Qumranic and Rabbinic Law: A Reassessment,” *DSD* 6 (1999): 157–83 and the great interest it incited, Schwartz has re-addressed the issue in much detail in the second chapter of his book, “Priestly Judaism vs. Rabbinic Judaism,” in *Judeans and Jews: Four Faces of Dichotomy in Ancient Jewish History* (Toronto: University of Toronto Press, 2014). Specifically concerning purity, Schwartz has identified a nominalistic tendency also in Paul; see his “Someone who Considers Something to be Impure, for Him it is Impure (Rom. 14:14)—Good Manners or Law?” in *Paul’s Jewish Matrix*, ed. Thomas G. Casey and Justin Taylor (Rome: Gregorian and Biblical Press, 2011), 293–311.

46 Hayes, “Legal Realism.”

ד, ז, אומרים צדוקין קובלין אנו עליכם פרושים שאתם מטהרים את הנצוק  
אומרים פרושין: קובלין אנו עליכם צדוקין, שאתם מטהרין את אמת המים הבאה  
בין הקברות

[4:6] The Sadducees say: “We complain against you, Pharisees, for you say: ‘Books of Scripture render the hands impure, and books of Homer do not render the hands impure.’”

R. Yoḥanan b. Zakkai said: “Do we only have this against the Pharisees? Lo, they say: ‘The bones of a donkey are pure, and the bones of Yoḥanan the High Priest are impure!’”

They said to him: “According to their preciousness is their impurity, so one will not make the bones of his father and his mother into spoons.” He said to them: “Similarly, books of Scripture—according to their preciousness is their impurity, and books of Homer, which are not precious, do not render the hands impure.”

[4:7] The Sadducees say: “We complain against you, Pharisees, for you declare a liquid stream pure.”

The Pharisees say: “We complain against you, Sadducees, for you declare the stream of water that comes from a cemetery pure.”

According to Schwartz and Hayes, in both cases the Sadducees target their criticism against the Pharisees’ disregard for the natural order. First, the Pharisees consider Holy Scripture to be defiling, whereas profane books, such as the writings of Homer, do not defile the hands. In addition, human bones, even those of the High Priest, are impure, whereas bones of a donkey, an impure animal, are deemed pure.<sup>47</sup> In both cases, the Sadducees claim, the Pharisees attribute impurity to objects that are closer to the realm of holiness, and should therefore *a fortiori* consider the donkey and books of Homer to be impure too. In its attempt to defend the seemingly inconsistent Pharisees, the mishnah patently ignores the supposedly natural quality of impurity, as

47 The impurity of animal bones is mentioned in the *Temple Scroll* 51:4–5: “And whoever carries of their bones and of their carcass hide, flesh, or nail, shall wash his garments and bathe in water.” The Pharisees, in contrast, separate the impure flesh from all other parts of the carcass, which remain pure (*m. Hul.* 9:1; *m. Ṭehar.* 1:4). This issue then adds to the systematic controversy between the Pharisees and Sadducees regarding the restriction of impurity only to the major parts (see section IV below).

inherently attached to profane substances.<sup>48</sup> Instead, it chooses to explain their inverted system through external, ethical considerations: “According to their preciousness is their impurity, so one will not make the bones of his father and his mother into spoons.” Concerning the impurity of Holy Scripture, the Tosefta adds, “So one will not make the Scriptures rugs for the beasts.”<sup>49</sup> It is questionable whether these are the original explanations of the Pharisaic rulings.<sup>50</sup> However, the mishnah and tosefta in their interpretations deliberately embrace a paradoxical approach to impurity, “according to their preciousness is their impurity.” Impurity, deprived of any real quality, has become a mere legal device for ensuring a higher ethical standard.

The following mishnah, concerning the division of the liquid stream into pure and impure sections, adds another aspect to the Pharisaic disregard for the real quality of impurity. The opposite Sadducean position with respect to a stream of water being poured into a lower vessel is formulated in the sectarian letter 4QMMT: *ואף המוצקות אינם מבדילות בין הטמא לטהור כי לחת המוצקות* ותחתיה, *והמקבל מהמה כהם לחת אחת* pure; for the liquid of the stream and that of the vessel which receives them

48 Schwartz, “Law and Truth,” 232, assumes that a realist would hold that animal bones are impure because bones in general are impure. In response, Rubenstein, “Nominalism and Realism,” 168, questions whether animal bones are ontologically identical to human bones. This back and forth raises the obvious question, what are the relevant facts for determining the nature of bones? In fact, both scholars seem to miss the issue at hand concerning the availability of any such determining measure. The Sadducees have a system, and they derive the ontological status of the bone from the sanctity level of that body. In contrast, the Pharisees have no apparent system for determining the ontological status of the bones, and their ruling is irrespective of any quality of the bones, including its level of holiness.

49 *T. Yad.* 2:17 (ed. Zuckerman, p. 684).

50 Despite the many explanations offered, the issue of the defilement of Scripture has not yet been satisfactorily resolved. Some follow the talmudic approach and view it as a mere sanction. See Chaim Milikowsky, “Reflections on Hand-Washing, Hand Purity and Holy Scripture in Rabbinic Literature,” in *Purity and Holiness: The Heritage of Leviticus*, ed. Marcel J. H. M. Poorthuis and Joshua Schwartz (Leiden: Brill, 2000), 161–62. Others suggest it was a remnant of the biblical conception of sancta contagion. See Shamma Friedman, “The Holy Scriptures Defile the Hands: The Transformation of a Biblical Concept in Rabbinic Theology,” in *Minha le-Nahum*, ed. Mark Brettler and Michael Fishbane, JSOTSup 154 (Sheffield: JSOT Press, 1993), 117–32.

are alike being a single liquid" (B 55–58).<sup>51</sup> According to Hayes, 4QMMT is appealing here to the observer's experience of the stream as a single liquid.<sup>52</sup> The Pharisees, however, ignore this observation and impose on the circumstances a legal definition of disconnection between the water being poured and the water already within the receiving vessel.<sup>53</sup>

Both Schwartz and Hayes contrast the seemingly straightforward experience of reality in the Sadducean rulings with the overt presence of legal categories in rabbinic halakhah and understand it to embody a realist/non-realist opposition. However, when examined more carefully, both the specific interpretations of the disputes and the general conclusions regarding the nature of the difference between the two systems are debatable. No doubt, within a polemical context any attempt to refute a competing system will aim to uncover internal incoherencies and to argue for its incompatibility with human experience. As such, the anti-Pharisaic arguments in *m. Yadayim* indeed seek to weaken the reality of the Pharisaic system of purity in an attempt to undercut its validity. At the same time, it would be a mistake to conclude from this mishnaic unit that the core issue under dispute is the reality of impurity.<sup>54</sup> An integrated examination of the two disputes points towards another direction.<sup>55</sup>

51 Elisha Qimron and John Strugnell, *Qumran Cave 4, V: Miqṣat Ma'ase Ha-Torah*, DJD 10 (Oxford: Clarendon, 1994), 52. For discussion, see pp. 161–62.

52 Hayes, "Legal Realism," 130.

53 According to Hayes, the Pharisees are concerned mainly with *minima* and legal definitions. Consequently, she is required to add that the flowing stream is temporary and cannot unite within one definition (131). If we think of water systems as in Roman cities and not only of pouring into a cup, we may question this line of explanation.

54 The fact is that the Pharisees attack back (an observation that is disregarded by Hayes) and point out the inconsistency of the Sadducees, who purify the stream running from the cemetery while defiling the *niṣok*. This ruling contradicts outright the previous assumption that the stream is defiled as one unit, and therefore the two laws cannot fit into any real system. However, one would not claim that the Sadducees' laws are non-realist due to their points of incoherence. These are clearly two different issues.

55 On the conceptual level, a legal realist can plainly claim that the mechanism of purity is real and has actual implications despite the fact that these are not identical to other aspects of human experience. This is what Lorberbaum terms "inner halakhic realism."

The actual issue unifying both complaints against Pharisaic purity laws may be determined by the mishnah's literary framework. The Sadducees blame the Pharisees for diverging from the pair principles of divine order: to "distinguish (להבדיל) between holy and unholy and between impure and pure" (Lev 10:10).<sup>56</sup> The Pharisees are first accused of overturning the proper hierarchy of holiness and then for eliminating the required boundaries between pure and impure.<sup>57</sup>

Concerning the first dispute, Schwartz assumes that if human bones are impure, it is only natural that other kinds of bones are impure as well. However, this ignores the structure of the Sadducean argument. They do not establish their claim on the ontological quality of bones, as a substance supposedly conveying impurity, but rather on a conception of reality as embodying a divine system of hierarchy. The distinction between different levels of holiness is innate to the order of creation; therefore, holier things must inherently be less prone to impurity. The Sadducees propose an ontological reading, so to speak, of the biblical command to "distinguish the holy from the profane." Thus, the possibility that a holy object would generate impurity to a higher degree than a parallel profane object stands in contrast to the very essence of the created holiness system. The inherent status of scriptural documents is severely upset if it defiles more than the Homeric writings.

An additional condition for setting an ontological hierarchy is the demarcation of clear distinctions between objects on different levels, as we learn from the second argument against the Pharisees, regarding the purity of the unbroken stream. Contrary to Hayes' reading, the claim in 4QMMT, "neither can liquid streams separate impure from pure," is not empirical, and it adds no data concerning the actual nature of the occurrence. It rather points to the biblical proof text: "Distinguish ... between impure and pure." In Sadducean eyes, a stream does not properly separate the pure from the impure since it is one unit: לחה אחת מהמה כהם לחה אחת, "they are alike being a single liquid." One may reasonably imagine impurity as traveling

56 The root ל.ד.ל in the *hiphil* form denotes both distinction and separation. Although in this case the verse clearly orders the priests to distinguish between the two opposites, the sectarian writer understands this to be put into practice through active separation, by setting aside the holy and the pure. More on the Qumran usage of this verb below.

57 This is also the core of Jesus' argument against the laws of the Pharisees in Matthew 23. See Furstenberg, "We Cry Against you, Pharisees," 301–5.

only in the direction of the stream. This may indeed explain the Pharisaic ruling<sup>58</sup> but would not appease the Sadducees. After all, even if impurity cannot move upward the Sadducees would view the stream as a whole to be defiled, since “it is a single liquid” and was not separated from impurity.

In other words, more than alluding to the physical nature of impurity, the argument in 4QMMT discloses the role of impurity within the order of things. According to this system, discrete objects gain their status according to their position within the divine order of purity and holiness. The Sadducees define and classify *discrete objects* into a systematic and hierarchical order of things. Thus, for the Sadducees, one stream of water is one stream of water—it is a discrete object, and so all its qualities, including its purity or impurity, must belong to it as a discrete object. The Pharisees, on the other hand, do not classify objects with the same categories, and they therefore think that the same object can resist categorization: one object can be both pure or impure. In Sadducean eyes, the Pharisaic willingness to break the liquid flow into two parts and isolate impurity to its lower part violates the very basic organizing principle of the purity system. What is the purpose of the distinction, if it does not serve to classify and create order? Only separation and classification can bring the divine order into full realization. The Pharisees, on their side, reject this system of classification; after all, even holy things (including Torah scrolls) may convey impurity, and objects may be both pure and impure, depending on their level of contact with the disturbing event. The label “impure” cannot serve to define objects in the world but rather events involving unwarranted contact with the human sphere. In the following section, we will further flesh out the underlying worldviews of both halakhic systems and the relationship between impurity and humanity each of them constructs.

58 Rubenstein, “Nominalism and Realism,” 170–71, explains the Pharisaic ruling in these physical terms. This physical image quite clearly governs the discussion of *nišok* in *m. Makš. 6:8*. Two very physical considerations are employed to determine whether the two parts of the stream are to be considered as one: the viscosity of the liquid and its temperature. Viscous, elastic, or hot substances run upwards, as the mishnah makes explicit: “Since it shrinks backwards.”

#### IV. Impurity and the Order of Things

The Sadducees in *m. Yadayim* transformed the biblical instruction to distinguish the pure from the impure and the holy from the profane into a constitutive principle of order. In their view, to be impure is incompatible with being holy, and therefore the major concern of the proponents of this dichotomous system is to delineate the sphere of impurity through the science of classification. Every object is ascribed to a defined zone which determines its ontological status and its value. Obviously, nothing can belong to both poles at once. Notably, Qumran literature testifies to similar features and tendencies, which correspond to the Sadducean conception of impurity, as represented in the mishnah. Despite their internal variations,<sup>59</sup> all such sources share the view of impurity as controlling the value of things, and it is this power which the Pharisees seem to have actively opposed.

At Qumran, purity is regularly associated with separation, while mixture is synonymous with impurity. Separation is obviously a core concern of the Yahad's way of life.<sup>60</sup> Nonetheless, this association surfaces also in non-sectarian contexts. Thus, for example, the Temple Scroll referred to corpse impurity as "corpse mixture" (תערובת המת),<sup>61</sup> and MMT expels from the temple blind people "who cannot see to be admonished of all mixtures,"<sup>62</sup> i.e., impurities. MMT further broadens the notion of defiling mixtures to cases of intermarriage, including among Jews. Following the model of prohibited mixtures of animals and clothes, MMT warns against defilement of the priestly seed through mixture. "Because they are holy and the sons of Aaron are the holiest of holy and you know that some of the priests and the

59 Qumran literature includes quite distinct conceptions of impurity. Despite the shared halakhic foundation, their images of impurity and its association with spirits of Belial vary. See, for example, Ian Werrett, "The Evolution of Purity in Qumran," in *Purity and the Forming of Religious Traditions in the Ancient Mediterranean World and Ancient Judaism*, ed. Christian Frevel and Christophe Nihan (Leiden: Brill, 2013), 493–518.

60 CD 6.14–7.4: "Separate from the sons of the pit ... and to separate between the impure and the pure ... and to let him separate himself from all impurities and let no man defile his holy spirit as God separated for them."

61 11QT 50.2. For further discussion of the verb *ערב* see Elisha Qimron, "No One May Mix Willingly during the Sabbath (CD 11:4)," *Proceedings of the Ninth World Congress of Jewish Studies*, vol. 4.1 (1985): 9–15.

62 4QMMT B 49–50.



people are intermixing and are remaining in the midst of one another and defiling the holy seed."<sup>63</sup> Qumran terminology spells out the fundamental purpose of the purity system in creating a hierarchy of holiness through the laws of separation.

However, in the same Qumran corpus we learn that impurity is not merely "matter out of place."<sup>64</sup> The priestly concern for hierarchy and classification converges in the Qumran corpus with the fear of being controlled by impure powers.<sup>65</sup> Sources contemporary to the Qumran documents speak of impure demons spreading agony and diseases, taking control over human judgment, and deceiving them into corrupt ways.<sup>66</sup> At the same time, Qumran writers are not content with a chaotic image of these demonic threats, and they integrate these demons within a well-organized system governed by two dominating forces. Thus in the War Scroll the spirits of impurity are brought under the control of Belial: "And cursed is Belial for his contentious purpose, and accursed for his reprehensible rule. And cursed are all the spirits of his lot (רוחי גורלו) for their wicked purpose. Accursed are they for all their filthy impure service (עבודת נדת טמאתם). For they are the lot of darkness, but the lot of God is light."<sup>67</sup> This is a clear portrayal of Belial's rule over impurity up against the dominion of God. Although these dominating spirits and forces have a variety of attributes, impurity being only one of them, they

63 4QMMT B 79–81.

64 Mary Douglas, *Purity and Danger: An Analysis of the Concepts of Pollution and Taboo* (London: Routledge, 2002), 36.

65 For a comprehensive and useful survey of sources regarding Second Temple demonology see Esther Eshel, "Demonology in Palestine during the Second Temple Period" (PhD diss., Hebrew University, 1999) (Hebrew). See also Wahlen, *Jesus and the Impurity of Spirits*, 24–68.

66 For example, "Impure demons began to mislead Noah's children, to make them act foolishly and to destroy them" (*Jub.* 10:1; the "Book of Noah" adds the diseases they spread). See also *Jub.* 12:20: "Deliver me from the hands of evil spirits who have dominion over the thoughts of men's heart, and let them not lead me astray from you, my God"; *Testament of Dan* 1:5–8: "And one of the spirits of Beliar was at work within me and saying, 'take the sword and with it kill Joseph.'" Good deeds assist in overcoming these spirits. *Testament of Benjamin* 3:3: "Fear the Lord and love your neighbor. Even if the spirits of Beliar seek to derange you with all sorts of wicked oppression, they will not dominate you."

67 *War Scroll* (1QM) 13:4–5.

are embodiments of primeval, impure actions and they are responsible for spreading impurity, both physical and moral.<sup>68</sup>

This dualist structure, and the image of impurity as taking over humanity both physically and morally, is most conspicuous in the doctrine of the two spirits in the Rule of the Community.<sup>69</sup> The Angel of Darkness rules over all demons and from him “stems the corruption of all the sons of justice, and all their sins ... under his dominion ... And all their afflictions and their periods of grief are caused by the dominion of his enmity” (3:22–23). The Angel of Darkness is responsible for both sins and afflictions. Thus, he occasionally targets even those who belong to the sons of light: “And all the spirits of his lot cause the sons of light to fall” (3:24). Humanity is subject to impurity, and only the grace of the Lord releases the elect from its control.

Apotropaic prayers include a request for liberation from the forces of evil, among which is the impure spirit, such as the following: “Forgive my sin God, and cleanse me from my iniquity. Bestow on me a spirit of faith and knowledge. Let me not stumble in transgression. Let not Satan rule over me, nor an impure spirit. Let neither pain nor *yešer ra* take possession of my bones.”<sup>70</sup> The impure spirit causes pain and *yešer ra*.<sup>71</sup> A similar image appears

68 According to one prominent myth, all demons were born of the impure relations of the Watchers with the daughters of man. *1 En.* 15:3–8: “You slept with women and defiled yourself, and with the daughters of the people, taking them as wives, acting like the children of the earth and begetting giant sons ... but now the giants who are born from the spirits and the flesh shall be called evil spirits upon the earth.” These are also called “spirits of mixture” (*1 En.* 10:15), denoting their impurity and probably equivalent to “spirits of *mamzerim*” (4Q510 l. 5). This last term is occasionally paired with “spirits of impurity” (4Q511 [Song of the Sage] fr. 48–51; 4Q444 [Incantation] fr. 2).

69 1QS (Rule of the Community) 3:13–4:26.

70 11Q5 (Psalms Scroll) 19:14–16.

71 For a detailed discussion of this and other parallel apotropaic prayers against evil spirits see Menahem Kister, “Demons, Theology and Abraham’s Covenant (CD 16:4–6 and Related Texts),” in *Dead Sea Scrolls at Fifty, Proceedings of the 1997 SBL Qumran Section Meeting*, ed. Robert A. Kugler and Eileen M. Schuller (Atlanta: Scholars Press, 1999), 167–84; idem, “The *Yetzer* of Man’s Heart, the Body and the Purification from Evil: Between Prayer Terminologies and World Views,” *Meghillot* 8–9 (2010): 243–84 (Hebrew). From a different perspective, Ishay Rosen-Zvi, *Demonic Desires: “Yetzer Hara” and the Problem of Evil in Late Antiquity* (Philadelphia: University of Pennsylvania Press, 2011), 44–53, points to the importance of such Qumran sources for illuminating the demonic context from which the rabbinic *yešer* transformed a cosmic to an internal force. In a

also in relation to physical impurity. The following blessing is pronounced while purifying from physical impurity, associated here with sin.<sup>72</sup> “May You be blessed, God of Israel, who forgave me all my sins and purified me from impure corporality.”<sup>73</sup> Impurity is neither a contingent nor a temporary condition but is rather the inescapable lot of humanity. Consequently, even purification from physical occurrences depends upon the grace of God to save humanity from their association with impure forces. Impurity controls all aspects of human existence, both corporal and moral, and humanity awaits redemption from its dominion.

Unsurprisingly, this mindset also shapes the policy and principles of the laws of purity, represented by the Sadducees. The creation of a rigid system of classification and separation beyond the requirement of scripture is an outcome of the assumed tension between the forces of divine purity and demonic impurity. Such an image of world order requires a clear division between the two lots.<sup>74</sup>

### The Pharisaic Alternative

In contrast to Qumranic literature, no text supplies a Pharisaic image of impurity, and we can only try to conjecture from their halakhic policy.

way, the rabbinic internalization of the demonic evil goes hand in hand with the rabbinic appropriation of control over impurity, discussed below. In both cases, which may be two sides of the same process, the rabbis promoted an autonomous and responsible imagery of the human self.

72 The exact relationship between sin and impurity in these prayers is discussed by Hanan Birnbaum, “‘For He is Impure among All Those who Transgress His Words’: Sin and Ritual Defilement in the Qumran Scrolls,” *Zion* 68 (2003): 359–66 (Hebrew). Birnbaum challenges the scholarly view according to which sin generated impurity in Qumran. See below n. 74.

73 4Q512 fr. 29–32.

74 According to Jonathan Klawans, *Impurity and Sin in Ancient Judaism* (New York: Oxford University Press, 2000), 67–91, the hallmark of Qumran literature is the strong identification of moral impurity with ritual impurity, whereas the rabbis promoted a “compartmentalizing” approach and strictly separated the two (117). The distinction, however, is not as clear-cut as Klawans would have it. In all systems, both dimensions represent the larger order of things, and are therefore congruent to some extent. The image of humanity controls both moral and ritual aspects of impurity in rabbinic sources, and even in the Gospels, it is hard to distinguish between the exorcist, ritual, and moral dimensions of impurity.

Nonetheless, early rabbinic laws are highly consistent and form a consolidated and systematic policy, which most likely responds to the above-described view. In contrast to the image of impurity as governing human existence and consciousness, the Pharisees overturn this scheme and assume human control over impurity. Ultimately, the extent of impurity is subject to a human system of classification.<sup>75</sup>

As noted above, the Pharisees reject the role of impurity in setting a degreed value system. Although the concern with impurity completely shaped their daily conduct, the Pharisees perceived it as a contingent attribute resulting from unwarranted friction with just about anything, not as a valuative category. This idea underlies the first discussion in *m. Yadayim*, concerning the defiling force of Scriptures. In addition, in stark contrast to the Sadducees and 4QMMT, the stream has no simple definition, although it is one unit. While others seek to classify objects according to their association with impurity, the Pharisees systematically break down the objects and attribute impurity only according to the level of contact between the object and the source of impurity.

### The Policy of Non-Separation

The Pharisees were blamed for breaking down the stream into discrete parts instead of actual separation. However, this mechanism is not unique to the case of liquid stream; rather, they applied this standard method in a variety of cases. Thus, we find Jesus, too, denouncing the very same method of breaking things down into sub-units so as to separate the directly contaminated part from all other parts.

75 Howard Eilberg-Schwartz, *The Savage in Judaism: An Anthropology of Israelite Religion and Ancient Judaism* (Bloomington, IN: Indiana University Press, 1990), 195–216, offers a similar contrast between the systems of impurity in the priestly and rabbinic communities. The former held a system of ascribed status and the latter an achieved one, and this general contrast shaped their view of impurity. He assumes that the way an individual acquires social status within his community determines his own experience of control over his surroundings, and this experience is decisive in the symbolism of impurity. Eilberg-Schwartz has indeed called attention to the essential point of contrast between the competing systems, concerning the level of control over impurity. However, his attempt to anchor these systems in a specific social context is less than persuasive. I thus suggest reconstructing this contrast through a consideration of the specific points of halakhic dispute and within their respective impurity discourses.

In one of his protests against the Pharisees closely resembling the Sadducean complaint, Jesus calls: “Woe to you, Scribes and Pharisees, Hypocrites; for you purify the outside of the cup and dish, but inside they are full of greed and self-indulgence. Blind Hypocrites! First purify the inside of the cup, so also its outside will be purified” (Matt 23:25–26).<sup>76</sup> *Prima facie*, this image of the Pharisaic practice seems quite strange. Why would they be purifying only part of the cup? Due to this difficulty, many commentators chose to interpret Jesus’ claim figuratively, as indicating the contrast between internal and external sides of people, rather than a reference to an actual practice.<sup>77</sup> However, Jesus’ saying makes perfect sense when considered against the backdrop of the tannaitic sources concerning the maintenance of purity during the mealtime.<sup>78</sup>

Jesus contrasts two modes of purification. The Pharisees purify only the outside of the cup, while the appropriate way to purify it is by immersing it in its entirety. The distinction between the internal and external parts of various dishes appears in *m. Kelim* 2:5 with respect to liquid impurity. Liquid impurity is lighter than other forms of impurity, and in some cases contaminates only part of the dish. Already first-century tannaim are aware of the distinct status of specific parts of food vessels such as handles, and they hold that a dish contaminated externally by impure liquids remains pure from within.<sup>79</sup> In such cases, the foods or liquids on the inside remain pure; yet, there is a chance that the impure liquids might indirectly fall into the cup and defile it. In addition, liquids touching the external side of a dish or cup are likely to defile other foods on the table or inside the vessel.<sup>80</sup>

76 See also Luke 11:39–41. Although scholars regularly assume Luke’s priority in these Q parallels, only Matthew retains the accurate ritual background. Luke as well as New Testament exegetes blurred this aspect of the saying by imposing a metaphorical interpretation.

77 David E. Garland, *The Intention of Matthew 23* (Brill: Leiden, 1979), 141–46, attempts to substantiate the metaphorical reading against the literal one.

78 This is the view also of Jacob Neusner, “First Cleanse the Inside,” *NTS* 22 (1976): 486–95. Neusner, however, misinterpreted the Pharisees, as though they claimed that by purifying the backside one purifies the entire cup.

79 *M. Kelim* 25:7 (R. Tarfon and R. Aqiva); *m. Tehar.* 8:6 (R. Eliezer, R. Joshua, and Shimon the brother of Azaria).

80 *Sifre Zut.* on Num 19:11 (Horovitz ed., p. 305); *t. Parah* 8:2 (Zuckerman ed., p. 637).

Thus, the Tosefta contrasts two possible responses in the event that impure liquids contaminate the outside of a basket: "If liquids fall into a basket—it is entirely impure. If they fall on the outside—the outside is impure and the inside and the handles are pure. If they fall upon its handles—he may wipe it off and it is completely pure. The priests were accustomed not to leave its outside impure, for fear of mishap."<sup>81</sup> Since the presence of a partially impure dish on the table threatened the purity of the surrounding foods, the priests would demand the removal of such a dish and its complete purification. The Pharisees in contrast allowed an impure dish on their food table, and only wiped off the liquids during the meal, so not to transmit the impurity to the surrounding foods or into the cup. Complete immersion was required only if the dish was completely defiled from within. From Jesus' protest we learn that the practice of wiping off the liquids represented a superficial mode of purification. It did not remove the impurity from the dish; rather, it confined it to a restricted area on the exterior side.

The two parallel protests, of the Sadducees and of Jesus, not only share the same style, "we blame you Pharisees for purifying X," but they in fact point to the very same characteristic of the Pharisaic policy. Both attack the Pharisaic mechanism of deconstructing objects into discrete parts. In both cases, the Pharisaic leniency was intended to facilitate the management of purity within a contaminated surrounding.<sup>82</sup> They separated the bottom of the stream from the body of liquids, contrary to the Sadducees' view, and they conceived internal and external parts of the cup and dish as separate entities. Read separately, one may be tempted to explain each of these Pharisaic rulings on its own grounds. However, the clear correspondence between the two parallel statements proves that it was the policy as a whole that provoked resentment.

Early rabbinic sources bear witness as well to the prominence of this condemned policy. All early tannaitic discussions of food purity include

81 *T. Kelim (B. Qam.)* 3:7 (Zuckerman ed., p. 593). Compare *ibid.* 3:4 (p. 592).

82 Another such case of inter-sectarian controversy regarding the scope of impurity is that of carcass impurity. While the Sadducees deem all of the carcass impure, the Pharisees distinguish the flesh, as the essential part, from all other parts. See above n. 47.

two core issues.<sup>83</sup> Alongside the issue of susceptibility to impurity,<sup>84</sup> these units all address the exact boundaries of various foods. What constitutes a “connection” between separate foods and between different parts of the same food? To take one example, Bet Hillel and Bet Shammai at the outset of tractate *Ṭevul Yom* (1:1–2) discuss whether pieces of dough or cakes stuck together, or the liquids of boiling grout, should be considered connected. Does an impure person who touches one part of this food contaminate all of it?

Connection, חיבור, is a core issue with regard to vessel impurity, as well. In *m. Kelim*, various implements are recurrently dismantled into their basic parts, which at times enables the continued use of the vessel while restricting the presence of impurity. For example, a seal is not considered a connection to the rest of the jug (*m. Kelim* 3:6), and some parts of the oven are considered unconnected to the rest for purposes of impurity (5:5). Similar rulings appear also with regard to wooden artifacts (19:1–3). Later, the Mishnah dismantles tools and defines which of their parts are considered connected to the body. The clearest expression of this tendency is the separation of vessels into their interior and exterior parts, to which Jesus alludes. These and similar issues are far from being theoretical and are not motivated by pure philosophical speculation.<sup>85</sup> Rather, through these subtle definitions of “connection” laid

83 For a comprehensive survey and analysis of early tannaitic units concerning food purity (*ṭeharot*) in tractates *Ṭeharot*, *Uqṣin*, *Ṭevul Yom*, and *Makhshirin*, see Yair Furstenberg, “Early Redactions of Purities: Re-Examination of Mishnah Source Criticism,” *Tarbiz* 80 (2013): 507–38 (Hebrew).

84 The role of thought and intention in rendering objects susceptible to impurity has generated much scholarly interest. See Jacob Neusner, *History of the Mishnaic Law of Purities*, (22 vols.; Leiden: Brill, 1974–77), 22:186–89; Howard Eilberg-Schwartz, *The Human Will in Judaism: The Mishnah’s Philosophy of Intention* (Atlanta: Scholars Press, 1986), and, most recently, Balberg, *Purity, Body and Self*, 74–95. Joseph M. Baumgarten, “Liquids and Susceptibility to Defilement in 4Q Fragments,” *JQR* 85 (1995): 91–101, has also suggested that the issue of intentionality was a matter of dispute between Pharisaic and Qumran law. However, a close analysis of the relevant sources, such as *m. Makš.* 1:2–4 and *m. Ṭehar.* 9:1, reveals that the role of intention in making fruits susceptible is quite limited in the earliest traditions. See Y. Furstenberg, “Eating in the State of Purity during the Tannaitic Period: Tractate *Ṭeharot* in Its Cultural and Social Contexts” (PhD diss., The Hebrew University of Jerusalem, 2010), 164–73 (Hebrew). Thus, I focus here on the second issue, which may be firmly established in the Second Temple context.

85 As Neusner would have understood it. See Jacob Neusner, *A Religion of Pots and Pans? Modes of Philosophical and Theological Discourse in Ancient Judaism* (Atlanta: Scholars Press, 1988), 107–9.

out in the earliest strata of rabbinic literature this lenient halakhic policy shared by the Pharisees sought to create a viable mechanism for maintaining purity within an unaccommodating environment.<sup>86</sup> At the same time, the policy of non-separation defied the non-Pharisaic tendency for classification, as all things—including people!<sup>87</sup>—are regularly conceived to be both pure and impure simultaneously.

### The Range of the Human Domain

A comparison of the Pharisaic and non-Pharisaic vocabulary of purity reveals diametrically opposed conceptions. Whereas the language of separation prevails in Qumran literature, the Pharisees constantly ask what constitutes a connection. In other words, while the former are concerned with defining and classifying discrete objects and their statuses, the latter examine the level of friction between objects that generates impurity. This view of impurity, I claim, serves to reconfigure the impurity system around human agency. The dispersion of impurity beyond its source depends solely on direct or indirect human conduction. Impurity would be motionless and ineffective were it not for the agency of people and their extensions.<sup>88</sup> A bird may drag around a dead reptile (*m. Ṭehar.* 4:4), but it cannot transmit its impurity onto other carriers. Only people and their environs are susceptible to defilement and conduct impurity.<sup>89</sup> It is therefore misleading to imagine impurity, together with Noam, as a free flowing semi-physical force only occasionally

86 For such policies, the Pharisees were denounced by Qumran authors as ‘smooth interpreters,’ ‘אשר דרשו בהלקות,’ and choosing ‘the easy way,’ ‘כִּיָּא בַחֲרוּ בַקְלוֹת’ (CD 1:18; *Peshar Psalms* [4Q171] I 27), and Jesus blames them for hypocrisy: “Woe to you, scribes and Pharisees, hypocrites! For you are like whitewashed tombs, which on the outside look beautiful, but inside they are full of the bones of the dead and of all kinds of filth” (Matt 23:27).

87 The uniquely Pharisaic custom of hand washing (cf. Mark 15; *m. Ḳd.* 5:9) is based on the very same principle. Only the hands that came in direct contact with impurity are rendered impure, while the rest remains pure. This notion is completely unknown in the Torah and in other halakhic systems (see Furstenberg, “Defilement Penetrating the Body”). On the “modularity” of the human body in rabbinic purity laws, see Balberg, *Purity, Body and Self*, 58–61.

88 Following Marx, Balberg, *Purity, Body, and Self*, 77, suggests that artifacts can contract impurity only in their capacities as extensions of human beings.

89 Even water, the most powerful conductor of impurity, cannot carry impurity without first being utilized intentionally for human needs.



impinging on the human sphere.<sup>90</sup> Furthermore, according to the rabbis, in direct opposition to the non-Pharisaic notion of impurity, not only is human agency required for spreading impurity, but also its range directly depends upon the delineation of the human sphere.<sup>91</sup>

This notion finds a clear expression in the Pharisaic policy of dividing foods and vessels, without actual separation from impurity. In case of foods, only if a part intended for consumption came in direct contact with the source of purity does the event bring about defilement. Moreover, artifacts are divided according to the human perception of their usage and the relationship between their parts. While one part, such as the inner side of a cup, represents the vessel as a whole and its defilement spreads all over, the other parts hold only secondary status and their defilement capacity is accordingly limited. The assumption that human classification organizes impurity stands in direct contrast to the classifying role of impurity in the prevalent, non-Pharisaic approach.<sup>92</sup> Within the human sphere, the Pharisees would claim, objects are not defined by impurity, but by people alone. People, in turn, identify as ‘impure’ only those parts of their environs violated by unwarranted contact with sources of impurity, and distinguish between different levels of significance and consequentially sensitivity to disorder within their own controlled sphere.<sup>93</sup>

- 90 Corpse impurity spreads specifically within human made space, such as the biblical tent (Num 19:14) or the more complex domestic spaces discussed in detail throughout *m. ʿOhalot*. Later sources expand it to include plants or standing animals used even temporarily as tents (8:2). This expansion however is disputed by R. Judah, who claims that “Whatever is not manmade is not a tent” (3:7)
- 91 Neusner explains the rabbinic project as subjecting the mysterious supernatural force of contamination to human manipulation (*History of the Mishnaic Law of Purities*, 22:186). However, I find Neusner’s explanation to be somewhat limited. The possibility of gaining control over impurity is not an isolated issue. It must assume an alternative system and a fundamentally different conception of the very nature of impurity.
- 92 Balberg, *Purity, Body, and Self*, 78–90, extensively elaborates upon the role of human consequentiality for determining the status of artifacts. According to Balberg, the rabbis, in contrast to the Priestly Code, incorporated objects into the human realm through *subjective investment* and *caring* of each individual, rather than through labor and standard usage. I am not certain, however, how developed this notion was in the earlier, Pharisaic view of impurity.
- 93 In this context as well, I find the work of Douglas useful in suggesting an image of pollution, which is fundamentally controllable, and subjected to human orga-

To conclude we return to the realism/non-realism dichotomy and its applicability to the early purity disputes. Throughout the paper, I have argued that none of the sources discussed here indicate a gap between law and reality. To the contrary, the degree of correspondence between the laws of purity and non-legal classifications is characteristic of the field of purity. We expect the experience of impurity to fit to some degree within our general perception of world order. This order supplies the structure determining what occurrences constitute a significant threat and must be labeled 'impure.' The difference therefore between the various systems concerns the manner of classification and the principles of order. While non-Pharisaic laws assumed a cosmic order managing opposite forces, the Pharisees reconfigured the system around the distinct human sphere, whose violation brought about impurity. They did not perceive impurity as an independent entity, yet they made every effort to avoid it.

nizing without undermining its reality. The following sentence seems to capture the Pharisaic mindset: "Positively we can deliberately confront the anomaly and try to create a new pattern of reality in which it has a place" (Douglas, *Purity and Danger*, 39).